

EUROPEAN MIGRATION AND ASYLUM POLICIES AND THEIR IMPACT ON HOMELESSNESS

An analysis of the ‘New Pact
on Migration and Asylum’



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I INTRODUCTION

Ensuring access to adequate housing and accommodation for migrants, asylum seekers and refugees remains one of the main challenges faced by European Member States. EU countries struggle with fulfilling the asylum reception standards as established in the Common European Asylum System (CEAS) and the commitments made to respect international human rights protections for all those residing in their territory. In Europe, migrants, asylum seekers and refugees are confronted with higher housing exclusion and exorbitant housing costs compared to national citizens. Combined with other factors such as discrimination or lower incomes, this causes people to experience inadequate and unsafe housing. It also exposes them to a high risk of homelessness. Examples of homelessness among migrants, asylum seekers or refugees have been repeatedly reported across Europe, including during the COVID 19 pandemic and the lockdowns from this period.

The backdrop of an unstable geopolitical context and, recently, a global health crisis determined by the COVID 19 virus have made access to adequate accommodation even more difficult for people in exile. The lack of coherent and balanced migration and asylum policies at a European level has contributed to increasing the number of challenges in ensuring proper accommodation for asylum applicants and international protection holders. Delayed procedures, limited availability in reception centres, lack of harmonised reception conditions and resettlement and humanitarian admission programmes as well as the absence of transitional measures from reception centres to independent accommodation for those with granted status leave people in vulnerable situations.

The consequences of the above-mentioned circumstances are being witnessed first-hand by FEANTSA member organisations who are required to support migrants, asylum seekers and refugees in their services for lack of other options. Our members may also accompany migrants in their struggles out of destitution, homelessness, or in search of refugee status and for exiting irregular administrative situations. During the pandemic period, FEANTSA members have been confronted with new challenges which made it even more difficult for them to cope with the demand that was already overwhelming prior to the health crisis. The ongoing war in Ukraine is also impacting the already overburdened homelessness sector, as the NGOs are involved in every stage of the administration, reception and guidance procedure pertaining to the refugees arriving from Ukraine. Challenges remain on the ground as well as a persistent need for improving living conditions for people in exile. This requires enhancing coordination and solidarity among Member States and harmonising asylum systems across the EU.

The aim of this paper is to provide a brief overview of homelessness experiences of migrants, asylum seekers and refugees, while analysing the impact of EU migration policies on homelessness in the midst of a global health crisis and an ongoing war in Europe. In particular, we will examine what the 'New Pact on Migration and Asylum' could mean in terms of access to accommodation. We also discuss the recent response of the European Commission and Member States to the large influx of people arriving from Ukraine and what lessons can be learnt from this period.

FEANTSA joins civil society in criticising the approach currently codified throughout the Pact on Migration and Asylum which will inevitably lead to increased border control, criminalisation of immigration and of stakeholders supporting migrants. It is evaluated that the current approach will contribute to increased detention of migrants, decreased safeguards and that it focuses on returns, to the detriment of a system based on shared responsibility that a common migration and asylum system would entail.

In order to improve the accommodation as well as the overall integration of migrants, asylum seekers and refugees, FEANTSA wishes to underline the need to ensure a swift and efficient reception system for those seeking protection in the Union. Consequently, this would contribute to reducing the risk of homelessness experiences for those concerned, which we have witnessed across the EU in past years. This can be achieved by delivering on the CEAS' ambition to "harmonise asylum systems in the EU and reduce the differences between Member States on the basis of binding legislation".¹

¹ European Union Asylum Agency, *Annual General Report 2021*, June 2022, available at https://euaa.europa.eu/sites/default/files/publications/2022-06/220610_AGR%202021_Adopted%20by%20MB_Compressed.pdf ²

The EU's approach to moving forward with the adoption of the Migration and Asylum Pact, as part of the CEAS reform, must be respectful of fundamental rights and have at its core the interests of people who risk their lives in search of protection on European territory. We underline the need to include in the Migration and Asylum Pact learnings from the recent response to the war in Ukraine as well as from the pandemic period when providing shelter for all was possible in the defence of public health.

Finally, the slow and fragmented progress which has been registered since the legislative package was launched in September 2020 raises many questions as to how, when and if the migration and asylum systems will manage to ensure a safe route to achieving international protection in Europe for all those in need. In the last half a year, discussions around the Migration and Asylum Pact have intensified. Member States together with the European Commission and with support from the holding presidencies of the Council of the European Union have committed to finalise the Pact negotiations before the end of the 2019-2024 legislative period.

In the context of intensified negotiations in the area of migration and asylum, FEANTSA wishes to raise awareness on the situation with housing exclusion and homelessness faced by migrants, asylum seekers and refugees across the EU and puts forward recommendations for improvement. FEANTSA underlines that to obtain 'a system that is both humane and effective, representing an important step forward in the way the Union manages migration'², as aspired by the EC, priority must be given to defining and adopting measures that consider people's needs and which respect their human rights and their lives.

II MIGRATION, ASYLUM, REFUGE, AND HOMELESSNESS IN EUROPE

a) Brief overview in Europe

For decades, and particularly after 2015, many migrants and asylum seekers as well as refugees have been met in the homelessness sector across Member States (MS), and supported with accommodation, advice and guidance in their search for a new life in Europe. While data is scarce, images of individuals living in poor and unsafe housing, such as informal settlements or sleeping rough while waiting to apply for international protection have confirmed the unpreparedness of the European migration and asylum system to ensure the right to minimum reception conditions for all those in need. The high number of asylum seekers arriving in Europe in 2015 and the limited capacity of asylum systems in MS at the time have led to a "reception crisis" regarding international protection applicants. Increasing episodes of homelessness continued to be reported in cases where individuals are waiting to apply for asylum or to receive an answer on their application, despite the EU commitment to ensure adequate accommodation for those who are in search of asylum on EU territory. Furthermore, even after being granted protection, there is no guarantee that access to housing will be achieved for all refugees, be it for a lack of available housing stock, a lack of transitional programmes from reception accommodation to independent housing, a lack of income, discrimination or a combination of these factors.

Situations of homelessness among migrants, asylum seekers or refugees and their life conditions in Europe are poorly documented. This prevents policies from being tailored accordingly to people's needs to exit destitution. The information available does point to the presence of migrants and asylum seekers in shelters for people experiencing

² European Commission, Migration and Home Affairs – *Reform of Common European Asylum System*, available at https://home-affairs.ec.europa.eu/policies/migration-and-asylum/common-european-asylum-system_en

homelessness or sleeping rough in the streets of the biggest European cities. Research from 2017³ showed that in Sweden 43% of people living in homelessness were foreign nationals while in Finland, according to data from 2019,⁴ 25% of families living in homelessness were migrants. In Italy, according to the last official statistics about people experiencing homelessness from 2015, Istat estimated that around 60% were foreign nationals.⁵ Also in Italy, in 2020, a majority of service providers have experienced a rise of 20% or more in the number of foreigners they supported.⁶ According to a count carried out by the homelessness service provider Arrels Fundació in Barcelona, in November 2020, 44% of people rough sleeping were third-country nationals.⁷ In Greece, 16% of 3,774 unaccompanied minors were sleeping rough in 2019.⁸ In the UK, 32% of the people accommodated by the NACCOM UK-wide No Accommodation Network between 2017-18 were refugees.⁹

The COVID 19 pandemic that emerged in early 2020 exacerbated the difficulties experienced by asylum seekers and refugees, as well as migrants across the EU and led to a worsening of people's life conditions. Particularly for those who were accommodated in camps or in overcrowded reception facilities, the health crisis has further contributed to restrictions in people's rights, and it exposed them to the virus at a higher risk. Studies and surveys about migrants, asylum seekers and refugees have highlighted the huge impact that this period has had on their access to healthcare and on their mental health, especially for those experiencing homelessness.¹⁰

Despite some innovative measures from governments to shelter individuals, during the global health crisis caused by COVID 19 the reception conditions of asylum seekers have worsened.¹¹ New cases of homelessness among people in exile appeared, as reported also in FEANTSA's and Fondation Abbe Pierre's *Fifth Overview of Housing Exclusion* from 2020.¹² According to the European Asylum Support Organisation (EASO) report published in February 2021, the COVID 19 pandemic has worsened the situation for asylum seekers and refugees, making it even more difficult for newly recognised refugees to find jobs. The health crisis also caused unemployment or lower wages, which, in turn, makes people more vulnerable to homelessness or unsafe and overcrowded housing.¹³

In Greece, the impact of COVID 19 has reportedly affected people's chances to find employment and their opportunities have decreased in general, leaving many beneficiaries of international protection without a job and without perspectives to find one any time soon. Reports of beneficiaries of international protection continuing to sleep rough in the streets of Athens are also included in the 2021 EASO report, as well as police actions which entailed removing individuals from the street and having them placed back into camps such as Malakasa, Elaionas,

³ Isabel Baptista and Eric Marlier, European Social Policy Network, *Fighting homelessness and housing exclusion in Europe A study of national policies*, 2019.

