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BLOG — POST

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European migration policy cannot be compared to the policy pursued by Donald Trump



Over the past decade, the European Union (EU) has reinforced border protection, curbed irregular arrivals, prioritised the acceleration of asylum procedures and a controlled migration in line with the needs of the European labour market. One may criticise this approach, which is more restrictive than in the past when it comes to welcoming people wishing to come to Europe to seek either protection or a better future. However, to claim, as is sometimes suggested, that this constitutes a renunciation of EU values and an alignment with Donald Trump's migration policy is incorrect. The soon to be enforced European Pact on Migration and Asylum has been designed to address numerous weaknesses in the current migration management system. To name a few:

- The unsatisfactory application of the rules on responsibility for processing asylum applications, which led some Member States to reintroduce internal border controls, thereby undermining the proper functioning of the free movement of persons
- The lack of a genuine system of solidarity between Member States
- The difficulty to return to their country-of-origin people subject to return decision

The Pact was adopted in May 2024 and will enter into application in June 2026. It provides for a set of procedures for managing people arriving irregularly at the Union's external borders, common rules on asylum, the establishment of a mandatory solidarity system between Member States for the management of asylum seekers, and enhanced cooperation with third countries of origin and transit.

It aims to establish a sustainable and balanced framework for managing migration flows within the Schengen area. Countries with an external border are responsible for the control of entries into this area. A common system for managing migration and asylum is therefore necessary to establish responsibilities for processing asylum applications, as well as a solidarity system between Member States to support countries of first entry, which are generally responsible for processing these applications

It also aims to secure access to international protection for refugees and to discourage the use of asylum claims by economic migrants, for which other routes should be privileged. It is worth recalling that there is a difference between a refugee and a migrant. To quote the United Nations Refugees Agency (UNHCR):

“Refugees are people fleeing armed conflict or persecution and must therefore be granted international protection. Migrants choose to leave their country not because of a direct threat of persecution or death, but primarily to improve their lives by finding work, and in some cases for reasons of education, family reunification or other reasons.”

Finally, the Pact complements the Schengen Border Code, which governs border crossings and visa policy.

Negotiations on the European Pact on Migration and Asylum were long and difficult. But unlike the Juncker Commission's proposal, which failed in 2019, an agreement could be reached thanks to a pragmatic approach, but without any compromise on the protection of refugees.

The new accelerated procedure for examining asylum applications at the border, introduced by the Pact, will apply only to asylum seekers from countries where the average acceptance rate is low (below 20 per cent) and to those who deceive the authorities or pose a security risk. The border procedure will not apply to refugees in need of international protection, and only to minors posing a security risk. Specific reception conditions will be provided for families with young children.

The Pact on Migration and Asylum is accompanied by measures to protect people's fundamental rights: the principle of non-refoulement is strongly reaffirmed, access to legal counsel throughout the border procedure is guaranteed, and appeal possibilities are maintained.

A monitoring system for fundamental rights will apply to the screening phase and the border procedure. The Improvement of reception conditions and an increased harmonisation of the criteria for the admissibility of asylum applications are parts of the Pact. It will be up to the Commission, the Court of Justice and the national courts to ensure their proper enforcement¹.

Furthermore, the Directive on the granting of temporary protection in the event of a mass influx of displaced persons², which had never been used since its adoption in 2001, was successfully activated in 2022 during the mass arrival of refugees from Ukraine. It was therefore retained, even though the Commission had initially planned to repeal it when it proposed the Pact in 2020.

In 2025, the Pact was supplemented by a draft regulation establishing a common system for the return of third-country nationals staying illegally in the Union³. Although this draft sets out stricter conditions for the return of persons ineligible for or denied asylum (more systematic forced returns, stricter obligations for returnees, more stringent rules to limit abuse and manage the risk of absconding, the possibility to set up return platforms in third countries, etc.), it is not the European equivalent of the United States ICE.

It will not apply to asylum seekers in general, but only to those subject to a return decision. Such a decision is made following an individual examination of each asylum application, even in the case of accelerated procedures and even for people coming from a safe country, who will have the possibility to claim the non-application of this concept to their case. Transfer to platforms in third countries will only apply to individuals subject to a return decision.

These platforms rightly raise numerous questions regarding their implementation, their cost, their effectiveness and their compliance with safeguards regarding fundamental rights. Nevertheless, several conditions must be respected, notably the existence of an agreement with the third country concerned, which may only be concluded with a country where 'international human rights standards and principles, including the principle of non-refoulement, are respected'. Their implementation will be subject to an independent monitoring.

The draft regulation does not provide for any racial profiling, contrarily to what was claimed in some comments. This would in any case be in contradiction to the Charter of Fundamental Rights, an integral part of the Treaty of Lisbon that is binding on all Member States. Finally, the possibility of appeal exists, even if such appeals do not have a suspensive effect. It will be up to the Commission and the judicial authorities, including the European Court of Justice, to ensure that these conditions are effectively respected. It should be noted that this draft regulation must still be agreed upon by the Council and the European Parliament.

The EU is and will remain founded on the rule of law. All legislation must be approved by the co-legislators (the Council and the European Parliament), unlike measures relating to ICE, which are essentially taken by the President of the United States and the Department of Homeland Security (DHS).

Hasty comparisons should therefore be avoided. They only fuel radical positions and prevent a reasonable and calm debate.

FOOTNOTES :

¹ See For further information, see Pariat, M. “The European Pact on Migration and Asylum in the starting blocks”, Policy Brief, Jacques Delors Institute, March 2026

² See Directive 2001/55/CE on to establish minimum standards for giving temporary protection in the event of a mass influx of displaced persons from third countries

³ See Proposal for a Regulation of the European Parliament and the Council establishing a common system for the return of third-country nationals staying illegally in the Union.