



Implementing the Pact on Migration and Asylum: Efficiency, Responsibility and The Future of Protection in the EU

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The EU Pact on Migration and Asylum (hereinafter “the Pact”), adopted in May 2024 and due to become fully operational by June 2026, represents the most far-reaching reform of the Common European Asylum System (CEAS) in over a decade. The Pact introduces a set of legislative instruments designed to further harmonise asylum procedures, strengthen border management, and balance solidarity with responsibility among Member States. While presented as a framework to enhance efficiency, coordination, predictability and solidarity (European Commission Press Release, September 2020), the Pact’s legislative design raises a number of concerns, as outlined in this brief, and its implementation will be decisive in determining its impact in practice.

Introduction and Purpose

Recent implementation reports by the European Commission (SWD(2025) 162; SWD(2024) 251) suggest that progress has been made in preparing national systems for the Pact, but they also highlight persistent challenges

related to reception capacity, border infrastructure, data systems and operational coordination across Member States.¹

This policy brief argues that the Pact's implementation risks deepening a border-centered model of migration governance, making it harder for individuals to access protection in the EU, while insufficiently accounting for the legal, moral and political costs involved. Rather than resolving longstanding structural tensions within the CEAS, including uneven responsibility allocation, fragmented national laws and practices, and disproportionate pressure on external border states, the Pact reconfigures them through new procedural and operational tools. Border procedures, the legal fiction of non-entry, expanded detention possibilities, exceptions (derogations) to basic rights and regular procedures during crisis situations, and increased reliance on external migration partnerships shift the balance further towards control, containment and responsibility outsourcing with potentially significant implications for the rights of asylum seekers and refugees.

A system that prioritises efficiency and control without adequate safeguards and monitoring risks reproducing the very problems the reforms seek to address: distrust between Member States, uneven enforcement of rights, and continued humanitarian crises at Europe's borders.

The analysis focuses on two interrelated dimensions of the Pact's implementation. First, it examines the expansion of border procedures including pre-entry screening, accelerated asylum procedures and crisis derogations which together risk normalizing exceptional forms of regulating migration at the EU's external borders – that is practices which deviate from ordinary asylum rules and guarantees (access to territory and to regular procedures), justified as temporary or emergency measures. Second, it considers how responsibility is distributed through the operation of the new solidarity mechanism and increasing reliance on external partnerships and safe country concepts, raising questions about fairness, accountability, and the effective protection of individuals.²

¹ For an overview see https://home-affairs.ec.europa.eu/policies/migration-and-asylum/pact-migration-and-asylum/implementing-pact-migration-and-asylum_en .

² It is essential to analyse these reforms together because border procedures, crises arrangements, solidarity measures as well as external partnerships operate in tandem and shape one another in practice. Assessing them in isolation risks overlooking how their combined effect may impact on access to protection, allocation of responsibilities among

The central claim is that these mechanisms do not operate in isolation. Their combined effect is to reshape the CEAS into a system where access to protection is increasingly conditioned by containment at the borders and the shifting of responsibilities both within and beyond the EU.

Ensuring that the future of the CEAS does not come at the expense of fundamental rights, as enshrined in the EU treaties (notably Art. 78 TFEU) and reflected in international standards including the 1951 Refugee Convention, will depend on how key safeguards, such as access to fair asylum procedures and effective remedies, are operationalized in practice. The Pact's credibility, therefore, will ultimately rest not on its promise of efficiency, but on whether it can uphold its foundational commitment to protection. This ultimately invites reflection on whether the issue is one of compliance alone, or whether the framing of EU asylum policy itself already reflects a predominance of control-oriented objectives.

Background and Context

The Pact must be understood against the backdrop of persistent tensions within the CEAS. Despite several attempts for legislative harmonization since the 1990s, asylum systems across the EU continue to operate with significant disparities in recognition rates, procedural safeguards, and reception conditions.³

At the center of these tensions lies the allocation of responsibility for examining asylum claims. The existing framework, largely based on the obligation to apply for asylum in the first country of entry, has placed disproportionate pressure on Member States located at the EU's external borders. At the same time, efforts to introduce more redistributive binding mechanisms (e.g., emergency quota in 2015/2016) have encountered political and legal resistance (Thielemann 2025; Karageorgiou 2019; Guild et al 2017).⁴ As a result, solidarity within the CEAS has remained contested, often

Member States and between Member States and third countries, and redefine the overall direction of EU asylum governance.

³ This refers to divergences in how Member States treat asylum seekers and refugees in terms of legal status, housing and financial support, access to healthcare, labour market and education.

