

By Bernadett Petri

The Migration Pact has entered a new phase with the adoption of its first Implementing Decision, which now includes concrete figures and rates for migration. The apparently politically motivated decision has established an unfair and disproportionate methodology that severely penalises the most vocal critics of EU migration policy. At the same time, internal tensions are growing, with Poland recently becoming a vocal critic of the Migration Pact, which is an opportunity for the Hungarian government to more forcefully represent its own interests (changing migration policy, maintaining and financing border closures, reviewing fines, unblocking funds) and could open the way for a regional (V3 / V4) position to be developed and represented.

Introduction - State of play

The Migration Pact was voted by the European Parliament in April 2024, with the aim of supporting Member States facing significant migratory pressure and protecting our external borders^[1] - at the expense of other Member States. The Pact aims to strengthen trust and to strike a balance between collective responsibility and solidarity, even if there are some states, certainly Hungary, that do not want to take on the responsibility imposed on them. So far, no quantification has been made of the proportion of solidarity and fairness in the distribution of asylum applications to be examined under the border procedure.

This may have been changed by Commission Implementing Decision (EU) 2024/2150^[2] (5 August 2024). The Implementing Decision, which applies from 12 June 2026 until 14 October 2027, determines (i) the corresponding border capacity of each Member State and (ii) the maximum number of applications per year to be examined by Member States in the border procedure. The capacity and maximum number of applications for the period after 14 October 2027 must be adopted by the Commission every three years on 15 October, with the next adoption in 2027. The corresponding capacity and the maximum number of requests per year to be examined by Member States in the framework of the border procedure should be calculated on the basis of the irregular border crossings, including arrivals following search and rescue operations, and the refused entries at the external borders, as reported by Member States to the European Border and Coast Guard Agency (Frontex).

Problem statement

According to the Implementing Decision, the total number of irregular border crossings and

refused entries in the EU as a whole is 1,318,040, of which Hungary accounts for 338,978 and Italy for 352,191, representing 25.7% and 26.7% respectively. On this basis, the Implementing Decision concludes that Hungary has a “sufficient capacity for border processing” of 7,716 persons and Italy of 8,016 persons. The “adequate capacity for border management” of the other EU Member States totals 14,268 persons, i.e. less than the combined capacity of Hungary and Italy. Annex 2 to the Implementing Decision sets out the maximum number of applications per year to be examined by Member States in the framework of the border procedure for the period 12 June 2026 to 12 June 2027 and 13 June 2027 to 14 October 2027. For the one-year period starting in two years’ time, the maximum number of applications per year to be examined under the border procedure was capped at twice the “corresponding capacity” described in the previous paragraph, and for the following quarter at three times the “corresponding capacity”, i.e. approximately twelve times on an annual basis. In other words, Italy and Hungary together “received” 52.4% of the applications to be examined, while all other Member States received 47.6%. For the quarterly period from 13 June to 14 October 2027, Hungary and Italy will have to examine a maximum of 23,148 and 24,048 applications respectively, while Germany will have to examine a maximum of 1,122, Austria 123, Belgium 318, France 1,845, Spain 9,903 and Greece 6,564.

The situation will not be any better after 2027 when the review takes place. Due to the specificity of the calculation methodology, the more (and registered!) a Member State protects itself, i.e. protects the security of its citizens, the higher its share of the number of applications to be examined will be. And the reverse is also true: a Member State that is not defending, or is defending but reporting low numbers to Frontex, will have a low share.

