

## EDITORIAL

### From Management to Prevention: The EU Pact on Migration and Asylum Being Passed, Political Debate Shifts to the Exterior, Compliance and Technicalities<sup>1</sup>

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And yet it moves (Galileo Galilei). On 14 May 2024, the EU Pact on Migration and Asylum took the last hurdle through formal adoption by the Council of the EU. No less than nine crucial acts were newly introduced, transformed or recast. Multiple more were amended. After a decade of fierce debate on national and European levels, with migration politics being a mega topic for the electorate, the EU managed to sign the Pact not even a month before the European election votes were casted on 11 June 2024 (see for more details in this issue Roßkopf, 2024).

Did efforts pay off? The answer, of course, depends on the political perspective. Effects on the ground remain to be seen after the legislation comes into effect in July 2026. Yet, the immediate effect is doubtful as, nevertheless, we visited a swing to right-wing parties as an outcome of the election in major Member States like France, Italy and Germany (European Parliament, 2024).

Even before the Ministers of the Interior of 15 Member States stopped any possible enthusiasm already on 15 May 2024, the very day after the Pact's adoption. In a joint letter to the Commissioner of Home Affairs Ylva Johansson and others, the Ministers requested new solutions to address irregular migration. While acknowledging “[t]he new Pact on Migration and Asylum will equip EU Member States with a stronger legal framework for *managing* the various aspects of migration, the Ministers called “to identify, elaborate and propose new ways and solutions to *prevent* irregular migration to Europe (Ministers, 2024; emphasis added).

This call is not new at all – however it gets louder. The focus is on “durable partnerships with key partner countries along the migratory routes” and “predetermined places of safety in a partner country outside the EU”; “returning those not in need of international protection” and extraterritorialised “return hub mechanisms, where returnees could be transferred to while awaiting their final removal”; returns to safe third country alternatives and the “review of the safe country concept in 2025”; “a comprehensive response to the threats posed by the instrumentalisation of migrants at the EU’s external borders” and to “intensify the fight against migrant smuggling, including by reaching agreement on the legislative proposals on combating migrant smuggling”; and finally “visa policy, as many asylum applications in the EU are made by persons from visa-exempt countries or persons

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with a Schengen visa.” While the U.K.-Ruanda Agreement is not expressly mentioned, the Italy-Albania Protocol sure is (Ministers, 2024).

Yet, another day later, on 16 May 2024, the prospective Dutch government led by Geert Wilders’ right-wing party PVV announced in its government plan to aim at opting out of European asylum and migration policies. In a swift the Commission responded by stressing that the Pact had been voted upon, was confirmed and will be applied with the Commission playing its role to ensure it (Meijer, 2024).

The meaning of this was underscored by the European Court of Justice not a month later on 13 June 2024 in view of Hungary (Judgement, *European Commission v Hungary*, C-123/22). The Court ordered Hungary to pay the European Commission 200 mio. Euro and a penalty payment of 900,000 Euro respectively 100,000 Euro per day from the day of delivery of the present judgement until the day of compliance with its former judgement of 17 December 2020. It then ruled that Hungary had failed to fulfil several of its obligations with respect to the current migration and asylum acquis.

It is obvious, the passing of the Pact is not the end of discussion. It is likely to add new layers that so far only experts had been aware of and were debating. The Pact continues to further exploit migrants’ data for the sake of securitization. It introduces screening at the border and develops Eurodac into a full-fledged migration database connecting it to the European search portal making it interoperable with the European Travel Information and Authorization System (ETIAS) and the Visa Information System (VIS) (Roßkopf, 2024).

The relevance of this data processing and interoperability is heightened by the Council of Europe’s parallel adopting of the EU Artificial Intelligence Act on 21 May 2024 (Council of the European Union, 2024). What is a progress with respect to protecting Union citizens’ rights, is not so true for third-country nationals, when looking to limitations with respect to untouched competences in the field of national security, international collaboration in the area of law enforcement and judicial cooperation, loopholes for high risk systems in the area of migration, asylum and border control management, or applications sold to third countries but utilized in a framework of extraterritorialised migration management.

The more emotional, technical and extraterritorial it gets, the more important becomes research, awareness and advocacy.

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