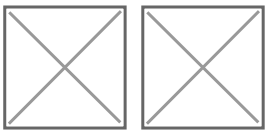
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2. Major developments in asylum in the European Union in 2020



Building on progress made in the negotiations over the two packages of reform proposals since 2016, in September 2020 the European Commission presented a new Pact on Migration and Asylum. It proposes a fresh start on addressing migration, through improved, faster and more effective procedures and striking a balance between a fair sharing of responsibility and solidarity. The Pact on Migration and Asylum aims to set the framework for:

- Robust and fair management of external borders, including identity, health and security checks;
- Fair and efficient asylum systems across EU+ countries, streamlining procedures and the return of rejected applicants;
- A new solidarity mechanism for disembarkations after a search and rescue, countries under heightened pressure and situations of crisis;
- Solid foresight, crisis preparedness and response;
- An effective return policy and an EU-coordinated approach to returning third-country nationals to the country of origin;
- Comprehensive governance at the EU level to better manage and implement asylum and migration policies;
- Mutually beneficial partnerships with key third countries of origin and transit;
- Sustainable legal pathways for those in need of protection and to attract talent to the EU; and
- Effective integration policies.

To achieve these goals, the European Commission maintained its proposals and supported the provisional agreements already reached on the Qualification Regulation, the Reception Conditions Directive, the Union Resettlement Framework Regulation, and the EU Agency for Asylum. It also called for the swift conclusion of the negotiations on the recast Return Directive. The European Commission withdrew the 2016 proposal for an amended Dublin Regulation and replaced it with a new proposal for an Asylum and Migration Management Regulation. In conjunction with the five proposals from 2016 and 2018 which were maintained, the pact comprises a package of nine additional instruments:

- A new Screening Regulation
- An amended proposal revising the Asylum Procedure Regulation
- An amended proposal revising the Eurodac Regulation
- A new Asylum and Migration Management Regulation
- A new Crisis and Force Majeure Regulation
- A new Migration Preparedness and Crisis Blueprint
- A new Recommendation on Resettlement and Complementary Pathways
- A new Recommendation on Search and Rescue Operations by Private Vessels
- A new Guidance on the Facilitators Directive.

The presentation of the Pact on Migration and Asylum and the proposals for the associated legal instruments stimulated renewed discussions on an effective and humane migration management in Europe. The holistic approach of the European Commission in coordinating an inclusive consultation process and the effort to thoroughly integrate the linkages between different migration and asylum policy areas in one coherent approach were received positively, as was the genuine effort to accommodate the diverse needs of different EU Member States and bridge past controversies. While diverging views on certain aspects of the proposed migration and asylum policy seem to persist among Member States, the proposals set forth by the European Commission provide the foundation for further constructive dialogue at a technical and political level during the legislative process. Amid the positive reactions, there were also voices – both by state and non-state actors – drawing attention to areas where more could be achieved.

Naturally the COVID-19 pandemic had a profound impact on both migration flows and the functioning of asylum systems in Europe. Fully acknowledging the difficulties faced by Member States when implementing relevant EU rules during the pandemic, the European Commission issued a communication to provide guidance on ensuring the continuity of asylum and return procedures and resettlement. EU+ countries introduced a number of measures across the different steps of the asylum procedure, as well as in reception facilities, to safeguard the physical well-being of individuals. Restrictive measures, justified on the basis of public health, may have had an impact, albeit temporary, on the observance of fundamental rights and freedoms, with stakeholders stressing that the measures must be temporary, proportionate and applied only when necessary.



In an effort to continue to provide services while adhering to the new measures, EU+ countries digitalised many steps of the asylum procedure by developing and implementing new electronic systems. Many of these solutions may remain on a more permanent basis to increase the efficiency of asylum systems, while others may be used as methodological blueprints in case EU+ countries are called to address similar challenges in the future.

Despite the overall decrease in the number of arrivals at the EU's external borders in 2020, different trends emerged across migration routes into Europe. The Western and Eastern Mediterranean routes had fewer arrivals compared to 2019, while the Western African, Central Mediterranean and Western Balkan routes experienced increased arrivals. The Greek borders and the islands continued to be under significant pressure, and the European Commission worked with Greek authorities and other EU Member States to provide critical support to address the situation, including a voluntary relocation exercise from Greece to other Member States for unaccompanied children and children with vulnerabilities in families.

Relocations also continued following search and rescue missions in the Mediterranean Sea. Disembarkations and relocations were coordinated by the European Commission and took place – with the participation of relevant EU agencies, including EASO – in line with the standard operating procedures developed in 2019. These efforts demonstrated concrete European solidarity in practice, but also highlighted the need for a more predictable solidarity mechanism for disembarkation and relocation, as foreseen in the proposed new Asylum and Migration Management Regulation.
The end of 2020 also signalled the end of the transition period during which EU law still applied to and within the United Kingdom, following its withdrawal from the EU. As of 1 January 2021, EU law relevant to asylum is no longer automatically applicable, unless retained in the domestic legal system. Importantly, the Dublin III Regulation has been repealed in the UK and its provisions have ceased to apply.

Throughout 2020, the EU continued its cooperation with external partners to manage migratory pressures through a comprehensive approach rooted in multilateralism. The aims of activities implemented under the external dimension of the EU migration policy include addressing the root causes of migration; combating smuggling networks; enhancing cooperation with third countries on returns and readmission; working with partner countries toward border management; and providing support for protection abroad.

In its role to ensure a harmonised interpretation and application of EU law, the Court of Justice of the European Union (CJEU) issued several judgments mostly related to preliminary rulings, further interpreting various provisions of CEAS. The case law covered topics related to an effective access, the asylum procedure, the provision of personal interviews in inadmissible cases, forms of protection, detention, second instance procedures, non-discrimination of nationals and beneficiaries of international protection who subsequently acquired citizenship, family reunification and maintaining family unity, the return of third-country nationals, relocations, protection provided to stateless Palestinians by the UNRWA and refusal to perform military service. In addition, the CJEU issued a judgment on national restrictions on the funding of NGOs, affecting NGOs working in the area of international protection.





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