

MARIA PARASKEVA

The Militarization of EU Borders

**THE NEW PACT
ON MIGRATION
AND ASYLUM:
A LOST OPPORTUNITY
FOR THE EU**

The
Militarization
of EU
Borders

**THE NEW PACT
ON MIGRATION
AND ASYLUM:
A LOST OPPORTUNITY
FOR THE EU**

MARIA PARASKEVA

The Militaryization of EU Borders

**The New Pact
on Migration
and Asylum:
A Lost Opportunity
for the EU**

October 2024

TABLE OF CONTENTS

1. Introduction.....	6
2. Reforming the asylum regulation: a serious setback for human rights	8
2.1 The new pact: failed expectations	10
2.2 Financial implications of the pact.....	15
2.3 How we got to the pact.....	16
2.4 Reactions and responses to the new pact amid the EU elections	18
3. The introduction of partnerships with third countries and its consequences both for migrant populations and for third countries	20
3.1 Setting the scene for the outsourcing of migration management.....	21
4. Conclusion	26

1. Introduction

In 2020, the start of discussions on the new Pact on Migration and Asylum was deemed an important step and raised great expectations that it would reform the Common European Asylum System (CEAS) in a fair and effective way. Since then, the proposed pact has been a basic issue on both the national and European political agenda. Following many delays, political developments and various alliances among member states concerning the pact,¹ late 2023/early 2024 marked another milestone towards an ever-closer European Union. The pressure to deliver results before the European Parliament elections in June 2024 speeded up proceedings regarding the pact amid a political context where anti-migration discourse has become common for many mainstream parties, who have adopted policy proposals to “close the borders”. In December 2023, the European Parliament and the European Council signed a political agreement on the main key proposals included in the new pact. Although the agreement was presented as “historic” by the European Parliament and Council, civil society organizations and a few political dissenters called it “the death of asylum in Europe”. In this context, 55 civil society organizations signed a common statement saying that “in its current form, the pact greenlights detention, pushbacks, and racial profiling, effectively undermining the fundamental human right to seek safety”. On 14 February the Civil Liberties, Justice and Home Affairs (LIBE) Committee voted in favour of the final agreement on the pact despite the voices of a few dissenters, human rights defenders and civil society organizations. Following the agreement, the focus shifted to negotiating the technical details of the reforms and finalizing the legislative texts, which were ratified and adopted by MEPs on 10 April 2024 during their penultimate plenary session before the end of the mandate of the previous European Parliament and the Council. The European Commission and member states are now expected to develop implementation plans in order to address practical shortcomings, which could finally lead to divergent applications of the new rules among member states. The agreement, as it will be analysed in this report, is characterized by a compromise at the expense of human rights and responsibility sharing, while it increases responsibilities for countries at the EU’s external borders. Furthermore, it

1. See Maria Paraskeva, “The European Agenda on Migration in the murky waters of anti-immigration,” in *The Militarization of EU Borders: The Greek Case Study within the European Context* (Athens: Rosa Luxemburg Stiftung, Office in Greece, 2023).

establishes a robust border and migration management and outsources member states' migration management responsibilities to third countries outside EU scrutiny. On 6-9 June, and as this analysis was going to print, far right parties made big gains in the EU elections, strengthening their power in the Parliament and increasing their anti-migrant rhetoric. In this context, the question is whether the new pact will provide an answer to systemic problems or whether it marks the age of non-Europe in migration and asylum policy?

2. Reforming the asylum regulation: a serious setback for human rights

After years of divisive negotiations and a series of decisions, the EU's Committee of Permanent Representatives (Coreper) approved the provisional deal that was reached between the Spanish Council presidency and the European Parliament on 20 December 2023 on five key laws (constituting the Pact on Asylum and Migration) that will reform the EU's asylum and migration system. The five EU laws of the pact touch on all stages of asylum and migration management and include: (a) the update of the Eu-rodac Regulation (the EU fingerprint database), (b) the Screening Regulation, (c) the Asylum Procedure Regulation (APR), (d) the Asylum and Migration Management Regulation (AMMR), and (e) a framework allowing member states to address situations of crisis in the field of asylum and migration. The Coreper also gave its thumbs up to three asylum and migration laws on which the Council and Parliament already reached agreement in 2022, namely (a) a revision of the reception conditions directive, (b) an update of the qualification regulation and (c) a regulation establishing an EU resettlement framework. A return border regulation was also approved which allows the pact to apply to those EU countries with differing Schengen rules. On 14 February 2024 the European Parliament Committee on Civil Liberties, Justice, and Home Affairs (LIBE) endorsed the new legal framework. However, MEPs of the Greens/European Free Alliance expressed their opposition to the new pact. Terry Reintke MEP, president of the Greens/EFA Group, commented: *"Managing migration is a challenge that will not be solved with easy fixes or populist slogans. That is why we must look seriously at the options and ensure that we build a European migration and asylum system that is fit for purpose and respects human rights. The proposed system will ultimately not be workable, the border procedures and detention will entail very high human costs and further administrative burdens for national authorities. We fought hard in the negotiations with the Council to limit the damage but on many occasions were unable to prevent the weakening of standards and safeguards for asylum seekers and refugees. The negative and unwanted further effects of these measures will lead to the further criminalisation of those providing humanitarian assistance to people*

in need.” Finally, as expected, the Pact on Migration and Asylum was adopted by the Parliament on 10 April 2024. The ten legislative files (nine regulations and one directive) that collectively make up the pact were all approved with varying levels of support from MEPs:

