TRANSNATIONAL FAMILY DYNAMICS IN EUROPE

The impact of current and future European migration policies on transnational families

Report on the TraFaDy Expert meeting 30 October 2023 in Berlin

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Imprint

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Background

The current debate on EU Migration and Asylum pact

The EU Pact on Migration and Asylum refers to a package of policy proposals and recommendations in the areas of migration, asylum, integration and border management. It was launched in September 2020 to break the long-standing political deadlock between member states on the reform of EU asylum and migration policy. In fall 2023, negotiations on the Migration and Asylum Pact were entering their final phase.

Transnational Family Dynamics in Europe (TraFaDy)

Transnational Family Dynamics in Europe (TraFaDy) is a network based on the Cost Action 21143 and aims to deepen the knowledge of the growing, rapidly changing phenomenon and dynamics of Transnational Families. It brings together researchers and stakeholders from different disciplines and countries to address the need for transnational insights and to formulate policy and practice-oriented recommendations with an impact on international, national, sub-local and local practices. TraFaDy closely monitors current trends in migration, technology and politics, and engage in an intensive dialogue with policy and practitioners, and, thus, address the need to deepen and broaden scientific and policy understanding of Transnational Families.

The meeting

On 30 October 2023 a group of experts met to analyse the current proposals for the new EU Migration and Asylum pact and discuss the possible implications for transnational families.

The workshop was held in a hybrid format, with 12 people meeting at the office of the Association of German Family Organisations in Berlin and two people online. Participants in the meeting were Andreas De Boer (Municipality of Vilvoorde, Belgium), Eglantina Dervishi (University of Tirana, Albania), Elena Fattorelli (Ruhr University Bochum, Germany), Sven Iversen (Association of German Family Organisations, Germany), Stefan Keßler (Jesuit Refugee Service, Germany), Eleni Meletiadou (London Metropolitan University, United Kingdom), Elke Murdock (University of Luxembourg, Luxembourg), Rahman Nurkovic (University of Sarajevo, Bosnia and Herzegovina), Jelena Predojevic-Despic (Institute of Social Sciences, WG 5 leader, Serbia), Maria Ringler (Verband binationaler Familien und Partnerschaften, Germany), Alyona Samar (Missing Children Europe, Belgium), Mieke Schrooten (Odisee University of Applied Sciences), Ursula Trummer (University of Vienna, Austria) and Cis Vangoidsenhoven (Fedasil, Belgium).

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Setting the scene: State of play of the new EU Migration and Asylum Pact

It was **Cis Vangoidsenhoven** of the International Unit of the **Federal Agency for the reception of asylum seekers** (Fedasil) in Belgium who set the scene by presenting the EU's new Migration and Asylum Pact. He explained the current state of play and the path the Pact has taken in the past, as well as the main crucial points already agreed and yet to be decided.

Introduction: The basic lines of the new EU Migration and Asylum Pact

He pointed out, that, as Belgium will hold the Presidency of the Council of the European Union from 1 January to 30 June 2024, it will probably be during the Belgian presidency that the European Commission, Council and Parliament hope to reach an agreement on the Pact on Migration and Asylum. The aim is to conclude discussions by the end of February and focus on the implementation and operationalisation of the Pact from then on.

Cis Vangoidsenhoven explained that the Pact consists of a series of legislative proposals, some new and some already existing, and a number of non-legislative instruments. While complex, the Pact is vital and will set the direction of EU asylum and migration policy for years to come. Following the European Commission, the aim of the Pact is the following:

"To address the interdependence between Member States' policies and decisions, the European Commission proposes a new EU framework that manages and normalises migration for the long term. This new system should provide *certainty, clarity and decent conditions* for the women, children and men arriving in the EU. It also allows Europeans to trust that migration is *managed in an effective and humane way*, fully in line with our values and with international laws.