In the case of the Implementing Decision, the breaking points were already visible at the time of its adoption: in 2023, during the last round of negotiations, Hungary and Poland (the former right-wing government) took a negative position, but it should also be stressed that four Member States, Lithuania, Slovakia, Malta and Bulgaria, abstained. Earlier, however, at the EU summit, EU heads of state and government decided that they would seek full consensus on the migration pact. Any deviation from this would violate the principle of loyal cooperation enshrined in the treaties, which binds the parties both in their relations with each other and in their relations with the EU.[\[3\]](#)

Although the Migration Pact is declared to be a confidence-building instrument, and to strike a balance between collective responsibility and solidarity, the first Implementing Decision of the Pact does not even show solidarity, nor does it show any alignment with reality. The calculation methodology places a disproportionate burden on those Member States, including Hungary, which are the most vocal in their opposition to the current EU

migration policy and already bear the greatest burden of migratory pressure. Unfortunately, such legislative products will not change migration, will not improve public security and will not strengthen the EU in the world, but will certainly increase internal tensions.

On 12 October, Polish Prime Minister Donald Tusk announced at his party's congress that they will reject the Migration Pact. Poland will be tough and relentless on illegal migration, and will only enforce European migration laws that do not endanger the country's security. If you want to work or study in Poland, you must respect Polish norms and customs, you must integrate. This is the spirit behind the new Polish migration strategy, which will be presented on 15 October^[4].

The Hungarian interest is simple and clear:

- the Migration Pact should be completely rethought, and its Implementing Decisions should be in line with reality and Member States' interests. Those who disagree with the Migration Pact should be exempted.
- In the name of the much-vaunted solidarity, the EU funding of border protection costs in Hungary should be resolved – also retroactively – and the solutions and efforts used there should be recognised.
- Hungary should not be disproportionately and unfairly punished by court judgments using migration as a pretext.

Summary

Contrary to previous efforts, the Migration Pact was not adopted by consensus. Its Implementing Decision, applicable from 12 June 2026 to 14 October 2027, sets out (i) the respective border capacity of each Member State and (ii) the maximum number of applications per year to be examined by Member States in the framework of the border procedure. The data show that it does not include the solidarity principle that has been invoked before. The calculation methodology places a disproportionate burden on those Member States, including Hungary, which are the most vocal in their opposition to the current EU migration policy. According to the Implementing Decision, the total number of irregular border crossings and refused entries in the EU as a whole is 1,318,040, of which Hungary accounts for 338,978 and Italy for 352,191, representing 25.7% and 26.7% respectively. The disproportionality and unfairness of this calculation is unsustainable and needs to be corrected immediately.

Forcing Hungary to handle a quarter of the applications would place an enormous burden on the Hungarian border and authorities, including the need to build the necessary (but

unspecified) capacity. The mass of people accumulated in camps on the Hungarian side of the border would also pose security, health, administrative and logistical challenges, which the EU is also afraid would tie the hands of the Hungarian government in dealing with them. It is also unclear what financial framework the EU will allocate to address this issue.

For other reasons, but fundamentally because of the security issue, Poland is also becoming increasingly vocal in its opposition to illegal migration, which could pave the way for a common V3 / V4 position on migration and joint action.

Prime Minister Viktor Orbán recently presented the priorities of the Hungarian Presidency in the European Parliament. One of the priorities he highlighted was the seriousness of the migration crisis, the importance of protecting external borders and the need for the EU to provide substantial support, noting that “the EU asylum system is not working today”. He then proposed a regular summit of Schengen leaders and the full extension of the Schengen agreement to Bulgaria and Romania.

The main objective of the European Council meeting on 17 and 18 October was to reinforce and accelerate operational measures in line with and feeding on the comprehensive approach^[5] negotiated and adopted in 2023. The main points of the meeting were enhanced external action, reinforcing control at the EU’s external borders, increasing and accelerating the number of returns and the use of migrants as a tool, and combating trafficking and smuggling of human beings.

The increasingly visible increase in migratory pressure is, understandably, having a significant impact on the domestic policies of individual Member States. One after the other, increasingly radical measures are being taken. Almost day by day, taboos are being broken down. On the one hand, because voters are voicing their concerns about the deterioration of public safety and the ‘gradual loss of their cultural values’ in general, and are doing so with increasing intensity, as they vote for radical parties classified as extreme right-wing, in increasing numbers year after year. On the other hand, the leaders who have thus come to power, responding to the main demands of their citizens, are presenting their fellow citizens with increasingly radical proposals to solve, or at least alleviate, a gradually growing problem.

