

Unveiling the Pact on Asylum and Migration: Implementation at National and European Levels

*Report and insights from the conference on
26 September 2024*



Introduction

As the deadlines for the European Pact on Asylum and Migration approach, all EU member states are required to have their implementation plans finalised by the end of this year, with the Pact's rules set to take effect on 12 June 2026. This raises questions on how both the EU and individual nations, including the Netherlands, should shape the various legislative proposals contained within the Pact.

To facilitate information exchange and encourage dialogue on this critical issue, the Dutch Council for Refugees and the Meijers Committee organised the conference "Unveiling the Pact on Asylum and Migration: Implementation at the National and European Levels", on 26 September 2024. This report highlights the key points from the keynote speeches and workshops at the event.

The conference brought together representatives from the Ministries of Justice and Security and Foreign Affairs, the Immigration and Naturalisation Service (IND), advisory councils, academia, other NGOs, the Cental Agency for Reception of Asylum Seekers (COA) the European Commission, UNHCR, scientific offices of political parties, the National Ombudsman and the Institute for Human Rights. The day's proceedings were chaired by Ashley Terlouw, chair of the Meijers Committee.

In his opening remarks, Frank Candel, chair of the Board of the Dutch Council for Refugees, reflected on the challenging times for refugees and those involved in asylum and migration matters. He stressed that effective management of migration and asylum can only be achieved by working together in the EU. This requires solidarity – both with refugees and among member states – because solidarity is the foundation of European cooperation and cannot be taken lightly.

Thanks to the speakers

We would like to extend our sincere gratitude to all the speakers for their invaluable contributions: Doede Ackers (European Commission), Catherine Woollard (European Council on Refugees and Exiles), Time Kaptein (Ministry of Justice and Security), Tineke Strik (member of the European Parliament), Evelien Brouwer (Utrecht University), Sara Kekuš (Centre for Peace Studies, Croatia), Andrea Vonkeman (UNHCR), Karen Geertsema (Radboud University Nijmegen), Younous Arbaoui (VU Amsterdam), Tessa Terpstra (Save the Children), Claudia Bonamini (Jesuit Refugee Service Europe), Viola Bex-Reimert (Utrecht University), Lynn Hillary (University of Amsterdam) and Myrthe Wijnkoop (Dutch Council for Refugees).

Keynotes

European Commission: Ten building blocks for implementation

The European Commission views the Pact as a hard-won and fragile compromise but representing a significant advancement over the current system. It balances responsibility with solidarity. The current system is characterised by too much ad hoc decision-making. The Pact has the potential to enhance coherence and understanding of asylum and migration policies across the Union.

The Pact supports member states in navigating the complex legal framework of the legislative proposals through a shared implementation plan, organised into ten key building blocks:

- a common information system on migration and asylum (Eurodac);
- management of migration at the EU's external borders;
- an adequate standard of living for asylum seekers;
- fair, efficient and harmonised asylum procedures;
- effective return of individuals without residence rights;
- sharing of responsibilities;
- a permanent solidarity mechanism;
- preparedness, emergency planning and crisis response;
- new safeguards for asylum seekers, with monitoring of fundamental rights;
- resettlement, inclusion and integration initiatives.

According to the Commission, the Netherlands has a good starting position. The Netherlands has prioritised the Pact's implementation and there's a strong network where partners collaborate effectively, fostering open dialogue and constructive cooperation with various stakeholders, including NGOs.

Ministry: Netherlands aims for effective implementation

The Ministry of Justice and Security emphasises that the current asylum system is not functioning effectively. While the Pact is not without its flaws – being a compromise between all member states – the new legislation is expected to improve the asylum system's performance, both in the Netherlands and across the EU.

The Dutch cabinet is committed to a robust national implementation, as on 'opt out' of European regulations is currently no option. Ultimately, the Pact's success hinges on the implementation across the EU. The Pact provides largely prescriptive guidelines, limiting room for interpretation; however, certain areas still require political decisions, for example, on solidarity. The political focus will be on financial compensation rather than the relocation of asylum seekers from member states facing high pressures.