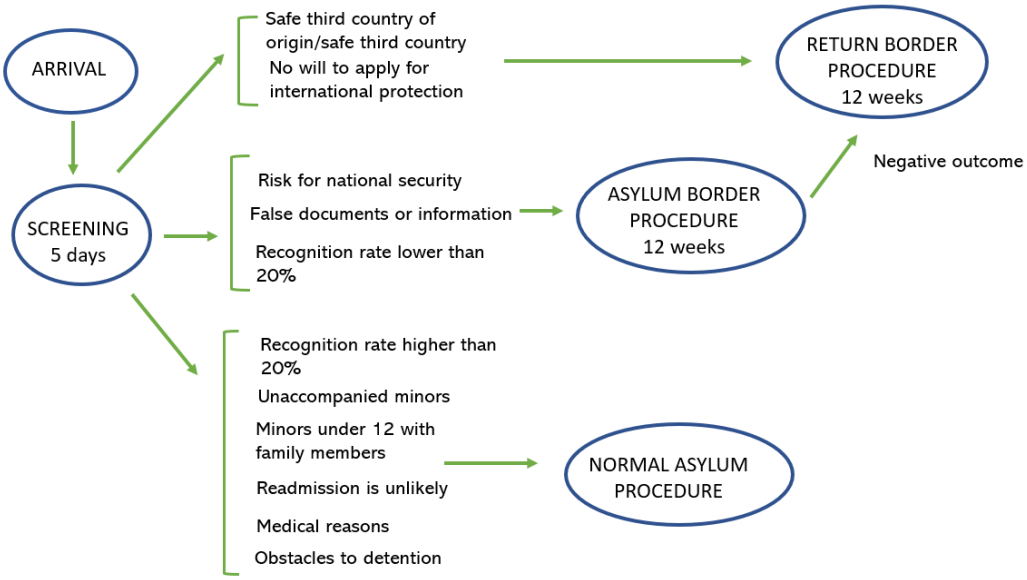
Based on a holistic assessment, the Commission is proposing a *fresh start* on migration, to *build confidence through more effective procedures* and strike a new balance between collective *responsibility and solidarity*."

Cis Vangoidsenhoven highlighted some of the main lines of the Pact:

- Greater responsibility for member states at the external border. This responsibility relates to pre-entry screening, (mandatory) border procedures and the extension of responsibility regarding time limits.
- More solidarity between EU countries. The idea is to introduce a compulsory but flexible system, including relocations and financial or alternative contributions, based on an EU distribution key.
- In times of crisis, this solidarity and responsibility can be deviated from, e.g. through a delay in the registration of applications, an expansion of the use of border procedures or the duration of these procedures, or allowing additional grounds for the use of detention. Moreover, additional solidarity measures may be taken.

He specified that the screening of third-country nationals will happen at the external borders. The screening can take up to 5 days and consists of a number of preliminary health and vulnerability checks, identification based on information in European databases, the registration of biometric data and a security check. After this screening, people are referred to the appropriate procedure, which can be

either a regular asylum procedure, a border asylum procedure, a return procedure or a denial of entry. Cis Vangoidsenhoven referred to EuroMed Rights, that has created a clear overview of these new sets of procedures:



Once in place, the Asylum Procedures Regulation (APR) will replace the current Directive, with the idea of streamlining procedures in member states. On this issue, there are some points of contention between the Parliament and the Council. One of the points of contention is whether the definition of 'a family' should be extended or not.

Regarding the Asylum and Migration Management Regulation, the idea is still that the member state where someone first arrives is responsible (for a duration of two years). However, there is a compensatory solidarity mechanism, which is new.

As Cis Vangoidsenhoven pointed out, it is important to note that unaccompanied minors are excluded from the border procedure (with some exceptions). Accompanied minors and families are subject to the border procedure, but with attention to special reception needs and detention in line with RCD (detention as a last measure).

Comments on the role of families and children in the pact

Alyona Samar of the organisation **Missing Children Europe** and **Stefan Keßler** of **Jesuit Refugee Service Germany** gave the first comments on the developments and what they ask for the remaining process and the following implementation process, highlighting the role of the families and potential impacts for them.

Alyona Samar pointed out some positive and negative aspects of the proposals presented in the Pact, focusing on children. Some promising proposals were presented by the European Parliament during the trialogue stage of the negotiations, namely the provision to appoint a guardian, mandatory vulnerability and health checks, assessment of the links of the minor to the country in the EU, such as family ties, with the aim to facilitate family reunification, but

also to address unauthorised secondary movements, as many children leave the first country to join their family elsewhere in Europe. Nevertheless, she stressed that in some cases, for example if there are distant family or undocumented family members, this provision will not be of use. She also mentioned the proposal for expanded definition of 'family' that is being discussed and called for keeping this broader definition in the final version of the Pact.

Alyona Samar highlighted Missing Children Europe's recommendations around the Pact, in which specifically the perspective of children are highlighted. Those argue, that when it comes to screening at the external borders, all unaccompanied children and children within families identified during screening procedures should be immediately referred (with their family members) away from the borders to locations where their best interest can be properly addressed. Moreover, children's personal data should not be used to enforce return decisions. Particularly minors that are transitioning into adulthood are highly vulnerable to going missing, being exploited and trafficked, as they are at risk of being targeted for a forced return once they turn 18.

