

# The European Pact on Migration and Asylum in the starting blocks

## • Introduction

The European Pact on Migration and Asylum is a set of new rules managing migration and establishing a common asylum system that was adopted in May 2024 after three years of difficult negotiations. The legislative components of the Pact will come into application in June 2026.<sup>1</sup>

It offers a comprehensive approach to managing migration in the European Union through four key pillars:

- Efficient and faster procedures at the external borders,
- More robust and swifter asylum and return procedures,

- The establishment of a compulsory solidarity system between the Member States to share the management of asylum seekers,
- Enhanced cooperation with third countries of origin and transit to address root causes, combat smuggling and provide for legal pathways for migration through international partnerships agreements with third countries to ensure a better organisation of migration flows.

Beyond these four main pillars, the Communication on the Pact also referred to other sets of measures to improve the integration of beneficiaries of asylum and to address labour shortages, as for example a comprehensive Action Plan on integration and inclusion<sup>2</sup>, a skills and talent package inclu-



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POLICY BRIEF  
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1 <https://eur-lex.europa.eu/oj/daily-view/L-series/default.html?&ojDate=22052024>

2 Brussels, 24.11.2020 COM (2020) 758 final

ding a recast of the Long-term Residents Directive<sup>3</sup>, a review of the Single Permit Directive<sup>4</sup>, the adoption of the Blue Card Directive<sup>5</sup> as well as the creation of an EU Talent Pool<sup>6</sup>.

Since the core of the Pact was the legislative proposals referred above, this paper will focus on the analysis of the state of implementation of the preparatory work leading to their application in June 2026.

## I • Brief reminder of the main components of the Pact

### I CONTENT

The ten legislative proposals adopted under the umbrella of the Pact on migration and asylum contain some major changes compared to the current situation. They act the principle of tighter border controls, swifter procedures, clearer and more balanced rules on responsibility and solidarity of the Member States, reinforced obligations for the migrants to cooperate with the authorities and strong fundamental rights safeguards.

Here are the most salient innovations:

- The introduction of a screening phase for all people arriving illegally at the border or within the national territory if they manage to elude border controls. Member States will have 7 days at the border and 3 days in the event of apprehension on national territory to carry out mandatory identity, security, health and vulnerability checks.
- Eurodac data base will be revised to cover the registration of data of asylum seekers, persons who have crossed the border illegally or who are illegally present on the national territory, persons rescued during rescue operations at sea, persons subject to a European or national resettlement program and beneficiaries of temporary protection, to enable better monitoring of

secondary movements and better accounting of asylum seekers.

- A new accelerated border procedure limited to 12 weeks (16 in the event of relocation to another country) will be set up to process asylum applications for applicants coming from countries with a low acceptance rate (below 20%) or those who mislead the authorities or present a security risk. In case of rejection, a return order must be issued concurrently. During the whole procedure, applicants will be deemed not to have entered the national territory. The border procedure will only apply to minors presenting a security risk. Specific reception conditions will be provided for families with young children. It should be ensured that, at any given moment, 30,000 people can be processed in the border procedure.
- A specific return procedure providing for a maximum period of 12 weeks to return rejected applicants.
- In compensation for the above-mentioned measures, which will be borne mostly by the countries of first entry, a compulsory, permanent and predictable system of solidarity is established. This solidarity should be expressed primarily through relocations or alternatively through financial or in-kind support, in agreement with the country of first entry concerned. A minimum threshold of 30,000 annual relocations and 600 million euros in financial contributions has been set. These levels may be modified via the Decision the Commission will adopt each year in conjunction with its annual report on the migration situation. The Decision will determine the countries that are subject to migratory pressure, exposed to a risk of migratory pressure or that face a significant migratory situation. It may include a proposal for a Council Implementing Act reassessing the number of relocations and

3 Proposal for a Directive of the European Parliament and of the Council concerning the status of third-country nationals who are long-term residents (recast)COM/2022/650 final. In March 2024 the EU Council has decided to cease negotiations on amendments to the 2003 EU Long-Term Residence Directive following opposition from a limited number of EU Member States.

