Global Europe: Legal and Policy Issues of the EU's External Action

Volume 1

Editors-in-Chief

Narin Idriz, T.M.C. Asser Institute, The Hague, The Netherlands Eva Kassoti, T.M.C. Asser Institute, The Hague, The Netherlands

Advisory Editors

Elaine Fahey, Institute for the Study of European Law, City University London, City Law School, London, UK

Ramses A. Wessel, Faculty of Law, University of Groningen, Groningen, The Netherlands

Katja Ziegler, University of Leicester, Leicester, UK

The Global Europe Book Series: Legal and Policy Issues of the EU's External Action Series is a peer-reviewed book series that explores the legal and policy issues pertaining to the EU's global actorness. The editors of the book series welcome edited volumes as well as monographs exploring the EU's identity as an international actor. The coverage extends to submissions identifying the internal and external factors that may challenge the EU's capacity to exercise value-based global leadership on crucial issues affecting European citizens as well as those from other parts of the world; critically reflecting on whether the external projection of the EU as a virtuous normative power comports with its practice on the ground as well as addressing the descriptive, normative and conceptual challenges that complement the ever-expanding global reach of EU law.

More information about this series at https://link.springer.com/bookseries/16683

Eva Kassoti · Narin Idriz Editors

The Informalisation of the EU's External Action in the Field of Migration and Asylum





Eva Kassoti T.M.C. Asser Institute The Hague, The Netherlands

Narin Idriz T.M.C. Asser Institute The Hague, The Netherlands

ISSN 2666-4828 ISSN 2666-4836 (electronic) Global Europe: Legal and Policy Issues of the EU's External Action ISBN 978-94-6265-486-0 ISBN 978-94-6265-487-7 (eBook) https://doi.org/10.1007/978-94-6265-487-7

Published by T.M.C. ASSER PRESS, The Hague, The Netherlands www.asserpress.nl Produced and distributed for T.M.C. ASSER PRESS by Springer-Verlag Berlin Heidelberg

© T.M.C. ASSER PRESS and the authors 2022

No part of this work may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, microfilming, recording or otherwise, without written permission from the Publisher, with the exception of any material supplied specifically for the purpose of being entered and executed on a computer system, for exclusive use by the purchaser of the work. The use of general descriptive names, registered names, trademarks, service marks, etc. in this publication does not imply, even in the absence of a specific statement, that such names are exempt from the relevant protective laws and regulations and therefore free for general use.

This T.M.C. ASSER PRESS imprint is published by the registered company Springer-Verlag GmbH, DE part of Springer Nature.

The registered company address is: Heidelberger Platz 3, 14197 Berlin, Germany

Contents

1	The Informalisation of the EU's External Action in the Field of Migration and Asylum Eva Kassoti and Narin Idriz	1
Par	t I Constitutional Implications	
2	EU Readmission Deals and Constitutional Allocation of Powers: Parallel Paths that Need to Cross?	15
3	The Informalization of EU Return Policy: A Change of Paradigm in Migration Cooperation with Third Countries? Juan Santos Vara and Laura Pascual Matellán	37
4	Labour Immigration: Can "Soft" Instruments Provide Legal Pathways for Third Country Nationals? Fanny Tittel-Mosser	53
5	The EU-Turkey Statement and the Structure of Legal Accountability Bas Schotel	7 3
Par	t II Human Rights	
6	The Right to Transparency in the External Dimension of the EU Migration Policy: Past and Future Secrets	97
7	Effective Judicial Protection in the External Dimension of the EU's Migration and Asylum Policies? Melanie Fink and Narin Idriz	117

vi Contents

8	The Informalisation of Migration Deals and Human Rights of People on the Move: Does It Matter? Annick Pijnenburg	147
9	Adjudicating Asylum as a Technical Matter at the Court of Justice of the European Union: Neglecting Human Rights when the CEAS Appears to be in Jeopardy?	169
10	"Protection" or "Instrumentalization" of Refugees: Will the European Court of Human Rights Fill in the Gaps in Pushback Cases After the Greece/Turkey Border Events? Ayşe Dicle Ergin	193
Par	t III Impact on Third Countries and Global Implications	
11	One Instrument in Search of an Author: Revisiting the Authorship and Legal Nature of the EU-Turkey Statement Eva Kassoti and Alina Carrozzini	237
12	The Internal Effects of the EU-Turkey Deal on Turkey's Migration and Asylum System	259
13	The Global Politics of Refugee Protection and Return: The Case of the Syrian Refugees	287
14	The "Burden" of Being "Safe"—How Do Informal EU Migration Agreements Affect International Responsibility Sharing? Emanuela Roman	317