

Decoding the EU Pact on Migration and Asylum

27 June 2024

1. The texts have been published in the [Official Journal](#) on 22 May 2024.

2. [Press release of the Council of the EU](#), 14 May 2024

3. See annex.

INTRODUCTION The European Pact on Migration and Asylum is a set of legislative and operational measures designed to bring about a comprehensive reform of European policy in this field. Adopted by the European Parliament on 10 April 2024 and then by the Council of the European Union (EU) on 14 May 2024¹, it is presented as “a set of rules that will help to manage arrivals in an orderly way, create efficient and uniform procedures and ensure fair burden sharing between Member States”².

Although discussions had already begun during the previous legislature in response to the “reception crisis” of 2015, major disagreements between the Member States led to unfinished reform projects. A new draft was presented in autumn 2020 by the European Commission in the midst of a political crisis over migration issues. It was the subject of intense negotiations, culminating in an agreement on 20 December 2023 between the Council and the European Parliament on about ten texts. At the same time, other related texts were also adopted³ including an update of the Schengen Borders Code.

According to some MEPs, this agreement was obtained under pressure from the Council - reluctant to compromise and wanting to see the negotiations concluded before the end of the mandate - to the detriment of the few red lines set by Parliament. These three years of negotiations have seen the migration issue largely exploited to serve the political ambitions of one another, in debates that became the theatre of infighting between Member States. The legislative package finally adopted is characterised by a procedural cumbersomeness that crystallises the disagreements between Member States and raises the question of the practical applicability of its provisions. In the absence of a prior assessment of existing measures and

of an impact study, despite the Parliament's request for one, the texts were drafted in complete disregard of the realities of migration.

Indeed, far from overturning the current system, the measures adopted are a continuation of tried and tested approaches. They derive from on a repressive, security-based approach that serves containment and deportation, to the detriment of a reception policy that seeks to guarantee and protect the dignity and fundamental rights of people on the move. This approach to migration increases the risks on the roads without preventing mobility or really protecting people's rights. Once again, significant resources are being spent on building physical, legal and technological barriers and camps along migratory routes. These budgets could easily be redeployed to allow unconditional access to European territory for people blocked at its external borders, so that their situations can be examined carefully and impartially, or to allow a dignified reception on the territory of the Member States and ensure effective respect for human rights. However, the measures contained in the Pact risk leading to an increase in humanitarian tragedies and violations of fundamental rights and freedom of people on the move.

Due to the scope of the reform, a two-years period has been set for the entry into force of the Pact (with the exception of the Regulation on resettlement which is directly applicable). Most of the new provisions will therefore apply from 12 June 2026. To this end, each Member State will have to take necessary measures to implement the European reform, which will require national legislation to be brought into line.

This document aims to contribute to an understanding of the main issues at stake in the recently adopted European reforms and to share the analyses and positions of La Cimade and the networks in which it participates on these subjects.

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1. "Tailor-made partnerships" to prevent departures and increase deportations

The Pact reinforces the overall European objective of reducing migration to Europe by strengthening controls and cooperation from countries of origin and transit in the service of deportations and the externalisation of migration control. The Commission therefore wishes to double its efforts to encourage non-European countries to prevent people from leaving for Europe and to cooperate more closely on deportations, using all the political instruments available. By deepening its visa policy, developing readmission agreements and partnerships on migration with third countries, the EU is multiplying tools that often escape democratic and judicial control and yet have serious consequences for the fundamental rights and freedoms of people on the move. By denying the realities of migration and the dramatic consequences of the repressive policies already in place, the EU is only perpetuating the humanitarian disasters unfolding at its borders.

The adopted provisions

– Exploiting the sanctions mechanism of the new Schengen visa code

The common European visa policy, an essential element of European migration policy, enables Member States to select the people they wish to attract and to exclude those designated as a "migratory threat". It is also used as a lever to push non-European countries to cooperate on deportations. Since the new Schengen visa code came into force in 2020, the Commission has carried out an annual assessment of the degree of cooperation from non-European countries on deportations. **The results enable it to adopt a decision to facilitate visas for "good performers" or, conversely, to impose visa restrictions on "bad performers"**. The Gambia was the first country to be targeted by a European sanction decision, which resulted in a punitive measure to increase the visa fee to €120 (from €80), decided by the Council in December 2022. More recently, a Council decision of April 2024 also imposed visa restrictions on Ethiopia. This European strategy, which is far from new, is widely shared by the French authorities, who have confirmed their desire to "place migration issues at the heart of diplomatic action" by making the issue of visas conditional on the granting of "laissez-passer" enabling deportations to be carried out⁴. In 2022, this policy was put into practice by imposing sanctions on Tunisia, Algeria and Morocco, which for several months saw a drop in the number of visas issued to their nationals, in order to put pressure on the authorities to issue more consular authorisation to deport⁵. This policy has also been enshrined in French law since the Act of 26 January 2024, which added a new article to the immigration Code. This article states that long-stay visas may be refused to nationals of non-European countries that do not cooperate sufficiently "in the readmission of their nationals in an irregular situation" or do not comply with a bilateral or multilateral agreement on the "management of migratory flows".

– "Informal and confidential" readmission agreements to facilitate deportation

The readmission agreements concluded by the European Union and its Member States oblige non-European countries that sign them to take back their nationals who are the subject of deportation proceedings, and eventually other nationals who may have passed through their territory during their migratory journeys. To date, the EU has concluded 18 official readmission agreements⁶ which have the legal force of international treaties and are subject to approval by the European

4. French Republic, [20 decisions to improve our immigration policy, asylum and integration policy](#), 6 November 2019.

5. La Cimade, [La politique des visas : discriminations et injustice](#), 15 September 2022.

6. Hong Kong, Macao, Sri Lanka, Albania, Russia, Bosnia, Herzegovina, Moldova, Montenegro, North Macedonia, Serbia, Ukraine, Pakistan, Georgia, Armenia, Azerbaijan, Cape Verde, Turkey and Belarus.

7. EU-Turkey statement, 18 March 2016.

8. Joint Declaration on Migration Cooperation between Afghanistan and the EU of 26 April 2021, renewing the former agreement signed on October 2016

9. Migreurop, [L'informalisation des politiques migratoires : Les pièges de la soft law](#), Note #14 Migreurop, June 2022

10. Statewatch, [EU: Democracy as a problem for deportations](#), 11 January 2023.

11. Idem.

12. Migreurop Joint statement, [It is not enough to change the Director, Frontex must be abolished!](#), 5 May 2022.

13. [EU Action Plan for the Central Mediterranean](#), 21 November 2022.

14. Migreurop joint statement, [one year on from the start of the crisis, violations of migrant's rights continue in Tunisia](#), 16 April 2024.

15. Migreurop report, [La coopération UE-Egypte sur les politiques migratoires : dépolitiser les enjeux, soutenir un régime autoritaire](#), December 2021 ; Amnesty International, [Egypt: "Handcuffed like dangerous criminals": Arbitrary detention and forced returns of Sudanese refugees in Egypt](#), 19 June 2024.

16. [EU Action Plan on the Western Balkans](#), 5 December 2022.

17. [EU Action Plan for the Western Mediterranean and Atlantic routes](#), 6 June 2023.

18. [EU Action Plan for the Eastern Mediterranean route](#), 18 October 2023.

Parliament. At the same time, Member States are resorting to bilateral agreements which are quicker to negotiate and implement. However, the EU and its Member States are facing difficulties in implementing these agreements, and are increasingly resorting to legally non-binding readmission agreements, such as those concluded with Turkey (2016)⁷ and Afghanistan (2016 and 2021)⁸. **Generally speaking, the EU makes extensive use of soft law in the field of migration control, which enables it to bypass the right of scrutiny of parliaments.** It therefore negotiates a whole host of "administrative arrangements, memoranda of understanding, notes verbales and other atypical agreements"⁹. Informal agreements have already been concluded with Afghanistan, Guinea, Bangladesh, Ethiopia, the Gambia and Côte d'Ivoire¹⁰ creating obligations for them to readmit their own nationals as well as, sometimes, nationals of other States. In a note dated January 2023 and relayed by the NGO Statewatch¹¹, the Commission encourages Member States to favour the use of this type of "informal and confidential agreement", targeting Algeria, China, Jordan, Morocco, Nigeria and Tunisia in particular.

This expulsion policy will now be steered by a "new EU return coordinator" and a "high-level network coordinating national actions". The pact also confirms the leading role given to the European Border and Coast Guard Agency (Frontex), which is to become "the operational arm of the EU return policy". Frontex already coordinates and organises air charter to support deportations organised by Member States; its role will be further strengthened. It will facilitate even more ties with countries of origin. And this despite the fact that the agency's activities on the ground remain non-transparent and regularly flout international and European law¹². At the same time, the EU and its Member States have developed so-called "voluntary" return programmes, which the EU considers to be less costly. Within this framework, the EU adopted in April 2021 a **"new strategy on voluntary return and reintegration"**. The implementation of such programmes has steadily increased in the EU and beyond in so-called "transit" countries by means of European funding (Morocco, Senegal, Niger, Libya). This form of return is proving to be a mechanism whose implementation remains opaque and sometimes gives way to abusive practices. It also appears to have no legal framework in the so-called "transit" countries.

→ EU Action plans to externalise migration controls

Presented as **one of the three pillars of the global approach to European migration policy** advocated by the Commission, **cooperation with third countries has been the subject of several action plans** adopted alongside the Pact. These plans provide for the implementation of actions such as training and assistance for border guards in targeted countries; the signing of readmission agreements to facilitate deportations to these countries; the setting up of deportation operations with the support of Frontex; cooperation on rescue and disembarkation of people rescued at sea, etc.

– In November 2022, the Council adopted the EU Action Plan for the Central Mediterranean¹³ thirteen of whose twenty measures focus on strengthening cooperation with countries of North Africa (in particular Libya, Tunisia, Egypt and Niger) and Bangladesh. Within this scope, an agreement "for a comprehensive strategic partnership" was signed with Tunisia on 16 July 2023, even though Tunisia has been criticised for its repressive practices and racist discourses towards migrants¹⁴. In the same vein, an agreement was signed with Egypt on 17 March 2024, despite reports of numerous human rights violations in the country¹⁵.