- 1) Screening Regulation
- 2) Amending Regulation to facilitate screening (ECRIS-TCN)
- 3) Asylum and Migration Management Regulation (AMMR)
- 4) Asylum Procedure Regulation (APR)
- 5) Crisis and Force Majeure Regulation (incorporating provisions from the proposal for an Instrumentalization Regulation)
- 6) Eurodac Regulation
- 7) Reception Conditions Directive
- 8) Qualification Regulation
- 9) Resettlement Framework Regulation
- 10) Regulation establishing the European Union Agency for Asylum

There are two legislative proposals still pending adoption: the Return Directive and the Long-Term Residents Directive.

The application of the nine regulations will take place within two years and member states will have two years to amend their national laws to make them compliant with the recast Reception Conditions Directive. On 1 July, Belgium handed over the presidency of the Council of the EU to Hungary. The next College of Commissioners is expected to be appointed by November.

2.1 The new pact: failed expectations

In this context, and despite the fact that the agreed legislative package provides for a reform based on the harmonization of procedural arrangements to handle and process arrivals at the border as well as asylum applications, the Common European Asylum System (CEAS) reform fell far short of expectations in many aspects of the migration agenda. The EU's external borders have been reinforced through mandatory border procedures and the increased implementation of the concept of the "first safe country", minor modifications of the responsibility rules have been introduced, while the inclusion of a flexible "solidarity" system among EU member states raises serious concerns about the solidarity principle. Member states in a "crisis" situation would be authorized to adjust certain rules, for instance concerning the registration of asylum applications or the asylum border procedure and to request solidarity and support measures from the EU and other member states. Furthermore, member states will be able to derogate from key safeguards when they claim a third country is pushing people to their borders ("instrumentalization of migration"). The reform's emphasis on screening and border procedures, and on increasing the use of accelerated asylum procedures, jeopardises access to international protection at the border. Screening will be carried out at external borders through a procedure that will allow national authorities to identify requests as return cases or legitimate asylum requests.

- a) **"New solidarity structure."** One of the main goals of this regulation was to find a way for member states to work together to take in asylum seekers equitably in order to relieve pressure on Europe's first-entry countries that receive the most migrants. As established by the Dublin II Regulation, the country of first entry is responsible for the process. The Dublin II Regulation has been characterised as unfair as it puts more pressure on first-entry countries, which have called for a more fair and effective distribution between other member states. On the other hand, member states that fear secondary movement and members of the Visegrád group (Czech Republic, Hungary, Poland and Slovakia) have opposed the establishment of a solidarity relocation mechanism. In this context, the pact has not introduced any significant changes. The burden remains on the first-entry member states, which continue to be responsible for the examination of asylum claims, incentivizing them to conduct illegal pushbacks and ignore boats in distress.

The new screening and detention procedures at the borders will further increase the pressure on first-entry member states, while the implementation of partnership agreements with third countries that have been declared “safe third countries” without safety guarantees and monitoring procedures being put in place puts migrants’ lives further at risk at the borders and close legal and safe routes. The new solidarity mechanism provides member states that are not under pressure from increased arrivals at the borders with the choice to choose between the relocation of migrants, financial contributions, operational support, request deductions and “responsibility” offsets as a form of “solidarity”. The failure to find a balance in responsibility-sharing between member states will further reduce the reception standards in some EU countries, and will incentivize asylum seekers to move onward to other member states (secondary movement). Countries that have been affected by secondary movement (e.g., Germany, France, etc.) would continue to turn a blind eye to the illegal expulsions at the borders, jeopardizing the implementation of the regulation in practice.

- b) **“Border and asylum procedures.”** The Screening Regulation creates a new “pre-entry” screening procedure that applies to anyone who has arrived irregularly, including anyone who is later apprehended within EU territory. The process involves identification; fingerprinting; registration; and health, security, and vulnerability checks to assess someone’s likelihood of successfully claiming asylum. Accordingly, authorities refer the applicant to either the border asylum procedure – if a negative decision is likely and the individual is not part of a vulnerable group – or to the normal asylum procedure. Ultimately, the screening procedure creates a legal fiction of “non-entry”, which considers those who have applied for asylum at borders or transit zones not to have formally entered the territory of the relevant member state, regardless of their physical presence on EU soil. People can then be detained for a further 12 weeks if their claim is rejected. Considering that countries of origin are often unwilling to take back their nationals, people can be detained for prolonged periods. Extended detention, with limited access to legal assistance, contravenes European and international law.
- c) The amended Asylum Procedures Regulation (APR), introduces a new accelerated procedure, including the complexation of the examination of an asylum application through the border procedures within six months. Moreover, it extends the period of responsibility for handling asylum applications to 20 months. Another important element is the concept of accountability, which will automatically apply in case of risks related to security threats, including unaccompanied minors, “deception of authorities”, or if the migrant person comes from a coun-