As part of the implementation process, the Netherlands will need to conduct its own impact assessments to establish new procedures and ensure adequate staffing and physical capacity. For instance, the Netherlands must be prepared to accommodate 211 individuals within the border procedure at all times.

ECRE: NGOs expect problems to persist or worsen

The European Council on Refugees and Exiles (ECRE) identifies three potential scenarios for the implementation of the Pact: (i) the EU successfully addresses its issues; (ii) problems persist; or (iii) the Pact is not implemented. The most likely outcome falls somewhere between options 2 and 3, with continued secondary movements within the EU, an increase in lawsuits, and ongoing rights violations at external borders.

Developments in countries like the Netherlands and Germany are raising concerns about potential impacts on the implementation process. Additional uncertainties for the implementation include the makeup of the next European Commission, the willingness of all member states to implementing the rules (which requires a certain critical mass), persistent practices at external borders like pushbacks, demographic and economic factors, and the influence of rising right-wing populism in the EU.

Beyond the safeguards within the Pact, it is also crucial to consider protections outside the Pact, such as the European Convention on Human Rights (ECHR) and the case law of the European Court of Justice. ECRE calls on civil society to thoroughly examine the Pact's details, engage in ongoing dialogue with the Ministry, and continue to hold stakeholders accountable on these issues.

Workshops

Border procedures and detention

Fewer safeguards in border procedures

Border procedures are a central component of the Pact, designed as an accelerated process for certain categories of asylum applicants. These procedures include fewer safeguards, such as the right to remain in the member state while appealing a decision, and access to legal aid is often more challenging in border detention centres. Under the border procedure, individuals are officially denied entry to the member state's territory (the "fiction of non-entry"). The procedure can occur at external borders or designated locations within the country. The new Asylum Procedure Regulation limits the border procedure to 12 weeks, including appeals, with a possible extension to 16 weeks – a lengthy period, especially for asylum seekers in detention who are seeking protection and have not committed any crime.

Border return procedure following rejection

If an application is rejected in the border procedure, the asylum seeker enters the border return procedure, which is governed by new regulations. In this return procedure, rejected asylum seekers may be held in border detention for up to 12 weeks. If deportation has not occurred within this period, the provisions of the Return Directive apply, with a maximum total detention period of 18 months.

Border procedure mandatory in three situations

Article 42 of the new Asylum Procedure Regulation mandates the border procedure in three specific cases: misleading the authorities, threats to national security or public order, and applicants from countries with low recognition rates.

The first ground refers to instances where asylum seekers intentionally provide misleading information, such as lacking a passport amid suspicions of deliberate destruction. This category raises concerns, as such cases often require thorough investigation, while the border procedure is intended for rapid processing.

Asylum seekers deemed a threat to national security or public order are also subject to the border procedure. However, interpreting "public order" remains complex; it is unclear what it includes or excludes.

The low-recognition category applies to applications from countries with an EU-wide acceptance rate of less than 20 percent. This category also raises concerns. For instance, an LGBTI person from a country like Morocco may have valid grounds for protection.

The rights of certain groups and minorities from countries with low overall recognition rates may not be adequately safeguarded in the border procedure.

Member states may choose to apply border procedures in additional cases, such as for successive inadmissible applications or applications lacking a clear asylum motivation; however, in these instances, the accelerated procedure is optional.

Unaccompanied minors are excluded from border procedures unless they are deemed a “threat to public order.” Children travelling with their families are not excluded, but their applications are prioritised in border procedures.

Adequate capacity for the Netherlands set at 211 in the border procedure

The European Commission has determined the “adequate capacity” for border procedures that each member state must maintain. For the Netherlands, this capacity is set at 211 places. By comparison, a country with an external border, like Italy, is required to have more than 7,000 places available. The Netherlands currently operates a border procedure at the Schiphol judicial complex, where the procedure takes place in detention. At present, an average of 60 to 80 individuals are held at this facility. Questions remain as to whether the Netherlands will reach the required capacity and if there will be an increase in border procedures for high-potential applications, such as those from undocumented Syrian asylum seekers. This is a concern, aside from the question of whether the Netherlands meets the “last resort” requirement, which is discussed further below.

