

MIGRATION AND ASYLUM: POLICY OVERVIEW. DIVERGENCE AMONG EU MEMBER STATES

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Abstract: *EU member states' migration and asylum policies are influenced by a complex interplay of national interests, historical contexts, and societal attitudes, leading to divergence. Despite the EU's goal of a unified migration approach, there are still considerable obstacles that require ongoing discussions and collaboration between member states for the fair and compassionate treatment of migrants and asylum seekers. The significance of migration and asylum policies in the EU will be explored in the paper. The analysis will examine also the EU's migration and asylum laws, including the Common European Asylum System, and underline the position of some Member States.*

Key words: *migration, asylum Policies, European Union*

1. Introduction

Why do people migrate? Migration can be influenced by several factors, including security, demography, human rights, poverty, and climate change.

So, people may migrate for different reasons, such as economic, environmental, or social factors, and the migration can be voluntary or involuntary. Push and pull factors are the primary drivers of migration. Leaving one's country is a consequence of push factors, while the desire to move to a particular country is driven by pull factors. Socio-political, demographic, economic, and environmental factors are the main types of pressure and pull factors.

The European Union provides protection to people escaping persecution or threat in their homeland; migration is the process of individuals moving to a new area to establish residency.

By extrapolating from theory to reality, it becomes obvious that the world is currently grappling with migration crises caused by civil wars, conflicts, persecution, and political instability. In the regions affected by these crises, Europe emerges as a crucial destination for displaced populations in search of safety and stability.

The pandemic led to restrictions on migration, but there was a resurgence in numbers

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in 2021. As we saw the refugee crises caused by the Syrian Civil War and the Russian invasion of Ukraine are the most significant ones in the 21st century.

2. Methods

In its approach, the study integrated a blend of general scientific methods (deduction, analysis, and synthesis) and specific scientific methods (comparative legal and formal legal).

3. Discussion

In the EU, member countries work together to uphold high standards of refugee protection, facilitated by shared values and unrestricted movement across borders. The 1951 Geneva Convention states that nations have a global obligation to consider offering asylum as a fundamental right.

In 1999, the EU implemented the Common European Asylum System (CEAS). The European Union's objective is to establish a comprehensive and sustainable migration policy that focuses on unity, fairness, and effective responses in all scenarios.

The European Commission has prioritized the effective handling of migration streams through the European Agenda on Migration since 2015. The EUAA (The European Union Agency for Asylum) is essential for ensuring that EU laws are implemented in the Common European Asylum System (CEAS). By enforcing common standards and encouraging cooperation, the CEAS seeks to guarantee equal and fair treatment for asylum seekers.

Five legislative instruments govern the operation of the system: The Asylum Procedures Directive, The Reception Conditions Directive, The Qualification Directive, The Dublin Regulation, and The EURODAC Regulation are all part of the legal framework for asylum seekers; the European Commission's official website provides details about all these instruments. (European Commission, Common European Asylum System)

The Dublin III Regulation, implemented in July 2013, is a fundamental EU law establishing which member state is responsible for processing asylum requests filed within the EU. The objective was to control the multiple asylum applications from the same individual across different Member States, promoting efficiency and fairness in processing asylum requests. (European Commission, Migration and Home Affairs)

The current version, known as Dublin III, began operating in January 2014. Increased protections for vulnerable groups, like unaccompanied minors, were among the changes implemented.

The regulation establishes specific processes and deadlines for transferring applicants to the responsible state, including safeguards to prevent refoulement, which involves sending people back to places where their lives or freedom are in danger.

The responsibility for international protection applicants is determined by the rules of the CEAS. With the inclusion of a refugee fingerprint database, it sets universal standards for refugee protocols, reception conditions, and the acknowledgment and safeguarding of individuals granted international protection.

The European Asylum Support Office provides support for the implementation of the CEAS. (European Commission, Proposal, p. 2)

The European Commission proposed a thorough overhaul of the migration and asylum policy in 2020. It underscored three fundamental pillars: efficient asylum and return protocols, equitable sharing of responsibilities, and stronger alliances with countries outside the EU. The European Commission's New Pact on Migration and Asylum, approved on 23 September 2020, covers all the essential aspects of a comprehensive migration strategy. The New Pact recognizes that every Member State should contribute to solidarity in a fair and consistent manner.

The pact encountered significant opposition from Amnesty International, Human Rights Watch, and more than 160 other rights organizations, who argued that it would bring about more anguish, lowered security, and an increase in rights abuses. (Henley, 2024)

In the first half of 2024, the EU+ received more than 500,000 asylum applications. Unlike the peak of the 2015–2016 refugee crisis, this period has remained stable in contrast to the previous timeframe. (European Union Agency for Asylum, Latest Asylum Trends, 2024)

The EU+ encompasses not only the 27 EU Member States, but also Norway and Switzerland.

In 2024, Germany continued to be the preferred destination for asylum seekers in the EU+ despite a 20% decline in applications from the first half of 2023.