– In December 2022, the Council adopted the EU Action Plan for the Western Balkans¹⁶. It contains twenty measures to strengthen cooperation with Albania, Montenegro, Serbia and Bosnia-Herzegovina. Cooperation agreements with Frontex have also been signed with North Macedonia, Montenegro and Albania in 2023.

– In June 2023, the EU Action Plan for the Western Mediterranean and Atlantic routes was adopted¹⁷. It contains eighteen measures, taken into account the recent increase in departures towards the Canary Islands, aimed at deepening cooperation with Morocco, Mauritania, Senegal and the Gambia. A partnership on migration was signed with Mauritania on 7 March 2024.

– Finally, in October 2023, the EU Action Plan for the Eastern Mediterranean route was also adopted¹⁸. The aim of this plan is to provide support to the Member

19. <http://loujna-toukaranke.org/>

20. <https://migreurop.org/>

21. La Cimade, Loujna Toukaranké and Migreurop, [Coopération UE-Afrique sur les migrations : Chronique d'un chantage](#), December 2017.

22. La Cimade, [Note d'analyse : La mise en œuvre du fonds fiduciaire d'urgence au Mali, Niger et Sénégal](#), November 2020.

23. See the [analysis](#) of the German Institute for International and Security Affairs published in June 2020.

24. See the analysis note of La Cimade, [Albania : Migration issues in the Balkan - Transit, emigration, forced returns : mobility obstructed](#), April 2023.

25. See CCFD Terre solidaire, [Spotlight on European and French funding in Tunisia, migration cooperation at the cost of human rights?](#), May 2024 ; Le Monde & Lighthouse Reports, [Comment l'argent de l'Union européenne permet aux pays du Maghreb de refouler des migrants dans le désert](#), May 2024 ; SOS Méditerranée, [Cycle d'abus - Comment les garde-côtes libyens financés par l'UE renvoient les naufragés à la détention et à la violence](#), May 2024.

26. According to the definition of the Development Assistance Committee (DAC) of the OECD (Organisation for Economic Co-operation and Development).

States of first entry, including Greece, Cyprus, Bulgaria and Italy, and to strengthen cooperation with the countries of origin and of transit in Asia and Africa, focusing particularly on Turkey.

→ **Making development funding opportunities conditional on migration issues**

Since the 2000s, European states have gradually locked development funding to their non-European partners and tied it to migration issues. La Cimade and other organisations - such as the Loujna Toukaranké collective¹⁹ and the Migreurop network²⁰ - documented this in 2017²¹ and in 2020²². It is now the Neighbourhood, Development and International Cooperation Instrument - NDICI- "Global Europe", which supports the EU's global external action with an overall budget of €79.5 billion for the period 2021-2027, 10% of which is dedicated to "migration management".

Main issues and risks for people on the move

The "visa in exchange for deportations" policy reinforces inequalities in terms of movement by a tiered access to visas directly correlated to the degree of cooperation from third countries in the deportation processes. These measures are increasingly hampering people's mobility, even though there is no evidence of the leverage effect of a more or less restrictive visa policy²³. Behind the visa statistics are people and their stories, on whom the EU and its Member States are imposing the consequences of diplomatic decisions beyond their control and over which they have no control.

Restricting the movement of people does little to prevent migration, but rather contributes to making routes increasingly long, dangerous and costly. The result is an unacceptable risk to the women, men and children who will continue to try to travel by irregular routes, which are known to be dangerous and deadly. This should lead policy-makers to ask questions, but it is not the case. The myth of a "pull effect", electoral considerations and prevailing nationalism are all obstacles to a calm and considered approach to migration issues. It's time for a paradigm shift, and to start thinking in terms of reception, solidarity and genuine international cooperation, for the benefit of all countries and their citizens.

The informal cooperation frameworks through which the EU and its Member States organise the containment of migration of people considered undesirable and the procedures for deporting those who have reached Europe are beyond any parliamentary, democratic or judicial control. The restricted access to information and the lack of democratic control that characterise them raise the question of responsibility for violations of rights perpetrated outside the borders of the EU, on the territory of "cooperating" countries, as Libya, Turkey, Niger, Albania²⁴, etc. while reports denouncing practices of refoulement, endangerment and serious violence in some of these States are multiplying²⁵.

Official development assistance (ODA) resources must meet certain criteria in order to "foster economic development and improve living standards in developing countries"²⁶. **The EU is hijacking the objective of ODA in favour of external cooperation on migration control**, in particular by making this aid conditional on the cooperation of the third country in the deportation of migrants in an irregular situation.

La Cimade's proposals

- To stop making external cooperation on development aid and the issuing of visas conditional on deportation cooperation and the implementation of security-based migration policies in non-European countries.
- Genuine international cooperation with non-European countries, based on mutual interests rather than the interests of EU Member States exclusively, accounting for the views of countries of origin and transit, and showing respect for human rights.
- Ensuring the respect of the international law of the sea, especially the obligation to rescue the passengers of a boat in difficulty and to disembark people in a safe place as soon as possible, as well as the principle of non-refoulement to countries where people are at risk of being subjected to torture or inhumane or degrading treatment.
- Ensuring that cooperation agreements with third countries are monitored by the European Parliament or national parliaments where appropriate.
- Breaking the spiral of deporting, locking up, punishing and criminalising people on the move in favour of an approach based on social justice and equal rights.

Further reading

- Migreurop, [L'informalisation des politiques migratoires: Les pièges de la soft law](#), Note #14 Migreurop, June 2022.
- Migreurop, [Endless exiles - Migration blackmail along the Balkan route](#), Mission report, March 2023.
- La Cimade, [10 propositions pour sortir de la logique de contrôle, de sanction, d'enfermement et d'expulsion des personnes étrangère](#), November 2021.
- La Cimade, Loujna-Toungankanké, Migreurop, [Coopération UE-Afrique: chronique d'un chantage](#), December 2017.

2. The proliferation of detention, screening and pushback mechanisms at European borders

Far from organising the implementation of a new border management system, the Pact actually plans to reinforce and generalise existing mechanisms and arrangements, which are characterised by their inability to secure respect for the rights of people on the move. Pursuing the objective of reducing entry into the territory of Member States, the pact plans to block migrants at the EU's external borders through the implementation of sorting, asylum and expulsion procedures implemented at the borders, drastically reducing access to their rights for the people concerned, generalising de facto detention and aggravating the risks of refoulement and ill-treatment. At the same time, the overhaul of the Schengen Borders Code institutionalises the practice of refoulement at internal borders by reinforcing the possibility of reintroducing border controls, severely impacting the principle of free movement within the Schengen area.

2.1. EXTENSION AND NORMALISATION OF THE "HOTSPOT APPROACH"

The adopted provisions

▸ Institutionalisation of the external border screening procedure

Based on the hotspot model, the Screening Regulation²⁷ provides for a **control and sorting procedure** for people who do not meet the entry conditions and who have attempted to enter the EU without authorisation, have been disembarked following a search and rescue operation or have requested international protection at a border crossing point or in a transit zone. This procedure will be applied to all, including **families and unaccompanied minors**.

For the European border guards of Member States, this will mean carrying out - within seven days²⁸ (extended to ten days in the event of a "crisis") and with the support of Frontex and the European Asylum Agency - the following tasks :

- identity checks, fingerprinting and registration in European databases²⁹;
- security checks that may involve a search of objects and people, as well as the consultation of numerous databases³⁰;
- health checks carried out by qualified medical staff and access to emergency medical care³¹;
- vulnerability checks to be carried out by «specialised staff» to detect stateless persons, victims of torture and any person with special reception or procedural needs, among others³².

At the end of the checks, a **screening form** will be filled in by the authorities, including information on identity, the results of the checks carried out, the itinerary and reason for arrival, whether or not the person concerned has complied with the obligations to cooperate, and the procedure to which they will be referred. All this information can be used and verified by the administrative and judicial authorities of Member States concerned during the asylum and deportation procedures³³.

People who are screened may then be referred to the following procedures if they are seeking international protection:

27. [Regulation \(EU\) 2024/1356 of the European Parliament and of the Council of 14 May 2024 introducing the screening of third-country nationals at the external borders and amending Regulations \(EC\) No 767/2008, \(EU\) 2017/2226, \(UE\) 2018/1240 et \(UE\) 2019/817.](#)

28. Art. 8, Screening Regulation.

29. Art. 14, Screening Regulation.

30. Art. 15, Screening Regulation.

31. Art. 12, Screening Regulation.

32. Idem.

33. Art. 17, Screening Regulation.

- an asylum procedure at the border, which may be followed by a return procedure at the border for rejected asylum seekers;
- a normal asylum procedure preceded by the issue of an authorisation to enter the territory of the Member States;
- a procedure for relocation to another Member State.

If they do not wish to apply for asylum, they will be refused entry and will be subject to immediate deportation from the border.

During the screening procedure and the asylum or the following deportation procedures at the border, people would be considered not to have entered European territory.

They would therefore be kept in a legal fiction of non-entry even though they would be in practice on the territory of Member States, on the model of the waiting area in France ("zone d'attente" - which applies in international ports, airports and stations). The texts provide for them to be accommodated in "any adequate and appropriate location"³⁴ at the border, without any further details being given on the minimum reception conditions expected in these places, particularly with regard to the screening procedure, which will apply to both adults and minors, regardless of their vulnerability. This accommodation will necessarily involve a form of constraint, as the people concerned will have to remain "available to the screening authorities"³⁵. Detention would also be possible during these various procedures, in compliance with the conditions set out in the Return and Reception Conditions Directives.

34. Art. 8, Screening Regulation.

35. Art. 9, Screening Regulation.

[36. Regulation \(EU\) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU.](#)

37. Art. 45, Asylum procedures Regulation.

– **Extension of the asylum border procedure**

Although the Asylum procedures Directive already provided for an asylum border procedure, this remained an option for Member States, which could introduce it under their national legislation. The new Asylum procedures Regulation³⁶, makes it compulsory in a whole series of situations and establishes a stricter framework defined at European level.