⁴ On the legal challenges brought before the Court of Justice of the EU, see CJEU, Joined Cases C-643/15 and C-647/15 *Slovakia and Hungary v Council*, GC, Judgment of 6 September 2017 and CJEU, Joined Cases C-715/17, C-718/17 and C-719/17 *Commission v Poland, Hungary and the Czech Republic*, Judgment of 2 April 2020.

negotiated on an ad hoc basis rather than embedded in stable and predictable arrangements (Karageorgiou 2023).

In response to these challenges, the European Commission proposed the Pact in September 2020 (COM/2020/609), following prolonged negotiations. Rather than fundamentally reforming the system, the Pact introduces a set of interconnected instruments aimed at improving coordination between asylum, border management, and return policies (Brouwer et al 2021). This integrated approach (Arts 3–5 Regulation 2024/1351) reflects the formalization of a broader shift in post-2015 EU migration governance, where asylum policy has increasingly converged with border control, migration management and external cooperation (Carrera et al 2024), incorporating their logics and regulatory approaches within a single policy framework.

While this integration is intended to enhance efficiency by streamlining procedures, it also raises an important normative question about the evolving function of the CEAS: *To what extent does the Pact risk reinforcing a securitised⁵ understanding of EU asylum governance in which refugee protection becomes secondary to migration control?*

This question becomes more pertinent considering that the Pact leaves core structural features largely intact. Notably, the reforms do not fundamentally alter the first-entry logic underlying responsibility allocation between Member States, nor do they introduce a genuinely redistributive system of responsibility-sharing that would address the structural inequalities faced by border states (De Bruycker 2024). Against this background, the Pact's implementation phase becomes critical (Tsourdi et al 2024),⁶ as it is through implementation that the CEAS overall direction will be determined.

⁵ A securitized understanding means treating migration primarily as a security problem rather than a humanitarian or legal protection issue. In the EU context, this involves viewing people seeking protection not as right holders but rather as a perceived 'threat' to the well-functioning of the CEAS and its internal market logic, and their movement as a challenge to be controlled – through borders, surveillance, and extraterritorial arrangements (e.g., Huysmans 2000; Léonard and Kaunert 2019).

⁶ Implementation of the Pact forms the central pillar of the European Asylum and Migration Strategy (2026–2030) introduced by the European Commission in January 2026, see European Commission, European Asylum and Migration Management Strategy, 29 January 2026, available at https://home-affairs.ec.europa.eu/european-asylum-and-migration-management-strategy_en. The Strategy frames 'effective and rights based' migration governance as a long-term challenge for the EU and emphasizes four priorities: operationalising the Pact, fighting irregular migration through enhanced border control, strengthening cooperation with third countries, and expanding legal migration pathways.

Core Legal Challenges and Contested Issues

A. Border Procedures and the Normalization of Exception

One of the major shifts introduced by the Pact lies in the consolidation of border-centered asylum processing. Through pre-entry screening – a preliminary border procedure involving identification, registration, and basic checks (health, security, vulnerability) used to channel individuals either into asylum or return procedures (Regulation 2024/1356) – fast-track border procedures and crisis derogations, the Pact establishes a framework in which efficiency is translated into processing in contained settings at EU's external borders.

At the core of this framework is the legal fiction of “non-entry” whereby individuals physically present at the border are treated as not having entered the territory of the Member State (Arts 5-6 Regulation 2024/1356). This construction enables the systematic use of accelerated border procedures while circumventing guarantees typically associated with territorial presence (Rondine 2024; Söderström 2022).

While the objective is to increase efficiency and reduce backlogs, the expansion of asylum border procedures (Arts 43-54 Regulation 2024/1348), combined with strict time limits (up to twelve weeks for both asylum and return), raise concerns regarding procedural fairness (Apatzidou 2025), namely whether individuals can challenge decisions that interfere with their rights, and the principle of non-refoulement – that is the prohibition to return individuals back to where they fear persecution and serious human rights violations. Past experience with border procedures in the EU suggests that tight timelines can undermine the quality of decision-making, access to legal assistance, translation and adequate preparation of asylum claims (EPRS 2020). Large-scale use of border procedures may also lead to prolonged confinement in border facilities that closely resemble detention.⁷

These risks are further amplified by the crisis and force majeure instrument which allows Member States to derogate from certain asylum rules in situations of perceived migratory pressure or instrumentalization

⁷ See for example the hotspot approach introduced in 2015 to serve relocation purposes as well as the implementation of the EU-Turkey statement (Statewatch 2015). On this see, Tas 2022 and Tan 2017.

