



# Breaking taboos: EU asylum and migration policy since 2020

This commentary reflects on the major migration-related policy developments over the past four years that influenced or culminated in the EU's new Pact on Migration and Asylum. It describes a radically changed landscape since 2020, when governments — principally out of *realpolitik* — broke taboos, one by one, right across the migration policy spectrum, a trend which looks set to continue after the European elections on 6-9 June.

On 14 May, at the very end of the EU's five-year legislative cycle, European ministers at last [adopted](#) a legislative package aimed chiefly at reforming and streamlining the Common European Asylum System. Together with a [parallel strengthening](#) of the Schengen area of passport-free travel, the Pact potentially marks one of the most far-reaching overhauls of the EU's free circulation area and passport-free zone since the 1990s. As European and national officials debate 'building blocks' of [policy actions](#) necessary to implement the complicated settlement by mid-2026, the key question is what immediate priorities lie ahead to operationalise what has been agreed upon. But what was the background to the agreement in the first place?

## A more assertive European policy since 2020

Early in the mandate, the von der Leyen Commission clearly signalled a tougher stance on spontaneous sea arrivals than its predecessor. In March 2020, [the Commission president travelled](#) to Athens, terming Greece [the EU's 'shield'](#) after a rise in irregular arrivals in the Aegean. Despite a low point in September 2020, when the country's largest refugee camp [burned down](#), the Mitsotakis administration undertook

a number of initiatives to address the situation on the Greek islands, including by opening new '[reception and identification centres](#)' to issue status decisions more rapidly.

EU officials have shifted to a more control-based approach to migration. In 2021, Commission Vice President Margaritis Schinas [was dispatched](#) from the Berlaymont to head Europe's response after Belarus autocrat Alexander Lukashenko issued over 20,000 Iraqis, Afghans and Syrians with single entry visas to Minsk in order for them to cross illegally into Poland and Lithuania. Amid harrowing scenes on the Polish border, Schinas undertook shuttle diplomacy missions to key regions, [stopping off](#) in Dubai, Baghdad, Beirut and Ankara, among other capitals. His visits triggered a domino effect of [cooperation from airlines](#) and local authorities. The EU [subsequently amended](#) both its asylum reforms and borders code to recognise state or non-state antagonists' 'instrumentalisation of migration flows' in 'hybrid attacks' against Schengen countries.

Schinas was dispatched again the following autumn, this time to the Western Balkans, after a [sharp rise](#) in irregular movements from the region to central Europe, as Burundian, Cuban, Indian and Tunisian nationals arrived in Serbia visa-free for onward travel irregularly into the EU. Egyptians were coming via visa-free arrangements with Albania, Bangladeshis legally resident in the United Arab Emirates were transiting via Montenegro, and so on. In October 2022, [EU officials argued](#) that citizens of Balkan countries could not continue to enjoy visa-free access to Schengen unless the region's visa policies were aligned with those of the Union. Serbia and other Balkan governments brought their visa policies into alignment with that of the EU, for the most part. In late 2023, the Commission subsequently [proposed new rules](#) to make it easier to withdraw visa-free access should similar situations arise in the future.

Meanwhile, returns of irregular migrants halted almost completely during the pandemic and have remained low

since 2022 at around 20 per cent. In response, EU officials have directed Frontex to do more to assist national efforts to return migrants with no legal right to remain. That has meant increasing the number of joint charter flights for returnees back to countries of origin, but also establishing a [European Return and Reintegration Network](#) of national officials. In 2022, the agency set up Joint Reintegration Services (JRS) to support Member States in discussing return options with third country nationals and to partner with local NGOs to support the reintegration of returnees in their home communities. Although still in their infancy, the JRS — now renamed the [EU Reintegration Programme](#) — points towards a greater standardisation of the returns and reintegration process over time, with more Member States gradually beginning to turn to Frontex for this purpose.

## Breaking the temporary protection taboo

The EU's focus swung to the other side of the migration policy spectrum on 4 March, after Vladimir Putin's full-scale invasion of Ukraine. Ministers dusted down and invoked the 20-year-old [Temporary Protection Directive](#), an almost forgotten by-product of the Balkan wars, never hitherto used by governments. Its triggering meant that millions of fleeing Ukrainians could bypass the normal asylum procedure, granting the cohort temporary protection status in any Member State. Aside from the deeply felt, widespread sympathy for the plight of Ukraine, the Union's ostensibly generous act was to some degree a product of path dependency: The invaded country had already held [visa-free access](#) to the Schengen area since 2018, with Ukraine the chief source of EU labour migrants for several years in a row.