The Member States will be obliged to apply this procedure to people who have been considered at the end of the screening³⁷ :

- to have intentionally misled the authorities by presenting false information or documents, by withholding relevant information or documents, or by destroying their identity documents in bad faith;
- to be originated from or have their habitual residence in a country for which the rate of granting of international protection at EU level is less than or equal to 20%;
- a "danger to national security or public order", particularly if they have already been expelled for security reasons;
- unaccompanied minors if they are considered to be "a danger to national security or public order", provided they can receive support appropriate to their vulnerability.

In order to avoid saturation of facilities at the border, an "**adequate capacity**" for reception will be calculated by the Commission for each Member State, assessing the number of asylum applications that can be examined under the border procedure on the basis of the human resources and infrastructures available. If this adequate capacity is reached, the Member State will no longer be obliged to apply the asylum procedure at the border for people whose country of nationality or residence has a granting rate for international protection at EU level of 20% or less³⁸. These people will then be able to benefit from an entry permit but will be directed towards an accelerated asylum procedure. The Commission will also establish an annual number of asylum applications that must be examined under a border procedure for each Member State. Once this number has been reached, the State will no longer be obliged to apply the asylum border procedure, except for applications from people who would be considered "a danger to national security or public order"³⁹.

38. Art. 47 & 48, Asylum procedures Regulation.

39. Art. 50, Asylum procedures Regulation.

40. Art. 38 & 44, Asylum procedures Regulation.

During this asylum procedure at the border, an inadmissibility decision could be made on the grounds that a third country could be considered as the "first country of asylum" or as a "safe third country" (see section 4), which would therefore lead to the deportation of the applicant to the designated country⁴⁰.

41. Art. 51, Asylum procedures Regulation.

The procedure will have to be completed within **twelve weeks** (extended by six weeks in the event of a "crisis"). People subject to this procedure will have five days from registration to submit their asylum application⁴¹. This is an extremely short time to formalise an asylum application and for the authorities to identify the applicant's protection needs.

42. Idem.

The authorities will also apply the procedures for determining the Member State responsible. Persons transferred to another State at the end of this procedure may remain subject to the asylum border procedure in the State to which they have been transferred, which may therefore last up to sixteen weeks in total⁴².

At the end of the twelve weeks, if the procedure has not been completed, the persons concerned will be authorised to enter the country to continue their asylum application. If the application is rejected before the twelve weeks have elapsed, they will be notified of a refusal of entry and will be subject to the return border procedure.

43. [Regulation \(EU\) 2024/1349 of the European Parliament and the Council of 14 May 2024 establishing a return border procedure, and amending Regulation \(EU\) 2021/1148.](#)

→ **A return border procedure for rejected asylum seekers**

People whose applications have been rejected at the end of the asylum border procedure may be subject to a return procedure from the border⁴³. Deportation must be carried out within a maximum period of twelve weeks (extended by six weeks in the event of a "crisis")⁴⁴.

44. Art. 4, Return border procedure Regulation.

Persons subject to this procedure may, at their request, be granted a fifteen-day period for voluntary departure, provided they have handed in their travel documents to the authorities. This period will not be granted if it is considered that they present a flight risk, a threat to national security or public order, or if their asylum application has been rejected for being manifestly unfounded⁴⁵. However, the exercise of voluntary departure, implying departure by one's own means, seems contradictory to the situation of people subjected to the procedure at the border, as they would remain in a legal fiction of non-entry and kept at the disposal of the authorities in dedicated locations. It thus appears to be just another fiction designed to facilitate deportations.

45. Idem.

At the end of the twelve weeks period, if deportation could not be carried out, they will be considered to have formally entered the country. They may then be served with a new deportation order in application of the Return Directive and placed in detention on national territory. The total time spent in detention (including border procedures if they have been carried out in detention) may not exceed the maximum period of eighteen months provided for in the Return Directive.

46. Art. 7, Screening Regulation.

→ **Extension of the screening procedure across borders**

The Screening Regulation also provides that the screening procedure **may be applied to migrants in irregular situation who are arrested within the territory of Member States**⁴⁶. However, two conditions must be met: they must have entered the territory of the Member States in an unauthorised manner and have not already been subjected to the screening procedure. In this case, the procedure could last **three days** and would involve the same checks mentioned above⁴⁷. The persons concerned would also be kept at the disposal of the authorities while the procedure is being carried out, after which they would be directed towards a deportation procedure or an asylum procedure, possibly in detention. The text does not provide for any exception to the application of this procedure for families or unaccompanied minors.

47. Art. 8, RScreening Regulation.

Main issues and risks for people on the move

→ **Access to their rights for people subject to border procedures**

People subject to border procedures would not be considered to have officially entered EU territory, even though they would in reality be located there. **This legal fiction of non-entry opens the door to numerous potential violations of rights such as the principle of non-refoulement, the right to asylum, to an effective remedy and to legal assistance.**

No legal assistance is expressly provided for during the screening procedure and few details are specified on the extent of legal assistance that may be provided during the asylum and return procedures. Furthermore, referral to one or other of the procedures following screening does not give rise to any decision and cannot therefore be

48. Right protected by article 13 of the [European Convention on Human Rights](#).

49. See *Gebremedhin v. France* (2007), *Hirsi Jamaa and others v. Italy* [GC] (2012), *Jabari v. Turquie* (2000).

50. Art. 10, Screening Regulation.

51. [Directive \(EU\) 2024/1346 of the European Parliament and the Council of 14 May 2024 laying down standards for the reception of applicants for international protection](#).

52. [ANAFE : Analyse des dispositions applicable aux frontières du pacte européen sur la migration et l'asile à l'aune de l'expérience française de la zone d'attente](#), February 2022.

53. [Child immigration detention must be prohibited following adoption of EU migration and asylum pact, UN experts say | OHCHR](#).

contested. **Hence, the right to an effective remedy⁴⁸ is not guaranteed**, even though the criteria for imposing an asylum procedure at the border are numerous and open to interpretation. The procedural guarantees of the asylum procedure at the border are extremely limited, leading to a risk of mass refoulement. In addition, under the border asylum procedure, **appeals against rejection decisions would in principle be non-suspensive**, except in the case of minors, in order to “reduce the scope for abuse of the asylum system”. As a result, asylum seekers would not be able to remain on EU territory while their appeal is being processed before the outcome is known, except in cases where a judge has granted suspensive effect. Yet, the European Court of Human Rights (ECHR) has on several occasions recognised the violation of article 13 (right to an effective remedy) in cases where the deportation of a person could lead to a violation of article 3 (prohibition of torture and inhuman and degrading treatment) without that person having had access to an effective remedy against his or her deportation⁴⁹.

Imposing a 20% recognition rate for international protection implies that asylum application is dependent on the nationality, and the adopted procedure therefore tends to institutionalise a discriminatory practice of profiling by nationality. International texts are clear: article 3 of the Geneva Convention expressly prohibits any discrimination based on country of origin in the processing of asylum applications.

The Screening Regulation provides for an “**independent monitoring mechanism**”⁵⁰ to be set up in each Member State to ensure compliance with EU and international law during border procedures and to investigate allegations of failure to respect fundamental rights. At the moment, little is known about the guarantees of independence and the means of action available.

↪ **De facto detention at the border**

The Screening Regulation and the Reception conditions directive prohibit systematic detention. However, during these border procedures, people will be kept at the disposal of the authorities in border facilities and subject to the legal fiction of non-entry, which inevitably restricts their movements. **The framework applied, largely inspired by the “zone d’attente” (waiting zone) model in France, will necessarily lead to a form of de facto detention of all person subject to border procedures, including families and unaccompanied minors.** In addition, the Reception conditions Directive⁵¹ provides that asylum seekers may be held for the sole reason that their asylum application is being examined as part of the border procedure, raising fears of a form of arbitrariness and widespread detention. As the French organisation Anafé, which has been present in waiting zone since 1992, points out, “locking people up at borders creates suffering and violence. Violation of human rights is the corollary of these policies. [...] The Pact, which is largely based on French practice at borders, will reinforce the violations of people’s rights and the physical, moral and institutional violence to which they are already subjected”⁵².

The generalisation of this screening procedure at external borders raises questions about the capacity of Member States to implement it, while respecting fundamental rights and the framework provided. As it requires the intervention of many professionals, of whom there is already a deplorable shortage, within a period of seven days, it is to be feared that the people concerned will find themselves blocked at the borders for months, without being able to access their rights and in deteriorated accommodation conditions.

The sequence of screening, asylum and return procedures at the border, during which people on the move will have to remain “at the disposal of the authorities” and will be kept in a fiction of non-entry, can only lead to a **multiplication of periods of constraint and detention that could last several months**, including for minors. This is bound to have serious consequences for the physical and mental health of the people concerned. Following the adoption of the Pact, UN experts were already raising concerns about the widespread detention of asylum seekers, particularly children, and urging the EU institutions to put an end to it⁵³.

→ **On the application of border procedures to unaccompanied minors**

Rather than benefiting from immediate care and from the principle of presumption of minority, unaccompanied minors will be subject to a border screening procedure involving an assessment of their minority within particularly restrictive timeframes and conditions. In addition, the transmission of information will have to be adapted to their age and be carried out with the participation of their representative, who will therefore have to be appointed within very tight deadlines. However, the cruel lack of staff in this area raises questions about the applicability of these provisions and the protection that can actually be provided to these minors.

On the other hand, the screening could lead to an asylum procedure at the border if they are considered a “danger to national security or public order”. However, this concept, which is vague and not legally defined, is regularly misused to allow the application of coercive measures. Furthermore, **there are no real guarantees that minors will receive appropriate care**, which is bound to be inadequate given that these procedures do not take account of the fact that they are minors.