try with a recognition rate of less than 20%. People from countries with recognition rates below 20%,² as classified by the EU's asylum agency, will be filtered through a fast-track procedure at the border. Serious concerns have been raised regarding this fast-track approach. Although there is a need for the quick and timely examination of the applications, the fast-track approach should not jeopardize the principal requirement under (European and international) law of each individual asylum application to be assessed based on its merits and not on group characteristics. In such a case there is a risk that bias and discrimination will be reinforced against certain groups of people. Moreover, lower safeguards and asylum applications that will end up at the borders through accelerated procedures under the admissibility procedure will increase the risk of human rights violations and pushbacks at the borders, while the initialization of the hot spot approach at the borders could lead to overcrowding and inhumane conditions with large numbers of people contained in border areas. In addition, the APR introduces the adequate capacity (annual ceiling) in terms of capacity and human resources. Under this concept, the regulation sets a minimum number of 30,000 applications per year which should be processed in an asylum border or a return border procedure. A member state's annual ceiling is calculated by taking the overall adequate capacity (30,000), multiplying it by the sum of irregular crossings of the external border, arrivals following search and rescue operations, and refusals of entry at the external border in the member state in question, and then dividing the result by the number of arrivals and refusals of entry for the EU as a whole. The main issue with this procedure is that sets a numerical target for the use of the border procedure and it relegates the specific characteristics of the arrivals or the actual capacity of first-entry countries. This increased responsibility of the member states at the border would result in further illegal expulsions and pushbacks in order to reduce the number of people that they have to process in the border procedure.

d) Crisis and Force Majeure and Instrumentalization regulations.

The Crisis and Force Majeure Regulation is an even more controversial regulation as it will allow member states to derogate from principle human rights obligations in case they experience a "mass influx" or a "situation of instrumentalization of migrants by a third country or non-state actor". The number of individuals whose applications would

2. The recognition rate is defined by the European Commission as "the number of positive decisions on applications for international protection as a proportion of the total number of decisions issued for each stage of the procedure".

be examined at the borders in case of a “mass influx” or a “situation of instrumentalization of migrants by a third country or non-state actor” can be increased by a decision of the member state, which could lead to prolonged detention at the borders and further accelerated procedures with limited guarantees concerning the access to human rights. This regulation has been criticized both because it utilizes the vague and blurry wording of “mass influx” and “instrumentalization of migrants” and because the assessment and the declaration of a situation at the borders as a “mass influx” and situation of instrumentalization of migrants” is at the discretion of the member state. In this context, the [Instrumentalization Regulation](#) enables all member states to avail themselves of derogations from EU law in any instrumentalization situation. This includes derogations from the asylum procedures, reception conditions and return directive and, among others, risks leading to different standards being applied across the EU.

e) **Third-country cooperation and further externalization.** Another crucial issue that is not new but has been incorporated into the new pact is the “safe third country” concept. The concept of “safe third country” enables member states to return asylum seekers to third countries (such as Turkey, Tunisia and Egypt) without examining their cases on the merits. The deportation is based on an admissibility assessment that deprives an individual’s right to an assessment on its merits. In most of the cases the third countries do not meet certain protection criteria, thus putting asylum seekers’ human rights at risk or putting them at [risk](#) of being deported to their own countries where they may suffer harm or death. The decision as to which countries meet the definition of the “safe third country” is at the discretion of the member state. Despite the fact that it is a political decision to deny people’s access to protection in Europe, common protection criteria should at least be established for the definition of “a safe country” and to establish a monitoring mechanism to assess these criteria in each country. One such example that highlights the risks of the implementation of the concept of the safe country without safeguards is the case of Turkey, which has been defined as a safe third country by Greece. Following strategic litigation on 14 March 2024, the preliminary questions regarding the inclusion of Turkey in a national list of “safe third countries” were referred to the Court of Justice of the EU (CJEU) by the Greek Council of State and were discussed in an oral hearing in Luxembourg, where representatives of ECRE member organizations, the Greek Council for Refugees (GCR), Refugee Support Aegean (RSA), the European Commission and the Greek government spoke. In a [statement](#) issued prior to the CJEU hearing, the GCR recalled that the Council of State’s judgement was issued following a

