The Ghost of Dublin Still Among Us

Implementing Solidarity under the New European Pact on Migration and Asylum

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On 11 November, the European Commission inaugurated the first Annual Migration Management Cycle by publishing its Implementing Decision under Article 11 of Regulation (EU) 2024/1351 on *Asylum and Migration Management* (RAMM). This marks one of the first concrete steps toward implementing the New Pact on Migration and Asylum, adopted in May 2024. The RAMM can be considered the direct descendant of the Dublin III Regulation. The latter was put to the test during the migratory pressure of 2015, stressing its asymmetrical and unfair allocation of responsibilities over asylum applications for frontline States, which triggered extensive secondary movements.

The New European Pact on Migration and Asylum promises a renewed balance between solidarity and responsibility, but the details matter. Whereas a final evaluation might be too early at this stage, the Commission's recent Implementing Decision already raises some concerns on whether the new framework will deliver in shaping a fair and effective system of burden-sharing. Several implementation choices risk reinforcing existing dynamics of distrust between the Member States that also negatively affect fundamental rights obligations and access to asylum.

Classifying migratory pressure and determining solidarity needs

The Annual Migration Management Cycle consists of several interlinked stages. First, the Annual Asylum and Migration Report (Article 9 RAMM) aggregates information, including data on irregular border crossings, asylum applications and search-and-rescue operations, submitted mainly by Member States and EU agencies, such as Frontex. Relying on a specific methodology, these indicators allow the Commission to classify the type of "migratory pressure" in each Member State through an Implementing Decision. This classification influences the type of support the Member States are entitled to as well as their obligations to contribute to the Solidarity Pool. The Commission then proposes a Council Implementing Decision to establish the Annual Solidarity Pool, which contains the set of solidarity contributions (relocations, financial contributions and alternative measures such as operational support) to be allocated in accordance with Member States' solidarity needs (Article 56 and 57 RAMM). It is worth recalling that, whereas Member States have some flexibility in choosing the form of their contributions, according to Article 12 of the RAMM, the Solidarity Pool must consist of at least 30,000 relocation places and 600 million euros of financial contributions. However, the Council has just reached a political agreement undercutting these numbers for 2026 ("21.000 relocations or other solidarity efforts or EUR 420 million financial contributions"), a formal decision still to be awaited.

The Implementing Decision identifies four Member States, namely Cyprus, Greece, Italy and Spain, as being under "migratory pressure" (Annex I), meaning that high arrival numbers put a disproportionate strain on their asylum, reception and migration systems, which requires immediate action (Article 2(24) RAMM). These countries should benefit from the Solidarity Pool from mid-2026. A second group, including Bulgaria, Croatia, Czechia, Estonia, Austria and Poland, is classified as "facing a significant migratory situation" (Annex II). Their migration systems remain functional overall, but due to having managed high arrival numbers in the past (Article 2(25) RAMM), they are not required to contribute to the Solidarity Pool. A third category of twelve Member States, including Belgium, Germany, Ireland, Finland, France and the

Netherlands, as well as Latvia, Lithuania and again Bulgaria, Croatia, Estonia and Poland, is considered "at risk of migratory pressure" (Annex III). They should have priority access to the Permanent EU Migration Support Toolbox, a set of operational, technical and financial support measures, set out in Article 6 RAMM. Whereas the strains on these countries are already high but not yet disproportionate, they might not be able to absorb further arrivals driven by the instrumentalisation of migrants (as seen at the EU-Belarus border) and, notably, also by persistent difficulties in carrying out transfers to the States responsible for the respective asylum applications.

Balancing solidarity and responsibility

Whereas the new regulation mostly retains the features of the existing "Dublin" system, the attempt to link the criteria for determining the Member State responsible with the set-up of the Annual Solidarity Pool clearly aims to strike a balance between responsibility and solidarity.

