

EU asylum pact fails trans and gender-diverse asylum seekers

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TGEU expresses profound concern over the EU Pact on Asylum and Migration, finalised in December 2023 and voted on by the European Parliament on 10 April 2024. While we acknowledge efforts towards reform, the Pact fails to adequately address the needs of vulnerable asylum seekers, including trans and gender-diverse people fleeing persecution.

Trans and gender-diverse asylum seekers face unique and pervasive forms of persecution and violence within their home, transit and host countries, including:

- Harsh penalties, which often involve imprisonment or death, for simply being who they are
- Lack of legal protection from violence and discrimination
- Forced conversion practices that aim to change or suppress their sexual orientation or gender identity
- Lack of legal gender recognition that often results in discrimination, unemployment, social exclusion, and limited access to basic rights and services, causing significant psychological distress and socio-economic hardship
- The absence of trans-specific healthcare in the majority of cases.

Grave consequences of the Pact

The Pact's shortcomings pose grave consequences for trans and gender-diverse people.

"[The asylum authorities] would not recognise my gender identity and they placed me with men. The consequences were catastrophic for me. An experience like that, being raped, is adding to your context and makes you more vulnerable. Then I ended up in a human trafficking ring. My life has become worse than it was already."

Fernanda Milàn – Guatemala/Denmark, a transgender asylum seeker who has since passed away

Regular imprisonment

Systemic legitimisation of the deprivation of liberty of asylum seekers at the border, which is incompatible with the presumption against the detention of asylum seekers and refugees laid down in international human rights law. Detention is particularly damaging to trans and gender-diverse asylum seekers because of a combination of factors. Being placed in a confined environment where people are often segregated based on the gender markers on their official documents can lead to heightened vulnerability, discrimination, and physical, mental and sexual abuse.

No fair trial

The establishment of a fast-track border procedure for the examination of asylum claims causes specific issues for trans and gender-diverse people. This procedure accelerates the assessment of asylum requests and facilitates

quick deportations following unfavourable decisions. Now that the Pact has been adopted, protection needs will be overlooked, especially for people with unique vulnerabilities. At the same time, access to legal aid and the ability to properly exercise the right to appeal negative decisions will be limited. For trans and gender-diverse applicants in particular, fast-track border procedures which emphasise expediency will lead to insufficient time for trauma disclosure, for example. Trans and gender-diverse applicants often face traumatic experiences, including persecution, violence, or forced conversion practices, which may be difficult to disclose in a short time.

Legitimising the offshoring of responsibilities

The offshoring of legal obligations to protect the rights of refugees by EU Member States to third countries such as Albania, Tunisia and Turkey, poses severe challenges, particularly for vulnerable trans and gender-diverse asylum seekers. By transferring responsibilities away from their jurisdictions, Member States risk violating several international laws they are signatories to, including the 1951 Refugee Convention. Offshoring undermines the principle of non-refoulement, which prohibits the return of individuals to countries where they may face persecution or harm, a cornerstone of refugee protection. Moreover, such actions can mean trans and gender-diverse people are denied access to essential services and protection mechanisms, exposing them to further discrimination, violence, and persecution. By abdicating their responsibilities, EU Member States not only breach their legal obligations but also perpetuate harm against some of the most vulnerable members of the refugee community, exacerbating the already dire situation faced by trans and gender-diverse asylum seekers.

No clear safeguards

The absence of clear safeguards to protect vulnerable trans and gender-diverse asylum seekers against the harmful consequences of the enacted Pact increases their vulnerability. Therefore, subjecting them to further harm and denying them the protection they urgently require.

We regret that the European Parliament failed to prioritise the inclusion of robust protections for trans and gender-diverse asylum seekers. It is now imperative for EU Member States to ensure that the Pact reflects the principles of dignity, safety, and equality for all individuals seeking asylum enshrined under international law.

What's next

TGEU calls upon Member States to implement robust measures as they incorporate the Pact into their domestic legislation. These measures should aim to enhance protections and uphold the rights of all asylum seekers, with particular attention to those who are especially vulnerable, such as trans and gender-diverse people. This includes ensuring access to safe and inclusive asylum processes, tailored support services, and safeguards against rollbacks.

In collaboration with fellow civil society groups, TGEU will actively oversee the implementation of the Migration Pact and work with Member States to tackle practices that go against international legal standards.

Let's unite in our mission to forge a Europe where seeking asylum is an unequivocal and tangible entitlement for every individual in need.

Find out more about the [Pact on Migration and Asylum](#)