Displacement from Ukraine represented the first mass entry event experienced by all Member States at once. Numbers would fluctuate [around the four million point](#) by the end of 2022, with Germany, Poland and Czechia as top destinations. Mostly women with young children, an [average of 40 per cent](#) were employed in their host countries by the second year of the conflict, a higher proportion than previous cohorts seeking protection. Though welcome, the 4.3 million Ukrainians who were granted swift access to health, education, housing and social assistance in their Member State of choice nevertheless represented a significant strain on the resources of cities and rural communities at a time of high inflation and rising energy prices. The accumulating pressure on localities — especially on Europe's over-stretched housing stock — along with a simultaneous spike in asylum seekers from other regions is largely why political tensions over migration seemed to simultaneously peak across the continent in 2023.

The Ukrainian government [hopes](#) its people can return as soon as possible to help rearm, rebuild and, not least, repopulate Ukraine. But as the fresh Russian offensive on and around Kharkiv continues, and the 2024 US presidential election looms in November, a renewed outflow from the afflicted country cannot be ruled out before temporary protection expires early next year. Central and Eastern European states have already signalled that they are happy for large numbers of Ukrainians to remain, given these countries' dire need for labour migrants. The critical decision on whether to extend the status past this date remains open for now, and is urgently awaited by many.

## Key countries cross their own red lines

The admission of so many people in such a short time span, consensually and under such generous conditions — and using a legalised 'free choice' model to boot — has a right to be considered the most significant single event in the history of the Schengen area. Yet future historians are more likely to judge political U-turns in two of the largest Member States as the more pivotal to EU policy developments during this period.

First, Italy. In June 2023 the country's prime minister, Giorgia Meloni, facilitated a decisive breakthrough for the Commission's asylum reform agenda, which centres on introducing Europeanised screening processes, accelerated status decisions and detention at the external border. As irregular arrivals from Tunisia and Libya reached significantly high levels during the summer of 2023 (numbers would eventually reach [around 150,000](#)), Meloni ordered her interior minister to depart from Italy's traditional red lines in a dramatic EU Council meeting, believing hard choices to now be necessary if the boat crisis in the Central Mediterranean were ever to end.

Any EU deal on protecting the external border by default entails big challenges for Italy, implying wide-ranging administrative and judicial reform. Nevertheless, the prime minister [managed to negotiate](#) enough flexibility in the conduct of external 'border procedures'; enough concessions on declaring transit countries outside the EU 'safe' to return spontaneous arrivals; and enough restrictions on the freedom of NGOs to perform sea rescues to sell the Pact back home as a victory for Italy. Meloni then engaged neighbouring Albania's prime minister, Edi Rama, on a yet more radical step. Alongside closed 'identification and expulsion centres' in their own regions, the Italian authorities [sketched a plan](#) to take up to 36,000 sea rescues per year to asylum processing centres in the Albanian port of Shëngjin.

The second major political shift took place in Germany. Chancellor Scholz's left-leaning coalition of social democrats, liberals and greens came to power in late 2021 eager to strike a brightly progressive tone on humanitarian migration, more pronounced even than Angela Merkel during the '*wir schaffen das*' era. The so-called *Ampelkoalition* would instead be forced to start dismantling the decade-long Merkel consensus after a rise in support for the far-right Alternative für Deutschland, especially in the east. In late 2023, several German cities and regions told the federal government they had reached their limits after ten years spent receiving and integrating the vast majority of asylum claimants to the entire EU, including 1.2 million who arrived in 2015. [By agreement with the Länder](#), the Scholz government started to cut back asylum seekers' benefits and is stepping up a coalition-agreed 'return offensive' on tens of thousands of deportation orders yet to be effectuated. However, it should also be highlighted that the German government during the same period also announced it [will seek to attract](#) over 400,000 foreign workers over the next two years, a headline goal also echoed by Italy, France, Spain, Poland and others. Taken together, these developments point to a determination in Europe to toughen up the common asylum system whilst opening their labour markets to unprecedented numbers of workers over the coming years.