The Netherlands views border procedures at external borders, such as those in Greece and Italy, as essential for reducing “secondary movement” within the EU.



Border detention only as a last resort

The legal framework governing border procedures is complex and open to interpretation. For instance, terms like “remain available” are not clearly defined in legal texts. However, it is clear that border procedures do not necessarily involve detention: border *procedures* are distinct from border *detention*. The Asylum Procedures Regulation refers to the Reception Directive for grounds on which detention may be used. According to Article 10 of this directive, detention should be a last resort, permitted only after a “necessity assessment.” Generally, a registration requirement or a designated place to stay is sufficient.

Even during the return phase, detention is intended to be a last resort. Article 15 of the Return Directive allows detention only when there is a real risk of absconding, and when less coercive measures are ineffective. Alternatives, such as a registration requirement or bail, should be considered first. Detention of children is subject to even stricter requirements than for adults. For instance, Article 13 of the Reception Directive states, “As a general rule, minors shall not be detained.” Detention can have a profound and potentially harmful impact on individuals, especially children.

Additionally, Article 54 of the new Asylum Procedure Regulation mandates that minors be accommodated in facilities specifically tailored to their needs, providing a standard of living that supports their physical, mental, spiritual, moral, and social development, fully in line with the Reception Directive’s requirements.



Solidarity and the new “Dublin”

International solidarity in asylum and migration remains mostly “soft law”

International solidarity is a cornerstone of international law, rooted in the UN Declaration on Human Rights and International Solidarity (revised draft, 2023). Building on the UN’s New York Declaration for Refugees and Migrants, two significant global pacts have been established to advance solidarity in the protection of refugees and migrants: the Global Compact on Refugees and the Global Compact for Migration.

The Global Compact for Migration outlines a shared global commitment to uphold the human rights of migrants. The Global Compact on Refugees focuses on alleviating pressures on countries in the Global South through financial support, resettlement and assistance for refugees who wish to return independently to their home countries.



However, both compacts lack binding commitments for individual countries, leading to selective adherence or “cherry-picking”. To address this, it is proposed that this “soft law” gradually transition into “hard law”, enabling countries to be legally bound to their commitments.

Responsibility of the first country of entry remains

The new Asylum and Migration Management Regulation (AMMR) is introduced as a fair and efficient tool for managing migration. However, responsibility for processing asylum applications largely remains with the country of first entry (Art. 17 AMMR), with an exception for family members. A new provision is that if an asylum seeker holds a diploma from a recognised educational institution in a specific member state, that country will now be responsible for the asylum application.

Unfortunately, the proposal to expand the family criterion to include adult siblings, as outlined in the original Commission proposal, was removed in the final text. This is regrettable, as allowing asylum seekers to join siblings already living in a specific member state would be meaningful for many families.



The return and readmission process has been streamlined, with shorter deadlines for submitting and processing requests. The previous “readmission request” has been replaced by a simplified “readmission notification.” If the person is registered in Eurodac, the deadline for a response is shortened to two weeks. If the receiving member state does not respond within this timeframe, the request is presumed accepted, and a transfer decision follows.

A significant change is that the right to reception and services ends immediately upon notification of the transfer decision, which is concerning. After this, the member state is only required to provide basic provisions under the EU Fundamental Rights Charter (“bed, bath, bread”).

The solidarity mechanism: complexity undermines its purpose

The AMMR introduces a solidarity mechanism to support countries under “migration pressure”. However, only countries with well-functioning asylum systems can invoke this mechanism. In practice, the system is likely to be challenging to implement. A minimum of 30,000 people must be relocated per year from the member states where most people enter the EU, and at least 600 million euros must be available for financial support. Member states can fulfil their solidarity obligations by relocation of asylum seekers, contributing financially to reception systems, or investing in areas such as border protection. An additional option is the “Dublin offset”, where countries process asylum claims from asylum seekers who travelled onwards, for whom the pressured country would originally be responsible. If the minimum relocation target is not met, these responsibility offsets become the standard.