⁴ The Housing Finance and Development Centre of Finland (ARA), *Homelessness in Finland 2019*, available at [https://www.ara.fi/en-US/Materials/Homelessness_reports/Homelessness_in_Finland_2019\(55546\)](https://www.ara.fi/en-US/Materials/Homelessness_reports/Homelessness_in_Finland_2019(55546))

⁵ Istat, 2015, *'Le persone senza dimora'*, available at: <https://www.istat.it/it/archivio/175984>

⁶ fio.psd, *'Migranti senza dimora: l'impatto nei sistemi di accoglienza in Italia'*, 2020, available at <https://www.fiopds.org/welforum-6-maggio-2020/>

⁷ Arrels Fundacion, *'LIVING ON THE STREET IN BARCELONA. A focus on mobile EU citizens'*, available at https://www.feantsa.org/public/user/Resources/reports/2022/BCN_report_EN.pdf

⁸ Fondation Abbe Pierre and FEANTSA, 2020, *'Fifth Overview of Housing Exclusion in Europe'*, available at https://www.feantsa.org/public/user/Resources/OHEE/2020/Fifth_Overview_of_Housing_Exclusion_in_Europe.pdf

⁹ NACCOM (2018), *'Mind the Gap'*, available at: https://naccomm.org.uk/wp-content/uploads/2018/06/NACCOM-Homelessness-Report_2018-05-20_EMAIL.pdf and NACCOM(2019), *'Mind the Gap – One year on: continuation report on homelessness amongst newly recognised refugees'*, available at https://naccomm.org.uk/wp-content/uploads/2019/06/NACCOM-Homelessness-Report_2019-06-18_DIGITAL.pdf

¹⁰ World Health Organisation, *'World report on the health of refugees and migrants: summary'*, available at <https://www.who.int/publications/i/item/9789240054486> and *'ApartTogether'* available at: <https://www.aparttogetherstudy.org/>

¹¹ Jesuit Refugee Service, *'From Bad to Worse Covid-19 Aggravates Existing Gaps in the Reception of Asylum Seekers'*, available at: <https://jrseurope.org/wp-content/uploads/sites/19/2021/03/Covid-and-reception-Report.pdf>

¹² Fondation Abbe Pierre and FEANTSA, 2020, *'FIFTH OVERVIEW OF HOUSING EXCLUSION IN EUROPE'*, available at https://www.feantsa.org/public/user/Resources/OHEE/2020/Fifth_Overview_of_Housing_Exclusion_in_Europe.pdf

¹³ European Union Agency for Asylum, *'Asylum Report 2021'*, available at <https://easo.europa.eu/sites/default/files/EASO-Asylum-Report-2021.pdf>

Skaramangas, Thiva and even to detention facilities (Amygdaleza), where they have remained as unregistered residents. Living conditions at these places have been characterized by severe overcrowding and serious material deprivation (those who were returned slept on the floor and were excluded from the entitlements that asylum seekers should benefit from).¹⁴ The EASO report also mentions that in Croatia, civil society organisations reported that at least 80 refugee families were at risk of homelessness as a consequence of job loss caused by the pandemic. Though action was taken by organisations and the relevant ministry called for necessary legislative change, no results were achieved at the time of the EASO reporting. Earthquakes in the country have also precipitated the relocation of more people at a national level, making it even harder for refugees to have access to accommodation.¹⁵ The Irish Refugee Council observed that in Ireland the pandemic determined delays in accessing social housing and accommodation allowance since the work of local authorities and administrative bodies was impacted by COVID 19.¹⁶ FEANTSA member Simon Communities reported an overrepresentation of migrant individuals and families in homelessness in Ireland, seeing that the private rental market had become very expensive and insecure.¹⁷

In France, the overcrowding in the reception system for asylum seekers and the private accommodation market leads to a situation where refugees need to overstay in the Reception and Identification Centres (RIC) or pushes them to the streets or settlements which are informal and unsafe. The Forum réfugiés-Cosi estimated that in 2021 around 15%-20% of camp inhabitants were beneficiaries of international protection.¹⁸ In the course of the last years repeated evictions took place from these settlements across France, without ensuring long term accommodation for those evicted, which has resulted in French authorities being repeatedly criticised.¹⁹ In Malta, beneficiaries of international protection have also been affected by the pandemic and risked evictions because they could not afford paying rent.²⁰ A report published by the Jesuit Refugee Service in 2021 also mentions episodes of homelessness among asylum seekers whose application had been rejected in countries such as Romania and Malta.²¹

During 2021 in Spain, as a result of the COVID 19 crisis, there was a significant increase in the numbers of asylum seekers waiting for a decision, up to 90,000, while the capacity of the reception system was only for 15,000 people. Managing the needs of people who were left out of the system is one of the issues affecting organisations supporting people experiencing homelessness, such as Order of Saint John, a FEANTSA member in Barcelona. Situations of destitution and homelessness among asylum seekers have already been reported by Spanish civil society since the summer of 2019, when institutions were asked to take measures. Several actions were implemented, including negotiating the possibility of using empty apartments for the reception of asylum seekers and undocumented migrants. However, during 2020 issues of homelessness and overcrowding persisted, with many asylum seekers forced to sleep on the streets in cold temperatures in Madrid. Both the asylum reception system and the reception

¹⁴European Union Agency for Asylum, 'Asylum Report 2021', available at <https://easo.europa.eu/sites/default/files/EASO-Asylum-Report-2021.pdf>

¹⁵European Union Agency for Asylum, 'Asylum Report 2021', available at <https://easo.europa.eu/sites/default/files/EASO-Asylum-Report-2021.pdf>

¹⁶European Union Agency for Asylum, 'Asylum Report 2021', available at <https://easo.europa.eu/sites/default/files/EASO-Asylum-Report-2021.pdf>

¹⁷Simon Communities of Ireland, 'The Experiences of Simon Community Service Users During the Covid-19 Pandemic', 2021, available at: https://www.simon.ie/wp-content/uploads/2021/09/Simon_C19_Experiences_.pdf

¹⁸ECRE, AIDA Asylum Information Database, 'Country report: France, Update 2020', available at https://asylumineurope.org/wp-content/uploads/2021/03/AIDA-FR_2020update.pdf

¹⁹<https://www.leparisien.fr/seine-saint-denis-93/seine-saint-denis-2000-migrants-evacues-d-un-campement-au-pied-du-stade-de-france-17-11-2020-8408739.php> and <https://www.euronews.com/2020/11/24/police-forcefully-remove-migrants-from-central-paris-square-in-shocking-scene>

²⁰European Union Agency for Asylum, 'Asylum Report 2021', available at <https://easo.europa.eu/sites/default/files/EASO-Asylum-Report-2021.pdf>

²¹Jesuit Refugee Service, 'Increased homelessness and destitution among (rejected) asylum seekers', 2021, available at <https://jrseurope.org/en/news/increased-homelessness-and-destitution/>

places that the Municipality of Madrid activates for people experiencing homelessness under the winter programme 'Campaña de Frío' were overcrowded.²²

