

Perilous Stalemate. An Attempt to Diagnose the State of the European Union Strategy on Migration and Asylum

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Abstract

This article critically examines the ongoing challenges in developing and implementing the European Union's migration and asylum policy, focusing on the New Pact on Migration and Asylum adopted in May 2024. The research explores the EU's struggle to build a coherent, effective, and fair migration system amid diverging national interests, recurring crises, and the rising securitization of migration. The analysis traces the evolution of EU migration policy, its legal and institutional foundations, and the role of both supranational and national actors, alongside external factors. Despite reforms like the Schengen Agreement and successive policy programs, EU migration governance remains fragmented by ambiguous treaties and tensions between solidarity and national sovereignty. The New Pact introduces standardised procedures and a solidarity mechanism, but its effectiveness is limited by voluntary aspects and opt-outs, risking deeper divisions. The article concludes that, while the Pact improves coordination, it falls short of overcoming the EU's core institutional and political obstacles, and effective migration management will require balancing security, rights, and fair responsibility-sharing in a rapidly changing geopolitical environment.

Keywords: migration policy, asylum policy, Pact on Migration and Asylum, European Union

JEL Classification: F22, F53, F55, N44

Introduction

The European Union stands at a critical juncture in the articulation and implementation of a coherent migration and asylum policy. The persistent tension between national sovereignty and supranational governance structures, coupled with recurring waves of irregular migration, has positioned migration management as one of the most consequential and contested policy domains within the Union. The complexity of this

issue is further compounded by the securitization of migration discourse, wherein movement of populations is increasingly framed as a threat to internal security and cultural cohesion, rather than as a natural feature of globalized societies. The European Union's approach to migration management has evolved incrementally since the mid-1970s, yet the EU's migration and asylum regime remains fundamentally undermined by structural fragmentation, vague treaty provisions, and persistent tensions between collective solidarity and national interest.

The adoption of the New Pact on Migration and Asylum in May 2024 represents the most comprehensive legislative overhaul of the Union's migration governance architecture since the Dublin III Regulation of 2013. This framework comprises nine interconnected regulations and directives addressing every dimension of migration management: from screening and identification of third-country nationals at external borders, through harmonization of asylum procedures, to the establishment of mandatory solidarity mechanisms among member states. The Pact introduces substantive innovations, including expanded biometric data collection systems (Eurodac), accelerated border procedures, streamlined return processes, and a reformed Dublin system supplemented with mechanisms intended to distribute responsibility for asylum processing more equitably among member states. However, the apparent comprehensiveness of the Pact masks profound substantive contradictions and unresolved political tensions regarding the adequacy of procedural safeguards, the asymmetric geographic distribution of migration pressure, and concerns articulated by human rights organizations regarding detention frameworks and access to effective remedies.

The fundamental research problem addressed by this study concerns the persistent inability of the European Union to construct and implement a migration and asylum policy that simultaneously achieves three critical objectives: (1) the effective management of regular and irregular migration flows through robust institutional and legal mechanisms; (2) the protection of fundamental human rights and maintenance of international legal obligations, particularly regarding non-refoulement principles enshrined in the 1951 Geneva Convention; and (3) the equitable distribution of responsibility and burden-sharing among member states reflecting collective commitment to European solidarity.

The principal objective of this article is to diagnose comprehensively the current state of the European Union's migration and asylum strategy through historical and institutional analysis. This diagnosis examines the structural factors, geopolitical contingencies, and political dynamics that have shaped the trajectory of EU migration policy from its inception in the 1970s through the present moment. Specifically, the research addresses three primary questions: (1) how has the European Union's migration and asylum policy evolved institutionally and normatively since the 1970s, and what structural factors have prevented the development of a genuinely coherent supranational migration regime?; (2) to what extent does the New Pact represent a transformative resolution to historical deficiencies in EU migration governance, or does it perpetuate existing contradictions between solidarity and sovereignty, security and human rights?; (3) how do external geopolitical factors interact with the EU's institutional framework for migration management?

The study uses research methods appropriate for social sciences. The author of the study has conducted an in-depth literature review on EU migration and asylum policy, current challenges in the implementation of the asylum and migration pact, and external factors determining the vectors of EU migration policy development. Among various authors and researchers focused on the issue of EU's migration policy the academic output of Sylwia K. Mazur and Marta Pachocka have been particularly valuable for this study.

The article also employs a qualitative, historical-institutional methodology integrating multiple analytical approaches. Historical-institutional analysis traces the development of EU migration policy across distinct historical periods, identifying critical junctures where institutional structures and normative frameworks underwent significant transformation. Legal documents analysis undertakes systematic examination of the legal texts constituting the New Pact on Migration and Asylum – nine constituent regulations and directives adopted in May 2024 – analyzing substantive provisions, procedural mechanisms, discretionary authorities, safeguards, and tensions or contradictions within these instruments.