It is anticipated that many countries will choose financial support over relocation of asylum seekers, effectively “buying out” their solidarity obligations. Moreover, the minimum relocation target is relatively low considering the total number of people seeking protection in the EU. As a result, this mechanism is unlikely to achieve a more equitable distribution of refugees across the EU.

Reception under the new Reception Directive

The primary objectives of the new Reception Directive are to discourage secondary movement from (border) member states, further harmonise legislation and increase the self-reliance and autonomy of asylum seekers, with particular attention to vulnerable groups.

While the directive's structure remains largely unchanged, the emphasis has shifted towards aligning reception conditions across EU member states. Importantly, the directive specifies that it does not apply to individuals who are outside the member state responsible for processing their asylum application. In other words, individuals who move onwards within the Union are "penalised" for doing so.

The main changes are as follows:

Reception Directive to include "temporary protection"

The new Reception Directive will also apply to individuals under "temporary protection", such as the current group of Ukrainians. In the Netherlands, implementing this change requires close collaboration between the central government, municipalities, and other involved parties.

Higher standards for reception

The European Union Agency for Asylum (EUAA) guidelines will play a larger role in establishing quality standards for reception (Guidance on Reception, Operational Standards and Indicators, May 2024). This aligns with the EU's broader strategy to prevent secondary movement and aims to create a uniform level of reception across member states.

"Adequate standard of living" replaces "humane reception"

The term "humane reception" is replaced by "adequate standard of living" in the directive. Though it may seem otherwise, this change actually raises the standard for reception: it must meet the adequate level of living as outlined in Article 19 of the new Reception Directive, which ensures basic livelihoods, protects physical and mental health, and respects rights under the EU Charter of Fundamental Rights.

Asylum seekers granted earlier access to work; increased focus on vulnerable groups

Under the new directive, asylum seekers will gain access to the labour market sooner, after a maximum of six months instead of nine. For the Netherlands, however, this makes no difference: here a six-month period already applies – the option for more favourable provisions has already been used. Exceptions apply to applicants under accelerated procedures and Dublin claimants. Given there are more opportunities for accelerated asylum procedures in the new Asylum Procedure Regulation, many asylum seekers may still face limited access to employment.

Additionally, there will be stricter requirements for language classes, integration courses, and vocational training, emphasising that these programmes are essential to foster asylum seekers' autonomy and self-reliance.

The new Reception Directive also enhances protection for vulnerable groups, establishing specific measures for individuals with special reception needs, such as children, pregnant women, people with medical conditions, victims of torture, LGBTI individuals, and people with trauma. These groups are entitled to appropriate services, with a particular focus on psychosocial support and care.

New rules on movement restrictions and financial sanctions

The new Reception Directive introduces new rules for restricting movement within reception conditions, including geographical restrictions (Article 8) and movement limitations for reasons of public order or to prevent absconding, particularly among Dublin claimants (Article 9). These restrictions must be well-founded. Non-compliance with the movement restrictions under Article 9 can lead to detention under the new Reception Directive. The directive requires that the legality of detention be reviewed "ex officio and/or at the request of the applicant", which also applies to re-evaluation of ongoing detention.

Geographical restrictions, requiring individuals to remain in a designated area, do not require an administrative decision. This is problematic in terms of legal protection, as there is generally no possibility of appeal in these cases.

Article 23 of the new Reception Directive further expands the grounds for withdrawing material reception conditions and financial support, such as daily allowances, if asylum seekers do not comply with certain conditions. Grounds for withdrawal include leaving the designated residence without permission, failing to cooperate with authorities, or repeatedly violating the reception centres' rules.



Living allowance to ensure sufficient autonomy; free legal aid limited

Member states are required to provide a living allowance to asylum seekers, ensuring at minimum that it offers “sufficient autonomy.” Additionally, the EUAA must be informed of the allowance amount. There is a question as to whether these amounts should be harmonised across member states, potentially based on comparable national benefits.