La Cimade’s point of view

These “new” procedures at the external borders tend to systematise the “hotspot approach” implemented by the EU since 2015 in Greece and Italy, in order to organise the selection of people it wishes to receive and the deportation, from the border, of all those it considers “undesirable”. The EU is thus opting to perpetuate and generalise an emergency system that has shown its limitations. The open-air camps on the Greek islands, created in this context, have proved to be places of psychological violence where the fundamental rights of people on the move are systematically flouted, and which encourage xenophobic feelings among the exasperated local populations living nearby. For eight years, the evidence has been clear: the “hotspot approach” has not facilitated access to asylum for people in need of international protection who have arrived at the EU’s southern maritime borders. Nor has it relieved Italy and Greece of the burden of receiving people arriving at their maritime borders, or improved their humanitarian situation in any way - quite the contrary. Testimonies of people on the move and observations by civil society organisations have shown that these places serve above all as a means of control and general confinement of migrants at EU borders.

La Cimade’s proposals

→ **Establishing a dignified and protective reception system at EU borders.**

→ **The end of the “hotspot approach” and all sorting systems in favour of unconditional access to European territory for people blocked at EU borders so each situation can be assessed carefully and impartially and their rights can be respected.**

→ **The end of all form of detention designed specifically for migrants.**

Further reading

- Migreurop and Gisti, [The detention camps on the Greek islands of Kos and Leros : The consequences of the “hotspot approach” on the fundamental rights of people on the move](#), 20 March 2023.
- Anafé, [Analyse des dispositions applicables aux frontières du pacte européen sur la migration et l’asile à l’aune de l’expérience française de la zone d’attente](#), February 2022.
- Migreurop, [hotspots, the shameful camps](#), 9 April 2020.

2.2. THE PRINCIPLE OF FREE MOVEMENT UNDER THREAT WITHIN THE SCHENGEN AREA

The adopted provisions

– Maintaining the possibility of re-establishing internal border controls

Alongside the adoption of the Pact on Asylum and Migration, the Council and the European Parliament also reached agreement on an update of the Schengen Borders Code (SBC)⁵⁴. The possibility for Member States to re-establish controls at internal borders in the event of a “serious threat to public order and internal security” is maintained, albeit with a slightly amended framework. **While the framework for reintroducing border controls has been strengthened, the conditions have been broadened and the duration of the reintroduction has been extended.**

The new code now includes a definition of “serious threat to public order and internal security”. In addition to the threats posed by terrorism, serious crime and large-scale international events, it includes “sudden and large-scale” migratory movements that would place “severe pressure on the overall resources and capabilities of well-prepared competent authorities”⁵⁵. Thus, **not only do migratory movements officially become a reason for re-establishing border controls, but the verbatim used also present them as a “threat”.**

On the other hand, the reintroduction durations are extended overall. In situations where the events giving rise to the threat are foreseeable, Member States may reintroduce border controls, after notifying the EU institutions and the Member States four weeks in advance, for an initial period of six months (instead of one), renewable up to two years, or even three years in certain exceptional situations. In situations where the events giving rise to the threat are unforeseeable, Member States may re-establish border controls immediately, for a period of one month (instead of ten days) renewable up to a maximum of three months⁵⁶.

However, the text provides for a strengthening of the procedure for consulting the Member States and obtaining the opinion of the Commission on the re-establishment of these border controls⁵⁷.

– Tighter control and surveillance measures

The revision of the Schengen Borders Code provides for a strengthening of the control and surveillance measures that can be adopted as an alternative to the reintroduction of internal border controls⁵⁸. In particular, it reaffirms the exercise of police powers and public authority prerogatives in border areas, which means that identity checks can be carried out more frequently. While the Code initially provided for such checks to be carried out “on the basis of spot-checks”, this provision has been deleted, making it more likely that they will be carried out systematically towards identified groups of people.

In addition, these prerogatives may be exercised in particular through the use of “control and surveillance technologies generally used in the territory” and may now be aimed directly at reducing “illegal immigration”⁵⁹.

– A new “transfer” procedure at internal borders

The reform introduces a new procedure known of “transfer” for individuals apprehended in internal border areas during checks carried out as part of bilateral cooperation between the Member States⁶⁰. Under this procedure, a Member State could immediately return a third-country national apprehended in an internal border area coming directly from another Member State. Persons seeking asylum are excluded from this procedure, in accordance with the principle of non-refoulement. However, **it could be applied to persons presumed to be minors**, provided that information on the presumption is transmitted to the State to which they would be returned and that the measures are taken “in the best interests of the child”.

Although the possibility of lodging an appeal is provided for, it does not have suspensive effect and no legal assistance is foreseen.

54. Regulation (EU) 2024/17171 of the European Parliament and the Council of 13 June 2024 amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders.

55. Art. 25, Schengen Borders Code.

56. Art. 25 bis, Schengen Borders Code.

57. Art. 27 & 27 bis, Schengen Borders Code.

58. Art. 23 & 26, Schengen Borders Code.

59. Art. 23, Schengen Borders Code.

60. Art. 23 bis, Schengen Borders Code.

61. Since November 2015, the French government has continually reintroduced controls at its internal borders every 6 months under the guise of a threat that remains the same: the terrorist threat. The latest notification of the reintroduction of controls at France's internal borders covers the period from 1 May to 31 October 2024.

62. See : Défenseur des droits, [Respecter les droits des personnes migrantes à la frontière intérieure franco-italienne](#), April 2024.

63. The [CAFI project](#) (Coordination of Actions at Internal Borders) aims to ensure that the fundamental rights of migrants are respected at borders. It is run by Amnesty International France, La Cimade, Médecins du Monde, Médecins Sans Frontières and Secours Catholique-Caritas France.

64. [Association nationale d'assistance aux frontières pour les étrangers](#) (of which La Cimade is a member).

65. [CJUE, Association ADDE e.a. v. French Ministry of Interior, 21/09/2023, C-143/22](#)

Main issues and risks for people on the move

– On the reintroduction of internal border controls

Since November 2015, the French authorities, along with several other Member States, have continued to re-establish internal border controls on a permanent basis⁶¹, in contradiction with European regulations and jurisprudence. Although the mechanism for reintroducing checks at internal borders is intended for exceptional circumstances when a serious threat to public order is identified, and is therefore temporary, it has been diverted from its intended purpose and used to implement systematic checks on migrants. By including migratory movements as a potential threat to public order that could justify the reintroduction of these controls, the reform institutionalises an already well-established practice that is likely to continue over time. The continuous reintroduction of border controls is in complete contradiction with the principle of free movement within the Schengen area. Furthermore, in the French context, the continued reintroduction of internal border controls has serious consequences in terms of violations of human rights⁶².

– On the “new” procedure of transfer between Member States

For several years now, the associations involved in the CAFI project⁶³ and Anafé⁶⁴ have been organising regular missions to monitor police practices. They have been able to make the following observations:

- **discriminatory checks** targeting people perceived as foreigners because of the colour of their skin or their appearance;
- **expeditious deportation procedures** on the other side of the border, with no individual examination of the situation and no respect for procedural guarantees such as systematic access to an interpreter, a counsellor or a lawyer, a doctor, to information on the procedure and their rights, access to the courts, or to effective remedy, in violation of European and national regulations;
- **impossibility for people to apply for asylum**, in violation of international and national regulations;
- **refoulement to Italy and Spain** of unaccompanied minors without any protection measures appropriate to their status as children in need of protection;
- **detention in unfit premises outside any legal framework**, sometimes for dozens of hours or even entire nights.

With these findings and following a dispute brought to a French court, the Court of Justice of the European Union (CJEU), in a judgment of 21 September 2023 concerning the regime applicable to third-country nationals apprehended at or near an internal border, found that the expeditious procedure implemented by the French authorities was irregular and reiterated the need to apply the guarantees provided for by the Return Directive, in particular by issuing a removal order⁶⁵. In response to the legal uncertainty highlighted by this decision, **the update of the Schengen Borders Code institutionalises the practice of refoulement at internal borders by introducing this new expeditious transfer procedure**. It does not provide for any real assessment of individual situation, since it will be sufficient to establish that the person is coming directly from the other State for the procedure to apply. As a result, a large number of people could be affected, since it includes people stopped at stations and in areas close to borders. It also fails to provide for procedural guarantees, since appeals have no suspensive effect and there is no provision for legal assistance. Above all, this immediate transfer procedure could apply to people who are presumed to be minors, in complete contradiction with international conventions on the protection of children's best interests. There is therefore a significant risk that the practices already observed will continue.

However, faced with these practices, people are taking more and more risks to cross borders, which regularly leads to tragedies: serious injuries, disappearances and deaths. Since 2015, more than forty deaths have been recorded at the Franco-Italian border, and at least twelve at the Franco-Spanish border.

La Cimade's point of view

Respecting Europe's founding values means defending the principle of free movement within the Schengen area, one of the cornerstones of European integration. La Cimade denounces the reintroduction of internal border controls and rejects the use of the fight against terrorism and human trafficking to legitimise control and repression operations that violate human rights.

La Cimade's proposals

- **Defence of unconditional free movement in the Schengen area and an end to the reintroduction of internal border controls.**
- **Protection of the physical integrity and lives of people on the move.**
- **End to discriminatory checks.**
- **Respect for the right of asylum.**
- **Compliance with procedural guarantees.**
- **Protection of unaccompanied minors.**
- **Setting up local arrangements to provide respite and access to basic rights for people on the move at borders.**

Further reading

- Joint Statement, [129 Civil Society Organisations Call on MEPs to Uphold Fundamental Rights and Reject the Harmful Schengen Borders Code Recast](#), 23 April 2024.
- Amnesty International France, Anafé, La Cimade, Médecins du Monde et Médecins sans frontières, Joint report - [Les contrôles migratoires à la frontière franco-espagnole : entre violations des droits et luttes solidaires](#), 10 May 2023.
- [CAFI project](#) and Anafé, [Les droits des personnes migrantes aux frontières franco-italienne et franco-espagnole doivent être respectés!](#), 18 December 2022.

3. "Solidarity", "crisis" and "instrumentalisation": concepts distorted to the detriment of human rights

The pact aims to manage the arrival of asylum seekers on European territory at a continental level by introducing mechanisms to enable "solidarity" between Member States as well as "crisis" management mechanisms. Despite intense negotiations, the adopted provisions appear insufficient to genuinely relieve the burden on first-entry countries, and focus solely on the interests of Member States at the expense of the rights of people on the move, particularly the right to asylum, which States will henceforth be able to derogate from to a large extent in the event of a "crisis" or "instrumentalisation" situation.