joint GCR-RSA request for the annulment of the joint ministerial decision that designated Turkey as a safe third country for asylum seekers from Afghanistan, Bangladesh, Pakistan, Somalia and Syria. The two organizations also recalled the opinion of the majority of the *Council of State*, which underlines that “the fact that Turkey refuses to readmit refugees as of 2020, does not allow it to be classified as a safe third country in a general way”. At the same time, it does not appear that Greece has investigated whether this refusal by Turkey will change in the near future. Lawyers from RSA and the GCR at the hearing focused on how the inclusion of Turkey in the national list of “safe third countries” practically “consolidates the policy of abdication of responsibility for the protection of refugees in Europe”. Vassilis Papadopoulos of GCR said: “It would be contrary to Article 18 of the EU Charter and provisions and spirit of the Asylum Procedures Directive (APD) to consider a country as safe where it is already known that applicants will not be readmitted thereto and its position is not expected to change.” Eleni Spathana from RSA underlined that “the concept of Safe Third Country must be interpreted and applied in line with Treaties and international obligations including the 1951 Refugee Convention, ECHR, Convention against Torture, Charter of Fundamental Rights and the Court of Justice of the European Union and the European Court for Human Rights case law”, adding that “people exposed to the policy are left with no access to health care, education, even food. The policy is indefinite and has no secure procedure to overcome legal limbo.”

- f) **Eurodac Regulation.** The scope of the Eurodac Regulation has been expanded by lowering the threshold for storing personal data in the system to the age of six as well as for storing records on persons found to be irregularly staying on national territory and records on resettled individuals. Although Eurodac is primarily a fingerprint database, additional categories of personal data will be stored in the system, including individuals’ facial images and copies of travel and identity documents. What is worrying in this amendment is that it is not in line with GDPR on biometric data collection and there is a risk that member states will indiscriminately collect photographic data of faces.
- g) **Absence of integration component.** Although the pact proposes a welcome reduction in the time period according to which recognized refugees would be eligible for long-term resident status (from five to three years), it does not go deeper into this issue. Proposals regarding integration can be found in the [Action Plan on Integration and Inclusion](#). Xenophobia grows more easily when integration is not supported. To effectively promote integration, states should invest in robust and innovative integration programmes through multi-stakeholder partner-

ships, especially at the local level. Without a strategy for integration that would be holistic in its scope and would enjoy political support, migrants are deprived of their fundamental right to dignified lives. Fragmented interventions cannot facilitate the inclusion of this population in an effective and fair manner.

2.2 Financial implications of the pact

In a curious coincidence in the same period, following long and complicated negotiations and a failed attempt to find a deal in December, in February 2024 the European Council finally adopted a revision of the EU's long-term budget (the Multiannual Financial Framework (MFF) 2021-2027). The main characteristic of this revision is the reallocation of resources in migration control and border management. In particular the allocations for individual funding programmes are revised to: €0.8bn (+8%) for the Asylum, Migration and Integration Fund (AMIF), €1bn (+16%) for the Border Management and Visa Instrument (BMVI) and €0.2bn (+18%) for the EU Asylum Agency, with the main focus on “border management in frontline Member States” and “new border procedures”. The Commission's original proposal was to increase national contributions for development assistance (Neighbourhood, Development and International Cooperation Instrument, NDICI) and humanitarian assistance (Solidarity and Emergency Reserve, SEAR) by €10.5bn. Instead, the European Council agreed to a more modest increase of €3.2bn in fresh funding, accompanied by additional budgetary cuts of €4.5bn to existing programmes. Some cohesion programmes under Heading 2 (Cohesion, Resilience and Values) will also be reduced, such as the EU4Health (-€1bn), Horizon Europe (-€2.1bn) and cohesion funds (-€1.1bn). This increased focus on deportations resulted in a statement from 26 humanitarian and development NGOs in which they warned that “The cuts will affect human rights, peace-building efforts, health, education, nutrition, climate, and many other areas for migration priorities. Here, we are essentially talking about solidifying fortress Europe by undermining programmes that contribute to sustainable development.”