She explained that the translation of the provisions now formulated in the Pact into practice was difficult to foresee. Although the political level has not completed the decision-making process yet, civil society already expressed concerns regarding the implementation of any version of the Pact once adopted, fearing the increased violations of human rights and reduced safeguards for people on the move. Even after having found a solution on the political level the question will remain to what extent the possible benefits and safeguards introduced will outweigh the potential traps.

Alyona Samar finally flagged the language used in communications about the Pact. It was clear that the focus was on 'fighting migration', sending people back and preventing people from coming in contrast to aiming on providing help to people in need and ensuring their access to protection.

Stefan Keßler explained the fact that the negotiations between the Commission, the Parliament and the Council have been taking place behind closed doors. This makes it very difficult for civil society organisations to know what is happening and to intervene. He pointed out, that the Jesuit Refugee Service had raised a number of concerns about the Pact both in regards to general terms as well as to the impacts for children and families. He argued that some procedures can take up to six months. This means that people have to spend half a year in detention. The places where they are held in detention become places of 'nowhere'.

In regards of families and children, he stresses that the current proposals reintroduce detention of children. This was in complete contrast to what has been discussed about abolishing detention of children in the past ten years. Additionally he flagged that it was difficult to accept that there were almost no legal guarantees around the age assessment. It is up to national laws to determine the possibilities to contest the assessment. As fourth critics, he argued that there was no guarantee foreseen that people, not even children have access to legal guardians or assistance. The proposals would not even mention psychologists. Moreover, he observes that there will be much more pressure on member states at the borders to close the

borders at all costs. This will affect neighbouring countries such as Serbia. And finally, he noted that a solidarity mechanism between the member states was indeed foreseen. However, its implementation will be one of the most difficult challenges.

Discussion and findings

During the discussion following the inputs it was especially the challenges and needs of refugee families as transnational families that were raised. Participants shared their experiences and results of their studies on migrant and refugee families and children and argued children were particularly affected, both in the short and long term. This is especially the case when families and children are detained in arrival centres and separated from other family members. The experts expressed concern that state policies on border crossings shape and frequently negatively affect family life. Moreover, there were also concerns about children's rights (for instance their right to education) during their stay in asylum or detention centres. Against the backdrop of those concerns, the participants deeply regretted that currently the debate, particularly on the asylum system, has been mainly driven by the perspective of reducing the numbers of refugees entering the European Union and managing the distribution of them within the EU. The perspective of family life and the well-being of children seems underrepresented. The participants found this to be even more problematic as they stressed that the migration of families or their individual members was not just an individual choice. Instead, it often is a family decision which is based on the family needs and which also takes into account the potential negative consequences which is foremost the potential loss of a family's life.

The participants agreed that what is all too clear is that we need a systematic approach rather than an emergency approach.

Main observations and findings that were raised in the discussion:

- **Understanding of the concept of a 'family' is crucial**: The participants stressed that the understanding of the concept of a 'family' is crucial. Currently, it seems as if policymakers have a double use of the family concept, depending on what suits them: in the case of unaccompanied minors they look at the extended families, in other case they consider only core family. It is clear that there are administrative and normative problems in accepting family constellations other than the European ones. This is also an important discussion in the family reunification directive (Council Directive 2003/86/EC). There are many problems with the documents, EU countries ask for documents that we have but which do not exist in other countries. Another example is adoption. For example, in Germany only full adoption is recognised, but in some countries adoption is not always registered, as in the case of the informal fostering of children in many sub-Saharan African countries.
- **Definition of 'vulnerable' people**: Participants raised a general concern whether the Pact sufficiently takes sufficient account of the rights of vulnerable migrants and families. While many policies include clauses addressing vulnerability, it was argued that it due to its elusive nature it was very difficult to define who qualifies as 'vulnerable' or 'in a vulnerable situation'. Therefore, determining the authority responsible for making this determination

was seen a pivotal decision. This complexity was exemplified by ongoing efforts led by the European Union Agency for Asylum (EUAA) to conduct vulnerability assessments, particularly focusing on mental health issues. The experts stated, that despite the partial recognition of mental health issues in vulnerability assessments, practical challenges persist in accurately identifying and addressing these problems. It was argued that the legal frameworks governing asylum procedures often lack the necessary time and resources needed for thorough mental health assessments. This raises concerns about the adequacy of protection provided to individuals facing mental health challenges within the existing legal frameworks.