3.1. THE CONCEPT OF "SOLIDARITY" WITH SHIFTING BOUNDARIES

The adopted provisions

The Regulation on Asylum and Migration Management⁶⁶ introduces a system of mandatory but "flexible" solidarity between Member States. It provides for the establishment of an annual solidarity reserve to which each Member State must contribute based on its gross domestic product and the size of its population⁶⁷. **A Member State may request solidarity measures if it is under "migration pressure"**, including if it is due to a significant number of disembarkation procedures following search and rescue operations. These measures will also be applied more intensively in crisis situations or cases of "instrumentalisation"⁶⁸ (see the following section).

This solidarity mechanism, while mandatory for all Member States, will be flexible in its modalities. The annual solidarity reserve consists of three types of measures that states can implement either complementarily or exclusively:

- Relocation;
- Alternative solidarity measures;
- Financial contributions.

↪ Relocation

Relocation provisions may be applied to individuals identified as eligible for international protection in a state under migration pressure, so that their asylum applications can be processed in another Member State. To identify these individuals, authorities may consider the **existence of significant ties**, including family or cultural considerations. However, these ties do not provide the individuals with a right to choose the country of relocation⁶⁹.

Individuals subject to a relocation procedure will be notified of a transfer decision that they must comply with, under the risk of losing material reception conditions, among other consequences. This decision can be subject to an appeal before the courts. **The transfer must occur within four weeks** of the notification of the decision, although this timeframe is not binding. If the transferred person met the conditions for their asylum application to be examined under a border procedure, they will remain under this procedure in the country to which they have been transferred⁷⁰.

66. [Regulation \(EU\) 2024/1351 of the European Parliament and of the Council of 14 May 2024 on asylum and migration management, amending Regulations \(EU\) 2021/1147 and \(EU\) 2021/1060 and repealing Regulation \(EU\) No 604/2013.](#)

67. Art. 56, Asylum and migration management Regulation.

68. Art. 8, Crisis and force majeure Regulation.

69. Art. 67, Asylum and migration management Regulation.

70. Idem.

71. Idem.

72. Art. 12, Asylum and migration management Regulation.

73. Art. 63, Asylum and migration management Regulation.

74. Art. 56 & 65, Asylum and migration management Regulation.

75. Art. 64, Asylum and migration management Regulation.

76. Claire Rodier, Le faux semblant des hotspots, Revue des Droits de l'Homme n°13, 2018.

77. Intervention of Sylvie Guillaume (MEP), [Webinar videos on the ongoing EU reforms and their impacts along the exile routes](#), Migreurop, 19 April 2023.

Individuals who have been granted international protection for less than three years may also be subject to a relocation procedure, with their consent, based on bilateral agreements between Member States⁷¹.

A minimum of **30,000 relocations** per year is planned, distributed proportionally among the Member States. However, Member States may opt out of relocations in favour of other solidarity measures⁷². If the number of proposed relocations remains insufficient for the State under "migration pressure", that State may request to be exempted from the responsibility for processing protection claims for which it has been designated responsible, particularly by States that have not fulfilled their share⁷³.

→ **Alternative solidarity measures**

Member States also have the option to undertake alternative solidarity measures "focused on operational support, capacity building, services, staff support, facilities, and technical equipment" for States under migration pressure, based on their requests⁷⁴. The specifics of these alternative measures remain vague and can be decided between the concerned States, potentially serving objectives related to the deportation of migrants rather than their reception.

→ **Financial contributions**

Finally, solidarity may also be exercised through financial contributions dedicated to projects related to asylum, reception, border management, and operational support⁷⁵. These funds may be used to support actions in third countries or in relation to third countries that have "a direct impact on migration flows". They could specifically aim to increase asylum and reception capacities, strengthen bilateral partnerships related to mobility, support voluntary return assistance, or fund programs related to human trafficking.

Main issues and risks for people on the move

Considering the poor results of the 2015 relocation process⁷⁶, it can be anticipated that few States will choose to provide reception. Indeed, the initial relocation mechanism, intended for 160,000 potential refugees, only benefited 34,705 individuals between 2015 and 2018. Since then, various attempts at European solidarity mechanisms, always "temporary" and based on "voluntarism", have systematically faced a lack of willingness from European states. The most recent mechanism, adopted in June 2022 under the French EU presidency, resulted in 8,000 relocation promises, of which only 300 were actually implemented⁷⁷. Thus, there is concern that this new "solidarity" mechanism will fail to effectively support first-entry states.

Furthermore, the EU is distorting the concept of solidarity by putting Member States' efforts at relocation and externalisation of migration control on an equal footing.

Rather than encouraging reception, Member States will be able to choose to finance measures in third countries designed to hinder people's mobility. Externalisation policies are thus being reinforced once again, despite the disastrous consequences they can have on people's rights (see section 1). On the other hand, solidarity with people on the move and their fundamental rights are totally ignored.

Once again, the choice of the first concerned is not considered. Thus, individuals subject to a relocation procedure may find themselves in a country they did not choose, in addition to being subjected to a potentially lengthy procedure with few guarantees. Moreover, relocation measures could also target refugees who obtained their protection up to three years prior. This provision raises serious concerns about the continuity of individuals' life and integration trajectories, their connections to the concerned territory, and the voluntary nature of potential transfers.

La Cimade's proposals

→ Establishment of a genuine reception policy based on the choices of the individuals concerned (considering their family ties, language skills, and personal plans), on solidarity between States, and on unconditional respect for fundamental rights.

3.2. DEROGATING FROM THE RIGHT TO ASYLUM IN CASES OF "CRISIS" OR "INSTRUMENTALISATION"

The adopted provisions

– Derogations from the right to asylum

The regulation aimed at "addressing situations of crisis and force majeure"⁷⁸ allows Member States to largely waive their asylum obligations in three situations⁷⁹:

- in the case of "mass arrivals of third-country nationals or stateless persons";
- in "a situation of instrumentalisation where a third country or a hostile non-state actor encourages or facilitates the movement of third-country nationals or stateless persons to the external borders or to a Member State, with the aim of destabilising the Union or a Member State";
- in cases of force majeure.

It has thus reinstated some of the measures provided for in the Instrumentalisation Regulation, which was abandoned in 2023 for lack of agreement. The introduction of this concept is in line with the Council Decision of 1 December 2021⁸⁰ which allowed temporary derogations to be introduced at the Latvian, Lithuanian and Polish borders with Belarus.

This regulation allows for the adoption of the following measures⁸¹:

- Extension of the time frame for registering asylum applications (four weeks instead of the usual five to fifteen days);
- Suspension of registration of asylum applications for individuals whose country of nationality or habitual residence has a rate of granting of international protection at EU level of 20% or less;
- Applying the asylum border procedure to all applications from individuals whose country of nationality or habitual residence has a rate of granting of international protection at EU level of 50% or less;
- Applying the asylum border procedure to all asylum applications submitted by third-country nationals or stateless persons subject to «instrumentalisation» (except for minors under twelve years old and their family members);
- Extending the maximum duration of asylum and deportation border procedures from twelve to eighteen weeks.

– Closure of border crossings in case of "instrumentalisation"

The reform of the Schengen Borders Code also introduces new measures at external borders in cases of significant "migration movements" or "instrumentalisation"⁸². Firstly, it authorises states to take "necessary measures to preserve security, law and order" in the event of an attempt by a large number of migrants to cross their external borders in an unauthorised manner" and "by using force". It is also specified that border guards may use "all necessary resources" to monitor external borders "in such a way to prevent and discourage persons from unauthorised border crossings"⁸³. Additionally, the reform introduces the possibility of temporarily closing external border crossing points or limiting their opening hours in situations of so-called "instrumentalisation" of migration movements by a third country, without consideration for the situation of people on the move who may be left stranded at the EU's external borders.

78. Regulation (EU) 2024/1359 of the European Parliament and of the Council of 14 May 2024 addressing situations of crisis and force majeure in the field of migration and asylum and amending Regulation (EU) 2021/1147.

79. Art. 1, Crisis and force majeure Regulation

80. 1st December 2021: Council Decision on provisional emergency measures for the benefit of Latvia, Lithuania and Poland - COM(2021) 752 final 2021/0401 (CNS).

81. Art. 10 & 11, Crisis and force majeure Regulation.

82. Art. 5, Schengen Borders Code.

83. Art. 13, Schengen Borders Code.

84. La Cimade, [Frontière Grèce-Turquie : de l'approche hotspot au scandale de la guerre aux migrant-e-s](#), 3 March 2020.

The text only specifies that these measures must be applied proportionately and with consideration for the rights of those seeking international protection, though it does not provide any guarantees for the respect of these rights.

Main issues and risks for people on the move

These provisions endorse practices contrary to international and European law, similar to what Greece did in early March 2020 to push back all individuals attempting to enter European territory from neighbouring Turkey⁸⁴ or more recently Cyprus, which announced the suspension of processing asylum applications for Syrians and proceeded to refoul them to Lebanon. **They represent an unprecedented rollback of the right to asylum at borders and raise concerns about multiple rights violations**, particularly the principle of non-refoulement, enshrined in the Geneva Convention, as well as the risk of prolonged deprivation of liberty at the borders. Specifically concerning situations of "instrumentalization", the adopted measures are profoundly unfair as they would penalise the victims of instrumentalisation without addressing the States responsible for these situations. Furthermore, given that the solidarity mechanism, which remains flexible, is unlikely to alleviate the burden on first-entry countries, these countries risk quickly and repeatedly finding themselves in a "crisis" situation. **The implementation of "exceptional" measures could thus become frequent**, despite their particularly harmful impact on fundamental rights. Furthermore, regarding the possibility of adopting "necessary measures to preserve security and public order", neither the threshold for what constitutes a "large number of migrants" nor the specific measures that could be adopted are defined. **This opens the door for States to implement measures that infringe on rights and freedoms without real oversight, as well as to potentially use force in a disproportionate manner.** Violent pushbacks at external borders have already been observed, for example in Melilla, where nearly thirty people lost their lives and over seventy went missing on 24 June 2022, following the violent repression of an attempt to cross the border fence⁸⁵.