2.3 How we got to the pact

The agreement's opponents characterize it as a disaster for human rights, neglecting though to admit that all these acts reflect an underlying strategy of limiting access to protection for persons on the move in Europe that had already been implemented in several cases and has been partially embodied in several recent reforms. In particular, these approaches were already reflected in 2018, when several European countries – including Hungary, Austria, the Czech Republic, Bulgaria, Estonia, Poland, Latvia and Italy – decided not to adopt the Global Compact for Safe, Orderly and Regular Migration, and abstained from creating more legal and regular pathways for migration. In various European countries, there has been an increase in anti-immigration and anti-refugee policies. In Italy, a front-line state, one of the main promises of the ruling coalition led by Giorgia Meloni was to halt flows of migrants across the Mediterranean. The Chamber of Deputies passed legislation limiting the activities of NGOs in rescuing ships in the Mediterranean and eliminated a special protection status granted to migrants who do not qualify for refugee status or subsidiary protection. In 2018 Austria's chancellor Sebastian Kurz and German interior minister Horst Seehofer voiced support for an "axis of the willing" to tackle illegal migration into the EU. Kurz said: *"In our view, we need an 'axis of the willing' in the fight against illegal migration ... I am happy about the good cooperation that we want to develop between Rome, Vienna and Berlin. I think it marks very sensible cooperation that will contribute to reducing illegal migration to Europe."* In Sweden following the elections in 2022, Prime Minister Ulf Kristersson, leader of the Moderate Party, stated that immigration to Sweden had become "unsustainable" and the government announced it was pursuing a "paradigm shift", that would include "efforts to reduce, in full compliance with Sweden's international commitments, the number of migrants coming irregularly to Sweden". In 2023, the UNCHR expressed concern after Denmark considered some regions of Syria safe for refugees to return and implemented stricter migration policies. In Greece, another front-line state, video footage of an alleged pushback of asylum seekers, which could amount to a violation of international law, and the disaster that killed hundreds of migrants off the coast of Greece in June 2023 – considered the Mediterranean's "worst ever tragedy" – did not prevent Prime Minister Kyriakos Mitsotakis from being re-elected for a second term in a landslide victory. Under his government, Greece has adopted a more restrictive approach to migration, which the prime minister describes as tough but fair. Mitsotakis has called for the extension of border walls and suggested that the EU should fund them, while opposition

parties Syriza and Pasok have committed themselves to maintaining the wall along the border with Turkey. This approach has been criticised by human rights organizations. In 2022, the UN special rapporteur on the situation of human rights defenders said that by framing migration as a matter of security and prevention, the Greek policy had a “suffocating effect” on civil society and human rights defenders.

Germany, according to the Federal Ministry of the Interior and Community, is redefining its policy as follows: “*The migration policy of the Federal Republic of Germany is intended to manage, control and limit the immigration of foreigners to our country. It pays attention to the ability of our society to take in and integrate new arrivals and to our economic and labour market interests. Migration policy also serves to meet our humanitarian obligations.*” This change of the political environment was accompanied by a series of incidents that put further pressure on member states in many fields and, in particular, on “instrumentalization”. In February 2020, Turkish President Recep Tayyip Erdogan unilaterally suspended the EU-Turkey statement, which had been in place since March 2016, and sent an estimated 20,000 migrants to the border with Greece and made demands for additional EU funding. In May 2021, approximately 8,000 people attempted to enter the Spanish exclave of Ceuta from Morocco following a diplomatic dispute between both countries over Spain’s medical treatment of Brahim Ghali, leader of the Polisario Front in Western Sahara. At the end of 2021, following the imposition of EU sanctions on the Belarussian government over the illegitimate presidential elections, the Belarussian government funnelled migrants over its borders into the EU member states of Latvia, Lithuania and Poland.

In this case the EU allowed the affected member states to take emergency measures, but this was only the beginning. The arrival of asylum seekers became a potential threat for the member states and the Commission presented a package of legislative measures, introducing a new approach to dealing with the instrumentalization of migration elements, namely a revised Schengen Borders Code and a new Instrumentalization Regulation, which lays down the derogations from EU asylum law that member states can apply when confronted with the instrumentalization of migration.

2.4 Reactions and responses to the new pact amid the EU elections

In this context the reactions to the new pact were rather expected. Southern European member states such as Greece and Italy rushed to welcome the new pact. In Rome, Prime Minister Giorgia Meloni said *“Italy does not feel alone” anymore, while in Athens, the government described it as an important European response to Greece’s effort to “implement a strict but fair policy on the migration issue”*. France also welcomed the pact, stating that: *“France calls for an ambitious reform, based on a fair balance between responsibility and solidarity. We must strongly strengthen controls at the EU’s external borders, both to curb irregular immigration, encouraged by the activities of smugglers’ networks that we must fight relentlessly and to offer those eligible for asylum better support as soon as they arrive on European territory.”* Similar reaction came from Spain, where acting prime minister Pedro Sánchez stated that: *“We are (also) going to try to achieve progress in debates that will inevitably mark the future of the EU, such as the next strategic agenda and the Pact on Migration and Asylum.”* Only Poland and Hungary declared that they will not accept a single asylum seeker from other countries, declaring that the pact does not sufficiently address the specific situation of countries bordering Belarus and Russia. The Polish interior ministry announced on 8 February 2024 that Poland’s ambassador had “expressed opposition to all legislative acts falling within the scope of the pact”. Moreover, it noted that *“the pact does not strike an appropriate balance between responsibility and solidarity and may therefore potentially constitute an area of dispute between the EU institutions and member states in the future.”* The migration pact was approved by a majority of ambassadors representing the 27 member states, despite opposition from Poland. Furthermore, the new agreement is in total contrast with the dignified and unified response from EU member states to the displacement of Ukrainian refugees, which showed a spirit of solidarity with persons fleeing war and persecution. In this case, the Commission immediately activated the Temporary Protection Directive and demonstrated fairer redistribution of refugees across Europe, family reunions, freedom of movement and easy access to the job market. On the other hand, civil society organizations warned that the pact “will normalize the arbitrary use of immigration detention, including for children and families, increase racial profiling, use ‘crisis’ procedures to enable pushbacks, and return individuals to so called ‘safe third

countries' where they are at risk of violence, torture, and arbitrary imprisonment".