Attitudes in Western European countries have also changed significantly in recent times. The French legislature also seems to be hardening its tone on immigration policy. The threefold objective of the situation, which calls for concrete and immediate action, is to strengthen controls, increase controls on the issuing of legal residence permits and reduce them, and increase the number of expulsions. It is significant that 40 of the 86 articles of the

immigration law[6] initially proposed by the French National Assembly in December 2023, which was only voted on with great difficulty, were immediately annulled by the Constitutional Court. Ursula von der Leyen herself is also taking a more assertive stance in calling for improved cooperation with countries of origin and transit. In addition to reinforcing the refugee camps in Albania, the Commission President is also pushing for agreements with Senegal and Mali to open new “return centres”, along the lines of the migration conventions with Tunisia, Egypt and Lebanon. It can also be assumed that German Chancellor Olaf Scholz did not express his personal convictions when he ordered the closure of the borders. The state elections and the increasingly spectacular success of the AFD, reflecting the increasingly radicalised preferences of the German electorate, have clearly played a role in this decision[7].

Recommendations

1. the Implementing Decision in this form penalises those Member States who protect the EU borders, therefore the EU must fundamentally rethink its own migration policy and change the flawed way of calculating
2. the Hungarian government needs more allies among the Member States, recognising that the common interest
3. Hungarian and Polish experts should draw attention to the dangers of EU migration policy in every possible forum, and argue their case with data to support their own case
4. in the case of migration, the political positions of Poland and Hungary have visibly converged, and there is a need to open up discussions and exchanges of experience at expert level in order to take joint action.

[1] https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/promoting-our-european-way-life/migration-and-asylum/pact-migration-and-asylum_hu

[2] <https://eur-lex.europa.eu/legal-content/HU/ALL/?uri=CELEX:32024D2150>

[3] https://magyarnemzet.hu/belfold/2023/06/a-migranskvotanak-az-unios-egyseg-latja-karat#google_vignette

[4]

<https://hu.euronews.com/my-europe/2024/10/12/ideiglenesen-felfuggeszthetik-a-menedekjog-ot-lengyelorszagban-belarusz>

[5] <https://www.consilium.europa.eu/hu/meetings/european-council/2023/02/09/>

[6] https://www.francetvinfo.fr/societe/immigration/loi-immigration-quelles-sont-les-principales-mesures-restantes-du-texte-apres-la-censure-de-40-des-articles-par-le-conseil-constitutionnel_6325998.html

[7] <https://www.ludovika.hu/blogok/ot-perc-europa-blog/2024/10/17/a-migracio-kerdese-az-euro-pai-politika-homloktereben/>



DR BERNADETT PETRI is a lawyer and European Union expert, she previously worked for years as a lawyer dealing with the operation of economic entities, cross-border transactions, and international contracts. Subsequently, she spent ten years working in Brussels at the European Parliament and the European Commission, where she was active in various legal fields, international trade issues, and policies. She regularly publishes on EU topics, teaches at several higher education institutions, and is a researcher at the Eötvös József Research Center of the Ludovika University of Public Service and at the XXI. Century Institute. Since spring 2023, she has been the Managing Director of the Hungarian Development Incentive

Office (MFOI), and since January 12, 2024, she has been the Ministerial Commissioner responsible for coordinating the use of direct EU funds for the Ministry of Public Administration and Territorial Development.



The article was created as part of the project entitled “Dual voices of experts in international affairs: Poland and Hungary” implemented by the Sobieski Institute, grant no.: DOF-K/IF/RD12/15/2024. The grantee is the Waclaw Felczak Institute for Polish-Hungarian Cooperation.

The publication reflects only the views of the author(s) and cannot be associated with the official position of the Waclaw Felczak Polish-Hungarian Cooperation Institute.