The last count of poorly housed people in Brussels showed that 5,313 people were homeless or inadequately housed with an increase of almost 30% compared to 2018.²³ The situation of migrants, especially those who are undocumented has also been highlighted by the count as they occupy the squats more often in the city, their situation having worsened by the pandemic. Furthermore, since the autumn of 2021, the Belgian asylum system continued to be overwhelmed and failed to cover the needs for adequate reception conditions for all individuals seeking asylum. Adults and children have spent nights sleeping outside the reception centre in Brussels after submitting or while waiting to submit their asylum application.²⁴ Multiple reports of people sleeping in the street in cold temperatures started in October 2021, reaching a high peak in November and December 2021. The lack of governmental support has brought workers from the Federal Agency for the Reception of Asylum Seekers (FEDASIL) and their civil society partners to the streets to demonstrate and demand appropriate decisions from the responsible authorities.²⁵ The situation continues to be similar in 2022, when legal action was taken against Belgium's Secretary of State for violation of asylum seekers' right to shelter as hundreds of asylum seekers, mainly single men, were not given a temporary place to stay.²⁶ Since the beginning of 2022 at least 5,000 people who have placed an asylum request have been denied accommodation.²⁷ In 2022, FEDASIL received six convictions a day for failing to shelter asylum seekers.²⁸ The situation continued to worsen leading to experiences of homelessness among asylum seekers, including minors and families with children in October and November.²⁹ The European Court of Human Rights (ECHR) also reacted to the complaints of asylum seekers who had been sleeping on the street in Brussels in the case of Msallem and 147 Others v. Belgium (application no. 48987/22 and 147 others) and the case of Camara v. Belgium (application no. 49255/22). The ECHR decided to order an interim measure in these cases, urging Belgium to provide the applicants with accommodation and a material assistance to meet their basic needs.³⁰

In the Netherlands, the Central Agency for the Reception of Asylum Seekers (COA) announced last December that it needed 12,000 extra reception places in asylum seekers' centres for the year ahead.³¹ The Dutch reception system is overwhelmed and offers poor conditions for those seeking refuge – people sleep in tents or in halls with no privacy, with high levels of noise and no psychosocial support. Access to food and access to school for children is also missing most of the time. At the end of July 2022, in the village of Ter Apel, in northern Netherlands, refugees were forced to sleep on the grass outside one refugee centre while the government admitted that it had no solution for at least a fortnight.³²

²²ECRE, AIDA Asylum Information Database, 'Country report: Spain, Update 2020', available at https://asylumineurope.org/wp-content/uploads/2021/03/AIDA-ES_2020update.pdf

²³Bruss'Help, 'Dénombrement des personnes sans-abri et mal logées en Région de Bruxelles-Capitale', available at http://www.bruss'help.org/images/Denombrement2020_vdef.pdf

²⁴<https://www.euronews.com/2021/12/07/belgium-s-system-for-asylum-seekers-unable-to-cope-as-winter-closes-in> and <https://www.rtl.be/info/belgique/faits-divers/demandeur-d-asile-refuses-au-petit-chateau-1338553.aspx>

²⁵<https://www.facebook.com/MedecinsDuMondeBelgique/photos/a.373795586019333/4623703434361839>

²⁶<https://www.brusselstimes.com/244421/investigation-into-migration-ministers-violation-of-asylum-seekers-rights-dismissed>

²⁷<https://www.euronews.com/2022/11/24/belgiums-asylum-crisis-symptom-of-europes-failed-migration-policies>

²⁸<https://www.brusselstimes.com/belgium/265045/fedasil-receives-six-convictions-a-day-for-failing-to-shelter-asylum-seekers>

²⁹<https://www.aa.com.tr/en/europe/asylum-seekers-sleep-rough-on-the-streets-of-brussels/2723205>

³⁰FEANTSA press release, 'The European Court of Human Rights reminds the Belgian State of its duty to provide reception facilities for asylum seekers', available at <https://www.feantsa.org/en/press-release/2022/11/22/press-release?bcParent=27>

³¹<https://nos.nl/artikel/2408630-noodopvang-asielzoekers-in-tenten-en-hallen-zo-snel-mogelijk-stoppen>

³²https://www.theguardian.com/world/2022/jul/22/dutch-plans-house-refugees-cruise-ships-netherlands?CMP=Share_iOSApp_Other

In February 2022, an unprecedented number of people have been fleeing from the unprovoked aggression of Russia in Ukraine to find shelter in Europe. Over 5 million, mostly women and children, arrived in neighbouring countries during the following months. While we are still taking stock of the impact of the war on homelessness, at the end of June 2022 it was known that 11,319 families within Ukraine were in need of housing. For those who left Ukraine in search of protection, the situation is not much better, as the risk of homelessness or inadequate housing within MS remains high. This has already been reported in Germany³³, Belgium³⁴ or the UK.³⁵ Despite overwhelming solidarity from citizens towards Ukrainian refugees arriving in Europe and the activation of the Temporary Protection Directive (TPD)³⁶ by the EU to facilitate entrance for Ukrainians, a European strategy to address the mid to long-term housing needs of refugees is lacking. Challenges remain on the ground and the need to develop long-term solutions for housing is stringent, considering the general crisis of affordable housing already existing in Europe.

b) Involvement and impact on the homelessness sector

Homelessness service providers across the EU have met in their services asylum seekers, migrants and refugees falling through the cracks of overwhelmed and unprepared migration and asylum reception system as they remain, in some instances, the only available places of refuge.

A report of the European Observatory on Homelessness (EOH) published in 2016³⁷ has looked at the role that homelessness services played in providing accommodation and other basic support to asylum seekers and/or refugees. At the time, the EOH concluded that because a separate system was put in place to ensure the provision of accommodation for potential asylum seekers, generally they did not use homelessness services before they applied for asylum.³⁸ However, there were reports of temporary stays in homelessness services in Greece and in Hungary, mainly of people who were in transit to North-western Europe. EOH also pointed out that homelessness services played a formal role in supporting refugees who have been granted asylum when they were facing homelessness, as they had the same rights and faced similar barriers as national citizens. Refugees with granted status were seen to fall into homelessness as there was a lack of available housing and transit programmes to ensure independency after status was achieved. In what concerns rejected asylum seekers, data was scarce, and a conclusion was difficult to draw, but reports of increased numbers of migrants using homelessness services - where repatriation of asylum seekers whose claims have been rejected did not always occur - existed in France, Greece, and Italy. Predictions of the EOH pointed out that these situations could increase in the case of continuous pressure on the reception systems across Europe.

Similar trends have been registered ever since the 2016 analysis. FEANTSA members in countries such as France, Greece, Italy, Belgium, Spain, the UK and more recently, following the invasion of Ukraine, countries such as Poland, Hungary, Slovakia, or the Czech Republic have become involved in supporting asylum seekers and refugees because reception systems were overwhelmed and needed support. This is not a novelty, as confirmed most recently in the EUAA Asylum Report 2022.³⁹ Referring to the situation in Brussels when FEDASIL's Information Point was

³³ <https://www.berliner-zeitung.de/news/expertin-viele-kriegsfluechtlinge-vermutlich-lange-zeit-wohnungslos-li.222969Expert>

³⁴ <https://www.brusselstimes.com/brussels/323627/belgiums-reception-crisis-ukrainian-refugees-now-also-sleeping-rough>

³⁵ https://www.theguardian.com/uk-news/2022/may/17/homes-for-ukraine-refugees-being-left-homeless-uk?CMP=share_btn_tw

³⁶ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32001L0055&qid=1648223587338>

³⁷ European Observatory on Homelessness Asylum Seekers, 'Refugees and Homelessness EOH Comparative Studies on Homelessness. The Humanitarian Crisis and the Homelessness Sector in Europe' Brussels, December 2016.

³⁸ Data from the 12 countries surveyed in the European Observatory on Homelessness Asylum Seekers, 'Refugees and Homelessness EOH Comparative Studies on Homelessness. The Humanitarian Crisis and the Homelessness Sector in Europe' Brussels, December 2016.