4 <https://eur-lex.europa.eu/eli/dir/2024/1233/oj>

5 <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32021L1883>

6 [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_25\\_2729](https://ec.europa.eu/commission/presscorner/detail/en/ip_25_2729)

financial contributions needed to respond to such pressures over the subsequent year.

- Dublin rules of responsibilities have been maintained but revised to clarify which countries are responsible and for how long with a view to prevent secondary movements. The periods of responsibility have been lengthened to avoid the current practice of migrants absconding to change the country responsible for processing their asylum request. However, they have been shortened as part of the border procedure, when the country responsible has fulfilled its obligations within the set deadlines. Systematic registration during the screening procedure will also enable a better tracing of individuals and will facilitate the determination of the country responsible and the return to this country.
- Asylum seekers' obligations have been strengthened to prevent abuse: they must provide their fingerprints or their application will be considered as withdrawn, they must submit their application in the country of first entry and remain on the territory of that country, they will not be granted access to reception conditions if they fail to meet these obligations, and transfer measures (take back) to the country of application in the event of absconding have been considerably simplified.
- In return, special attention has been paid to the rights of people in all the above-mentioned procedures. Reception standards have been reviewed to ensure that Member States provide sufficient and appropriate capacity. A monitoring system for fundamental rights will apply to the screening phase and the border procedure. Legal counselling must be available at all stages of the administrative procedure. The criteria for qualifying as a refugee or asylum seeker have been revised to ensure greater convergence

between Member States in terms of rights and obligations.

- Finally, the legislator also decided to provide an ad hoc framework for situations of crisis, force majeure and instrumentalization, by laying down definitions for these three situations and foreseeing derogations from the above-mentioned rules. A series of safeguards are meant to ensure that such derogations are not detrimental to the people concerned.<sup>7</sup>

## I DEADLINES AND FINANCIAL SUPPORT

The Pact was formally adopted in May 2024 and entered into force on 11 June 2024. Its full implementation is scheduled for 12 June 2026.

On 12 June 2024 the European Commission adopted a Joint Implementation Plan for the Pact to guide Member States in the preparation of their own national plans<sup>8</sup>. It sets out the key milestones to put in place the legal and operational capabilities required to successfully start applying the new legislation by June 2026.

On 11 June 2025, the European Commission published a report on the implementation of the Pact on Migration and Asylum, halfway through its transition period<sup>9</sup>. On 11 November 2025 the Commission adopted its first annual migration and asylum report<sup>10</sup> and in December 2025 the Council formally adopted an implementing act setting up the solidarity pool for 2026<sup>11</sup>.

Finally, an additional budget of 2 billion euros has been made available to support MS.

7 For more information see <https://www.larcier-intersentia.com/fr/revue-du-droit-de-l-union-europeenne.html>, 2024/3, Editorial "The European Pact on Migration and Asylum"

8 <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52024DC0251>

9 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52025DC0319>

10 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52025DC0795>

11 [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L\\_202502642](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L_202502642)

## II • New developments since the adoption of the Pact (political, legal)

Over the years during which the Pact on migration and asylum was negotiated, the difficulty to return people that were not granted asylum (less than 30% of return orders are effectively executed) became a growing concern for Member States and together with an increase of anti-migration movements led to hardened government positions emphasising the need to better control, select or reduce irregular arrivals at the border.

The new European Commission taking of office in December 2024 was the opportunity to adjust to the evolution of the political environment. It rapidly complemented the Pact with new measures aiming at facilitating returns and preventing irregular arrivals. This change of narrative was latter largely embedded in its five-year strategy issued in January 2026<sup>12</sup>. As stated by Commissioner Brunner: “the priority is clear: bringing illegal arrival numbers down and keeping them down. To protect those who really need protection and to win the global race for the best minds, we must control our borders effectively, limit illegal migration and prevent abuse of our systems”<sup>13</sup>.