As this analysis was being compiled, the EU parliament elections results highlighted that anti-migration discourse played, among others, a significant role in producing a more conservative European Parliament. Ursula von der Leyen's re-election as European Commission president on 18 July consolidates Europe's shift to the right. In her programmatic speech to the Parliament, she adopted the far-right discourse by presenting "our European way of life" as something unique and blessed by "culture" and "values".

3. The introduction of partnerships with third countries and its consequences both for migrant populations and for third countries

In 2023 there were 270,180 Mediterranean migrant arrivals, the highest number for this period since 2016. The greatest increase was registered in the Central Mediterranean route that covers movements from North Africa to Italy via the Mediterranean Sea. These numbers, and how they are perceived and exploited by political actors and segments of the electorate, explain the growing convergence among EU member states, and within the EU itself, towards more restrictive approaches to migration. In this context, EU has prioritized the externalization of migration and persists in looking to third countries to help deal with its migration mismanagement. Despite the reports of human rights violations, the new agreement endorses and reinforces the externalization of migration to other geographic regions in an effort to prevent refugees and migrants from reaching Europe. Building on previous bilateral agreements, the EU has integrated the legal framework of externalization into the new pact. On 6 March 2024, European Commission President Ursula von der Leyen expressed her support for the centre-right European People's Party's (EPP) proposals to offshore asylum. "We have to lower the number of arrivals," EPP leader Manfred Weber said, adding that "this message is important for our political campaign." The Commission president, who was also the EPP's lead candidate in the European Parliament elections, defended her evocation of the third-country concept despite concerns by civil society organizations. "Whatever we do will be in full respect of our obligations under EU and international law. The concept of safe third-countries is not new. It is already established in the EU law," she said. However, European Home Affairs Commissioner Ylva Johansson said that the reform of the EU's migration policy will not lead to Rwanda-style plans. These partnerships, which aim to support other countries "hosting refugees and fighting migrant smuggling", stand as an example of the EU's transactional approach. In exchange for cooperation, the

EU offers these countries “partnerships bringing together a wide range of policies on education, development, visas, trade, agriculture, job creation, research, energy, environment or climate change” To understand how this approach may impact the EU relationship with countries in North Africa, it is necessary to consider geopolitical factors, as well as the political, economic and security outlook of countries in the Maghreb region, and how they perceive human mobility. Deals such as the ones struck with Turkey, Libya, Tunisia, Rwanda or Albania to reduce onward movement – usually with little consideration for the migrant and refugee lives involved and lost – will only multiply in the years ahead. Once again human resources and money are being allocated to prolonged and arbitrary detention following the rescue of persons at the sea, putting people’s lives in danger, instead of strengthening the asylum and reception procedures and creating safe and legal routes for people on the move. The lack of safe routes does not reduce migration but causes thousands of migrant deaths each year because it forces migrants to use more dangerous routes to avoid interception.

3.1 Setting the scene for the outsourcing of migration management

In 2024, the EU and Mauritania deepened their cooperation. Following the visit of Spanish Prime Minister Pedro Sánchez to Brussels and his participation in the Global Gateway Forum, Commission President von der Leyen visited Mauritania on 8 February together with Sanchez. During the visit, von der Leyen announced that the EU was entering into a partnership with Mauritania and presented EU’s investment strategy, focused mainly on the energy transition in Mauritania. In addition, von der Leyen announced the EU’s financial plan to allocate more than €210m by the end of 2024 for migration management, humanitarian aid for refugees and investments in employment, skills and entrepreneurship, under the [Global Gateway](#). On 7 March, in order to strengthen this cooperation, European Home Affairs Commissioner Ylva Johansson, together with the Mauritanian minister of interior and decentralization, Mohamed Ahmed Ould Mohamed Lemine, [signed a joint declaration launching the EU-Mauritania migration partnership](#). According to von der Leyen, this

agreement represents a great opportunity on two levels: at a first level to support migration management in all its fields and at a second level to provide incentives for people to remain in the country by creating jobs in the energy field in the region. However, in recent years Mauritania has undergone several military coups and insurgencies, which have had a significant influence on its stability, democracy, good governance and the rule of law. Quite characteristically, Mauritania's access to the US free trade scheme was suspended between 2019 and 2023 over concerns about workers' rights and the use of forced labour. In addition, more recently the Mauritanian government was involved in the Qatargate cash-for-influence scandal in the European Parliament and allegedly paid an MEP €200,000 in exchange for his help in laundering its reputation on human rights, particularly slavery. In light of the above, several organizations and human rights defenders opposed this agreement on the grounds that the methods Mauritania will use to stop migrants from crossing the Atlantic might violate human rights.