³⁹ European Union Agency for Asylum, 'Asylum Report 2022', available at <https://euaa.europa.eu/publications/asylum-report-2022>

temporarily closed, EUAA mentions that asylum seekers were starting to be directed to homeless shelters since mid-October 2021.

Beyond providing accommodation and counselling on their integration process as well as other basic support services to migrants, asylum seekers and/or refugees, homelessness services become inevitably involved with the issue of returns of migrants who live in irregular situations. As it was reported by FEANTSA previously,⁴⁰ accommodation providers have faced growing pressure from the authorities to participate in return policies. Several organisations have been asked in the past, either implicitly or explicitly, to categorise people according to their administrative status. These requests go against the principles of the sector and are often in contravention of the legal framework for reception in countries where the principle of unconditional reception guarantees that a person's distress takes precedence over their administrative status. Such requests also have a harmful impact on the social work of organisations whose mission becomes distorted by having to check up on people. This is not compatible with the trust that must be guaranteed between a person and a social worker.

Returns slowed down during the COVID 19 pandemic, as the focus was on protecting public health which translated into offering shelter to everyone in many countries across the EU. However, the focus of EU policies in the past years, including the proposals of the Pact as we will analyse further in the paper, has remained on returns of migrants, be it voluntary or forced. In exchange, less consideration has been given to providing support for integration and regularisation of those migrants in precarious and/or irregular situations. This type of approach will only add to the pressure experienced by the homelessness sector where organisations struggle to meet demand, either in terms of accommodation or in providing wider support to beneficiaries.

III MIGRATION AND ASYLUM IN EUROPE

The right to asylum in the EU is enshrined in Article 18 of the Charter of Fundamental Rights with due respect for the rules of the Geneva Convention adopted in 1951. In 1999, through the Tampere Programme, asylum became a competence of the EU, shared with its MS. Since then, the EU has worked to set up a Common European Asylum System (CEAS) which is currently still under development. Access to adequate accommodation for people who apply for and who are granted international protection within the EU is an integral part of any effective asylum system. While the competence of the EU does not extend to housing rights and policies, it can have an impact at the level of each MS on how they develop housing programmes and especially on how they support individuals who are in vulnerable situations to access adequate and affordable housing. Therefore, the CEAS sets standards for EU Member States regarding the reception of asylum seekers and the right to housing for refugees.⁴¹

In 2020, building on previous reforms of the CEAS, the EC launched the 'New Migration and Asylum Pact' as a milestone in its goal '*to create a fair and swift process guaranteeing access to the asylum procedure, as well as equal treatment, clarity and legal certainty for asylum seekers*'. The Pact aims at introducing a '*European framework and better governance of migration and asylum management, as well as a new solidarity mechanism*'.⁴² A positive perspective on migration was promoted in the Pact and lessons learnt from the experiences of 2015-2016 were mentioned as guiding the Commission in avoiding previous mistakes. *No more Morias!* has been one of the promises made by the European Commission at the launch of the Pact, referring to the severely poor living conditions in the camp from the Greek Island of Lesbos⁴³. The EC committed to a *new, durable European framework* that should allow

⁴⁰ FEANTSA statement 'For an Inclusive Approach to Reception and Accommodation', 2017, available at https://www.feantsa.org/download/for-an-inclusive-approach-to-accommodation-and-reception_final9084955739965862961.pdf

⁴¹ Directive 2013/33/EU of 26 June 2013 laying down standards for the reception of applicants for international protection (recast).

⁴² European Commission, '*A fresh start on migration: Building confidence and striking a new balance between responsibility and solidarity*', 2020, available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1706

⁴³ Popp, Karoline 2021: "No more Morias"? Origins, challenges and prospects of the hotspots on the Greek islands.

for migration and asylum to be managed effectively, with solidarity and full respect of fundamental rights. Launched in the wake of the devastating fire of the Moria camp from September 2020,⁴⁴ the Migration and Asylum Pact was presented as an important step forward in harmonising and enhancing the migration and asylum procedures across the EU.

Two years after its launch, the different components of the proposal are still under different stages of negotiation. Several actions were taken under the French and the Czech EU presidency from 2022 to ensure moving further with the development of the Pact. In an effort to advance on the Pact the French pushed for an agreement on the issue of solidarity by adopting a 'Solidarity Declaration' in June 2022. The aim was to announce new figures on how many asylum seekers would be relocated under a so-called solidarity plan while continuing to seek commitments from Member States.⁴⁵ Several changes were also introduced to the Eurodac⁴⁶ and the Screening regulations⁴⁷, achieving thus a 'partial reform' on the Pact. In early September, a Roadmap was signed by the Parliament and the five rotating Council Presidencies committing to work together to adopt the reform of the EU migration and asylum rules before the 2024 EU elections.⁴⁸ The signatories confirmed that the CEAS and the New European Pact on migration and asylum represented a top priority in their work. They confirmed their commitment to ensure all necessary efforts towards the adoption of the legislative proposals before the end of the 2019-2024 legislative period were being made. The Czech presidency has indeed put the Migration and Asylum Pact on their agenda, pushing for several measures: a fast adoption of the Regulation of the European Parliament and of the Council addressing situations of instrumentalisation in the field of migration and asylum⁴⁹ as well as proposing an annual minimum number of relocation pledges for asylum seekers among EU Member States.

In early 2022, the Russian invasion of Ukraine has added a new layer of complexity to the discussions regarding asylum in Europe. This conflict has led to the activation of a piece of legislation which was supposed to be scrapped according to the plans made under the Pact – the Temporary Protection Directive. More attention has also been given to the issue of differential treatment between refugees, reporting on the risks of creating double standards in the reception system of the EU.

These developments have had and will continue to have an impact on the work of the homelessness sector across Europe. As we show above, service providers have been involved in managing the reception of asylum seekers and integration of refugees, both from Ukraine as well as from other countries. FEANTSA members often support migrants, asylum seekers and refugees who live in destitution in Europe. For these reasons, FEANTSA works to raise awareness on the need for more coherent and balanced EU migration and asylum policies which will lead to

SVR Policy Brief 2021-1, Berlin, available at: https://www.europeanmigrationlaw.eu/documents/SVR_Policy-Brief_Moria_EN_barrier-free.pdf

⁴⁴ <https://www.bbc.com/news/world-europe-54082201>

⁴⁵ Council of the EU, 'Asylum and migration: the Council approves negotiating mandates on the Eurodac and screening regulations and 21 states adopt a declaration on solidarity', available at <https://www.consilium.europa.eu/en/press/press-releases/2022/06/22/migration-and-asylum-pact-council-adopts-negotiating-mandates-on-the-eurodac-and-screening-regulations/>

⁴⁶ Statewatch, 'EU: Tracking the Pact: Council mandate for negotiations with the Parliament on Eurodac', 2022, available at <https://www.statewatch.org/news/2022/june/eu-tracking-the-pact-council-mandate-for-negotiations-with-the-parliament-on-eurodac/> and <https://www.europarl.europa.eu/news/en/press-room/20221212IPR64521/eurodac-meps-ready-to-start-negotiations-with-the-council>

⁴⁷ ECRE Editorial 'End Game of French Presidency – Passing on a Partial Reform', available at <https://ecre.org/ecre-editorial-end-game-of-french-presidency-passing-on-a-partial-reform/>

⁴⁸ Joint Roadmap of the European Parliament and Rotating Presidencies of the Council on the organisation, coordination, and implementation of the timeline for the negotiations between the co-legislators on the CEAS and the New European Pact on migration and asylum, available at <https://www.europarl.europa.eu/resources/library/media/20220907RES39903/20220907RES39903.pdf>

⁴⁹ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL addressing situations of instrumentalisation in the field of migration and asylum available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=COM:2021:890:FIN>. The proposal was criticized by civil society showing that it would allow MS to deviate from standards related to asylum procedures, reception and return; at the last meeting of the Council no majority was reached on this proposal - <https://ecre.org/ecre-reaction-no-majority-for-instrumentalisation-regulation/>

decreasing homelessness among these groups of people. To this end, in the following pages we aim to identify the areas and policies where action should be taken, referring to the proposals put forward under the Pact and considering the latest developments at EU and national level as a response to the crisis determined by the ongoing war in Ukraine.

a) The Pact on Migration and Asylum

The 'New Pact on Migration and Asylum' proposed by the European Commission is composed of five legal instruments: 1. A new screening regulation⁵⁰; 2. An amended proposal revising the Asylum Procedures Regulation⁵¹; 3. An amended proposal revising the Eurodac Regulation⁵²; 4. A new asylum and migration management regulation⁵³; 5. A new crisis and force majeure regulation⁵⁴; three recommendations: 6. A new migration preparedness and crisis blueprint⁵⁵; 7. A new recommendation on resettlement and complementary pathways⁵⁶; 8. A new recommendation on search and rescue operations by private vessels⁵⁷; and one guidance document – 9. New guidance on the Facilitators Directive⁵⁸ (facilitation of irregular entry). The Pact has four building blocks: pre-entry procedures at external borders, mechanisms for responsibility sharing and solidarity, a special mechanism for crisis and force majeure as well as novelties in the governance mechanism relating to asylum and migration.