(Regulation 2024/1359).⁸ These derogations include, among others, the possibility for states to prolong border procedures, delay the registration of asylum applications and expand the use of detention.

Taken together, these instruments raise concerns about the normalization of emergency and routinization of rights suspension (Karageorgiou 2026; Ganty et al 2024). Rather than functioning as exceptional tools, border procedures and derogations may become embedded as standard forms of governance. From an implementation point of view, the central challenge will be to ensure that border procedures remain compatible with fundamental rights. This requires, at a minimum, guaranteed access to legal assistance from the earliest stages, rigorous vulnerability assessments, strict limits on detention, and independent monitoring of border facilities. Without such safeguards, the new reforms risk increasing the likelihood of unlawful returns and undermining the EU's obligations under international refugee and human rights law.⁹

B. Responsibility shifting and the limits of solidarity

A second defining feature and innovation of the Pact lies in how responsibility for asylum seekers is distributed both within the EU and beyond its borders. While the Pact introduces a mandatory solidarity mechanism, its design reflects a continued emphasis on flexibility rather than redistribution, raising questions about its capacity to address longstanding imbalances in the CEAS.

Under the new framework, Member States are required to contribute to solidarity with another state that faces migratory retaining discretion over the form this contribution takes, namely relocation of asylum seekers, financial contributions, operational support, or return-related measures (Art.

⁸ The concept of instrumentalization remains particularly controversial due to its broad definition. Its ambiguous framing risks allowing Member States to invoke exceptional measures in a wide range of situations, potentially extending beyond what is strictly necessary. Experience from earlier emergency-like situations in the EU shows that temporary emergency measures often become permanent features of mainstream policy. See e.g., Thorburn Stern 2025.

⁹ See among others, CJEU, Joined Cases C-924/19 PPU and C-925/19 PPU, *FMS and Others*, Judgment of 14 May 2020; CJEU, Case C-808/18, *Commission v. Hungary*, Judgment of 17 December 2020; ECtHR, *Sharifi and Others v. Italy and Greece*, Judgment of 21 October 2014; ECtHR, *Ilias and Ahmed v. Hungary*, Grand Chamber Judgment of 21 November 2019; ECtHR, *M.K. and Others v. Poland*, Judgment of 23 July 2020; ECtHR, *Shahzad v. Hungary*, Judgment of 8 July 2021; ECtHR, *D.A. and Others v. Poland*, Judgment of 8 July 2021.

56 Regulation 2024/1351).¹⁰ Each year, the Commission assesses migratory pressures across Member States and proposes the level of solidarity required. Member States then negotiate and commit to their respective contributions within a solidarity pool during the High-Level Union Solidarity Forum, a coordination platform convened by the Commission where EU Member States negotiate and pledge their contributions (Art. 13 Regulation 2024/1351). The Commission launched the first Annual Migration Management Cycle in November 2025, identifying Cyprus, Greece, Italy and Spain as Member States under 'migratory pressure' in its relevant report (COM(2025) 795). However, the assessment of systemic shortcomings in their asylum and reception systems has been postponed until mid-2026, leaving key questions about capacity and protection gaps unresolved at this stage.¹¹

The Commission's implementation report highlights that several structural challenges remain (SWD(2025) 162).¹² First, the functioning of solidarity depends heavily on Member States' annual pledges. Considering how earlier attempts to establish binding relocation quotas had encountered strong resistance from several Member States, it is not unthinkable that states will prioritize contributions that do not involve receiving asylum seekers, thereby limiting the extent to which responsibility is genuinely shared.

Second, the Pact maintains core features of the existing responsibility allocation system, particularly the continued relevance of first entry as a connecting factor.¹³ As a result, Member States at the external borders are likely to remain the primary bearers of responsibility for processing asylum claims. Without a stronger commitment to relocation, the system risks perpetuating a structural asymmetry in which solidarity operates more as a

¹⁰ This flexibility was central to securing consensus during the negotiations, yet it raises the question of whether it can realistically lead to a fairer distribution of responsibility or instead risks reinforcing fragmentation and shifting disagreement to the implementation phase.

¹¹ Besides the European Annual Asylum and Migration Report and an annex on the state of play of implementation, the launch was accompanied by an Implementing Decision under Article 11 of the Asylum and Migration Management Regulation (AMMR) 2024/1351, identifying Member States considered to be under 'migratory pressure'. For more information see <https://www.consilium.europa.eu/en/press/press-releases/2025/12/08/migration-and-asylum-member-states-agree-on-solidarity-pool/>.

¹² The report stresses that effective transfers between Member States remain essential for the credibility of the system, yet operational challenges persist, including limited reception capacity, staffing shortages and continued absconding of applicants.