Those seeking to appeal the withdrawal or reduction of allowances will not receive free legal aid if the appeal is deemed to have no real chance of success. However, this is rarely clear in advance. Withholding free legal assistance in these cases is likely to infringe upon Article 47 of the Charter.

Member states required to develop viable emergency plans

Under the new Reception Directive, member states must develop feasible contingency plans to address potential reception crises in the event of high numbers of asylum applications (Article 32). In the Netherlands, an unclear division of responsibilities between the central government and municipalities poses a challenge both to creating and implementing such a plan. This makes it all the more critical to organise this division of responsibilities more effectively in the near future.

Right to reception lost for those who transit

Article 21 of the Reception Directive stipulates that applicants lose their rights under Articles 17 to 20 if another member state (often an already overburdened border country) is responsible for processing the asylum application, as per the AMMR.

The right to reception ends immediately upon notification of a transfer decision. In practice, however, the actual transfer might be delayed by months or even prove infeasible. Once the right to reception under the Reception Directive expires, a minimum standard of living (“bed-bath-bread”) must still be provided. In the Netherlands, it remains unclear whether this responsibility will fall to municipalities or the central government, as the rules leave room for interpretation on several points. Nonetheless, the exclusion of adequate shelter and facilities while awaiting a transfer that may ultimately not occur is a concerning issue.



Screening at external borders and the monitoring mechanism

Everyone must be screened at the external borders

The new Screening Regulation mandates that all asylum seekers must undergo screening at Europe’s external borders. Major arrival countries, in particular, are required to implement large-scale screening procedures. In the Netherlands, for instance, this primarily concerns people seeking asylum at Schiphol Airport. If individuals are not screened upon entry because they entered the EU irregularly, screening will occur “within the territory.” Screenings are intended to be conducted promptly, with a maximum duration of seven days at the border and three days within the territory.

The screening process includes assessments of health, vulnerability, identity, nationality and security. It also involves registration and checks in European databases (SIS, Eurodac, VIS and ETIAS). Following screening, asylum seekers are directed to either a regular asylum procedure, an asylum border procedure or a return procedure.

At external borders, AI and other surveillance technologies are increasingly used to predict migration patterns, locate individuals on the move, and coordinate the deployment of border guards and military personnel. Risk assessments are conducted using data, including personal information from smartphones. This has implications for human rights. These practices may result in racial profiling through the use of facial recognition technology. And there is limited legal protection against the outcomes of such systems.

Health and vulnerability assessments require qualified medical personnel equipped for the task. Importantly, screenings should account for all forms of vulnerability – not only visible indicators like minority status or pregnancy, but also health conditions, past trauma, and experiences of torture. This approach aims to prevent vulnerable individuals from being detained and to ensure they are directed to reception facilities that can address their specific needs.



New monitoring mechanisms: opportunities to learn from Croatia

The new Screening Regulation mandates that each member state establish an independent “monitoring mechanism” to ensure compliance with Union and international law, including the EU Charter of Fundamental Rights. This mechanism is particularly crucial for access to the asylum procedure, the principle of non-refoulement, the best interests of the child, and relevant detention regulations.

Croatia has prior experience with such a mechanism, established at the European Commission’s request following ongoing reports of severe border violence and pushbacks at the Croatian border. Unfortunately, according to the Croatian NGO Centre for Peace Studies, which has monitored border violence and pushbacks for years, the practice remains largely unchanged. Refugees and migrants are still being denied entry and pushed back without access to legal protections, often through force. These practices breach the principle of non-refoulement and violate basic human rights.