## Decisions at the border: The fundamentals of the EU's asylum reform

The von der Leyen Commission set out its plans for [reform of the EU asylum system](#) in September 2020, to not very enthusiastic reactions from pro- and anti-migration forces alike. [The final blueprint](#) envisages an administratively intricate system which governments hope will deliver in three main areas: 1) to update and strengthen the existing rules, last amended before the current European asylum system faltered under the strain of the 2015 crisis; 2) to make more robust the regime for preventing the transit of irregular migrants within the Union whilst creating a functioning support structure for states overwhelmed by migration pressure; and 3) to tackle the Mediterranean crisis at the EU's external border via the rapid screening of claimants, faster dismissals of manifestly unfounded claims and restrictions on the onward movement of those either likely to abscond or deemed a security risk.

The Pact stipulates that all irregular arrivals to the EU's external border [must be screened](#) to check their identities and health and security status within seven days. This triage process should allow authorities to pinpoint those more likely to be irregular migrants. Inadmissible or unfounded

claims from nationalities with an international protection recognition rate below 20 per cent are to be ushered into a new, [accelerated border procedure](#). The aim is to dismiss an invalid claim quickly and simultaneously issue a removal order within 12 weeks (including appeals), pursuant to a 'legal fiction of non-entry'. This concept, which governs transit zones and immigration checks at airports, implies that setting foot on a country's soil does not give asylum claimants the right to enter and move freely after filing their claims. Irregular entrants are legally obliged to remain in touch with the authorities, at or near the border, until their identity is confirmed and status determined. If a request is then denied or found inadmissible, candidates are deemed to have been refused entry all along, and can be ordered to leave without lengthy procedures.

The other major strand of the Pact settlement is the replacement of the current Dublin III Regulation with a so-called [Asylum and Migration Management Regulation](#) (AMMR). For 30 years, various iterations of the Dublin regime have sat at the heart of the EU asylum system, empowering countries, amongst other things, to send back claimants to be processed in the first Member State they entered. The Pact retains the first-country-of-arrival rule, extending it to a period of two years after entry.

In parallel, a new [Crisis and Force Majeure Regulation](#) sets out how and when overwhelmed countries can declare a migration emergency and the ways in which the Pact's stipulations can be relaxed or applied differently once they do. For example, it would be unrealistic to expect national authorities to screen and process large numbers of migrants, as when 10,000 per day arrived in the Greek islands in October 2015. Finally, the Temporary Protection Directive will be retained in EU law for now, having saved Europe's asylum system from meltdown in the Ukrainian crisis.

The potential impact of EU asylum reform should also be judged alongside surgical tweaks to the passport-free zone agreed by Schengen countries in 2022. These aim to address a persistent loss of confidence in the collective governance of the free circulation area, due to admit another two members – Bulgaria and Romania – in 2024. At the time of writing, 12 Schengen states were now operating internal border checks on a near-continuous basis, mostly due to secondary movements of irregular entrants claiming asylum in the interior. The [revised Schengen Borders Code](#) sets out how travel restrictions should be imposed in health emergencies, provisions lacking during the pandemic. Member States will henceforth need to be more specific about the reasons for introducing internal checks, but will be able to maintain them for longer. Significantly, authorities will in the future return irregular entrants back across internal borders upon detection if the neighbouring Schengen state agrees.

## Will the Pact work?

Taken altogether, then, will these reforms ease the tensions within the Union over irregular migration? Are they sufficient to control the crisis ongoing at the external borders? The first query is on timing and enforcement. The new system is not due to come online until a putative implementation deadline of mid-2026. That feels very far away, not least due to the difficult geopolitical and international security outlook and polarised political debate over immigration in many countries.

The Pact's final adoption by no means ends political and public debates in Europe as to whether the EU external border should be a welcoming or unwelcoming place for spontaneous arrivals who enter via the asylum system. During the talks, European Parliament negotiators were perturbed by having to agree families with children would also be eligible for rapid border and return procedures. (The increasing numbers of unaccompanied and separated children — often Syrian and Afghan in origin — are fully exempted.) Conversely, national officials lamented a concession to MEPs exempting those citing mental health issues, as this makes the border procedure too vulnerable to abuse, in the view of some sceptics.