Definitions and origins of the EU's migration and asylum policy

Migration management and the formulated migration and asylum policy are currently among the most widely discussed topics concerning the internal security of the European Union in its member states, regardless of their previous experience with the migration phenomenon. Migration is a global process which, over recent years, has become a multi-faceted challenge to the functioning, integration and future of the European Union as a *sui generis* concept in the international environment, co-created by a union of 27 sovereign states.

“Migration” is “the movement of people within the borders of a given country or the movement that involves crossing an inter-state border” (Perruchoud, Redpath-Cross 2011, 62-63). “International migration”, on the other hand, refers to “the movement of people leaving their country of origin or permanent residence, to settle permanently or temporarily in another country, which involves crossing an international border” (Ibidem, 52).

The terms “refugee” and “migrant” are sometimes used interchangeably to the detriment of terminological precision. There is a fundamental legal difference between the above concepts (Pachocka, Misiuna 2015). According to the International Organization for Migration (IOM), the terminology of international law lacks a universal definition of “migrant”. For statutory purposes IOM has adopted the term to describe “a person who moves away from his place of residence, either temporarily within the country or abroad” (IOM 2019, 132-133). Quoting from the UN Office of the High Commissioner for Refugees, “refugees” are persons “who are outside their country of origin because of fear of persecution, due to conflict, violence or other circumstances seriously disturbing public order, who – as a result of the above – require “international protection” (UNHCR Poland 2016). They are often in such a dangerous situation that they cross national borders to seek safety in other countries, including neighbouring countries; so they are internationally recognized as “refugees”, persons who are entitled to assistance from other countries, UNHCR and relevant organizations. They are recognized as refugees precisely because it is too dangerous for them to return to their place of origin and, therefore, they need shelter elsewhere. These are individuals for whom the consequences of asylum denial may potentially be deadly (Ibidem).

International migrations manifest themselves in variety of forms, demonstrating the diverse motives of individuals changing their place of residence. In modern societies, there are numerous typologies of population movements which can be divided into several key categories. First of all, economic migration is a significant phenomenon in which people decide to move to other countries in search of better job prospects and economic conditions. Economic migrants, often coming from low-income areas, migrate to places where there is a demand for a variety of professional skills.

Secondly, refugee-related migrations often result from armed conflicts, political persecution or other forms of social instability. People fleeing these threats seek refuge in other countries, hoping to rebuild their lives. The third type is educational migration, where individuals relocate to pursue higher education, participate in specialized programs or develop professional skills.

Seasonal migrations related to specific periods of the year and the needs of sectors such as agriculture are also worth taking into account. People involved in this type of migration usually work temporarily, and their movements are strongly correlated with crop cycles or tourist seasons. In contrast, in the context of migration of entrepreneurs and professionals, there is a group of migrants who move with the intention of developing their professional career, establishing business partnerships or developing projects.

These diverse types of migration underscore the profound complexity of the motivations that drive individuals to leave their native environment. This diversity reveals the need to analyse international migration in the context of multiple factors, such as economic circumstances, security issues, educational aspirations and the needs of economic sectors. Understanding these subtleties enables a more comprehensive assessment of the impact of migration on societies, and the development of appropriate political and social strategies to address migration challenges (Castles, Miller 2009, 2-48; Koser 2007, 16-40).

The process of shaping the Community migration policy has been going on since the mid-1970s and brings together the migration experiences of individual countries, such as migration from Algeria to France in the second half of the 20th century (Meynier, Meynier 2011, 219-234). The 1973 oil crisis and the resulting global economic downturn led to a reduction in demand for labour in European countries. At that time, the presence of foreigners in European countries was perceived as a temporary phenomenon and the immigrants themselves as seasonal workers. However, it turned out that the newcomers did not plan to return to their homelands. They decided to bring their families and relatives with them, which in turn influenced the change of the social structure in the receiving countries. It also burdened their budgets with social benefits for the neediest.

As a result of the failure of the post-war policy of bringing in guest workers in Western Europe, the middle of the seventh decade of the 20th century saw the unexpected settlement of migrants and the reunification of their families. At the same time, the threat of a nuclear or a conventional conflict between NATO and the countries that made up the Warsaw Pact was reduced. The number of conflicts between the countries of the Old Continent decreased dramatically, while the number of settling newcomers increased in the following years, until the 1980s, with the influx of asylum seekers and illegal immigrants. This gave rise to the securitization of the migration phenomenon, that is, perceiving migration issues as a threat and their potential impact on the security of states (Buzan, Wæver 1998, 23-29).