Three proposals were swiftly adopted by the Commission:

- In March 2025, a new legislative proposal aiming to put in place swifter, simpler and more effective return procedures across the EU<sup>14</sup>. The proposal includes mutual recognition of return decisions across Member States, clear rules on forced return, while incentivising voluntary return, stronger obligations for returnees balanced against safeguards and stricter rules to limit abuse and manage absconding. Specific rules are put in place for people posing a security risk so they can be identified and returned
- On 16 April 2025, it released a proposal for amending Regulation 2024/1348 as regards the establishment of a list of safe third countries of origin at Union level<sup>15</sup>. This proposal also suggests accelerating the implementation of two elements of the Asylum Procedure Regulation, namely 1) the introduction of a new ground for applying accelerated and border procedures based on a 20% recognition rate threshold for specific nationalities, indicating likely unfounded applications and 2) the designation of safe third countries and safe countries of origin, with exceptions, allowing Member States greater flexibility in defining the scope of safety assessments by excluding specific regions or identifiable categories of individuals.
- Taking advantage of the request made by the Council and the European Parliament under Article 77 of the Asylum Procedure Regulation<sup>16</sup> to task the Commission with reviewing the Safe Third Country Concept by 12 June 2025, the Commission proposed to amend this Regulation as regards the application of the ‘safe third country’ concept<sup>17</sup>. Under the revised rules, Member States may consider an asylum application inadmissible if the applicant could have sought protection in a nonEU country deemed safe. Criteria include a connec-

<sup>12</sup> [https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip\\_26\\_233/IP\\_26\\_233\\_EN.pdf](https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip_26_233/IP_26_233_EN.pdf)

<sup>13</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_26\\_233](https://ec.europa.eu/commission/presscorner/detail/en/ip_26_233)

<sup>14</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52025PC0101>

<sup>15</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52025PC0186>

<sup>16</sup> <https://eur-lex.europa.eu/eli/reg/2024/1348/oj/eng>

<sup>17</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52025PC0259>

tion to the third country, transit through the country, or an agreement to process the claim there. Applicants appealing such decisions will not automatically remain in the EU during the appeal, though they retain the right to request judicial review.

On 8 December 2025, the Council reached a political agreement on the new return procedures which largely align with the Commission proposal<sup>18</sup> with some adjustments. For instance, the mutual recognition of another country's return decision will not be immediately mandatory, due to the opposition of some Member States, France notably. After an assessment of two years of functioning, the Commission may put forward a legislative proposal to make it mandatory for all Member States. Member States have also decided that the European return order will be introduced within two years at the latest from the entry into force of the return regulation.

The European Parliament issued its draft report in November 2025 generally supporting stricter, harmonized, and faster procedures for returning illegally staying third-country nationals<sup>19</sup>. Nevertheless, while aligning with the Council on strengthening obligations for returnees and promoting mutual recognition of return decisions, the Parliament is placing more emphasis on voluntary returns over forced ones.

Finally on 18 December 2025, in one of the speediest trilogues between the Council and the European Parliament ever, both institutions agreed on the proposed EU list of safe countries of origin and on the revision of the safe third country concept restricting admissibility of asylum claims<sup>20</sup>.

While not being part of the Pact these three pieces of legislation complement the previous set of legislative acts of the Pact. With the objective of facilitating returns and widening the scope of inadmissibility of claims, they can ease for most of the Member States the sensitive operational endorsement of the

Pact new obligations both in terms of responsibility as well as solidarity.

