



## EU Pact on Migration and Asylum —Strengthening Border Controls and Mandatory Solidarity

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After many years of negotiations, the European Union is finalising work on what it calls the migration and asylum pact. The new legal framework aims to ensure effective protection of the external borders, the swift return of migrants who do not qualify for protection in the EU, and the fair sharing of responsibility for the reception of asylum seekers. However, in the face of growing Euroscepticism in many Member States and the prospect of a new institutional cycle in the EU, the success of the pact cannot be prejudged.

Work on comprehensive reform of the EU's migration policy dates back to the 2015-16 crisis. In 2016 and again in 2020, the European Commission (EC) proposed a comprehensive European framework for migration and asylum management, including a directive on reception conditions for asylum seekers, a regulation on the eligibility of foreign nationals for protection and a regulation establishing an EU resettlement framework; in September 2020, a communication on the Pact on Migration and Asylum and a package of legislative proposals, including regulations on the asylum procedure, migration and asylum management, crisis situations, Eurodac, and the external border screening procedure. Some of the reforms signalled in the Communication and in the Pact, including the strengthening of the European asylum agency and the revision of the Blue Card Directive, which facilitates the attraction of highly skilled workers to the EU, were already adopted in 2021. However, it was not until December 2023 that a provisional agreement was reached on five key regulations, including a modification of the Dublin rules on the division of responsibility for examining asylum applications.

The EU Migration Pact consists of a total of over a dozen interrelated acts, creating a legal framework for migration management in the EU. The final adoption of the proposals complementing the pact is planned for the end of this term of the European Parliament. To ensure the right conditions for the implementation of the new rules, the EC is strengthening the external dimension of the migration strategy by signing comprehensive partnerships with

countries of origin and transit of migrants (the agreement with Tunisia of June 2023, with Egypt of March 2024 and the planned agreements with Mauritania and Morocco) and by implementing action plans to reduce irregular migration along the various routes leading to the EU.

**Border Procedure.** As part of the Pact, the Asylum Procedure Regulation introduces a new border procedure, which is complemented by the Screening Regulation. It is intended to speed up the processing of applications and, in situations where they are deemed unfounded or unacceptable, the procedures for returning migrants. It is intended to apply both to persons who apply for asylum at a border crossing point and to those who are apprehended while attempting to cross the external border illegally or brought ashore as a result of a rescue operation. It assumes that persons covered by the procedure will remain at the border, in transit zones, or in specially designated places. It is to be obligatory in relation to persons who threaten security in a given country, those who mislead the authorities by providing false information or concealing it, as well as citizens of countries for which the rate of granting international protection does not exceed 20%.

Border control is to include identity verification, health determination, security verification, and registration in the Eurodac system. On the basis of a separate regulation on Eurodac, which is part of the pact, the database itself is to be expanded to include not only fingerprints but also other biometric data, such as facial images. The period of data

storage will be extended (up to 10 years), the age limit of persons whose data are entered into the system will be lowered (from 14 to 6 years of age) and the possibilities of using the database by the law enforcement authorities of the Member States will be extended.

The Asylum Procedure Regulation provides for the application of the concept of a safe third country when examining applications for protection. The basic criterion in this context is whether the freedom of applicants for international protection is not threatened and there is no risk of being sent back to the borders of territories where they would be in danger.

**Division of Responsibilities.** The EU is to have a permanent solidarity mechanism in place to relocate at least 30,000 people a year from the Member States under increased migration pressure to other members. If a country does not want to participate in the asylum-seeker relocation scheme, it will be able to use the alternative of a financial contribution of €20,000 per person or other solidarity measures, such as the posting of staff to protect the border. To prevent under-relocation, additional safeguards will be introduced for the countries receiving the most migrants. The donor country will take responsibility for examining the asylum applications of people who would normally go to beneficiary countries. This will become mandatory if the relocation pledges do not meet 60% of the total needs identified by the Council for a given year or do not reach the level set out in the regulation—€30,000.

To prevent unauthorised secondary movements of migrants (cases where migrants move from the country responsible for their asylum applications to other EU countries), the Asylum and Migration Management Regulation introduces a faster notification mechanism for secondary takeovers. At the same time, it was agreed that in the event of a migrant absconding to be transferred to the country responsible for his application, the responsibility would be transferred to the transferring country after three years.

Under the Crisis Situations Regulation, Member States under extraordinary migration pressure will be given more flexibility in the application of asylum procedures, for example by extending the registration period for applications. They will also be able to ask other countries for solidarity contributions (similar to those used in the permanent solidarity mechanism, with the main focus on

relocations). Moreover, they will not be obliged to re-admit asylum seekers from other EU countries, as would normally be the case.

**Conclusions and Perspectives.** The migration pact is an attempt to reconcile the different interests of the Member States in the EU. On the one hand, it meets the expectations of Southern Europe, which demand a fair division of responsibility for examining asylum applications, and on the other hand, the demands of Western and Central and Eastern European countries to seal their borders and prevent secondary flows of migrants. Despite many attempts to reach a consensus, the pact will not be adopted unanimously—both Hungary and Poland are opposed. Poland points out that the new regulations do not sufficiently take into account the country's specific situation related to the instrumentalisation of migration on the Polish-Belarusian border.

Despite the lack of unanimity, the adoption of the legal acts included in the Pact on Migration and Asylum will be a significant step in the creation of a comprehensive migration policy at the EU level. By June this year, the EC wants to present an implementation plan for the pact to the Member States, offering financial and operational support to prepare national migration systems for the implementation of the tasks resulting from the new regulations. To ensure the coherence of the approach envisaged in the national implementation plans of the Pact, the EC plans to prepare a five-year European strategy for asylum and migration management. The prospect of implementing the new regulations will largely determine the development of Poland's migration policy. It is worth taking this into account in the recently launched work on the National Migration Strategy.

The finalisation of work on the pact will certainly not put an end to the disputes over the shape of the EU's migration and asylum policy. The process of implementing the pact in the EU may be challenged by the growing ratings of Eurosceptic groups in many Member States. They may result in delays or a boycott of the implementation of individual provisions of the pact (especially those concerning relocation). The projected strengthening of Eurosceptic groups in the new term of the European Parliament may also lead to attempts to revise the entire pact or its individual components.