- **Health issues of supporting staff**: Besides focusing on the mental health of migrants, some participants pointed to the mental well-being of the staff working with migrants which often goes overlooked. This is a significant concern, as the health and resilience of those persons are critical components in ensuring effective and empathetic assistance. The participants asked for training programs that should equip staff with the skills to navigate complex situations, manage emotional stress, and establish healthy boundaries. Cultivating empathy while maintaining professional detachment is a delicate balance that requires continuous training, ongoing support as well as a sustainable and supportive environment. It was added that those challenges require a collaborative effort involving policymakers, organizations, and mental health professionals. a sustainable and supportive environment.
- **Just two options: asylum or return**. In the current debate the options for migrants are only two extremes: They either receive asylum or they have to return. There is no option on humanitarian reasons. This reduction to those two extremes might increase the number of undocumented people.
- **Family unity**: It remained an open question to what extend family unity will be of relevance when states implement the Pact. For instance, the Italian government is considering opening detention centres in many regions in Italy rather than just at the borders. Will family unity be taken into account when people are distributed to different detention centres? Are there similar considerations in the Pact?
- **"Europe" and "the European Union" are not congruent**. It was argued that the European states that currently are not in the European Union might face raising challenges if their perspective as important countries for the arrival of refugees were neglected. Not only does a lot happen in the countries people pass before entering the EU, the border management will also have a direct impact on the countries on the other side of the border. Moreover, the last country where people were before entering the EU is the country where people are sent back to. This external dimension is outside the discussions on the Pact and there are different opinions on how to proceed.
- **The implementation phase** is likely to be quite long and very important. While it was felt that it was good in general terms to have joint European standards that are more harmonised between member states and that too much differences are avoided.

However, it remains to be seen whether what those standards are and whether this turns out to be true after implementation. There might be a gap between the general description of the pact and the practice.. The long implementation phase gives a chance to the organisations to still have impact, even after the Pact has been adopted. Moreover, there will be future discussions about the Pact, on which organisations and researchers can work. It was raised that the local level might be under represented in the current debate. Complicated things at an international level can sometimes be solved more easily at the local level. In this context the participants reflected on alternatives to traditional accommodation infrastructures. For example, informal non-state actors intervened in the Ukraine crisis. The participants argued that there was much to learn from this. The question is also how migrant communities that are already there can play a role. What about community sponsorship? The Canadian example is interesting in this.

- **Family Reunification as push for integration**: Mobility is a process, there is not just one starting point and one end point. Additionally, resettlement has long-term implications for families, just as it has for society. Participants argued, that there was also a positive long-term impact for society when refugees' family life is supported, for example by enabling appropriate family reunification. The research has shown that a secure family life is an important prerequisite for integration. Caring for people arriving is thus in the interest of a society. Participants referred to a study by the Immigrant Council of Ireland, Dublin, Ireland and the Centre for Migration Law, Law Faculty, Radboud University Nijmegen, The Netherlands on whether family reunification helps or hinders integration and which concludes that: "the restrictive measures on the admission and residence of family members have not furthered integration and in many cases may have actually impeded it. Being excluded means, in any case, that integration is not promoted. Delay in the process means that the family members live separately, and thus, focus on the process and not on the host society. Children are badly affected by the delay, because they miss at least one parent and their language learning and integration process are delayed. These conclusions contrast with the objective of integration, formally used by governments to introduce restrictive admission rules."
- **Family left behind**: The participants stressed the importance of thinking about the impact on the areas people leave, which might have reciprocal impacts for the migrants. For example, when young people come to Europe, they are often under great pressure to send money to relatives in their home country. They feel pressure to earn money quickly. Because they cannot wait three to five years to earn money, they are sometimes reluctant to go through education systems. Among others, participants identified the need for more research on family members left behind.
- **Impact assessment**: Participants called for an impact assessment. The UN Convention on the Rights of the Child should be relevant to use as a framework to evaluate the operationalisation of the Pact, even though

the European Union is not officially bound by the convention. It was recognised that there still was a problem with data. For instance, at this stage, many people are not registered. In this sense, it was highlighted that it is necessary that the Eurodac system and other databases on irregular migrants be developed and regularly updated, in order to become a tool for more efficient monitoring of irregular migrants and applied asylum procedures. Also, participants stressed to ensure the availability of data from the mentioned databases for the purpose of analysis and research.

The Participants suggested organising more of these policy updates where policymakers, advocacy organisations and academics exchange views on new policy developments or challenges related to transnational families. For example, the issue of high remittance costs, complex family reunification procedures or the issue of missing migrants on migration routes were mentioned as possible topics for similar sessions. For TraFaDy itself, it will flag the discussions around this issue and its implications for transnational families to the working groups of the Action.