

Reflection Paper on the New EU Pact on Migration & Asylum

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Introduction

After over four years of negotiations, the much awaited new Pact on Migration and Asylum was finally [adopted](#) in the European Parliament on 10th April 2024, with [322](#) MEPs voting in favour of it (mostly MEPs of centre, centre-left and centre-right parties) and 266 MEPs voting against it (mostly those of further left and further right parties). The Pact incorporates a comprehensive approach to external borders, asylum and return systems, the Schengen area of free movement and the external dimension, and has been welcomed by Ylva Johansson as a '[huge achievement](#)'.

However, [civil society organisations, researchers and experts have raised concerns](#) about the detrimental impact of the pact on the right of migrants to claim asylum and on the overall functioning of the EU common asylum system. In this piece, drawing on MPG's research in this area, we will identify key concerns related to the adoption of fast-track asylum and return procedures, the increasing use of detention, racial profiling, the effectiveness of stricter border controls and the so-called '[external dimension](#)' of the pact, and the new solidarity mechanisms.

Border regime and asylum procedures

The Pact provides for a stricter border regime and strengthens the possibility for Member States to implement [accelerated border procedures](#), which have a maximum duration of 12 weeks and "require applicants for international protection to reside at or in proximity to the external border or in a transit zone" in order to assess the admissibility of asylum applications. Fast-tracked procedures have often been criticized for their lower and substandard safeguards. [NGOs and researchers warn](#) that Member States will increasingly use these procedures at borders to reject asylum applications without proper and comprehensive assessment of each individual case. They may even be applied to unaccompanied minors, in cases where they have arrived from a third country considered a "safe country" of origin or where there are reasonable grounds to consider them a "danger to the national security or public order" of the Member State. Moreover, these accelerated procedures are likely to increase the possibility of applicants being wrongly denied asylum as well as the burden on [appeals processes](#), which are already experiencing long backlogs, in so doing contradicting the very purpose of the accelerated – or 'fast-track' - procedures.

Finally, based on the recommendations of the European Parliament, the European Commission proposed the establishment of an independent border monitoring mechanism. Yet, there are currently [no regulations](#) to ensure its independence or to expand its scope. Failure to ensure the appropriateness of this mechanism would risk the occurrence of pushbacks, putting further stress on the right to asylum.

New EU laws also introduce massive “screening” of third-country nationals and stateless persons before they are placed into asylum or return procedures, or refused entry. Asylum seekers risk being [de facto detained](#) in closed facilities at borders for up to 12 weeks during the time their application is pending. In addition, Article 6 of the Screening Regulation introduces the [legal fiction of “non-entry”](#), which considers those who have applied for asylum at borders or transit zones to have not have formally entered the territory of the relevant Member State, regardless of their physical presence on EU soil. This legal fiction sets the ground for reducing Member States' responsibilities and obligations towards migrants on their territory and justifies potential pushbacks or human rights violations.

In previous MPG [research](#), we have already demonstrated how stricter border policies have the unintended consequence of potential infringements on the right of asylum. The lack of monitoring mechanisms, together with legal pathways/realistic resettlement commitments, can only result in further pressure on the right to asylum and would force asylum seekers to resort to highly risky routes out of their countries in the hands of smugglers.

New solidarity structure and resettlement framework: the missing link between migration and integration

The Pact fails to reform the main flaw underlying the Dublin regulation, according to which the first country of entry is responsible for processing an asylum application. This provision has so far had a disproportionate effect on the Member States at external borders of the EU. Despite this, with the new Pact these Member States will remain the main countries responsible for managing migration flows and asylum requests. The proposed [regulation on asylum and migration management](#) introduces a “solidarity mechanism” designed to mitigate the unevenness of the EU asylum system. This mechanism should provide “ effective support to Member States under migratory pressure and ensure swift access to fair and efficient procedures for granting international protection [...] The solidarity response should be designed on a case-by-case basis in order to be tailor-made to the needs of the Member State in question”. In practice, this means that Member States can either relocate and host asylum applicants from those countries under migratory pressure, or provide these countries with financial contributions. This new mechanism is unlikely to function given the political scepticism within several national governments, such as Poland and Hungary, of the need to fairly re-distribute and relocate asylum seekers. It is also unclear how these financial contributions will be used, with the risk being that Member States could potentially redirect these funds towards the construction of detention centres or stricter border controls.

