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Trends in International Politics 2023

Continuities and Ruptures in the EU's Border and Migration Control Regime

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After years of decrease in the public salience of the issue, border security and migration control are back on top of the agenda in the European Union. Rows around issues such as the Schengen accession of Romania and Bulgaria, the ongoing debate about refugees from Ukraine and the deteriorating humanitarian situation in the Mediterranean have once again caused intense political debates in Brussels and the member states. While numerous topics (such as cooperation with third countries) arise in this context, this report will deal with three aspects – the further implementation of the EU Pact on Migration, the general technologization of border management and the operationalization of two new databases in the field of mobility control at the borders. These issues bear both political and academic significance and are thus major developments to observe in 2023.

European Pact on Migration and Changing Institutional Settings: In autumn 2020, the European Commission issued a proposal on a "New Pact for Migration and Asylum" where it brought forward substantial reforms to the current architecture of migration politics in the EU (European Commission 2020). However, not much progress has been made since, as the European Council has struggled to find a common line on of the most contentious political topics in Europe. With national circumstances changing in central member states (such as the government changes in Italy) the further development of

migration politics as a whole, and in context of the Pact in particular are crucial trends to observe in 2023. In addition, the move of Ukrainians towards the EU as a consequence of the Russian invasion of Ukraine has enabled specific mechanisms, such as the triggering of the Temporary Protection Directive[1] (European Union 2001), which are likely to become important elements of future migration politics. With the war likely to last into 2023, refugees from Ukraine will remain at the top of the political agenda. However, as migration is an ongoing controversial issue in the EU, the implementation of the Pact on Migration will be important to observe – both in the sense if it can be implemented at all and if so, how and which elements. In this sense, institutional changes, such as a new Executive Director at Frontex or the change of the European Asylum Office (EASO) into a more powerful body, the European Asylum Agency (EUAA), will change power structures and modes of governing migration in the EU.

Technologies in Border Management:

An ongoing development of in border security and mobility control is the constant introduction and extension of technological means, both on a structural level through databases (as the following section will show) as well as at much more mundane levels. This trend is fostered through political demands, which state that "effective" controls rely on high-quality biometric data

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[1] The Directive, which was introduced in 2001 following the Yugoslavia wars hands instruments to member states to handle situations of increased

movement due to crisis situations such as armed conflicts

such as fingerprints and increasingly also facial recognition. One major trend that public actors have become interested in and that will grow increasingly salient in 2023 is the application of Artificial Intelligence-based devices in EU border control (eu-LISA 2020; European Parliament 2021; Frontex 2021). For example, the European Commission (2021) is assessing the possibility of using AI to forecast migratory movements and predict shifts in migration. Such proposals raise various challenges and problems, particularly in terms of exacerbating violence towards migrants and risking to implement strict measures – such as forced returns and denying access - based on algorithmic calculation (Bellanova et al. 2021). Similar controversies arise in the context of facial recognition, which impedes fundamental rights and carries a high potential for discriminatory application and racial profiling (Fundamental Rights Agency 2019). Similar observations can be made for the application of surveillance technologies, such as drones, and the extension of surveillance, for example through the European Border Surveillance System EUROSUR. Therefore, researching the ongoing technologization of border security requires a deep engagement with these problematics, as state-of-the-art technologies have become a prime instrument of governance in the political field of migration control.

Introduction of new information systems: Two new information systems in the field of border management and migration control will become operational in 2023 in the European Union. First, the Entry-Exit System (EES) will start in May 2023. This system automatically registers entries and exits of non-EU citizens with short term visa with the objective to combat overstaying and illegal entry. Second, the European Travel Information and Authorisation System (ETIAS) will commence its function in autumn 2023. With ETIAS, the EU introduces a pre-travel registration system akin to the ESTA-system in the United States where travellers from visa-exempt countries will need to register and obtain clearance for their travels. The EU has defined the objectives of, and thus the necessity for, these systems as the improvement of security, the increase in control of movements, as well as greater effectiveness of border checks, thereby accelerating the process for those deemed safe travellers (Alegre, Jeandesboz, and Vavoula 2017). A crucial aspect of these systems will be how they are embedded in the wider objective of interoperability of databases (Bellanova and Glouftsios 2022; Leese 2020), meaning the connection of new databases with existing ones, such as the Schengen or the Visa Information System, in order to close knowledge gaps. In this context, the recast of the EU's fingerprint database Eurodac, which is ongoing and will take substantial steps in 2023, is another crucial factor to behold. Questions that emerge from this change in the EU's border security architecture and also in the new modes of governing mobility through these new databases are manifold, but I would highlight particularly questions of fundamental rights and discrimination