85. Border Forensics, [The Nador-Melilla Border Trap](#), 18 June 2024.

La Cimade's proposals

→ **Establishing a dignified and protective reception system at EU borders.**

→ **The end of the "hotspot approach" and all sorting systems in favour of unconditional access to European territory for people blocked at EU borders so each situation can be assessed carefully and impartially and their rights can be respected.**

4. The infernal machine of European asylum

In parallel with the "solidarity" measures, the pact aims to reform the framework for determining the State responsible for an international protection application and to establish common rules for processing asylum requests, with the goal of achieving better distribution among Member States and reducing "secondary movements". However, it merely reinforces pre-existing approaches that fail to meet these objectives or to ensure real protection of the rights of asylum seekers.

4.1. REINFORCING THE WANDERING OF ASYLUM SEEKERS

The adopted provisions

The regulation on asylum and migration management is presented as a replacement of the system established by the Dublin III regulation, which determines the responsibility of Member States for examining asylum applications. Although it introduces some changes regarding the criteria for determination of responsibility and the timeframes for implementing the applicable procedures, the system it establishes remains relatively unchanged.

→ The criteria for determining the Member State responsible

The criteria for determining the responsible Member States were slightly amended⁸⁶, while the **durations of responsibility have been extended**. They are ranked in the following order:

1. The most relevant State in accordance with the best interests of the unaccompanied minor. By default, it is the first country where an application was introduced, rather than the last one, that is responsible.
2. The State where a family member has obtained international protection or continues to be an applicant: here, consideration has been added for family members holding a long-term residence permit as a new criterion.
3. The State that issued a residence document or visa: the application of this criterion has been extended, as it now includes residence permits valid or expired for up to three years (instead of two) and visas valid or expired for up to eighteen months (instead of six months).
4. The State where an educational institution has issued a diploma or qualification (provided it was issued less than six years ago): this is a new criterion.
5. The Member State where the application is submitted if the person is exempted from visa requirement.
6. The Member State where the application is submitted if it is made in the international transit zone of an airport.
7. The Member State of first entry following an irregular crossing of its external border that occurred less than twenty months ago (instead of twelve). This period is reduced to twelve months if the person was disembarked following a search and rescue operation and does not apply if the person has been "relocated".
8. The State where a family member (child, sibling, father, or mother) is legally residing when the person or that family member is considered "dependent on the assistance" of the other.
9. The State decides at its discretion to examine the application.

States are obligated to take charge or take back individuals according to these criteria and to examine their application⁸⁷. This responsibility ends if another State issues a residence permit or if the person has left the territory of the Member States for more than nine months (instead of three currently)⁸⁸. For individuals whose asylum application was examined under a border procedure and rejected as inadmissible

86. Art. 24 à 35, Asylum and migration management Regulation.

87. Art. 36, Asylum and migration management Regulation.

88. Art. 37, Asylum and migration management Regulation.

89. Idem.

or unfounded, the responsibility of the State that conducted the examination ends after fifteen months⁸⁹. An application submitted in a new State after this period is considered a new application.

→ The implementation of the transfer procedure

Procedural deadlines between Member states have been shortened to **facilitate faster deportation**. Thus, the request for taking charge must be transmitted within two months (instead of three currently) by the requesting State, and the requested State must respond within one month (instead of two currently) after which it will be considered implicitly accepted. The deadlines are reduced to one month and two weeks if the request is based on a positive result in Eurodac or the Visa Information System⁹⁰.

90. Art. 39 & 40, Asylum and migration management Regulation.

In the case of a take back (when a procedure of determination already took place previously during which a State had been designated responsible), it is now a notification rather than a request, meaning that the requesting State can proceed with the transfer without obtaining prior agreement from the requested state. The notification must be transmitted within two weeks (instead of two months currently), though this deadline is not binding. The response must be given within two weeks (instead of one month currently), after which the absence of a response is considered implicit acceptance⁹¹.

91. Art. 41 & 42, Asylum and migration management Regulation.

The transfer period remains at six months; however, in the case of absconding, it is extended to three years from the date the absconding is reported to the State responsible (compared to eighteen months from the agreement of the requested state currently). The notion of absconding has been broadened as it can apply when the individual or a family member "has fled, physically resists the transfer, intentionally renders themselves unfit for transfer, or does not meet the medical requirements for transfer"⁹².

92. Art. 46, Asylum and migration management Regulation.

In case of detention, the timeframes have also been reduced. The submission of a request for take charge/take back must occur within two weeks (instead of one month), with a response required within one week (instead of two). The transfer period remains at six weeks, after which the person must be released, and the transfer must resume within the standard timeframes⁹³.

93. Art. 45, Asylum and migration management Regulation.

→ More obligations, fewer protections

The text also provides for a range of obligations imposed on asylum seekers. They are required to submit their application for international protection in the first country of entry or, if applicable, in the country that issued a residence permit or visa, and to remain there during the determination procedure. They are also required to be present in the Member State deemed responsible for examining their application. **If they fail to comply with the obligation to be present in the Member State designated responsible after a transfer decision has been notified, they would be deprived of material reception conditions**⁹⁴. Yet, these conditions are meant to "ensure a dignified standard of living [...] that guarantees their subsistence and protects their physical and mental health." In France, for example, material reception conditions should allow asylum seekers to obtain accommodation, a residence address, and an allowance during the entire examination process of their application⁹⁵.

94. Art. 17 & 18, Asylum and migration management Regulation.

There is also an **obligation to cooperate** with the authorities by providing all necessary information for the procedure of determining the State responsible and complying with decisions.

95. ADDE and Gisti, [La demande d'asile et les conditions matérielles d'accueil](#), Mai 2020.

In parallel with these obligations, a number of protections have been diminished. For example, the possibilities for detention have been broadened; in addition to the risk of absconding, detention can now also occur "when required for the protection of national security or public order"⁹⁶. Moreover, appeals against transfer decisions will no longer automatically suspend deportation; the applicant must specifically request this in their appeal. The judge will then have one month to decide whether the appeal has suspensive effect or not. The scope of the appeal has also been reduced, with only the following elements being considered: a real risk of inhuman or degrading

96. Art. 44, Asylum and migration management Regulation.

treatment, circumstances arising after the transfer decision, or non-compliance with criteria related to family members or the best interests of an unaccompanied minor⁹⁷.

Main issues and risks for people on the move

Far from abolishing the "Dublin system", the text maintains the principle of the first country of entry being responsible for examining asylum claims and even strengthens it by extending the responsibility periods. However, for the past twenty-five years, this system has led to the "migratory wandering" of people seeking international protection, who often do not wish to stay in the State assigned to them and find themselves unable to have their claims examined. Furthermore, the obligation to remain in the territory of the State designated responsible, under the threat of losing material reception conditions upon notification of transfer, raises concerns about increased economic and social precariousness for those seeking international protection. Meanwhile, the overhaul of the Reception conditions Directive still does not include provisions to grant the right to work for individuals undergoing the procedure to determine the State responsible, despite a ruling by the Court of Justice of the European Union in January 2021 and a decision by the French Council of State in February 2022⁹⁸ which stated the obligation to do so.

Currently, among those who have managed to reach the territory of the Member States, a significant number of those who wish to apply for asylum are subjected to the "Dublin procedure", which assigns responsibility for examining the asylum claim to the State where the person first entered Europe or filed an application. Since its implementation, **this system has proven to be unjust and counterproductive**. On one hand, it denies asylum seekers the ability to choose their country of refuge, overlooking the importance of factors such as social and familial connections or language proficiency for integrating into the host society. On the other hand, it further complicates the paths of individuals seeking protection.

In France, over 50,000 people were subjected to the Dublin procedure in 2023, representing more than one-third of the asylum applications recorded that year⁹⁹, with the majority involving Italy. Despite efforts to implement these intra-European expulsions, the results remain modest. In 2023, 2,739 transfers were executed from France, accounting for only 8% of agreements¹⁰⁰. These "transfers" were primarily to Germany, Spain, Austria, Belgium, and Croatia. Conversely, France "received" 1,682 people, mainly from Germany, Switzerland, the Benelux countries, Austria, and Sweden. Many of the "transferred" individuals quickly returned to France because some had lived there for months or even years, and the reasons that led them to leave the designated European country remain unchanged.

La Cimade's proposals

- **The establishment of a genuine European asylum system, based on the unconditional respect for fundamental rights, the choice of the host country by individuals seeking protection, and solidarity among States.**
- **The replacement of the current Dublin mechanism with a system that considers the asylum seeker's preferences based on family connections, language skills, or personal plans, to prevent the proliferation of situations of wandering and exclusion.**

Further reading

- La Cimade, [Application du règlement Dublin en France en 2023](#), 13 May 2024.
- La Cimade, [Règlement Dublin : La machine infernale de l'asile européen](#), 25 April 2019.

98. Conseil d'État, 2ème - 7ème chambres réunies, 24/02/2022, n°450285.

99. 2023' Numbers of the Ministry of Interior.

100. La Cimade, [Application du règlement Dublin en France en 2023](#).

4.2. HARMONISATION OF RECEPTION CONDITIONS AND PROTECTION RULES IN FAVOUR OF EXTENDED CONTROLS AND OBLIGATIONS

The adopted provisions

101. [Directive \(EU\) 2024/1346 of the European Parliament and of the Council of 14 May 2024 laying down standards for the reception of applicants for international protection.](#)

102. [Regulation \(EU\) 2024/1347 of the European Parliament and of the Council of 14 May 2024 on standard for qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted, amending Council Directive 2003/109/CE and repealing Directive 2011/95/UE of the European Parliament and of the Council.](#)

103. Reception conditions Directive.

104. Art. 18, Reception conditions Directive.

105. Art. 16, Reception conditions Directive.

106. Art. 15, Asylum procedure Regulation.

107. Art. 24, Qualification Regulation..

108. Art. 23, Qualification Regulation.

109. André REICHARDT and Jean-Yves LECONTE, [Rapport d'information fait au nom de la commission des affaires européennes du Sénat sur le nouveau pacte sur la migration et l'asile](#), 29 September 2021.

