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European Commission “compacts” represent responsibility-shirking, not responsibility-sharing

On 7 June 2016, the European Commission published a [Communication](#), calling for the establishment of migration “compacts” between the EU and a range of countries in Africa, Asia and the Middle East.¹ The document is a striking example of precisely what has precipitated the worst refugee crisis since the Second World War. Its rhetoric of solidarity notwithstanding, what the document advocates is responsibility-shirking, not responsibility-sharing. In so far as the communication points to the deeply flawed [EU-Turkey Deal](#) as a blueprint to develop “tailored” arrangements with other countries, these “compacts” risk precipitating a global race to the bottom for the rights of displaced persons, as wealthy countries could emulate the EU by seeking to buy their way out of respecting their legal obligations. The global situation will continue to deteriorate until the international community – including the EU and its member states – takes action to address it as a collective duty.

The essence of the proposal is for the “overall relationship” between the EU and non-EU countries to be guided by those countries’ ability and willingness to prevent irregular migration and readmit irregular migrants to their territories. If the proposal is implemented, the EU and its member states will identify positive and negative incentives vis-à-vis target countries and *mobilize all the policies and tools* (diplomatic, technical and financial) at their disposal. In some ways, the Communication is in line with previous EU initiatives, including the [Valetta Summit](#) and [Khartoum Process](#), but it also represents a new stage in the EU’s recent “diplomatic offensive” on migration. At its core, the Communication proposes a fundamental reorientation of EU and member states’ foreign policy around the primary imperative of preventing irregular migration.

The first serious flaw with the Communication is that it advocates making financial assistance dependent upon third states’ cooperation on readmission and returns. Unquestionably, a key element of responsibility-sharing for the global refugee crisis would be for wealthy countries to provide sufficient financial support to countries hosting large numbers of refugees, such as Jordan, Kenya, Lebanon, and Turkey. This is something that Amnesty International has long called for. Wealthy nations must assist host countries in efforts to ensure that asylum-seekers and refugees can meet their basic needs and live in dignity. The same can be said for states in which extreme poverty has pushed people to seek a better future elsewhere: indeed, addressing the “root causes of irregular migration” is a laudable humanitarian imperative. But EU assistance to third countries should be based on need, not politics. Funding must be guaranteed as a matter of international cooperation and solidarity, not conditional upon irrelevant factors, such as “the ability and willingness of countries to cooperate on migration management, notably in effectively preventing irregular migration and readmitting irregular migrants.” Indeed the privileging of migration cooperation over other issues, such as the respect for human rights, risks aggravating push-factors including poverty and conflict, where it results in the propping up of rights-violating regimes. In the absence of any proposals for mechanisms to monitor the human rights compliance of policies resulting from such cooperation frameworks with third countries, some of which are notorious for serious and widespread human rights violations, the EU risks being implicated – directly or indirectly – in human rights abuses. There are obvious questions, in the run up to the adoption of the EU’s new Global Strategy, as to how the policy orientation outlined in the Communication will prove consistent with the EU stated commitment “to place human rights at the centre of all external action”.

The second problem is the absence from the Communication of a credible, detailed and ambitious scheme for resettlement or other pathways for admission to the EU.² In the document, the European Commission rightly acknowledges that the “EU needs to put in place pathways for people to come to the EU legally,” including “genuine prospects of resettlement,” but then fails to provide any concrete numbers or proposals for doing so. Indeed, it appears that the particular “pathways” on offer would depend on third countries’ cooperation on

¹ The European Commission lists the 16 priority countries as Afghanistan, Algeria, Bangladesh, Ethiopia, Eritrea, Ghana, Ivory Coast, Mali, Morocco, Niger, Nigeria, Pakistan, Senegal, Somalia, Sudan, and Tunisia. In addition, the Commission identifies a number of other countries as “short-term priorities”: Egypt, Iran, Jordan, Lebanon, Libya, and Morocco.