The 1970s also marked the beginning of increased activity of terrorist groups on the European continent (Szkurlat 2018, 83-109; Stańco-Wawrzyńska 2011, 149-164; Aleksandrowicz 2008, 15 et seq.) At the same time, the escalation and externalization of the conflict in the Middle East permanently placed the problem of international terrorism on the agenda of Community efforts to ensure internal security. The need to effectively manage migration and asylum issues was then linked to the fundamental need to ensure internal security in the European Community countries.

The formation of the TREVI group in 1975¹, a cyclical meeting of the ministers of interior affairs of member states, aimed at coordinating cooperation in the field of combating terrorism, extremism, radicalism and international violence, was an impulse for the creation of the currently functioning Area of Freedom, Security and Justice (AFSJ).

The signing of the Schengen Agreement in 1985 between France, Germany and the Benelux countries was a milestone in the process of the formation of Community migration policy. On the basis of the experience of the member states which decided to introduce the free movement of people in order to boost the process of economic development, successive regulations were developed, which evolved into individual sectoral policies, i.e. legal migration policy, visa policy, asylum policy, external border protection policy or police cooperation and information exchange. The above have become components of the formed migration policy of the European Union, which, prior to the entry into force of the Maastricht Treaty in 1993, within the framework of which cooperation in the field of justice and internal affairs (Pillar III) was established, aggregating sectional activities of states in the sphere of internal security, functioned outside the Community framework and without a treaty authorization (Wyligała 2016, 167).

The 1990s were a stage of institutionalization of migration management at the Community level and a period of developing legal instruments to achieve the goals set forth in the treaties. Together with the 1990 Schengen Implementing Convention, the Schengen Agreement was incorporated into the legal order of the European Union by the 1997 Treaty of Amsterdam. *Acquis Schengen*, together with the Dublin Convention of 1990 (Dublin Convention 1990), regulating the rules for granting asylum in the member states, constitute the cornerstone of the Community migration policy.

From the point of view of the development of EU migration policy, the adoption of the Tampere Program of 1999 was crucial, with the aim of bringing about coherence in the EU by establishing the foundations of

¹ TREVI – fr. Terrorisme, Radicalisme, Extremisme, Violence Internationale. Informal working group on security established by the European Council in 1975. In the following years, TREVI I, II, III and TREVI 92 working groups were established focusing on home affairs, internal security and migration.

a common asylum and immigration policy, harmonization of border controls, closer police cooperation and mutual recognition of judicial decisions (Wyligała 2016, 168). In Tampere, it was decided to create the Common European Asylum System (CEAS), which introduced harmonized, uniform standards for third-country nationals seeking international protection in EU countries, based on the Geneva Convention and the principle of *non-refoulement*. As a compensatory measure designed to balance open borders and freedom of movement, the CEAS emphasizes a fair and harmonized asylum procedure when processing cases, regardless of the member state in which the application is filed (Mazur 2023, 32; Pacek, Bonikowska 2007; Balicki, Stalker 2006, 184–185)².

In the following years, cooperation was developed at the intergovernmental level in the field of strengthening the area of freedom, security, and justice, which was reflected in the adopted programs and action plans. The EU's largest enlargement by 10 new Member States coincided with the introduction of *the Hague Program* (Pacek, Bonikowska 2007; Balicki, Stalker 2006, 184–185) in 2004, which was a continuation of the Tampere Program and tightened cooperation between member states in the sphere of internal security, in connection with the opening of the European Union to the East, as well as in the wake of the increase in terrorist threats, most importantly the September 11, 2001 al-Qaeda attacks on the World Trade Center in New York, and the 2004 terrorist attack in the Madrid metro (Karolczak 2022, 23). *The Stockholm Program* adopted in 2009 was an extension of EU activities in the field of developing migration policy, which strengthened cooperation between member states in the field of asylum and migration and police cooperation. At the summit of the European Council in Lisbon in 2007, a draft Treaty amending the Treaty on European Union and the Treaty on the Functioning of the European Union (previously the Treaty establishing the European Community) was adopted, which, from its entry into force on December 1st, 2009, precisely organized the competences of the European Union in terms of its policies. Thus, by the power of the Lisbon Treaty, the legislative initiative in the field of migration policy was entrusted to the European Commission, and activities in the field of migration and asylum were included in the catalogue of competences shared between the European Union and the member states (Podraza 2020, 259–275). The Lisbon Treaty gave the European Union international legal subjectivity, which was important from the point of view of concluding readmission agreements with third countries. The next steps were the adoption by the European Commission of *the Global Approach to Migration and Mobility* (European Commission 2011) in 2011 and *the European Agenda on Migration* in 2015, as a response to increased migratory pressure on the southern member states, caused by the refugee crisis in connection with the outbreak of the so-called Arab Spring (Szulecka, Klaus, Strąk 2021, 7–17; Koser 2012; Carrera, Blockmans, Gros, Guild 2015).