A significant issue with Croatia’s monitoring mechanism is its lack of independence. The mechanism is closely linked to, and heavily reliant on, the Croatian government. Monitoring efforts are largely limited to reviewing documents within police stations, rather than observing actual conditions at the border. Regulators are restricted from accessing pushback victims and the “green border” areas where these incidents occur. From this “Croatian case study”, we can draw a number of lessons about how monitoring mechanisms work:

- When the government influences the monitoring mechanism, conflicts of interest arise, resulting in inadequate independent oversight. Actual involvement of independent entities such as NGOs, the ombudsman, and human rights organisations is essential for impartiality.
- Monitoring often focuses solely on border procedures at official crossing points, overlooking the reality of pushbacks and restricted access to asylum. Access must be granted to areas where pushbacks commonly occur (zones beyond official border posts) and to individuals who have experienced pushbacks. Regulators should also engage directly with people in detention to monitor conditions on the ground.
- The lack of clear sanctions for countries violating human rights can implicitly legitimise pushbacks. Sanctions for non-compliance with European legislation and breaches of fundamental standards should be established. The European Commission has a crucial role to play in better sanctioning countries that violate human rights.

The Netherlands should also establish an independent monitoring mechanism for the screening process, asylum access, and detention at Schiphol Airport. This requires collaboration and a comprehensive plan for implementing effective screening practices. Key questions remain: How can we ensure that screenings are conducted by qualified individuals, such as doctors, and that vulnerable people are not placed in detention? Who will oversee detention conditions? How do we guarantee the independence of the monitoring mechanism? How will the mechanism be structured, and what roles will the Institute for Human Rights, the Ombudsman and NGOs play in this process? Additionally, it is crucial to recognise that the balance between security and human rights will be further tested as AI systems increasingly contribute to the asylum screening process.



“Safe third country” concept and migration deals

Expansion of the “safe third country” concept

The “safe third country” concept allows asylum applications to be declared inadmissible and applicants to be sent to a safe country outside the EU where they have previously stayed. Under the Pact, the “safe third country” criteria have been expanded. For example, it is no longer necessary for the third country to have signed the Refugee Convention; instead, it is enough that they provide “effective protection.” Also, parts of a country may soon be declared safe, and a “presumption of safety” will apply if the EU has concluded an agreement with a third country under Article 218 of the Treaty on the Functioning of the European Union.

The “connection criterion” at risk

The current Asylum Procedure Regulation requires a “connection” to the third country, such as prior residence, work, family or study. This criterion prevents asylum seekers from being sent to a country they do not know and where they may lack support, as in the controversial Rwanda deal. According to the Pact, this “connection criterion” will be revised in mid-2025. UNHCR and other international organisations emphasise that the link criterion is essential for global and fair distribution of the responsibility for refugee protection.

UNHCR and other international organisations emphasise that the link criterion is essential for global and fair distribution of the responsibility for refugee protection. This principle was central to the Refugee Convention, as outlined in UNHCR ExCom Conclusion 15, which states that an asylum application should not be denied solely because another third country could also provide protection. Without this criterion, a “domino effect” may occur, with countries continuously passing responsibility to others. However, if an asylum seeker already has a connection to another country, such as previous residence, it may be reasonable, under certain conditions, to send them to that other country, per Conclusion 15.

Member states and Commission seek more migration deals

Just before the summer – with the ink on the Pact barely dry – Ursula von der Leyen sent a letter to member states, in which the European Commission explicitly linked the Pact to the importance of migration deals (the “external dimension”) for managing migration to Europe.

In recent years, several such deals, including agreements with Egypt and Tunisia, have proved harmful to refugees. These agreements often prioritise border security, resulting in people being sent back across borders without due process – sometimes with fatal consequences – or detained in deplorable conditions.

EU migration deals also lack transparency, particularly regarding the use of EU funds. Parliamentary oversight of actual spending is limited, despite repeated requests from the European Parliament. Improved oversight mechanisms are needed, including the power to suspend deals over human rights violations. Such measures are often dismissed as infringing on the “sovereignty” of third countries. However, the EU holds more leverage than it currently exercises in demanding human rights protections, as highlighted in interviews with NGOs and human rights activists within these countries.

Migration cooperation can have a positive impact if it centres on the human rights of refugees and migrants. Investing in regional protection is critical – not to leave asylum seekers in limbo, but to offer them genuine protection, a stable legal status, and opportunities for building a new life. Enhanced asylum procedures, along with access to employment and basic rights, are fundamental. True protection extends beyond mere shelter and food.