110. [Regulation \(EU\) 2024/1350 of the European Parliament and of the Council of 14 May 2024 establishing a Union Resettlement and Humanitarian Admission Framework, and amending Regulation \(EU\) 2021/1147..](#)

The European Pact also aims to harmonize the reception and protection conditions for asylum seekers across EU Member States, notably through the overhaul of the Reception conditions Directive¹⁰¹, the adoption of the Qualification Regulation¹⁰² – which sets the standards that individuals must meet to receive international protection – and the Asylum procedure Regulation which establishes common procedures for granting and withdrawing international protection. **While some guarantees have been strengthened, the revision of these texts results in an extension of the controls and obligations imposed on those seeking international protection.**

– Harmonising and strengthening of rights

Several measures from the Reception conditions Directive, the Qualification Regulation, and the Asylum procedure Regulation aim at strengthening social rights and considering family members:

- Asylum seekers will be allowed to work no later than six months after applying for asylum (reduced from the current nine months). However, access to employment will still be subject to the condition that there is no competition with nationals for the job. Individuals undergoing accelerated procedures are excluded from this provision.¹⁰³
- Asylum seekers should have access to language courses, civic education, and vocational training to improve integration opportunities.¹⁰⁴
- An obligation of tutoring for all unaccompanied children and schooling for all asylum-seeking children has also been added.¹⁰⁵
- Asylum seekers will have access to free legal advice during asylum procedures and free legal assistance for any potential appeals.¹⁰⁶
- The residence permit must be issued within ninety days of granting protection.¹⁰⁷
- Family members (including siblings) of protected individuals will receive a residence permit of the same duration as the protected individual.¹⁰⁸

The "Qualification" Regulation, which replaces the previous directive of the same name, also aims to achieve greater convergence in recognition rates for asylum seekers among EU member states.

To facilitate this harmonization, **the EU Agency for Asylum** was established and replaced the European Asylum Support Office (EASO) at the beginning of 2022. This new agency, with expanded responsibilities, is tasked with providing technical assistance to Member States to enhance the consistency of international protection application assessments. Starting in 2024, it is expected to oversee how Member States implement EU asylum and reception legislation and issue recommendations to address identified gaps.¹⁰⁹

Finally, the **Resettlement Regulation** provides a framework for EU Member States to implement resettlement and humanitarian admission of third-country nationals or stateless persons to their territories¹¹⁰. However, this framework is not mandatory, and the implementation of resettlements and humanitarian admissions remains based on voluntary participation.

– Reduction of procedural safeguards and increase in obligations

The Asylum procedure and Qualification Regulations lead to a reduction in procedural guarantees through the following measures:

111. Art. 38, Asylum procedure Regulation.

112. Idem.

113. Art. 41, Asylum procedure Regulation.

114. Art. 42, Asylum procedure Regulation.

115. Art. 12, Qualification Regulation.

116. Art. 37, Asylum procedure Regulation.

117. Art. 9 & 10, Reception conditions Directive.

118. This partly contradicts [The decision C-179/11 of CJEU of 27 September 2012 CIMADE Gisti](#) which stipulated that persons under "Dublin procedure" benefited from material reception conditions until they were actually transferred, except in specific cases of limitation or withdrawal.

119. Art. 8 & 9, Reception conditions Directive.

120. Art. 27, Qualification Regulation.

121. Whereas (48) & art. 38 & 59, Asylum procedure Regulation

122. Art. 60 to 64, Asylum procedure Regulation.

- The inadmissibility of asylum application if there is a first country of asylum or a safe third country to which the applicant can be returned, or a safe region in their country of origin.¹¹¹
- The inadmissibility of the application if the applicant has been subject to a removal decision and did not submit their application within seven working days.¹¹²
- The possibility of considering the application as implicitly withdrawn if the person refuses to cooperate by not providing the requested information or biometric data.¹¹³
- The application of an accelerated asylum procedure for individuals whose country of nationality or habitual residence has a rate of granting of international protection at EU level of 20% or less.¹¹⁴
- The possibility of issuing a decision of exclusion from international protection without proportionality assessment related to the fear of persecution.¹¹⁵
- The systematic issuance of a return decision in case of rejection of the asylum application, which may be directly included in the decision on the merits.¹¹⁶

The Reception conditions Directive also introduces **measures to restrain the mobility of asylum seekers and beneficiaries of protection:**

- The possibility for the authorities to impose a place of residence in a specific geographical area so that their applications can be examined quickly and to prevent people from absconding, particularly when they are subject to a transfer procedure, on pain of being detained.¹¹⁷
- The limitation or withdrawal of the daily allowance if the person is in a country other than the one responsible for examining their claim, as soon as the transfer decision is notified.¹¹⁸
- The possibility of suspending all or part of the material reception conditions if the person does not remain in the geographical area assigned to them, does not cooperate with the authorities, does not comply with the procedural requirements, has submitted a subsequent asylum application, behaves violently or does not take part in the integration measures planned by the authorities.¹¹⁹
- The geographical limitation of the right of residence of persons recognised as refugees to the Member State which granted them protection.¹²⁰

➤ **Strengthening the concept of safe third countries**

The provisions of the Pact encourage Member States to make use of the concept of safe third countries, facilitated by the conclusion of agreements allowing potential deportation to these countries. This concept makes it possible to declare a person's asylum application inadmissible and send them back to a third country with which they have 'a link', if they are eligible for protection or can apply for asylum there. This link can be constituted by the presence of family members or the existence of a period of residence in this country¹²¹. In order to coordinate the application of these procedures, a list of so-called "safe" third countries would be created at European level, while allowing Member States to draw up a national list¹²².

Main issues and risks for people on the move

On the pretext of combating "abuse" and the "misuse" of the asylum system, many procedural guarantees have been weakened, making it even more difficult for asylum seekers to access protection. A growing number of people are at risk of being subjected to accelerated procedures or having their applications rejected or even be excluded from international protection. Similarly, the automatic issuing of a deportation order in the event of an asylum application being rejected can only mean that the individual situation of each person is not examined, particularly with regard to any right to reside.

Measures designed to restrict the mobility of asylum seekers deprive them of freedom of choice and of the possibility of their personal ties being considered. They are also accompanied by sanctions that further increase the insecurity of a population that is already often in a precarious situation. Limiting the right of resi-

dence of beneficiaries of international protection to the Member State that granted them protection is discriminatory and risks hindering the life paths and integration of protected persons within the EU.

Strengthening the concept of safe third countries is part of an externalisation policy of asylum processing from the European Union to third countries. The application of this procedure could involve the deportation of asylum seekers to countries with which the EU has signed agreements. However, many of these countries have practices that do not always respect the fundamental rights of people on the move, leading to greater risk that they could be sent back to their country of origin without any real examination of their asylum application. While the text provides for an assessment by the Commission and the Asylum Agency of the conditions of access to international protection and respect for fundamental rights in States that are added to the list of “safe third countries”, the fact that the EU has signed agreements with States that are notorious for violating the rights of people on the move undermines the impartiality of these assessments. This is particularly true in the current context, where many European heads of State are calling for the recognition of ‘safe third country’ status to be extended and for it to be applied even when people have no link with the third country in question¹²³. In addition, Member States will still have the option of drawing up their own lists, adding countries not included in the EU list, without a clear verification mechanism being established.

Focus: Limited guarantees for unaccompanied minors

The Asylum procedure Regulation introduces a framework for the assessment of unaccompanied minors who applied for asylum. It gives an important role to the authority responsible for examining asylum applications (OFPRO in France), which must coordinate this assessment procedure. In particular, the authority may request that a medical examination be carried out, including bone testing, in order to assess the applicant's age¹²⁴. However, the entire scientific community in France, as in Europe, is unanimous about the unreliability of these tests, and the practice is also regularly criticised on ethical grounds¹²⁵.

The text also clarifies the representation of unaccompanied minors. In particular, it stipulates that a representative must be appointed within a fortnight¹²⁶. While it does seem necessary for this appointment to be made as quickly as possible, the reality on the ground, at least in France, is characterised by a cruel lack of available staff, making it impossible to meet these deadlines. Above all, it is stipulated that, pending the appointment of a representative, a person “with the necessary skills and expertise” may assist the minor. However, no clear information is provided on the status and qualifications of this person, who will nevertheless be able to assist the child in the registration and asylum application procedures, without being the legal representative. Finally, the representative will be able to assist up to thirty minors, or even fifty in the event of a “disproportionate number of applications”¹²⁷, **to the detriment of individualised assistance in line with the child's needs.**

123. [Joint Letter from Ministers on new solutions to address irregular migration to Europe](#), 15 May 2024.

124. Art. 25, Asylum procedure Regulation.

125. See [Rapport complémentaire du Défenseur des droits au Comité des droits de l'enfant des Nations Unies](#), Décembre 2022, or [l'avis n°88 du Comité Consultatif National d'Éthique pour les Sciences de la Vie et de la Santé sur les méthodes de détermination de l'âge à des fins juridiques](#).

126. Art. 23, Asylum procedure Regulation.

127. Idem.

La Cimade's proposals

- **Access to a fair and equitable procedure.**
- **Genuinely dignified reception guaranteed throughout Europe.**
- **An effective work permit for all that does not depend on the employment situation in order to ensure people's dignity and autonomy.**
- **The abolition of accelerated procedures and the abandonment of the concepts of "safe countries of origin" and "safe third countries" at both national and European level, so that every asylum application is examined carefully and impartially.**
- **Full and complete application of the Geneva Convention through a broad interpretation of the criteria for obtaining refugee status or subsidiary protection.**
- **The introduction of genuine freedom of establishment for people enjoying international protection within the EU, under the same conditions as European nationals, in order to put an end to the growing phenomenon of undocumented refugees.**

5. The growing use of digital technologies in EU border controls

Through the Screening Regulation and the recast of the Eurodac Regulation, the Pact provides for a diversification and an increase in the personal data collected and stored in European databases and in the number of actors with access to this data, despite the risks that these technologies present for the privacy of people on the move.