¹³ See the responsibility rules under the Asylum and Migration Management Regulation (2024/1351), inherited from the Dublin system.

mechanism of support to and disciplining of border states rather than a tool for redistributing responsibility across the Union (Karageorgiou 2019).

Responsibility is also increasingly shifted beyond the EU through expanded cooperation with third countries and the broader use of safe country rules (Karageorgiou 2025; Freier et al 2021).¹⁴ Partnerships with countries of origin and transit, as well as admissibility rules based on the notion of “safe” third countries, enable Member States to limit access to asylum procedures within the EU and transfer responsibility for protection elsewhere.¹⁵ Recent agreements with countries such as Tunisia, Egypt and Mauritania illustrate this approach (García Andrade 2024; MMC 2024). These partnerships often combine financial support, migration control cooperation and return arrangements.¹⁶ In parallel, emerging proposals for return hubs further illustrate this trend by envisaging the externalization of post-decision phases of the asylum process.¹⁷

In practice, these reforms are presented as mechanisms to speed up asylum procedures and facilitate returns, thereby reducing pressure on EU reception systems. Yet their expanded use risks entrenching a system of containment in which host countries are left bearing a disproportionate share of

¹⁴ The Pact expands the use of admissibility procedures allowing Member States to declare an asylum application inadmissible where the applicant has transited through, or has a connection with, a country considered “safe”. These rules overstretch the definition of a ‘safe’ country, adding potentially those which have migration arrangements with the EU or EU Member States, even if the asylum seekers have no connection (e.g., family members) or has never transited through (Arts 57, 59-60 Regulation 2024/1348). As a result, responsibility for examining protection claims is transferred to another state on the assumption that adequate protection will be available there. For existing practices see the UK-Rwanda deal. Similarly, the EU-wide safe country of origin list enables authorities to presume that asylum claims from certain countries are unlikely to be well-founded and therefore suitable for accelerated examination (Arts 61-63 Regulation 2024/1348). For more details, see EMN Inform, April 2026.

¹⁵ The implementation of the Pact takes place within a broader EU vision as expressed in the European Asylum and Migration Strategy (2026–2030) which identifies external cooperation with countries of origin and transit as a key instrument for reducing irregular migration and stabilising migration routes.

¹⁶ Several reports from the ground have raised significant legal and human rights concerns in relation to these partnerships, potentially undermining the EU’s role as a guarantor of human rights in the region and engaging its international responsibility (e.g., Karageorgiou et al 2023).

¹⁷ Recent discussions at EU level have also revived proposals for extraterritorial return centers, whereby individuals who have received negative asylum decisions could be transferred to facilities located outside the EU pending their removal to countries of origin. Countries including Denmark have been already implementing transfers of convicted foreigners to prison facilities outside their territory pending their removal <https://www.re-actlab.org/our-work/re-act-explains/re-act-explains-kosovo-denmark-agreement>.

responsibility for refugee protection while facing growing difficulties in meeting their international human rights obligations.

The CEAS as a deterrence tool

Taken together, all these rules reflect a structural feature of EU asylum governance. Solidarity is primarily framed as a mechanism for balancing responsibilities among Member States rather than as a principle aimed at improving protection for refugees or as an organizing norm guiding also the external dimension of EU migration policy. As a result, the Pact as a whole risks reproducing a system in which responsibility sharing remains shaped by inter-state relations overlooking the central purpose of the asylum system, i.e., the protection of individuals fleeing persecution. It also compromises the EU's primary commitment under the Global Compact for Refugees,¹⁸ which is to ensure international solidarity by easing pressure on host countries.

From an implementation perspective, ensuring that responsibility allocation mechanisms, including partnerships with non-EU countries do not lead to containment which nurtures conditions conducive to human rights violations will be critical. This requires safeguarding relocation as a central component of intra-EU solidarity and subjecting external cooperation arrangements to independent and effective monitoring, demanding transparent procedures and accountability. Without such safeguards, the Pact is likely to reinforce a system in which responsibility is not so much shared as it is shifted.

Conclusions and Policy Recommendations

In light of the contested legal issues identified above, the transition from legislation to operationalization will be decisive in determining whether the Pact delivers a more effective asylum system in line with European and international standards. Its credibility and success will depend on a set of structural and practical factors, which inform the following policy recommendations.

¹⁸ The Global Compact on Refugees is a UN framework adopted in 2018 to strengthen international cooperation and responsibility-sharing in refugee protection (United Nations General Assembly Resolution, 17 December 2018 A/RES/73/151).