Additionally, the needs of third countries should receive more attention. Experience shows that third countries, such as Egypt, often seek more visas and labour migration opportunities for their citizens, often young people, which can benefit both the EU and the countries involved.

Alternatives for the current deals, such as the IOM and UNHCR’s Route-Based Approach, support migrants based on their individual situations and needs throughout their journey. This may involve humanitarian assistance, resettlement or safe return support.



Crisis and the “instrumentalisation” of migrants

Three situations where the Commission allows deviation from rules

The Crisis and Force Majeure Regulation provides a legal framework for three scenarios where the Commission may grant temporary exemptions from standard rules: “mass arrivals” of migrants, force majeure situations (e.g. pandemics and natural disasters), and the “instrumentalisation” of migrants. The latter involves third countries sending migrants into the EU to “destabilise” member states, as seen on the Poland-Belarus border, where Belarusian President Lukashenko directed large numbers of refugees toward the Polish border. Poland largely keeps its border closed to these people, so they are stuck between borders, which has severe humanitarian consequences.

When faced with a crisis, a member state can formally request deviations from EU rules. These may include extending registration and border procedure deadlines, placing more people in border procedures and suspending AMMR (Dublin) transfers. The member state can also request solidarity measures. The request must include reasons for the deviations and any required solidarity measures, which the European Commission reviews. The regulation can initially be invoked for three months, with possible extensions up to a maximum of one year.



The issue with the Crisis Regulation is that it defines no less than three different situations in which member states may derogate from important protections and elements of the European asylum system. This weakens common asylum policy in the Union, creating a patchwork of regimes and deviations from fundamental norms. Temporarily suspending asylum registrations at borders, for instance, could lead to a lawless situation, with risks of pushbacks and people being left in limbo.

In the Netherlands, the government wants to declare an asylum crisis to circumvent rules, for example temporarily halting decisions and offering (even) more “sober” reception conditions. However, it is clear that the situation in the Netherlands does not meet the Crisis Regulation’s criteria for a crisis, as there is no force majeure situation and refugee numbers align with the European average. Consequently, this proposal is likely to face resistance from the European Commission and other member states, undermining efforts to establish a harmonised European asylum policy.





Wrap-up

Chair Ashley Terlouw concluded with several key lessons and reflections:

The focus now is on implementation

European regulations on paper must now be put into practice. The numerous facets and stakeholders involved are what make this conference so valuable. However the Pact is ultimately implemented, it will promote a European approach to the migration challenges that no individual country can resolve alone.

Key implementation considerations and questions

- The Netherlands should look for alternatives to detention, particularly for children.
- Take responsibility for an effective, well-functioning relocation mechanism in the EU. The Netherlands should not “buy off” its solidarity.
- The “new Dublin” process requires careful attention. Secondary movement should not lead to people ending up in substandard shelters for long periods of time, or on the streets.
- The Netherlands must organize reception in a humane manner, with special attention to vulnerable groups. Effective coordination between central government, municipalities and other parties is essential.
- Establish a monitoring mechanism for the screening procedures at Schiphol Airport. Involve the relevant organizations (ombudsman, human rights institute, NGOs) to ensure the required independence in monitoring.

The outcome is uncertain but influenceable

Implementation of the Pact could lead to a well-functioning asylum and migration system in Europe. However, there is also the risk of failure, resulting in human suffering and a lack of solidarity. The outcome remains uncertain, and reality may ultimately fall somewhere between success and failure. Conference attendees have a role in influencing which path is taken.

Solidarity is essential

Achieving the best outcome requires collaboration at all levels and genuine solidarity among stakeholders. The new solidarity mechanism is a potential strength of the Pact, but it is doubtful if member states will show real solidarity. Increasingly, we see a “member state first” approach, with more domestic border controls and measures aimed at making their own country less attractive to refugees.

It is essential for the Netherlands to demonstrate solidarity and not shift the responsibility for refugee reception and protection to other member states. Only through loyal cooperation within the Union can we achieve a humane and common European asylum policy.

Dutch Council for Refugees and Meijers Committee, October 2024

Photography: Farouk Ebaiss [@TheMomentory](#)



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