⁵⁰ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817 COM/2020/612 final, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:612:FIN>

⁵¹ Amended proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU, COM/2020/611 final, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:611:FIN>

⁵² Amended proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the establishment of 'Eurodac' for the comparison of biometric data for the effective application of Regulation (EU) XXX/XXX [Regulation on Asylum and Migration Management] and of Regulation (EU) XXX/XXX [Resettlement Regulation], for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes and amending Regulations (EU) 2018/1240 and (EU) 2019/818 COM/2020/614 final, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:614:FIN>

⁵³ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on asylum and migration management and amending Council Directive (EC) 2003/109 and the proposed Regulation (EU) XXX/XXX [Asylum and Migration Fund], COM/2020/610 final, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:610:FIN>

⁵⁴ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL addressing situations of crisis and force majeure in the field of migration and asylum, COM/2020/613 final, available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A52020PC0613>

⁵⁵ COMMISSION RECOMMENDATION of 23.9.2020 on an EU mechanism for Preparedness and Management of Crises related to Migration (Migration Preparedness and Crisis Blueprint), available at:

https://ec.europa.eu/info/sites/default/files/commission_recommendation_on_an_eu_mechanism_for_preparedness_and_management_of_crises_related_to_migration_migration_preparedness_and_crisis_blueprint_0.pdf

⁵⁶ COMMISSION RECOMMENDATION of 23.9.2020 on legal pathways to protection in the EU: promoting resettlement, humanitarian admission and other complementary pathways, available at:

https://ec.europa.eu/info/sites/default/files/commission_recommendation_on_legal_pathways_to_protection_in_the_eu_promoting_resettlement_humanitarian_admission_and_other_complementary_pathways.pdf

⁵⁷ Commission Recommendation (EU) 2020/1365 of 23 September 2020 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, available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32020H1365>

⁵⁸ COMMUNICATION FROM THE COMMISSION, Commission Guidance on the implementation of EU rules on definition and prevention of the facilitation of unauthorised entry, transit and residence, available at:

https://ec.europa.eu/info/sites/default/files/commission-guidance-implementation-facilitation-unauthorised-entry_en.pdf

The package was accompanied by a European Commission staff working document (SWD (2020) 207).⁵⁹ In 2022, the Commission issued Regulation 2021/2303⁶⁰, as part of the 2016 package to reform the CEAS which regulates the transition of the European Asylum Support Organisation (EASO) to the European Union Asylum Agency (EUAA). The regulation grants the EUAA new powers to improve the implementation and functioning of the CEAS by strengthening practical cooperation and information exchange among Member States.

Despite the commendable engagements and the complex set of legislative proposals and recommendations put forward, the 'New Pact on Migration and Asylum' has received important criticism from civil society, both from the people who are directly concerned by these policies and from those who defend their rights. A continuous securitisation approach on migration and asylum has been noted, increasing border control and accelerating border procedures. This type of approach inevitably leads to the increased detention of asylum seekers. A focus on returns has also been prioritised, to the detriment of people's individual needs. Supposedly based on takeaways from the experiences with the 2015–2016 so called 'migration crisis', the Pact does not provide realistic measures that would effectively support those who arrive in Europe in search of a better life. The proposal does not give way for respecting social rights of people who are in vulnerable situations. It rather exploits and encourages options that are less positive, such as the 'systematic containment of asylum seekers in border zones'.⁶¹ These aspects are codified throughout the Pact and if maintained and implemented without proper monitoring, they will inevitably lead to increased criminalisation of immigration and of stakeholders supporting migrants.

First and foremost, FEANTSA wishes to highlight that while our aim with this paper is to analyse the impact of EU migration policies on homelessness, this analysis is quite restricted by the general focus of the Pact on securitisation of migration and border control, to the detriment of integration and support policies. We therefore formulate general comments and concerns on the proposals of the Pact and the potential impact on the homelessness sector. We call for migration and asylum policies which address housing exclusion and deliver on ending homelessness.

- The Commission, through its proposals, is again giving too much discretion to MS to define **humanitarian assistance** for migrants and to decide what type and how much **solidarity** they should show within the asylum system. This will not ensure that action will be taken as needed, as we have seen in the past that Member States are reluctant to increase support. The Solidarity Declaration⁶² approved in June 2022 under the French presidency reiterates the idea of solidarity and strengthens the commitment to a gradual implementation of the European Pact on Migration and Asylum. However, this is a temporary measure (of one year) which was not signed by all MS⁶³ and it did not set clear numbers for relocations, leaving it to MS to provide estimates based on their GDP quota. Under the Czech presidency, the Solidarity Declaration remained at the level of a statement while in practice MS agreed to transfer only 117 asylum seekers across the bloc out of the 8000 announced pledges.⁶⁴ In the context where the ongoing war in Ukraine increased pressure on an already overwhelmed asylum reception system, the role of the EU institutions is crucial in setting up, together with Member States, clear support mechanisms and enhanced solidarity.

⁵⁹ COMMISSION STAFF WORKING DOCUMENT Accompanying the document PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on asylum and migration management and amending Council Directive (EC)2003/109 and the proposed Regulation (EU)XXX/XXX [Asylum and Migration Fund] {COM(2020) 610 final}, available at: https://ec.europa.eu/info/sites/default/files/1_en_autre_document_travail_service_part1_v3.pdf

⁶⁰ Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32021R2303>

⁶¹ Anna Iasmi Vallianatou, 'Lesvos: How EU asylum policy created a refugee prison in paradise' available at <https://www.chathamhouse.org/2022/07/lesvos-how-eu-asylum-policy-created-refugee-prison-paradise#fortress-europe>

⁶² The first step in the gradual implementation of the European Pact on Migration and Asylum: modus operandi of a voluntary solidarity mechanism, available at <https://presidence-francaise.consilium.europa.eu/en/news/first-step-in-the-gradual-implementation-of-the-european-pact-on-migration-and-asylum-modus-operandi-of-a-voluntary-solidarity-mechanism-1/>

⁶³ 21 states are taking part - Belgium, Bulgaria, Cyprus, the Czech Republic, Germany, Greece, Spain, Finland, France, Croatia, Ireland, Italy, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Norway, Switzerland, Liechtenstein.