Some positive developments have been achieved under the new [EU resettlement framework](#), which provides safe and legal pathways for people in need of international protection to reach Europe. This framework allows for the resettlement of an applicant for international protection – a third-country national or a stateless person – from one Member State to another, following a referral from the United Nations High Commissioner for Refugees (UNHCR). The main vulnerable categories covered by resettlement programmes will be women and girls, minors, survivors of violence or torture, persons with disabilities and other groups. Importantly, the regulation should make resettlement programmes more structured and ensure better coordination between the Member States, UNHCR and the EU. The success of this framework, though, rests on Member States' commitments to realistic quotas and solid integration policies.

MPG research on [migration](#) and [refugee](#) integration shows that there is still wide variation in integration policy among Member States, leading to different levels of protection and access to rights in key areas of life. An [holistic and realistic debate](#) on EU asylum and integration should pay more attention to the diverging integration policy standards at the national level. Instead, the current policy agenda is overly focused on the reception phase and responsibility sharing mechanisms, and fails to consider the impact of integration policies on the functioning of the overall asylum system.

Third country cooperation and further externalisation

The Pact seems to excessively expand the concept of a “safe third country” as grounds for the inadmissibility of an asylum application. Asylum seekers coming from countries like Tunisia, Egypt, or Turkey, for example, will risk having their applications rejected without comprehensive assessment of their case, even if they face persecution or human rights violation in their own countries.

With its external dimension, the Pact also promotes collaboration with third countries in migration management by building on current EU migration partnership frameworks. It aims to reinforce international partnerships with a view to ensuring effective returns, combating migrant smuggling more effectively, and developing legal migration channels. This approach fits with the overall strategy of externalising EU migration policies in third countries, in the form of readmission agreements and development aid in return for tighter border controls, in line with the Jordan and Lebanon compacts, the [EU-Turkey deal](#) and readmission agreements signed with countries in the region. While the Pact emphasises the need to jointly assess the interests of both the EU and its partner countries in this realm, it does little to assuage the human rights concerns associated with the government practices of the third countries, either vis a vis migrants or their own citizens. The aid mechanisms attached to these readmission agreements are likely to empower governmental authorities and their practices, resulting not only in further human rights violations but also in undermining the normative power of Europe in foreign policy. [MPG research](#) also proves that these short-term remedies fail to address the root causes of migration and the desperation of asylum seekers fleeing conflict and their desire for a dignified life. Instead, they increase the pressure on transit countries and – at best - only slightly delay migration flows. Furthermore, these policies pave the way for third countries' [instrumentalisation](#) of migration against the EU when points of difference arise, as seen in the cases of Turkey, Belarus and Morocco.

Conclusion

Despite the arduous, committed process that led to this final compromise, the Pact is missing important components. This agreement is a historical lost opportunity for the EU as it fails to address the dysfunctions of the Dublin system and keeps the main burden of responsibility for handling asylum requests on first countries of arrival, such as Greece, Italy and Spain.

Further, the new migration and asylum reform will lead to large pushbacks, disproportionate use of detention and substandard border, asylum and return procedures. The lack of safe and legal pathways to reach Europe, and the absence of an effective monitoring mechanism for border and asylum procedures, will have a counter-productive effect on the asylum system overall.

In terms of cooperation with third countries, the Pact reproduces the externalisation of migration policies, which has already proven to be short sighted and to have serious unintended consequences, such as the instrumentalisation of migrants by third countries and human rights abuses.

Finally, the debate at the EU level does not take into account the requirements for effective integration policies and the different approaches to migrant and refugee integration within Member States, and the Pact lacks a comprehensive, long-term approach to integration policy. To fill this gap, and in order to build a fair EU common asylum system, the EU needs to promote harmonised integration policies and ensure the adoption of the highest standards of integration in its Member States.