Yet, for the Commission, such a balance also entails that solidarity contributions may be withheld in cases of "systemic shortcomings" in the compliance of benefitting Member States in applying the Dublin rules and accepting transfer requests. In addition, benefiting Member States are also expected to increase their efforts to prevent secondary movement and effectively protect external borders. This mirrors demands that the Belgian and Dutch Ministers brought forward in their letter to Commissioner Brunner before issuing the Implementing Decision. They view "full compliance with the Dublin system" as a "prerequisite" for the Annual Solidarity Cycle and push for "substantial progress [...] on Dublin transfers." It's hard not to see that as pointing the finger at frontline Member States such as Italy, which has even suspended take-back procedures as of 2022. This dynamic is familiar: from 2015 onwards, Northern states accused (not without substantial grounds) the Southern states of incentivising secondary movements while the latter complained about a structural overburdening and a lack of support. Admittedly, resolving the connection between solidarity and responsibility may amount to a chicken-and-egg dilemma.

However, it seems that the setup of the new framework has the wrong focus. Given that non-compliance with the Dublin obligations is largely the result of a lack of capacities, conditioning solidarity on full compliance will not solve the problem but rather reinforce it.

Moreover, this dynamic also has serious fundamental rights implications. Many remember the suspension of Dublin transfers to Greece, due to "systemic flaws in the asylum procedure and reception conditions." This raises the crucial question of whether this would amount to a failure to fulfil responsibilities under the Dublin system that justify withholding solidarity measures, risking a vicious cycle and intensifying the precarious fundamental rights situation. On the other hand, this could mitigate the issue that Member States did not have any real incentive for improving their fundamental rights situation so far, because their non-compliance relieves them from their obligations in some cases. In practice, only a very careful and nuanced approach will bring positive results. Also, a too rigid application of conditionality within the solidarity framework will likely increase incentives for frontline Member States to further restrict access to the territory for asylum seekers, to avoid acquiring responsibilities in the first place.

The case of Germany

The classification of Germany as a country at risk of migratory pressure is another example of how responsibility and solidarity interact under the new framework. As reported by German media, the Commission's assessment suggests that Germany might receive a partial exemption from solidarity obligations due to its high share of asylum applications in recent years. Looking at the actual wording of the Implementing Decision, the Commission notes that challenges linked with secondary movements may be addressed by "acknowledging the possibility of applying responsibility offsets to these cases as part of the solidarity contributions" (preamble, para. 12).

The German Federal Minister of the Interior, Alexander Dobrindt, appeared to be satisfied: he stated that, as high burdens on his country have been acknowledged, Germany is willing to contribute to the "solidarity of the future." The treatment of Germany also reflects Belgian and Dutch demands not to lose sight of "existing challenges caused by the medium- and long-term effects of secondary movements."

The problem with this line of argument is, however, that it uses existing structural deficiencies to justify new exemptions while reducing the resources to address their root causes. As explained above, secondary movement often stems from uneven responsibilities in the first place and limited capacities in frontline Member States. Exempting some States due to past non-compliance by others therefore inverts the logic required to address these imbalances, much like making solidarity contributions dependent on full compliance in the future. This points to the deeper structural problem: the persistent distrust between frontline and Northern states, developed through years of disagreements over secondary movements, responsibility-sharing and compliance. As some of the new legal provisions appear to translate this distrust directly into the structure of the scheme itself, restoring mutual trust as the foundation of solidarity must become a central focus of the Commission's role in implementing and monitoring the framework effectively.

Conclusion

The Commission's Implementing Decision provides the first concrete glimpse of how the New Pact's solidarity architecture will operate in practice. Yet the analysis above suggests that, despite the promise of a fresh start, some structural issues remain very much alive. While the tailored allocation of solidarity contributions is a positive step, the continued reliance on traditional responsibility criteria nonetheless reproduces familiar patterns of uneven burden-sharing. Furthermore, by tying access to support to compliance with responsibilities that some Member States are structurally unable to fulfil, the framework threatens to trigger a vicious cycle of non-compliance, reduced solidarity, and further pressure on fundamental rights.

More importantly, distrust between frontline and northern Member States, inherent in the design and implementation of the legal framework, keeps the New Pact's solidarity model precarious and unfit for a truly fair system of shared responsibility.

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