In November 2023 Albanian Prime Minister Edi Rama and Italian Premier Giorgia Meloni signed a very controversial agreement that reflect Meloni's anti-migration agenda through the externalization of migration. The concept of this agreement is to send asylum seekers to Albania, which is not an EU member. Italy will construct two centres in Albania in order to accommodate up to 3,000 migrants at a time. Children and pregnant women will be excluded from the plan. Italy will be responsible for examining the asylum claims and if these claims are rejected in Italy, Albania would deport the migrants. These centres would be under Italian jurisdiction, while the external security of these centres would be provided by Albania. Commission President von der Leyen endorsed this agreement and, following relevant consultations in February 2024, the Italian Senate and the Albanian Parliament ratified the five-year deal. Once again human resources and money are being allocated to prolonged and arbitrary detention following the rescue of persons at the sea, putting people's lives in danger instead of strengthening the asylum and reception procedures and creating safe and legal routes for people on the move.

Tunisia is another key country in which EU has allocated a significant amount of money in order to manage the migration flows in its region. On 22 September 2023 the European Commission announced €60m in budget support for Tunisia and an operational assistance package on migration worth around €67m. Following relevant negotiations, on 20 December 2023 the EU and Tunisia agreed on a €150m programme. This financial support from the EU came under the Memorandum of Understanding on a strategic and global partnership concluded on 16 July 2023. According to an EU announcement, the main objectives of this

memorandum are to support the economic reforms adopted by Tunisia, to achieve stable, inclusive economic growth that benefits its people, to restore macroeconomic balance and to enhance cooperation in combating and reducing irregular migration flows and saving human lives. However, six months into the Memorandum of Understanding on migration, the expulsions of migrants were ongoing and people continued to risk their lives by trying to reach Europe from Tunisia. The human's rights situation in Tunisia is constantly deteriorating alongside the implementation of the EU-Tunisia memorandum, while allegations of illegal expulsions and violations of human rights have worried even the supporters of the deal. European Home Affairs Commissioner Ylva Johansson, who had previously praised the deal, stated: *"I can't say that this practice has stopped. So, this is of course, very concerning."* Further accusations on the implementation of the financial support in Tunisia came to light on 13 March 2024. Senior MEPs accused the European Commission of "bankrolling dictators" and claimed that the €150m that the EU gave to Tunisia under the migration and development deal ended up directly in the president's hands. Amid these allegations, MEP Tineke Strik submitted a proposal to the European Parliament to reject the Commission's decision to allocate money to Tunisia so as not to sacrifice human rights. This proposal was adopted by the European Parliament after the Commission transferred €150m to Tunisia. The concerns continued with more MEPs accusing the Commission that it is looking at a series of ad hoc deals with other African countries without regard to the state of democracy and rule of law in those countries. Following these accusations, on 12 April 2024 the European Ombudsman, Emily O'Reilly, asked the Commission about respect for fundamental rights in the EU agreement with Tunisia and in particular how it plans to ensure respect for human rights in migration-related actions.

Amid these investigations into and concerns about the EU deals with third countries to manage the migration flows, on 23 January 2024, at the 10th EU-Egypt Association Council meeting, Egypt and the EU presented the progress made on the joint partnership priorities adopted in June 2022 with a view to promoting joint interests. According to their joint statement, the EU and Egypt intend to pursue a cooperation to promote multilateralism and the rules-based international order. The creation of regular migration pathways, in conjunction with the fight against migrant smuggling and trafficking in persons, was placed high on the agenda, while other important elements included the more sustainable management of water resources, fostering bilateral trade relations and investment, climate-related issues, and the enhancement of the competitiveness of the economy. On 17 March 2024, European Commission President Ursula von der Leyen met with President Abdel Fatah al-Sisi of Egypt in Cairo, joined by the prime min-

isters of Austria, Belgium, Cyprus, Greece and Italy. This meeting sealed the €7.4bn EU-Egypt Strategic and Comprehensive Partnership to help boost Egypt's faltering economy and avert another migration crisis in Europe. The three-year financial and investment support package for Egypt includes €600m in grants, €200m for migration management, €5bn in concessional loans (macro-financial assistance), €1.8bn of additional investments, under the Southern Neighbourhood Economic and Investment Plan. The main priorities are political relations, economic stability, investments and trade, migration and mobility, security, people and skills. This agreement also caused serious concerns among human right defenders and the European Ombudsman, Emily O'Reilly, who, addressing the EU Commission, told a news conference: *"In relation to the fundamental rights issues regarding the various deals that are being done, well, tell us concretely what you're doing. Because otherwise it looks as if the money is being given, but everything that happens next is slightly more opaque."*