The number of applications from Syrians remained notably higher than any other nationality in the first half of 2024, making up 14% of the total and displaying a 7% growth from the same period in 2023 (according to EUAA). (European Union Agency for Asylum, Latest Asylum Trends, 2024)

The EUAA announced in May 2024 that asylum applications in the EU+ region are still decreasing compared to the peak in autumn 2023. Syrian applications (12,000) remained consistent compared to last month, but they have significantly decreased from the highest point in October 2023. Moreover, following the increased number of people arriving in the Canary Islands, there has been a corresponding increase in asylum applications from multiple nationalities, including individuals from Mali and Senegal. (European Union Agency for Asylum. Asylum applications, 2024)

By June 2024, the EU+ had granted temporary protection to approximately 4.5 million individuals who had left Ukraine as a result of Russia's complete invasion. Among all the countries, Czechia stood out for hosting the most beneficiaries per capita, with Lithuania and Poland close behind. 'Temporary protection' is a specific term that describes a process granting immediate and short-term shelter to displaced individuals from third countries who are unable to return home.

The Council of UE decided on 25 June 2024 to prolong temporary protection for over 4 million Ukrainians until 4 March 2026, due to Russia's war of aggression. The temporary protection mechanism was activated on March 4, 2022, shortly after the Russian armed forces invaded Ukraine, and will remain in effect until March 4, 2025. (European Council. Council of the European Union. Ukrainian refugees, 2024)

The pressure on EU+ countries isn't always accurately represented by the number of

monthly applications alone. The asylum and reception systems differ in size and administrative capacities, so the number of asylum applications received per capita is a more accurate indicator. Among the EU+ countries, Cyprus stands out for having the highest number of applications per capita, with a population of 921,000. Indeed, Ireland (2,000) received approximately 1 application for every 2,600 inhabitants in its population of around 5.3 million. (European Union Agency for Asylum. Asylum applications, 2024)

On February 8, 2024, the reform was approved, and on May 14, 2024, the Council adopted the EU pact on migration and asylum. The reform aimed to reduce pressure on EU countries that receive the most migrants, create a more equitable and efficient system for registering and processing asylum requests, and decrease secondary migrations. (European Council. Council of the European Union. Migration, 2024)

Initially in 2016, the European Commission suggested implementing a permanent framework and standardized relocation process across the EU to replace existing ad hoc mechanisms. Starting from 2024, the Council has given its approval to an EU relocation plan and humanitarian admission for two years, following the Commission's proposal.

The new EU resettlement plan provides information on the total maximum number of people to be admitted, Member States' participation, and global geographical priorities. With the EU pact on migration, asylum applications will be processed faster, even at the Union's borders.

Further improvements consist of expedited and more efficient arrival identification procedures, alongside enhanced security measures, vulnerability assessments, and obligatory medical screenings for individuals irregularly entering the EU.

Member States have the flexibility to decide if they will take on the responsibility of asylum seekers, provide financial contributions, or offer operational support. They will now have the capacity to intervene more effectively during crisis situations, while also implementing a voluntary mechanism for resettling refugees from third countries. In order to aid Union countries facing migrant flows, other states can help by relocating asylum seekers or beneficiaries of international protection, offering financial contributions, or providing operational and technical support.

According to the new legislation, all participating states are required to provide support to EU countries facing significant migratory pressure. An annual solidarity pool will be set up, and all EU countries will have to participate through relocations of financial support. The calculation of each state's contribution to the member states is determined by population size (50%) and GDP (50%), allowing for flexibility in contribution type. Member states dealing with migration strain must inform the Council and the Commission, expressing their decision to utilize the pool and potentially reduce their solidarity contributions. (European Parliament. News. EU Regulation, 2024)

The new EU rules aim to address migratory crises that involve a significant influx of foreign individuals or stateless persons, regardless of the way they get to the destination—by land, air, or sea. These rules will also apply to individuals who have been rescued and disembarked. If a member state's asylum, reception, protection services for minors, or return system breaks down, it can seriously impact the EU asylum system, classifying it as a crisis.

The regulations would still be applicable if a foreign nation or hostile non-state actor assists in transporting third country nationals and stateless individuals to the EU or another state with the intention of causing instability. (European Parliament. News. MEPs, 2024)

When confronted with a difficult circumstance, the state will need to present a proper inquiry to the Commission, which will analyze the situation and provide a resolution within two weeks. Additionally, a proposal will be made to the Council on support actions and waivers, along with a proposal defining the eligible individuals for prima facie protection.

The new rules anticipate a reliable and lasting system of solidarity requiring all countries to offer assistance to a country facing difficulties.

The regulation for crisis situations and force majeure has provisions to address sudden influx of arrivals. Thus, Union nations grappling with a high number of people from non-member states can depend on the support and assistance of other countries. The new rules aim to prevent the use of migrants by non-EU countries or hostile non-state actors to destabilize the Union.

Ineligible individuals must go through a screening process to enter the Union. They will go through an identity verification process, have their biometric data collected, and undergo security and medical screenings. The entire process can be completed within a maximum of seven days. Member States need to establish independent monitoring mechanisms to safeguard respect for fundamental rights.