² “Resettlement” is the relocation of vulnerable refugees – including survivors of violence and torture, women and girls at risk, and those with serious medical needs – to countries where they can fully enjoy their human rights. Resettlement is one safe and legal “pathway for admission” for refugees; it plays an important role in refugee protection and is an effective tool through which the international community can share in the responsibility for refugee crises.

migration management with the EU. Moreover, in calling on the EU's "international partners" to "assume their share of responsibility," the Communication implies that the EU is bearing a disproportionate responsibility for resettling refugees. This is not borne out by the numbers. For example, in June 2015 UNHCR identified more than [one million refugees](#) urgently in need of resettlement worldwide. By May 2016, only [6,321 people](#) had been resettled by EU member states – this represents less than a third of the very modest EU-wide figure of 22,504 resettlement places agreed to in July 2015. In other words the world's richest political bloc provided resettlement to less than 1% of the people around the world who urgently required it. Indeed, the Communication's stated objective of enabling refugees and migrants to "stay close to home" seems aimed at reinforcing the status quo, in which 86% of the world's refugees live in developing countries that are unable or unwilling to provide adequate support. The EU needs to operationalize its alleged commitment to "the principles of responsibility sharing and solidarity" by dramatically increasing the number of resettlement places for vulnerable refugees in countries of first asylum; and by opening other safe and legal routes for those seeking international protection in Europe, including family reunification and humanitarian visas in first countries of access.

The Communication's third shortcoming is the absence of a mechanism to monitor and ensure respect for international human rights law and standards in the implementation of the migration related measures expected of third countries under such "compacts", which carries an inherent risk that the EU and its member states will become complicit in a range of serious human rights violations. The principal criterion driving the selection of priority countries as candidates for migration partners appears to be their status as either sources or hosts of "migration-prone groups," and there is no requirement that these states respect international human rights law and standards. Under international law, all states – including EU member states – are entitled to take action to regulate the entry and residence of foreign nationals. Such action may include legitimate cooperation with third countries, and "compacts" between EU and non-EU states would not be unlawful per se. However, all state action is constrained by that country's legal obligations, including under international human rights law. Moreover, states that *aid or assist another state* in the commission of an internationally wrongful act can be held responsible for that act. The Communication fails to provide a mechanism to guarantee that EU funding would not contribute – directly or indirectly – towards human rights abuses. This gap is particularly concerning in light of the Communication's identifying several countries notorious for serious and widespread human rights violations – including Afghanistan, Eritrea and Sudan – as priority states for as-yet undefined "country packages." EU funding to these countries may assist in the commission of further abuse. And the Communication's proposal to "enhance" [Libya's "border management"](#) capacity may result in European funds contributing towards the ill-treatment and indefinite detention in horrifying conditions of thousands of refugees and migrants.

The fourth problem with the Communication is the method by which it proposes to deal with people-smuggling, which is simply a further entrenchment of the EU's failed "Fortress Europe" policies. EU governments are already spending billions on fences, high-tech surveillance and border guards. As [Amnesty International's research](#) has shown, this strategy does not work; while 280,000 refugees and migrants entered the EU in 2014, nearly 1.1 million people arrived by sea in 2015. Indeed, according to a 2016 study by intergovernmental law enforcement agencies, [INTERPOL and Europol](#), people-smuggling has increased in response to the EU's stricter border controls.

The combined effect of these four major flaws would be to worsen the very situation the Communication purports to address. Funding is one crucial element in responsibility-sharing, but without a concurrent method of enabling people to reach Europe safely, no amount of financial assistance will prevent irregular migration. People will keep fleeing as long as raging conflicts and brutal regimes exist in countries like Afghanistan, Eritrea, Gambia, Iraq, Nigeria, Somalia, Sudan and Syria; and as long as people are unable to live in dignity in host countries like Jordan, Lebanon and Turkey. Reinforcing the walls of Fortress Europe will just force people to take longer and more dangerous routes. So instead of stopping smugglers and saving lives, which are two of the "compacts" goals, the Communication's proposal may well have the opposite effect.

A new, global approach to sharing responsibility for refugees is urgently needed, one that is predicated on sustained and committed international cooperation and an equitable sharing of responsibilities. The high-level plenary meeting of the UN General Assembly, which will take place on 19 September 2016, is one opportunity to establish a global compact on genuine responsibility-sharing for refugees. By contrast, the so-called "compacts" proposed in this Communication are at best ill-conceived and at worst illegal. This Communication – if fully implemented – could lead to a worldwide decline in the quality of protection for asylum-seekers and refugees. The international protection system set up by the 1951 Refugee Convention would suffer a mortal blow if wealthy countries could simply buy their way out of fulfilling their international obligations.