These and other contentious issues — such as the interplay between Pact reforms and the EU's migration diplomacy — are likely to rear their heads later this year, since the Commission and national governments must agree on implementation plans for the legislation six months after entry into force. Furthermore, those countries which voted against the Pact will still be obliged to implement it. At the same time, EU Member States and the Commission should prepare for an avalanche of judicial challenges. The Pact stipulates that everyone in the return border procedure should receive 'legal counselling', stopping short of a more robust obligation to provide free legal aid. In any case, [Europe's NGOs](#) already consider the Pact an arbitrary attack on fundamental rights and will certainly try to have key elements like the non-entry fiction overturned by the courts.

Bear in mind the new border regime will cover only those applicants judged highly *unlikely* to qualify for asylum status. For example, Syrians [accounted for](#) some 100,000 irregular entries in 2023. As nationals with a high international protection recognition rate, they would not be channelled into accelerated procedures as things stand, but rather pass into the regular asylum system where decisions often take years, unless new accords are reached with transit countries à la the [2016 EU-Türkiye Statement](#). In reality, therefore, the Pact is mostly a prescription for tackling arrivals on the Central and Western Mediterranean routes, where a majority of unauthorised entrants are African or South Asian migrants. A key problem will be how to implement the return of rejected claimants quickly before holding facilities become

dangerously overcrowded. For this, the EU needs working readmission arrangements with about 50 countries of origin, far from the case at present.

Internally, the Pact regime will be expensive to implement and maintain, not least establishing screening facilities and holding centres with trained staff in every Member State. An initial Commission estimate made in 2020 calculated a total bill of around €2 billion. Some argue that any excess or unforeseen costs could be made up from the €20,000-per-migrant compensation most Member States will prefer to pay rather than accept their nominal relocation quotas. That would total €600 million paid into a special fund managed by the Commission as part of the solidarity pool for overwhelmed states. But, given that [Germany](#) and [Poland](#) each spent €8 billion respectively to handle the 2015-2016 asylum seeker influx and arrival of Ukrainian refugees in 2022, this amount would clearly be insufficient in terms of overall need. Recognising this reality, EU leaders were quick to approve [significantly increased funding](#) for migration priorities at mid-term budget review talks in February 2024.

## The road ahead after the European elections

The new Commission will start work in earnest in January 2025, beginning with around 20 implementing acts or instructions to national administrations on operationalising the Pact, from exchange of information on asylum cases to standard procedures for screening and accelerated returns. At the same moment, Poland, under the new coalition led by Prime Minister Donald Tusk, takes over the EU's rotating presidency. One of the first legislative tasks facing both Council and Commission will be new legislation to streamline and rationalise [the EU's return procedures](#) for returning unsuccessful asylum claimants and visa over-stayers. By then, the initial results of the long-awaited automated [Entry/Exit system \(EES\)](#) will be seen.

The Council will be also required to set five-year strategic goals for the free-circulation area under the EU treaties. For migration and asylum, goals may well include, among others, creating a European model to prevent spontaneous maritime migration, forming migration partnerships with neighbouring countries, making the Union more attractive for millions of foreign workers and addressing the impact of AI on border management.

In addition, EU governments and the Commission are also highly likely to explore proposals for the remote processing of asylum claims, on the model of the [Safe Mobility Offices](#) rolled out in Central and South America under the Biden administration, which also screen for potential labour migrants

possessing certain categories of skills. A European equivalent (perhaps 'EU Migration Transit Centres') in strategic locations along key migration routes would be a significant flanking measure to the Pact's reforms: supporting efforts to reduce irregular migration by sea; providing safe legal channels for those in need of international protection; and in certain cases helping to match skilled migrants with employers willing to sponsor their journey to Europe.

## Conclusion

The EU's migration policy advanced erratically between 2020 and early 2024, as practically every Member State grappled with rising irregular entries and asylum claims whilst trying to attract international talent and essential foreign workers following the pandemic. Still bruised from years of division over proposals to distribute asylum seekers among them, Europe's interior ministers did at times re-discover a sense of unity, for example in response to Belarus-led attempts to extort political concessions via the 'instrumentalisation' of irregular migrant flows and the imperative to protect over four million people fleeing war in Ukraine. The cycle of policy innovation and political controversy will persist as a trend throughout 2024 as national governments and EU officials continue to tactically respond to novel or renewed high-pressure situations over the coming months.

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