4. Conclusions

A new standardized procedure will be implemented at the Union level for granting and revoking international protection. To improve efficiency, future asylum applications at EU borders should have shorter deadlines for unfounded or inadmissible cases.

The European Parliament has approved new uniform standards that will apply to the recognition of refugee status or eligibility for subsidiary protection among member states. There will be periodic assessments of refugee status. Applicants for protection are required to stay in either the state responsible for processing their application or the state that has approved their protection.

It is the responsibility of Member States to guarantee comparable reception standards for asylum seekers, encompassing living conditions, education, and healthcare. Once their application is submitted, registered asylum seekers will have the chance to start working within six months.

The objective of the new migration and asylum policy is to assist EU countries facing migrant flows, while other states can contribute by relocating asylum seekers, providing financial support, or offering operational and technical assistance.

The changes will take effect in two years according to the regulations. So, this reform is set to take effect solely starting in 2026. Member States have a two-year timeframe to modify their national legislation regarding the Reception Conditions Directive.

“We made history”, declared the President of the European Parliament, Roberta Metsola. “We have provided a solid legislative framework on how to approach migration

and asylum in the EU. The preparation took more than 10 years, but we kept our word. A balance between solidarity and responsibility. This is the European way". (We made history, 2024)

Diverse political, economic, and social backgrounds contribute to substantial disparities among member states in the EU's migration and asylum policy. Despite the EU's efforts to establish a unified approach with regulations such as CEAS, individual states often have their own policies or differ in their level of cooperation.

Migration and asylum have become major and complex issues in European politics. This issue's impact on social, economic, and security issues throughout the continent is considerable.

The freedom of movement in the Schengen Area was a major achievement for the European Union, fostering economic activities and connections among citizens. Changing migration patterns and the reactions of certain European states have created uncertainty about the project's future.

The increasing problem of illegal immigration has led to the significant political consequence of the rise of populist and xenophobic far-right parties. Despite the EU's asylum rights, certain European countries are implementing restrictions such as border controls, fences, and reduced social allowances. The current reforms to the asylum system are inadequate, calling for a renewed debate to address states' main concerns and identify effective solutions.

The legal framework is revealed to be inappropriate for the current situation, leading to considerable difficulties, the issues of national identity, security, and integration being often highlighted. Despite EU-wide integration policies, some countries have significantly different approaches, causing friction and social tensions.

The disparities in views among EU member states about migration and asylum are partly caused by the ways in which asylum seekers are received differently.

Germany has been one of the most hospitable countries to asylum seekers, particularly during the 2015 refugee crisis, when it received over one million refugees. As is generally known, Germany continues to receive the greatest number of asylum requests inside the EU, despite changes to the situation regarding former Chancellor Angela Merkel's open-door policy.

Poland and Hungary, on the other hand, have firmly refused to take in a significant number of asylum applicants. Hungary established stringent legislation making it more difficult for asylum seekers to obtain protection, erected border barriers to deter migrants, and declined to take part in the EU's relocation program.

The effectiveness of this reform is still unknown. The new solidarity rules were promptly rejected by Italy, Germany, Hungary, and Poland, who refused to accept relocations.

To distribute asylum seekers more fairly among all member states, the Western and Northern EU members (such as Germany, Sweden, and Finland) agreed to implement mandatory quotas; however, among the Central and Eastern European countries, Hungary, Poland, and the Czech Republic stand out because they have consistently opposed such quotas and view them as an infringement on national sovereignty. Their stance, which has created significant political issues inside the EU, is that relocation

quotas compel countries to accept cultural practices that might not mesh well with their own communities.

The pact's functionality is raising serious concerns among experts due to its increased complexity and potential lack of participation from certain member states.

Another concern and divergence on the UE agenda involves the control and pushback of migrants.

The statistics show clearly that Italy and Greece being frontline countries and primary entry points for migrants arriving by sea, have experienced overwhelming pressure. Both countries are urging the EU to implement greater burden-sharing, stating that the current system unfairly places too much responsibility on states where migrants initially enter.

On the other hand, southern states have faced criticism from non-frontline countries like Finland and Sweden for their poor handling of migrant registration and processing.

These examples prove the differing opinions about how to handle immigration and asylum policy exist across EU members.

Therefore, despite the New Pact on Migration and Asylum put forth by the European Commission, EU-wide changes to migration policy encounter difficulties because of competing national interests and goals.

The ongoing impact of migration and asylum on European politics is significant and will persist for the next period. To adequately deal with evolving global circumstances, Europe needs cooperative and creative solutions for migration and asylum issues that balance humanitarian obligations and domestic concerns as well. Consequently, political solutions for this issue in the future must consider both the present emergencies and the origins of migration.

The EU asylum system's gaps became visible by the arrival of over one million migrants and asylum seekers since 2015, showcasing the contrasting attitudes of states towards accepting them. Today, these gaps have not been resolved.

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