All the above partnerships are not an innovation for EU. In 2016 EU introduced the very controversial EU-Turkey Statement in order to stem migration. According to this deal, all new irregular migrants crossing from Turkey into Greek islands as from 20 March 2016 would be returned to Turkey. For every Syrian being returned to Turkey from Greek islands, another Syrian would be resettled from Turkey to the EU. In return, among other things, the EU would give Turkey billions of euros, including hundreds of millions in September 2020 to support refugees living in the country. The concept of the safe third country as elaborated in this agreement has been referred to the Court of Justice of the EU (CJEU) by the Greek Council of State and the case was recently discussed in an oral hearing in Luxembourg (see above chapter "Third-country cooperation and further externalization"). According to a report by the United Nations Human Rights Office (OHCHR) many Syrians who had fled the war face *"gross human rights violations and abuses upon their return to Syria"*. In the same report, the UN High Commissioner for Human Rights Volker Türk adds that there is *"an alarming picture of the suffering of returnees, in particular women, amid the increasing number of deportations of Syrians from other countries. The situation of these returnees raises serious questions about the commitment of States to due process and non-refoulement."* On Greece's borders, too, the constantly worsening situation of the refugees who are trapped in a dire situation in the Greek islands, the reinforcement of the notion of the militarization and securitization of the borders in conjunction with the allegations of illegal and massive expulsions have also raised serious concerns about the implementation of this EU-Turkey deal.³

3. See also Paraskeva, "The state of play that resulted in the 'normalization and

Last but not least, one of the most contested partnerships has been the UK-Rwanda Asylum Partnership. As this analysis was being compiled the newly elected UK Prime Minister Keir Starmer announced in his first press conference on 6 July that the previous government's controversial plan to send migrants to Rwanda was "dead and buried". He was referring to a scheme which Rishi Sunak had made a key part of the Tory government's priorities. However, we are going to refer to this agreement, which poses serious risks for the safety of refugees and for which a significant amount of money has already been allocated. In particular, on 14 April 2022, the UK government announced the UK-Rwanda Asylum Partnership. The Safety of Rwanda Act was passed into law by Parliament on 23 April 2024. Under this act, the UK could send applicants for international protection to Rwanda, under the concept of the safe third country, and the Rwandan government would decide on their asylum claims. Amid several arguments about the act and strategic legislation before the UK's Supreme Court, the court declared the policy unlawful because Rwanda was not a safe country. After this development, new legislation was introduced in order to declare Rwanda as a safe country for asylum seekers. On 25 April 2024, the UK's treaty with Rwanda was ratified and the Safety of Rwanda (Asylum and Immigration) Act 2024 was passed. Political developments put a halt to the first deportations to Rwanda. It remains to be seen what is going to happen to the asylum seekers awaiting asylum who are in detention and what the new proposal of the new government will propose to manage the increased migration flows.

legalization' of pushbacks and collective expulsions," in *The Militarization of EU Borders*.

4. Conclusion

The new Pact on Migration and Asylum introduces a rather complex framework that has to be discussed and adjusted to the national context before its implementation. Thus, we are not expecting a concrete implementation plan before the spring of 2026. The argument that the agreement will reduce the numbers of migrants entering the EU or make return procedures more effective or asylum procedures faster does not look very promising due to legal uncertainties that could undermine the rights of migrants and protection seekers. Societies have been polarized, while some politicians have promoted fear, hatred, violence and racism against migrants to win votes. With inequality and poverty in Europe on the rise, the fear around migration is a convenient distraction from trying to institutionally curb these problems. Simultaneously, Europe's protection standards and human rights are being diminished, jeopardizing EU principles. The EU must allow safe and regular pathways for people in need of protection, including resettlement and humanitarian visas, but also in terms of integration. Otherwise, people trying to reach Europe will keep on dying at sea. Finally, strong and well-funded integration policies are needed to foster participation in society and social cohesion. As history shows, people will continue to come to Europe. Politicians should promote better human rights-based and dignified policies instead of fuelling division within our societies and pursuing the illusion that blocking human mobility is possible and desirable.

A publication of the
Rosa Luxemburg Stiftung, Office in Greece

Kallidromiou 17, 10680 Athens, Greece

Tel. (+30) 210 3613769

www.rosalux.gr/en

AUTHOR

Maria Paraskeva

PROJECT MANAGER

Efi Panagopoulou

COPYEDITING/PROOFREADING

Damian Mac Con Uladh

LAYOUT

Erifili Arapoglou – enARTE

This publication is free of charge.

Athens

First edition October 2024

ISBN 978-618-5478-23-0

This publication was financed by the German Federal Ministry for Economic Cooperation and Development. This publication or parts of it can be used by others for free as long as they provide a proper reference to the original publication. The content of this publication does not necessarily reflect the official opinion of the Rosa Luxemburg Stiftung. Responsibility for the information and views expressed therein lies with the author.

The European Union's new Pact on Migration and Asylum is characterized by a compromise at the expense of human rights and responsibility sharing, while it increases responsibilities for countries at the EU's external borders. Furthermore, it establishes a robust border and migration management and outsources member states' migration management responsibilities to third countries outside EU scrutiny. In the context of the big gains made by far-right parties in the 2024 European Parliament elections, the question is whether the new pact will provide an answer to systemic problems or whether it mark the age of non-Europe in migration and asylum policy?