### III • State of implementation by the Member States

In its 11 June 2025 Communication on the state of play of Pact implementation at Member State level, the Commission notes that 26 Member States have engaged with the Commission on Pact implementation, and 25 submitted their National Implementation Plans. Poland only submitted a note on implementation – rather than a full implementation plan – and maintains its opposition to contributing to the solidarity mechanism set out by the Asylum and Migration Management Regulation<sup>21</sup>. Hungary declined to submit a plan, reflecting its longstanding opposition to the Pact and unwillingness to engage in its implementation. Twenty-two Member States presented their contingency plans to the European Union Asylum Agency (26 were requested, except for Denmark). Three Member States - the Czech Republic, Estonia, and the Netherlands - have already finalised the drafting of their national legislation in view of Pact implementation, and most others were expected to do so by the end of 2025. As a first assessment of the implementation phase, it can be observed that, while formal progress is underway, there is limited evidence that national governments are taking this opportunity to strengthen their asylum systems. Rather, some implementation efforts appear focused on meeting minimum compliance requirements, are often selective and do not seem to be aimed at tackling existing gaps in national reception and asylum system.

The update provided in the first Annual migration and Asylum report of November 2025 does not provide significant changes and while acknowledging constant progress points out “to important remaining challenges, particularly in relation to Eurodac to ensure that systems are ready on time, regarding the border procedure

18 <https://www.consilium.europa.eu/en/press/press-releases/2025/12/08/council-clinches-deal-on-eu-law-about-returns-of-illegally-staying-third-country-nationals/pdf/>

19 <https://ecre.org/european-parliament-draft-report-on-return-regulation/>

20 [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_25\\_3056](https://ec.europa.eu/commission/presscorner/detail/en/ip_25_3056)

21 [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L\\_202401351](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401351)

and the need to implement necessary infrastructure, personnel requirements and administrative arrangements to keep timelines. Furthermore, across the Union, screening arrangements should be finalised and reception capacity aligned with actual needs and the new framework. Finally, arrangements relating to the fundamental rights monitoring as well as for legal counselling should be concluded”.

The implementation of the many technical, legal and operational requirements of the Pact legislation is a very complex exercise that requires an exceptional political, financial, human and operational support as well as seamless cooperation between the Member States, the Commission and the concerned agencies, as well as within Member States where national and local authorities should act jointly. While progress has been made at technical and administrative level, the lukewarm commitment displayed at political level in order not to fuel the populist narrative hampers any enthusiastic expectation that everything will be in place on 12 June 2026. But this should not be seen as a failure, considering the level of complexity of the exercise and there is a reasonable chance that enough will be in place to allow for a progressive start.

#### **IV • Launch of the Asylum and Migration cycle and adoption of the Solidarity Pool**

The main test of the willingness of the Member States to implement the Pact was the establishment of a Solidarity Mechanism creating a Solidarity Pool. It was designed by the Asylum and Migration Management Regulation as the main component of the solidarity towards Member states of first entry that will bear most part of the burden of the reinforced control and management of irregular arrivals and requests of asylum.

This proved a difficult and ultra-sensitive exercise, especially because it was the first one that would set a precedent for future similar exercises. It was also complicated by the fact that the Pact will enter into applica-

tion only in June, de facto for half a year only, where the Solidarity Pool should normally be calculated for a full year, in parallel to the enforcement of the other components of the Pact relating to responsibility.

It was obvious that the current narrative around migration fuelled by populist parties in many Member States was not conducive to wide public announcements of relocations, which remains the privileged option for the expression of the mandatory solidarity. To be reminded that the new legislation foresees a minimum of 30000 relocations per year and €600 million in financial contributions, for those who opt for this second option.

Another aggravating factor was the important number of unauthorised movements registered in the Union, i.e. Dublin returnees that should be returned to the country where they first entered the EU but are still in other countries. In 2024, 151 830 requests to transfer the responsibility to examine asylum applications to other EU countries were issued but only 16 455 were effectively implemented<sup>22</sup>. Germany and France are the most concerned, with, respectively, 74581 requests versus 5827 implemented and 30986 requests versus 2624 implemented (notwithstanding other countries like Belgium, Netherland, Austria or Sweden) and made clear they were not prepared to commit on any relocation based on their fair share if the number of Dublin returnees was not taken into consideration. The possibility to offset some relocations with Dublin returnees still present on the territory is contemplated in the Pact but under certain conditions and only if a minimum of relocations has been secured first.