The adopted provisions

Data will now be collected on all persons without A right of entry or residence at the borders and on the territory of the Member States, as well as on persons disembarked following search and rescue operations, including **data on minors aged 6 and over** (instead of 14 at present). In addition, these data will now include facial images as well as information relating to the identity of individuals, which was not the case previously¹²⁸. Data relating to asylum seekers will continue to be kept for ten years, while data relating to illegal immigrants and persons disembarked following a rescue operation will be kept for five years (instead of the current eighteen months)¹²⁹. **Translating a desire for control and tracking of migrants**, the provisions foresees transferring this data to various European databases such as ETIAS (European Travel Information and Authorisation System), the Visa Information System and the European Police Agency, Europol.

Main issues and risks for people on the move

The regulatory provisions in no way justify the need to collect so much data and do not appear to respect the right to respect for private and family life and the protection of personal data. The European Data Protection Supervisor, the EU Fundamental Rights Agency and the European Council on Refugees and Exiles, in their respective opinions on this legislative proposal, insisted on the need for justification in order to have access to these data in application of the law¹³⁰. In addition, the complexity of Eurodac's legal framework, particularly due to its interoperability with other databases and its accessibility by different actors, **entails a risk of hindering access to an effective remedy**. Although a right of access and rectification is provided for people concerned, this remains limited and the text only provides for the possibility of appeal at national level, which seems potentially inappropriate and difficult to exercise after departure from the country where the fingerprints were taken¹³¹. These provisions fall far short of a genuine right to an effective remedy.

Most national and European data protection authorities, as well as the scientific community, have criticised the risks and issues arising from the expansion of these control and data collection technologies, which are fallible and likely to reinforce or produce discrimination. These **include the risks of hacking or data breaches, threats to fundamental rights and privacy**, and the stigmatisation of certain groups of people, among others.

128. Art. 26, Eurodac Regulation.

129. Art. 29, Eurodac Regulation.

130. EDPS (2012), [Opinion amended proposal for a Eurodac Regulation \(Recast version\)](#), 5 September 2012, §26-27. / FRA Opinion 6/2016, Vienna 22 December 2016, p. 7, §40-42 / [ECRE Comments on the Commission proposal to recast the Eurodac Regulation](#), July 2016, §6 f.

131. Eurodac Regulation.

La Cimade's proposals

→ La Cimade calls on the EU and its Member States to reconsider the growing use of biometrics and data collection for controlling mobility. It urges them to assess the risks and impacts of these new technologies to ensure the protection of individuals and their privacy.

Further reading

- Damien Simonneau, [«La numérisation du contrôle migratoire européen»](#), *Encyclopédie d'histoire numérique de l'Europe*, ISSN 2677-6588, 16/09/2021.
- Migreurop, ["Data and new technologies, the hidden face of mobility control"](#), *Brief Migreurop #12*, December 2020.
- Anafé, [Le fichage: un outil sans limite au service du contrôle des frontières?](#), September 2019.

6. The right of residency: the great missing aspect of the Pact

The global European reform of the migration and asylum system contains only a few legislative provisions on the right to reside in the EU and its Member States. They are all aimed at categories of people whose temporary or permanent residence is subject to a condition of stable and/or high resources, in particular qualified workers. At the same time, it fails to provide real protection, by issuing a stable residence permit, to victims of human trafficking or gender-based and sexual violence.

6.1. "CHOSEN" IMMIGRATION: THE RIGHT OF RESIDENCE FOR QUALIFIED WORKERS

The adopted provisions

The new EU Blue Card Directive¹³², which aims to facilitate the entry of highly qualified third-country nationals into the European labour market, has been implemented since the end of 2023. The new text softens the conditions for employers and migrant workers in order to facilitate the migration of a targeted foreign workforce, with the following measures:

- A reduction in the minimum salary threshold to qualify for an 'EU Blue Card' residence permit, although the threshold remains high.¹³³
- A reduction in the minimum duration of employment contracts to six months, compared with twelve months previously.¹³⁴
- Simplified intra-EU mobility¹³⁵ and accelerated family reunification procedures for qualified workers¹³⁶.
- The possibility for beneficiaries of protection to apply for an 'EU Blue Card' in other EU countries, and no longer only in the country in which they have received protection.

The revision of the single permit Directive¹³⁶, which governs the administrative procedure for issuing a single permit authorising the right to work and reside in the EU, introduces the following measures:

- Limitation of the deadline to process permit applications (currently a deterrent for many employers) to ninety days.¹³⁷
- The possibility of changing employer.¹³⁸
- The extension of validity of the residence permit for three months in the event of loss of employment (6 months if the beneficiary has held the permit for more than two years).¹³⁸

The Single permit Directive aims to force Member States to make provision for issuing permits authorising both residence and work to people already legally resident and working in the country, or to people applying to move there to work. The Directive also lays down a set of minimum rights for these workers. Its aim is to attract the labour needed to meet the needs of Member States.

The revision of the Long-term residents Directive was finally abandoned in the absence of an agreement between Member States.

132. [Directive \(EU\) 2021/1883 of the European Parliament and of the Council of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, and repealing Council Directive 2009/50/EC.](#)

133. Art. 5, Blue Card Directive.

134. Idem.

135. Art. 20 & 21, Blue Card Directive.

136. Art. 17, Blue Card Directive.

137. [Directive \(EU\) 2024/1233 of the European Parliament and of the Council of 24 April 2024 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State \(recast\).](#)

138. Art. 5, Single permit Directive.

139. Art. 11, Single permit Directive.

140. Idem.

La Cimade's point of view

Selective immigration policies are based on the idea that only certain people and nationalities have the right to move and settle, depending on their socio-economic situation and the needs identified by governments. They also introduce inequality of treatment depending on the qualifications and labour needs of the Member States concerned. Beyond crossing borders, settling in a host country is often a real 'obstacle course'. People whose lives have sometimes been rooted for a long time in an EU country may never obtain a stable residence permit there. Faced with the inequalities emerging in European societies, including those caused by the effects of administrative insecurity, **La Cimade is calling for equal rights for all.**

La Cimade's proposals

- **Abandonment of the logic of "selective" immigration and promote a right of residence based on respect for fundamental rights.**
- **Adoption of a common legislation to allow the regularisation of all third-country nationals present in EU countries.**
- **Issuing of a single, stable permit, necessarily for several years, authorising the holder to carry out any professional activity.**

6.2. RELATIVE IMPROVEMENT IN THE PROTECTION OF VICTIMS OF HUMAN TRAFFICKING AND FEMALE VICTIMS OF VIOLENCE

The adopted provisions

At the same time as the Pact was adopted, the Anti-trafficking directive was also updated¹⁴¹. A number of improvements have been made, including:

- The inclusion of forced marriage, illegal adoption and surrogate motherhood for the purposes of reproductive exploitation in the list of forms of exploitation in the definition of trafficking in human beings.¹⁴²
- The reinforcement of aid and assistance to victims "irrespective of their nationality or of being stateless, of their citizenship, their place of residence or residence status".¹⁴³

However, the new measures focus more on punishing perpetrators and criminalising "users" than on protecting victims. Thus, they do not provide for the automatic issue of a residence permit to victims, which is necessary to ensure their protection.

Similarly, a **new Directive on violence against women**¹⁴⁴ was adopted simultaneously. This Directive highlights certain forms of violence against women, such as female genital mutilation and forced marriages¹⁴⁵, which needed to be recognised, and provides for access to appropriate shelters and temporary accommodation, regardless of nationality or administrative status¹⁴⁶. However, it fails to guarantee real protection for undocumented women, as it does not guarantee that their situation will not be communicated to administrative authorities if they report the violence to the police, nor does it include sufficient provisions to ensure that all victims are issued with a stable residence permit. Faced with the risk of detention and deportation, many victims may be reluctant to report their abuse to the police and will therefore be unable to receive the support and protection they need and to which they are entitled.

141. [Directive \(EU\) 2024/1712 of the European Parliament and of the Council of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.](#)

142. Art. 2, Anti-trafficking Directive.

143. Whereas (18), Anti-trafficking Directive.

144. [Directive \(EU\) 2024/1385 of the European Parliament and of the Council of 14 May 2024 on combating violence against women and domestic violence.](#)

145. Art. 3 & 4, Directive on violence against women.

146. Art. 30, Directive on violence against women.

La Cimade's proposals

- **Access to a stable and permanent residence permit for all victims of violence and/or human trafficking, regardless of the violence suffered or the perpetrator's administrative status.**
- **A right of asylum for victims of gender-related persecution that is granted not only on the basis of membership of a particular social group but also, for example, on the basis of political opinion.**
- **Ensuring that all victims of violence and human trafficking can lodge a complaint without fear.**
- **The right to be housed and sheltered, regardless of administrative status, as well as the right to social support, divorce and compensation.**
- **Training for all those involved in receiving and caring for victims of violence and human trafficking.**

ANNEX

New European texts on migration and asylum

ENTRY AND RESIDENCE	
Regulation on the digitalisation of visa procedure	Entry into force in November 2023.
Single permit Directive	Entry into force in June 2024, States have two years to transpose it into their national law.
EU blue card Directive	Entry into force in December 2021.
BORDERS MANAGEMENT	
Screening Regulation	Entry into force in June 2024 for application in June 2026.
Schengen Borders code	Entry into force in July 2024.
Crisis and force majeure Regulation	Entry into force in June 2024 for application in June 2026.
Return border procedure Regulation	Entry into force in June 2024 for application in June 2026.
ASYLUM	
Regulation on the EU Agency for asylum	Entry into force in January 2022.
Asylum and migration management Regulation	Entry into force in June 2024 for application in June 2026.
Asylum procedure Regulation	Entry into force in June 2024 for application in June 2026.
Qualification Regulation	Entry into force in June 2024 for application in June 2026.
Reception conditions Directive	Entry into force in June 2024, States have two years to transpose it into their national law.
Resettlement Regulation	Entry into force in June 2024.
DIGITAL TECHNOLOGIES	
Eurodac Regulation	Entry into force in June 2024 for application in June 2026.
Regulation on ECRIs-TCN	Entry into force in June 2024 for application in June 2026.
PROTECTION OF VICTIMS	
Anti-trafficking Directive	Entry into force in July 2024, States have two years to transpose it into their national law.
Directive on violence against women	Entry into force in June 2024, States have two years to transpose it into their national law.