Administrative capacity

A well-documented fact since the CEAS intergovernmental beginnings is that administrative capacity varies significantly across Member States. Adopting new legislation does not automatically translate into operational success or readiness. Border screening, accelerated asylum procedures, relocation as well as removals require trained personnel, adequate reception infrastructure, and accessible legal assistance systems that are not yet available across all Member States. This means that Member States should aim at improving capacity gaps in search and rescue operations, staffing and infrastructures including legal aid for asylum processing at the borders and in the mainland, as well as reception conditions. Without significant investment in these areas, new procedures risk creating more bottlenecks rather than improving efficiency.

Solidarity and fairness in responsibility allocation

While the Pact introduces a mandatory solidarity mechanism coordinated through an annual migration management cycle, the level and form of contributions will depend on ongoing political negotiations. Although there is an EU-wide baseline of 30,000 relocations, this is not binding at the level of individual Member States. The possibility for Member States to substitute relocation with financial or operational support as well as with 'offsets' – that allow Member States to take responsibility for asylum applicants on their own territory – raises questions about the mechanism's redistributive effect. Its effectiveness will ultimately depend on whether formal commitments translate into meaningful responsibility sharing in practice at the intra-state level and into fairness towards third country nationals – a key legal requirement for EU migration and asylum policy (Art. 67 TFEU).

More concretely, relocation within the solidarity mechanism should be prioritized, by requiring Member States to fulfil a minimum share of relocation commitments before resorting to alternative contributions. In addition, clear benchmarks for what counts as equivalent contributions should be established, so that e.g. financial support must evidently reduce pressure on frontline systems. Relatedly, the Commission should require that all forms of contributions demonstrate improvements in access to asylum, reception conditions, and procedural guarantees for refugees and asylum seekers. Finally, involve independent bodies, including National Human Rights Institutions (NHRIs) in assessing whether solidarity measures comply with fundamental rights and fairness obligations.

Procedures, Safeguards and Monitoring

The institutionalization of screening and the expansion of accelerated border procedures are among the Pact's most consequential reforms. While intended to increase efficiency and reduce secondary movements, these procedures concentrate decision-making at the EU's external borders and operate under compressed timelines. In practice, they vest significant discretionary power in local administrations and screening authorities, particularly in determining access to the territory and to different procedural tracks. This discretion increases the likelihood that common rules will be applied unevenly, potentially leading to further disparities across Member States. In addition, several provisions of the Pact are likely to face legal challenges before European courts, particularly in relation to detention practices, shortened time limits for appeals in border procedures, and transfers carried out under the safe country provisions. How these procedures are implemented will be critical for determining whether the Pact strengthens or weakens access to asylum. For these reasons, robust safeguards, including early access to legal assistance, effective vulnerability assessments, and independent monitoring by actors such as NHRIs or Ombudspersons, are required in order to minimize the likelihood of erroneous decisions and human rights violations, including breaches of the principle of non-refoulement.

Recentering protection in CEAS implementation

Beyond these structural and procedural considerations, the implementation of the Pact raises a broader question about the direction of the CEAS as a system of protection. While the reforms promise greater coordination and efficiency, this brief has argued that their operational logic risks consolidating a border-centered and deterrence-oriented model of governance. This also invites reflection on the normative framing of EU asylum policy itself, and whether concepts commonly used in the return and border control context – such as “effective, humane, and sustainable” – are suitable and sufficient for a system fundamentally grounded in protection obligations.

By combining expanded border procedures with flexible forms of solidarity and increased reliance on external partnerships, the Pact does not address the structural flaws that have long plagued the CEAS. Instead, it rearticulates them through new rules and processes: responsibility is shifted across Member States and beyond the EU, while access to protection becomes

increasingly conditioned by containment at the external borders and the use of accelerated and exceptional procedures.

The central challenge for implementation is therefore not (merely) technical but normative. It concerns whether the Pact will be operationalized in a manner that preserves the core guarantees of the asylum system (i.e., access to procedures, individual assessment, effective remedies, and protection against refoulement), or whether these guarantees will be progressively constrained in the name of efficiency and control.

Ultimately, the credibility of the Pact will depend on how these tensions are managed in practice. Without robust safeguards, clear limits on the use of exceptional measures, and effective systems of accountability and monitoring, there is a real risk that implementation will normalize practices that undermine the EU's legal and moral commitments to refugee protection.

If the Pact is to strengthen rather than weaken the CEAS, implementation must be guided by a clear prioritization of protection over deterrence, and by a sustained commitment to transparency, fairness, and fundamental rights across all stages of the asylum process.

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