⁶⁴ EU countries have relocated just 117 asylum seekers out of 8,000 pledges | Euronews

- The pact proposals do not answer the problems of **unsuitable accommodation experienced by asylum seekers**, as explained above and confirmed by Eurostat which registered that 4.0% of the residents in reception centres faced 'severe housing deprivation'.⁶⁵ Conversely, a definition of what '**adequate**' accommodation means has not been properly defined, as the European Parliament (EP)'s assessment of the Pact reveals. Simply requesting MS to ensure adequate reception without defining this and enforcing suitable rules for achieving it will not lead to the much-needed progress in this area. The Pact newly provides that **accommodation of asylum seekers must meet certain minimum requirements** which are to be laid down by an EU agency, but it does not clarify which agency is responsible.
- The **experiences of destitution** and the factors pushing migrants, asylum seekers and refugees into insecure accommodation and homelessness are not sufficiently considered. Despite its objective to obtain a more effective, fair and human rights compliant asylum system in the EU, the Pact is not considering how specific problems will be addressed. The structural factors contributing to poor living conditions must be considered when developing new initiatives (e.g.: lack of data and consequently of tailored policies, inability to offer adequate support for undocumented migrants) in order to ensure that fundamental human rights are respected throughout individuals' migration and asylum processes.
- **Reception conditions** for asylum seekers are not sufficiently addressed by the Pact. It has become clear that the reception systems across MS are not suitably equipped to receive all individuals searching for protection within the EU in adequate conditions. As shown above, homelessness among asylum seekers occurs frequently. In some cities where the availability in the reception centres is limited, asylum seekers may turn to shelters for the general homeless population or even end up sleeping rough. Moreover, many reception sites across MS are affected by poor housing and overcrowding, leading to undignified living conditions. The new legislative initiatives should take into account such situations and seek to address the shortfall in accommodation facilities for the reception of people searching for protection.
- The proposals under the Pact risk leading to a **lowering of the existing standards for reception** as the new provisions introduced through the *pre-entry procedures* are estimated to lead in some cases to more detention at borders and an increase in the use of the hotspots approach at Europe's external borders. It is not clarified how, in this new approach, which is over-relying on time limits for taking a decision on the admissibility of an asylum application, adequate reception conditions can be guaranteed. This includes avoiding overcrowding and rushed decisions taken by border actors that may be the result of stress and pressure. The EP report concludes that, in relation to the situation at the borders, the Pact will not bring improvements. The EP evaluates that the current situation in Greece would not become worse (as thousands of asylum seekers are already kept at the border under existing rules) and concludes in their assessment that the proposals "*would rather create a 'Moria like' scenario in other countries, even if the situation may vary significantly depending on the characteristics of the migration flow*".⁶⁶ Such a scenario would go completely against the pledge of the EC made by Commissioner Johansson in the wake of the tragic events from Moria in 2020, when launching the Pact – '*No more Morias*'.
- The Pact on Migration and Asylum has brought a very **strong focus on border protection and migration control** to the detriment of human rights and improvement of legal pathways and conditions of reception for people in exile. This will only lead to an increased anti-migration attitude in Europe, including a rise in pushbacks at borders and criminalisation of humanitarian actors. Homelessness service providers are among those

⁶⁵ Eurostat, housing deprivation data, Eurostat code ILC_MDHO06A.

⁶⁶ European Parliamentary Research Service, 'The European Commission's New Pact on Migration and Asylum' Horizontal substitute impact assessment, August 2021, available at [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/694210/EPRS_STU\(2021\)694210_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/694210/EPRS_STU(2021)694210_EN.pdf)

stakeholders at risk of being penalised for the support they may offer to migrants in vulnerable situations because of such approaches.

- Another key focus concerns the issue of **returns** of migrants. Combined with the recast of the Return Directive (still under negotiation since 2018⁶⁷) and a Strategy on voluntary return and reintegration⁶⁸ (launched in April 2021), the Pact proposals reinstate the focus on returns (voluntary if possible but not exclusively). Homelessness service providers are often involved in this process as explained above; in some MS, pressure is put on staff in these services to handle the documentation of migrants entering their shelters and to share information with the police. Further worries have been raised by bodies such as UNHCR regarding the increased role of Frontex on returns, recommending that the agency “*particularly on voluntary returns and post-return assistance, builds on the extensive expertise of international and civil society organizations*”.⁶⁹
- The proposals under the Pact maintain the **principle of ‘1st state of entry’** determined under the 1990 Dublin Convention which has put a lot of pressure on border States, including on homelessness service providers. This principle impedes the sharing of responsibility and hinders readmission agreement practices. In some MS where constraining procedures have been set in place, asylum seekers placed under the Dublin regulation have had a reduced access to material reception conditions and their right to protection was curtailed.
- The situation of **undocumented migrants** was estimated to become worse under the Pact proposals, particularly in relation to the **return sponsorships** scheme.⁷⁰ This also applies to migrants who migrate for economic reasons and do not have access to suitable pathways of entering and remaining in Europe, often living in destitution. A truly fair approach to migration should recognise individuals that have been residing and working in Europe for long periods of time. Despite irregular status, many migrants work and contribute to our societies, a reality revealed by the COVID 19 pandemic recently. Migration policies must consider possibilities of regularisation while clarifying the right to access minimum safeguards, including emergency accommodation and healthcare for all those residing on European territory.

b) Learning from the response to the war in Ukraine

The Temporary Protection Directive – from repealing to setting new standards?

In February 2022, the Russian invasion of Ukraine led to the highest displacement of people in Europe since World War II. The most recent estimates show that at least 12 million people have fled their homes, with over 7 million searching for protection in neighbouring countries.⁷¹ The EU and its Member States have been once again put to a great challenge by having to face such a mass influx of displaced people. This influx has of course taken place at a time when Europe’s asylum reception system was already overwhelmed, only being able to rely on meagre resources. Despite this, the powerful level of support that we have witnessed from Ukraine’s neighbouring countries, particularly from private citizens and civil society has given a new sense as to what solidarity in Europe can mean.

⁶⁷Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on common standards and procedures in Member States for returning illegally staying third-country nationals (recast) A contribution from the European Commission to the Leaders’ meeting in Salzburg on 19-20 September 2018, COM/2018/634 final, available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM:2018:634:FIN>

⁶⁸ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL The EU strategy on voluntary return and reintegration, COM/2021/120 final, available at: https://ec.europa.eu/home-affairs/sites/default/files/pdf/27042021-eu-strategy-voluntary-return-reintegration-com-2021-120_en.pdf

⁶⁹UNHCR issues recommendations to the 2022 French and Czech Presidencies of the Council of the EU, January 2022, available at <https://www.unhcr.org/news/press/2022/1/61dc1f074/unhcr-issues-recommendations-2022-french-czech-presidencies-council-eu.html>

⁷⁰ PICUM, ‘*The EU Migration Pact: questions and answers*’, available at <https://picum.org/eu-migration-pact-questions-answers/>

⁷¹ UNHCR Operational Data Portal, Ukraine Refugee Situation, available at <https://data.unhcr.org/en/situations/ukraine>

Together with the facilitation of entry and access to rights opened through the activation of the Temporary Protection Directive, it can be argued that this type of response is what the new benchmark for asylum in Europe should look like.

Following the Russian invasion, the EU activated the TPD, an instrument adopted in 2001 and never used before. Member States who have transposed the TPD at national level have been able to allow for swift access to protection for Ukrainians entering the EU. A rapid and straightforward process to obtain the needed residence permit was facilitated by the temporary protection measure, which, as foreseen in the directive, is initially granted for one year after which automatic extension applies, depending on the existing needs. This has made the reception of Ukrainian refugees (and in some cases, refugees of other nationalities fleeing Ukraine) a faster and smoother process as opposed to the reception of refugees arriving from Afghanistan, for example, or African countries. Under the TPD, most refugees arriving from Ukraine have had direct access to accommodation, social care services, education and to the labour market. This type of protection has also allowed individuals to settle temporarily in different MS and has enabled them to have immediate access to the job market, health services and education system of the country in question. These procedures are not perfect and their implementation depends on the available resources at national level, but overall the integration process has certainly been easier and faster. Among other benefits, the TPD has protected people from falling into destitution and/or into irregularity when they entered the EU.

All the while, in the same reception systems where Ukrainians are offered temporary protection, asylum seekers arriving from other countries such as Afghanistan or Syria are left waiting for long periods of time. In some cases, individuals are forced to sleep rough in front of the reception centres because of a lack of accommodation, as described above. By showing immense solidarity to Ukrainians fleeing the war, Europe has proved that it can learn from the lessons of the past and that it can avoid making the same mistakes that slow down people when acquiring international protection and seeking integration. It is now time to learn from the response to this crisis and to improve the European asylum and migration system. The management of the reception of Ukrainian refugees shows that Europe has the capacity to welcome a mass influx of displaced people with dignity and to offer them access to basic needs as well as social rights. This can be done in a way that avoids people falling into destitution and experiencing risks to their health and safety. It is now clearer than ever that the reform of the European asylum system is a matter of how willing MS are and how far Europe wishes to extend its solidarity.