(Fundamental Rights Agency 2018) and the ensuing distinction between "bona-fide" travellers and "dangerous" migrants (Franko 2011), as these might result in a further criminalization (Brouwer, Van Der Woude, and Van Der Leun 2017) of migration and stricter rules on migration.

Bibliography

Alegre, Susie, Dr Julien Jeandesboz, and Dr Niovi Vavoula. 2017. "European Travel Information and Authorisation System (ETIAS): Border Management, Fundamental Rights and Data Protection." *Study for the LIBE Committee*, 60.

Bellanova, Rocco, and Georgios Glouftsios. 2022. "Formatting European Security Integration through Database Interoperability." *European Security* 31 (3): 454–74. https://doi.org/10.1080/09662839.2022.2101886.

Bellanova, Rocco, Kristina Irion, Katja Lindskov Jacobsen, Francesco Ragazzi, Rune Saugmann, and Lucy Suchman. 2021. "Toward a Critique of Algorithmic Violence." *International Political Sociology* 15 (1): 121–50. https://doi.org/10.1093/ips/olab003.

Brouwer, Jelmer, Maartje Van Der Woude, and Joanne Van Der Leun. 2017. "Framing Migration and the Process of Crimmigration: A Systematic Analysis of the Media Representation of Unauthorized Immigrants in the Netherlands." *European Journal of Criminology* 14 (1): 100–119. https://doi.org/10.1177/1477370816640136.

eu-LISA. 2020. "Artificial Intelligence in the Operational Management of Large-Scale IT Systems. Perspectives for Eu-LISA." Research and Technology Monitoring Report. Luxembourg.

European Commission. 2020. "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum."

———. 2021. *Feasibility Study on a Forecasting and Early Warning Tool for Migration Based on Artificial Intelligence Technology.* LU: Publications Office. https://data.europa.eu/doi/10.2837/932912.

European Parliament. 2021. *Artificial Intelligence at EU Borders: Overview of Applications and Key Issues.* LU: Publications Office. https://data.europa.eu/doi/10.2861/91831.

European Union. 2001. "Council Directive 2001/55/EC of 20 July 2001 on Minimum Standards for Giving Temporary Protection in the Event of a Mass Influx of Displaced Persons and on Measures Promoting a Balance of Efforts between Member States in Receiving Such Persons and Bearing the Consequences Thereof."

Franko, Katja. 2011. "'Crimmigrant' Bodies and Bona Fide Travelers: Surveillance, Citizenship and Global Governance." *Theoretical Criminology* 15 (3): 331–46. https://doi.org/10.1177/1362480610396643.

Frontex. 2021. "Artificial Intelligence-Based Capabilities for the European Border and Coast Guard." Warsaw: Frontex.

Fundamental Rights Agency, ed. 2018. *Under Watchful Eyes: Biometrics, EU IT-Systems and*

Fundamental Rights. Freedoms / FRA, European Union Agency for Fundamental Rights. Luxembourg: Publications Office of the European Union.

———. 2019. *Preventing Unlawful Profiling Today and in the Future: A Guide.* http://publications.europa.eu/publication/manifestation_identifier/PUB_TK0618389ENN.

Leese, Matthias. 2020. "Fixing State Vision: Interoperability, Biometrics, and Identity Management in the EU." *Geopolitics*, Online First, 1–21. https://doi.org/10.1080/14650045.2020.1830764.