Finally, countries like Poland, Estonia or Czechia asked that the important number of Ukraine refugees they were hosting be considered to determine their solidarity efforts.

The Commission had to delay the launch of its first Asylum and migration cycle and the presentation of its first asylum and migration report, initially foreseen for mid-October to the 11 of November, to fine tune these considerations and strike an acceptable balance

22 <https://ec.europa.eu/eurostat/web/products-eurostat-news/w/ddn-20250704-1>

between many conflicting interests. The report provides an overview of the migration and asylum situation in the EU and its Member States. It is accompanied by an implementing decision determining which Member States are under migratory pressure, at risk of migratory pressure, or facing a significant migratory situation, and by a proposal for a Council implementing act establishing the Solidarity Pool to assist Member States under migration pressure. Greece, Cyprus, Spain, and Italy are the four countries flagged as under migratory pressure and will be eligible to access the Solidarity Pool. Belgium, Bulgaria, Germany, Estonia, Ireland, France, Croatia, Latvia, Lithuania, the Netherlands, Poland, and Finland are considered at risk of migratory pressure and will have priority access to the EU Migration Support Toolbox but will contribute to the Pool. Bulgaria, Czechia, Estonia, Croatia, Austria, and Poland face significant cumulative migratory pressures and may request deductions from their contributions to the Solidarity Pool.

The relocation amount has been fixed at 21000 and the financial contributions at 420 million euros to take into consideration the half year of implementation.

On 18 December 2025 the implementing decision on the establishment of the Annual Solidarity Pool for 2026 was adopted by the Council, laying out the individual contributions of the Member States. This adoption is obviously very good news and the clear signal that Member States are committed to apply the Pact. While being a success and a major milestone for the Pact implementation, it nevertheless entails several elements that will have to be closely monitored for the future:

- The situation of arrivals is rather favourable with a decrease of 26 % of illegal border crossings at the Union's external in 2025<sup>23</sup>. This may rapidly change.
- The fact that the Pool would apply only for six months was another positive factor to agree on a lower number of relocations as foreseen by the Asylum and Migration Management Regulation.

- If only four countries have been identified as countries under migratory pressure, thus being the only ones entitled to benefit from the solidarity pool, twelve other countries are considered at risk of migratory pressure. They will have to contribute to the Pool, but their situation will be re-evaluated in an expedited manner should the situation deteriorate.
- **Six countries face a significant migratory situation** because of the cumulative pressures of the last five years. These Member States will have the possibility to request from the Council a full or partial deduction of their solidarity contributions for the upcoming year.
- Less than half of the relocations have been pledged and a large part of them will be offset of Dublin transfers.
- Two Member States didn't participate in the pledging.

## V • An encouraging preparation with good progress but important issues still to be addressed

As already said, the implementation of the Pact is a very heavy, complex and sensitive exercise and no one should be under the illusion that everything will be in place on the June 2026 D Day. But good progress has been made and the mere existence of a solidarity pool, albeit modest is a very encouraging signal of the commitment of the Member States to make it work.

Some important challenges remain though:

### I EFFECTIVENESS OF THE BORDER PROCEDURE IN TERMS OF CAPACITY AND RETURN

In adopting the Pact Member States have committed to create 30000 places available at any time for the border procedure. Most of them must be built in the Member States of first entry, in theory at or close to the border, according to a distribution key elaborated by the Commission and largely based on the historical number of arrivals. Some countries

<sup>23</sup> <https://www.frontex.europa.eu/media-centre/news/news-release/frontex-irregular-border-crossings-down-26-in-2025-europe-must-stay-prepared-lyKpVb>

like Italy (which was assigned the largest number of places) or Spain have always been wary not to add too many processing centres along their coasts. Italy has tried to move some to Albania while Spain would set some of these capacities not directly at the border in the Canaries Island or Andalusia. Greece needs to update its centres in the Aegean Islands facing resistance from the local populations and authorities. Other countries, in particular the non-first entry countries will use transit zones at airports. France will so far apply the border procedure only in its main airports but has not foreseen any capacities at land/maritime borders.