In recent months, the process of harmonizing the CEAS and the negotiations regarding the proposals from the Migration and Asylum Pact have intensified. This context is a unique opportunity for the EU and its MS to ensure full compliance with fundamental human rights within the CEAS. In doing so, the solidarity and the immense mobilisation of resources for Ukraine must be held as the new standard. It is very important to draw lessons from this period as the EU is advancing in its negotiations to implement a common European asylum system.

Moreover, it is highly important to rely on these experiences for combatting any type of differential treatment and discrimination in the way the reception system is laid out in the EU. Europe must make sure that it avoids creating double standards in the reception system and must confer the same chances to protection for all of those reaching its territory. Unfortunately, this is not the case currently, as differences exist in the reception and sheltering of refugees from Ukraine and refugees who are originally from other countries. MS still offer shelter to non-European refugees in the form of inadequate accommodation which is sometimes considered to be illegal. In the Netherlands, the Dutch government announced plans to host around 3,000 refugees on cruise ships from September this year, while suggesting that those arriving from Ukraine will not be put on these ships.⁷² In Brussels, asylum seekers arriving mainly from African countries have had to sleep rough in front of the main reception centre in town since the autumn of 2021. This violation of the rights of asylum seekers to reception has led to at least 1,216 convictions (in other words, 6 per day) since the beginning of this year against FEDASIL.⁷³ The ECHR has also urged the Belgian state to take

⁷² https://www.theguardian.com/world/2022/jul/22/dutch-plans-house-refugees-cruise-ships-netherlands?CMP=Share_iOSApp_Other

⁷³ <https://www.brusselstimes.com/belgium/265045/fedasil-receives-six-convictions-a-day-for-failing-to-shelter-asylum-seekers>

urgent action by offering all asylum seekers dignified reception conditions, a right guaranteed under EU asylum law. At the same time, Ukrainian refugees are received, as they should be, in a more rapid and straightforward manner, which raises inevitable questions around the issue of double standards.⁷⁴

This is one of the significant differences in terms of temporary protection bestowed on individuals immediately after their arrival in the EU, among others. While applauding this response and the solidarity with Ukrainian refugees, organisations and institutions active in the field of asylum cannot ignore what is happening with refugees from other countries. Civil society organisations have pointed out that the standards set by the TPD should serve to set the norm in the asylum reception system of Europe; all aspects of the Pact which lead to less safeguards in the reception of asylum seekers must be dropped and efforts should be focused on allowing for the same type of swift protection for all asylum seekers entering the EU.⁷⁵

The EC Communication from September 2020 launching the Pact announced the proposal to repeal the TPD. However, the lack of advancement on the proposed Pact has meant that, in response to the Ukrainian crisis, the EU had to appeal to the instrument they wished to scrap two years ago to be able to allow such a high number of displaced people to enter EU Member States safely. Challenges remain on the ground and the EU together with its MS still has a long way to go to secure clarity around the long-term integration of refugees from Ukraine, particularly in regard to housing, given that it is one of the main challenges. Despite this, the TPD activation and the overall response to the Ukraine crisis provides us with clear arguments that we need to re-evaluate how protection is offered to asylum seekers in the EU.

The precedent set by the response to the Ukrainian crisis must be the new norm for everyone looking for asylum in the EU. There can be no turning back from the minimum conditions set through the Temporary Protection Directive in the case of a new similar conflict. Equally, the experience with the reception of the high number of people fleeing Ukraine must be incorporated in the final form of the 'New Migration and Asylum Pact' when it shall be adopted. The experiences of homelessness service providers and other organisations working to defend the rights of refugees should be taken into account. Indeed, the ongoing negotiations on the Pact must take into consideration the following lessons learnt:

- *Redefine solidarity between MS when implementing the asylum and migration system and set a higher standard to achieve a fair and just distribution of responsibilities.* The experience from the first half of 2022 on coordinating support for neighbouring countries, including Moldova, where a big number of refugees have arrived from Ukraine should be used as inspiration when it comes to setting up similar schemes for countries which are under pressure because of their geographical location.
- *Implement measures that would lead to changing the paradigm around migration and asylum where the unconditional dignified reception of the people present on the territory becomes a prerequisite.* The reception of people from Ukraine has demonstrated the benefit of an approach centred on reception, which allows an examination of individual situations, support and appropriate solutions. This is done with respect for rights and adequate care of people's needs. To this end, the reinforcement of resources dedicated to the first reception and accommodation of people seeking asylum is encouraged.⁷⁶
- *Design a migration and asylum system where access to rights is strengthened and enlarged,* including allowing for: access to housing allowance and family benefits without delays; access to healthcare; free

⁷⁴ <https://www.brusselstimes.com/258207/over-100-asylum-seekers-sleeping-on-street-outside-reception-centre>

⁷⁵ Michele Levoy, opinion 'EU welcome for Ukraine refugees — a new gold standard?' available at <https://euobserver.com/opinion/154760>, Greek Refugee Council in FEANTSA webinar available at <https://www.feantsa.org/en/event/2022/06/20/?bcParent=27>

⁷⁶ Federation des Acteurs de la Solidarite, Prendre Appui sur L'accueil des Personnes Venues depuis L'ukraine pour Accueillir Dignement Tou-Tes les Exilé-Es, 2022, available at https://www.federationsolidarite.org/actualites/prendre-appui-sur-laccueil-des-personnes-venues-depuis-lukraine-pour-accueillir-dignement-tou%e2%88%99tes-les-exile%e2%88%99es/?utm_source=mailpoet&utm_medium=email&utm_campaign=la-lettre-de-la-federation-des-acteurs-de-la-solidarite_9

transportation; access to language courses financed by the State; develop public services responsible for guaranteeing access to rights (e.g.: establish multi-service offices and mobile intervention teams, interpretation services, etc).⁷⁷

- *Recognise the importance of allowing direct access to the labour market* – the immediate access to the job market for Ukrainians allowed them to find employment easier and to become financially independent faster; this measure needs to be implemented with further support by accommodating for language needs, specific needs of single-parent families, etc.
- *Reinforce coordination across services and sectors* – collaboration between State services and administrations, housing actors, actors specialised in supporting migrants and asylum seekers, migrant and refugee-led organisations (whether they be professionals or volunteers), local authorities, as well as private citizens committed in a sustainable or spontaneous way to receiving people in exile in a dignified way has virtuous effects and remains a course of action that has yet to be explored further.⁷⁸
- *Encourage solidarity movements through guidance and financial support* – as seen in the management of the recent crisis, setting up guidelines for ad-hoc and private initiatives and their coordination with authorities can contribute to a smooth and safe reception of individuals; offering allowances for individuals who host refugees is also a good practice. The Safe Homes Guidance published by the EC can have a potential role in supporting these movements, as long as it will develop necessary mechanisms of communication and financial support. Additionally, it is also worth considering enhancing and scaling up private or community sponsorship schemes or labour needs-based programmes as complementary pathways and alternatives to temporary protection or asylum.
- *Immediate protection and therefore, registration permit* – the issue of the time it takes to access rights is one aspect that the TPD has revealed to be of essential importance. The sooner the residence permit is obtained the easier the rest of the steps towards integration can be achieved. For Ukrainians who could prove their identity, temporary protection could be provided immediately. If no documents were available, individuals would have to wait approximately 30 days. The difference being that in the case of an asylum application, the right to work is achieved only after having a decision on granting asylum or granting subsidiary protection (or, if the application is not decided, within 9 months from the beginning of the proceedings). This means that often people are forced to sit and wait for a decision or for up to 9 months, which can be an enabling factor for destitution from several points of view.
- *Temporary protection to allow people to travel to other countries for the first 90 days* – this could open possibilities for employment/settling easier in other MS and allows for more consideration of individual preferences versus having people stuck in places which often do not conform with dignified conditions and open a path to irregularity.

These recommendations have been formulated based on the experiences from the past half a year with the reception of the Ukrainian refugees and they show that faster entry procedures can help to avoid reception crises, proving as well that increased solidarity in Europe is possible. Nonetheless, it should be stressed that the topic of access to dignified and safe accommodation in the case of refugees arriving from Ukraine remains one of the most challenging areas of the crisis where action needs to be taken.

Despite the unprecedented European response in developing tools and programmes that have facilitated access to accommodation for the newcomers, an over-reliance on private and citizen-led schemes which are not sustainable for the long-term exposes people to further vulnerability, including destitution and unsafe housing or homelessness. A strategic policy around housing Ukrainians for the medium to long-term is still missing and the longer the war lasts, the more important it becomes to develop such a strategy. Furthermore, the high increases of the cost of living and

⁷⁷ Ibid

⁷⁸ Ibid

the winter season need to be considered, as these will inevitably lead to rising costs, as well as to possible further increases in the number of refugees leaving Ukraine. To address this, together with a strategic long-term strategy around housing, the EU and its MS need to develop mechanisms to ensure that financial support reaches the relevant stakeholders who are directly involved in housing and supporting refugees. State actors must increase the responsibility that they are assuming in this regard.

IV CONCLUSIONS AND RECOMMENDATIONS

Europe must develop migration and asylum policies which are more respectful of fundamental rights, and which ensure dignity for all individuals who reach its territory. To achieve this and to ensure effectiveness in the implementation of policies in these areas, two things are necessary: first, to harmonise the European asylum mechanism aiming at increasing solidarity and equalising responsibility across MS; second, migration and asylum policies should have at their core the integration of people and the challenges they face, including destitution and homelessness, and less focus on controlling migration and borders.

FEANTSA echoes civil society demands on the proposals contained in the 'New Pact on Migration and Asylum' to move towards a fair and inclusive system in Europe. We support the calls to renounce all features of the Pact which can lead to reduced access to applying for asylum and reduced safeguards or access to different types of residence permits. We believe that a focus on increasing deportations and criminalising immigration by increasing the detention of migrants and externalising borders and the right to asylum will not contribute to a just asylum system in the EU. Ignoring the unsafe and inadequate living conditions of migrants who are criminalised, pushed into destitution and sometimes into irregularity by slow and restrictive policies will mean that MS will continue to fail on respecting their commitments to European and international legislation for safeguarding human rights for all individuals.

FEANTSA considers that it is highly important to address existing structural challenges within the migration and asylum system and formulates recommendations to this end, with a particular focus on the right to accommodation and housing, as a main pillar of integration. We call for the EU institutions to consider these when further negotiating the proposals in the 'New Pact on Migration and Asylum':

1. **Strengthen protection standards for asylum seekers** by unifying and improving reception conditions.
2. **Establish a clear definition of what 'adequate' accommodation** should be considered under the Pact and monitor the measures set in place by Member States to ensure adequate reception conditions.
3. **Invest in accommodation facilities and develop housing solutions** in the public and private sector to promote integration of new arrivals as it was recently promoted in the context of the Ukraine crisis (e.g.: investing in social housing, encouraging and supporting community sponsorship programmes, private housing coordinated by the State).
4. **Develop a long-term strategy for generating new housing**, in the context of a lack of affordable housing across the EU, with a focus on people in vulnerable situations (including migrants, asylum seekers and refugees).
5. Develop **clear and structural mechanisms for shared responsibility** between Member States beyond ad-hoc pledges that would alleviate the pressure put on border countries, including the service providers.
6. Strengthen **monitoring and coordination** with Member States on the measures they approve and implement to ensure that everyone has access to humanitarian support on EU territory which guarantees dignified living conditions.

7. **Improve coordination and transitional processes between reception and independent living** once protection has been granted, to ensure access to adequate and safe long-term housing for refugees and to prevent destitution, including homelessness experiences.
8. **Approach destitution and homelessness among migrants and asylum seekers** as a result of structural factors as well as personal crises or vulnerability and initiate data collection regarding this phenomenon as well as on the causes that determines it.
9. **Establish a human rights approach in all migration policies, ensuring access to basic services and facilities such as food, healthcare and accommodation for all, irrespective of administrative status.** This can be achieved by securing the necessary resources for the homelessness services working with migrants.
10. Acknowledge that **migration policies focused on expulsions and returns will not solve irregular migration within the EU.** To develop an effective migration strategy in the long-term, it is necessary to provide legal ways to enter the EU and access residence rights. The Pact must consider the situations of undocumented migrants and set up pathways for increased regularisation and integration.
11. **Ensuring safe and legal routes to protection** including resettlement and humanitarian admission programmes, humanitarian visas and private sponsorship programmes.
12. Implement **firewalls between social services and immigration control bodies**, to protect associations managing social and community health services as well as their employees, who should not be implicated in policies that compromise their principles of solidarity and respect for human rights.
13. A **stronger reform of the Dublin Regulation** is needed to avoid reinforcing the already existing restrictive system making it even more punitive for people who do not apply for international protection in the first European country of entry. This system further jeopardises newcomers' living conditions and does not encourage the sharing of responsibilities between European countries.
14. **Learn from the extensive experiences from countries such as Greece**, where high numbers of asylum seekers and refugees have been held in appalling conditions in camps. All measures possible must be taken to avoid such situations, in particular consulting with local communities, authorities and coordinating efforts to avoid even more rights violations in the case of people in search of protection.
15. **Drop all aspects of the Pact which lower safeguards for asylum seekers and introduce a new benchmark of solidarity and support** by taking into consideration in the ongoing negotiations of the Pact the experiences from the past six months with the response for people fleeing the war in Ukraine.

The EU has long been the place where the human rights of people in search of protection and a better life have been disregarded. Many – adults and children alike – have lost their lives trying to reach ‘Fortress Europe’.⁷⁹ Since 2015, many experiences have been recorded and many struggles have taken place in relation to migration and asylum processes in all Member States. In 2022, we have seen war close to our borders and an unprecedented solidarity rose among communities. Back in 2015, when high numbers of people arrived from Syria and other countries in Greece, a similar wave of solidarity was shown to them, initially. As time passed, European policies imposed on local communities – without proper consultation – contributed to discouragement and loss of trust in the EU as well as national governments. Solidarity diminished and was replaced instead by frustration with Greece acting as the gatekeeper of Europe. Similar frustrations have recently been observed across Europe in managing the high number of people arriving from Ukraine, as the EU continues to lack a strategic approach for the inclusion of people in the long term.

While policies may differ and comparisons are hard to conduct between the two crises (the one from 2015 and the one following Ukraine’s invasion), Europe can draw important lessons from the experiences of these two periods in

⁷⁹ Anna Iasmi Vallianatou, ‘Lesvos: How EU asylum policy created a refugee prison in paradise’ available at <https://www.chathamhouse.org/2022/07/lesvos-how-eu-asylum-policy-created-refugee-prison-paradise#fortress-europe>

time. It can use the lessons from Greece and other countries involved in the arrivals from 2015/2016 to avoid making mistakes in the current management of the Ukraine crisis; and it can draw from the response to Ukrainian refugees to achieve a migration and asylum system which is truthful to solidarity, and which respects the fundamental rights of all individuals residing in its territory.

The right to housing is an area which needs further consideration to ensure that all migrants, asylum seeker and refugees can ask for asylum and live in dignity in the European Union. The Migration and Asylum Pact has the potential to offer this dignity by considering the experiences of individuals facing destitution and exclusion and by learning from past experiences.

AUTHOR

Simona Barbu, Migration Policy Officer at FEANTSA

For more information contact simona.barbu@feantsa.org



Co-funded by the European Union
By the EaSI strand of the ESF+ programme.



FEANTSA

**European Federation of National Organisations
Working with the Homeless**

194 Chaussée de Louvain, 1210 Brussels, Belgium
T +32 (0)2 538 66 69 • information@feantsa.org

www.feantsa.org

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