As we have seen the number of capacities will have to reach the overall 30000. The construction, upgrade and compliance with the reception standards still suffer of shortcomings.

The determining test of the success of the border procedure will be its effectiveness at returning people and returning them swiftly. All the array of instruments developed to improve returns (new return legislation, return hubs, partnership agreements, diplomatic efforts, visa policy<sup>24</sup>, Frontex support etc...) will have to be deployed. If this is not achieved, the whole credibility of the Pact will be put into question and will alter the fragile trust in its viability.

#### **I SOLIDARITY AND IMPLEMENTATION OF THE NEW RESPONSIBILITY RULES**

The revised rules of responsibility are meant to improve the very unsatisfactory situation of today's secondary movements. Systematic registration of arrivals, more obligations on migrants to cooperate and remain in the country of first registration, IT tracing in Eurodac, simpler transfer rules, stricter admissibility criteria through the border procedure, the Safe Third Country Concept or the Safe Country origin etc..., have been designed to reduce secondary movements. They are instrumental to build trust and create the conditions for a real and sizeable Solidarity mechanism.

The transition character of 2026 and the remaining high number of transfers not implemented under Dublin has allowed for some adjustments in the strict respect of the solidarity obligations. As of 2027 a close monitoring of how the new rules applying to responsibility will be enforced and how they will induce a clear reduction of absconding and pending transfer notifications will be essential to support a more orthodox application of the solidarity component of the Pact.

#### **I METHODOLOGY APPLIED TO DETERMINE THE CLASSIFICATION OF MEMBER STATES ACCORDING TO THEIR MIGRATORY STATUS.**

A very sophisticated methodology was elaborated in 2025 to determine the Member States under migratory pressure, at risk of migratory pressure or facing a significant migratory situation. The methodology seeks to provide an objective and consistent picture, using high-quality data and information, based on well-established reporting mechanisms developed in close cooperation with relevant Union Agencies and the Member States.

The robustness of the methodology and the acceptance of its results will have to be assessed at the light of further exercises, in case of changing patterns in migration flows.

#### **I INFORMATION TECHNOLOGIES CHALLENGES**

The upgrading of the Eurodac system both at central level by the EU-Lisa Agency and by the Member States requires substantial legal and operational interventions, reflecting different stages of progress. In several cases, challenges include addressing remaining connectivity issues, setting clear targets to complete the testing, launching outstanding procurement procedures, and clarifying modalities related to the nomination of the access points. Eurodac is instrumental for the implementation of the screening phase and to the revised responsibility rules. Without a fully-fledged and operational system, the Pact cannot be correctly implemented.

<sup>24</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_26\\_217](https://ec.europa.eu/commission/presscorner/detail/en/ip_26_217)

## I RELUCTANT MEMBER STATES

Hungary has always opposed the Pact and stated its opposition to implement it. While Poland and Austria voted against, they are committed to its implementation, even if Poland continues to refuse to contribute to solidarity, due notably to the important presence of Ukrainian refugees and the tensions at the Belarus border. Czechia and Slovakia abstained and the latter didn't pledge any contribution to the solidarity pool.

## I ENFORCEMENT ROLE OF THE COMMISSION

The Pact is meant to address and correct weaknesses in the current system. These weaknesses are often the cause and/or the consequence of each other for instance the refusal to take back Dublin returnees because of no effective solidarity and vice versa or the reintroduction of internal borders because of secondary movements.

The Commission could have used infringement procedures against non-complying member States more systematically but often did not because of political consideration and the high sensitiveness of the issues at stake: should Italy or Greece be brought to Court for not respecting Dublin obligations when relocations are scarce and not compulsory? Should France or Germany be brought to Court for reinstating repeated internal border controls if countries of first entry do not accept transfers?

The implementation of the Pact is a moment of reset and an opportunity for the Commission to fully play its role of guardian of the EU law. It will oblige Member States to take their obligations seriously, reduce the current vicious circle of cascading noncompliance and built trust in the system by creating a trustful and trusted level playing field.

## I COMPLIANCE WITH INTERNATIONAL LAW AND COURT CHALLENGES

To compensate for stricter rules applicable to migrants and asylum seekers, several checks and balances in terms of respect of international law and fundamental rights

obligations have been provided for (legal advice and assistance, independent monitoring systems etc...). Beyond the correct implementation of these measures (still to be demonstrated), several human rights authorities or NGOs argue that the Pact entails provisions infringing international law. They may turn to Courts to confirm their suspicions and encourage unsuccessful asylum seekers to contest, among others the application of the accelerated border procedure, retention criteria or the Safe Third Country concept or Safe Third Country of origin to their case, the non-suspension character of the return decision or the non-respect of the reception conditions.

Besides, a number of legal grey areas remain to be tested against applicable international law, in particular the possibility to use the safe third country concept to possibly delocalise asylum procedures, the arrangements to be defined in specific agreements with third countries for the establishment of return hubs, the situation of people that cannot be returned to their country-of-origin etc....

## I HIGH DEPENDENCE ON NEIGHBOURING THIRD COUNTRIES

The prioritisation of more effective returns, including the creation of return hubs, the prevention of irregular entries, the facilitation of the use of the safe third country concept and softening of the criteria to declare a third country of origin safe, necessarily create a high dependence on third countries good will and appetite for cooperation. The negotiations of comprehensive partnership agreements offering a good balance of interest for both sides will be instrumental to lower the risk of vulnerability of the EU.<sup>25</sup>

## I RESTORING TRUST BETWEEN MEMBER STATES

A sine qua non condition for a successful implementation of any EU legislation is the adherence of Member States and their confidence into a solid level playing field. This is even more true for migration issues where the last 10 years crisis have solidly

<sup>25</sup> For more information please see: <https://institutdelors.eu/en/publications/externalisation-of-migration-management-a-need-for-clarification/>

altered the trust among them. Partly restored with the adoption of the Pact, this trust remains extremely fragile and can easily be overturned, notably by measures taken to address national political concerns (re-establishment of internal border controls, refusal to take back Dublin cases etc...). The stress test of the solidarity pool was successful but still entails weaknesses as mentioned above. Another stress test will be the correct implementation of the revised responsibility rules and its impact on secondary movements. Without a significant reduction of these, no sizeable Solidarity Pool will be possible.

The change of mindset to a greater consensus on the need to reduce irregular arrivals, to better protect our external borders and to favour legal pathways to address employment shortage, notably with the adoption of the Talent pool in November 2025 and last but not least the massive increase in budget appropriations proposed for the 2028-2034 Multi Annual Financial Framework, €81 billion compared to the initial 22,7€ billion allocation (2018 prices) in the current MFF, are further positive aspects worth taking into consideration to assess the chances of success of the Pact on Asylum and Migration.

## • Conclusion

If prudence and caution are of the essence as well as remaining extremely vigilant about the many pitfalls paving the way of a successful implementation of the Pact, this should not discourage a positive assessment of the prospect of a timely and hopefully good implementation.

Despite its daunting complexity, Member States are committed to make it work, albeit at times below the political radar. The mere existence of the solidarity pool, even modest, is the most visible expression of this commitment. Lower arrivals certainly help reduce the tensions. Improved border protection management with new or upgraded IT tools (Schengen Information System, the recently launched Entry and Exit System, a revamped Eurodac) and an efficient Frontex which competences will be revised in 2026, notably to be more active in third countries, will contribute to create more trust into the robustness of our borders to prevent security risks and allow for a fair application of the asylum rules.

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