In the following years, the work of the European Commission and the Council on the legal and institutional framework of migration policy, despite a number of proposed solutions (European Commission 2016), did not bring the expected results, due to the direction of the proposed actions that conflicted with the interests of the member states. In the current EU legal order, migration and internal affairs policy is included in Part V of the Treaty on the Functioning of the European Union (the area of freedom, security and justice), and belongs to the catalogue of competences shared between the European Union and the member states. Articles 79 and 80 of the Treaty on the functioning of the European Union define very generally the objective horizon of the EU's migration policy, while the vagueness of these issues generates problems within the community, which affects its position in the immediate external environment.

New Pact on Migration and Asylum – essence and controversies

European Commission President Ursula von der Leyen, in a communication from the EC to the EU Council and the European Parliament on September 23rd, 2020, presented the New Pact on Migration and

² The technical component of CEAS is the EURODAC information system, which records fingerprints and collects data on asylum seekers. The EURODAC system has been operating since 2003 on the basis of EU Council Regulation No. 2752 of 2000.

Asylum (the Pact), which was a set of draft regulations aimed at creating an institutional and legal framework for a uniform migration and asylum policy of the European Union (European Commission 2020; Ordo Iuris 2023, 16-23). A calendar of progress on the New Pact on Migration and Asylum is available on the official websites of the Council and the European Commission (Council of the EU and the European Council 2023). Finally, on May 14th, 2024, the Council finally adopted the Pact on Migration and Asylum. Article 85 of the 2024/1351 Regulation (being a key one) stipulates that the new regulation's provisions will apply effectively from July 1st, 2026. The Pact brings together the following regulations:

1. Reception Conditions Directive (European Parliament and the Council of the EU 2024a)

The Directive 2024/1346 sets minimum standards for accommodation, food, legal assistance, and access to basic services for asylum seekers across the EU. It also allows Member States to restrict the freedom of movement of asylum seekers, especially within border procedures or in cases where there is a risk of absconding or a threat to public order or national security. This means that individuals that are subject to border procedures may be required to stay in these designated reception centers or border zones for up to 12 weeks and, in the case of a negative decision, for an additional 12 weeks under return procedures. Detention is supposed to be a measure of last resort, but NGOs and experts point out so-called detention often occurs – meaning prolonged confinement in closed centers without an individual assessment, which violates human rights standards (Amnesty International 2025).

2. Qualification Regulation (European Parliament and the Council of the EU 2024b)

The Regulation 2024/1347 codifies the grounds for granting refugee status, closely aligning with the 1951 Geneva Convention, and explicitly covers persecution based on race, religion, nationality, political opinion or membership in a particular social group. It also clarifies the criteria for subsidiary protection, extending coverage to those facing a real risk of serious harm, such as torture, inhuman or degrading treatment or indiscriminate violence in situations of armed conflict. On the other hand, the regulation limits the ability of Member States to set higher national standards for protection, aiming for a truly common European approach, though it still allows for separate national humanitarian statuses as long as they are clearly distinguished from EU-harmonized statuses (Peers 2023). In summary, the regulation is designed to strike a balance between migration control and human rights protection.

3. Asylum Procedure Regulation (European Parliament and the Council of the EU 2024c)

The Regulation 2024/1348 harmonizes and accelerates asylum processing across the EU, notably requiring border procedures for applicants from countries with the recognition rate below 20%. These procedures allow for the detention of applicants for up to 12 weeks, during which they are not considered to have formally entered EU territory. It also introduces a “fast-track” and accelerated procedure for cases deemed manifestly unfounded or involving bad faith, raising concerns about the adequacy of individual assessments. The regulation links negative asylum decisions directly to return orders, potentially restricting access to effective remedies. While intended to reduce secondary movements and harmonize standards, the regulation may lead to overcrowding and rights violations at external borders (Executive Committee of the High Commissioners Programme 2024).

4. Return Border Procedure Regulation (European Parliament and the Council of the EU 2024d)

The Regulation 2024/1349 establishes a streamlined and mandatory process for the removal of third-country nationals and stateless persons whose asylum applications are rejected at the EU's external borders. The regulation limits the period for lodging and appeal against a return decision shall be submitted between 5 to 10 days. It also mandates that a return order be issued automatically alongside the negative asylum decision, significantly curtailing the opportunity for voluntary departure and effective remedies. It prioritizes rapid removals and border security over individual rights, parallelly rising concerns about compliance with EU and international human rights standards (Tsourdi 2024, 11-16).

5. Resettlement and Humanitarian Admission Framework Regulation (European Parliament and the Council of the EU 2024e)

The Regulation 2024/1350 establishes a voluntary framework for EU member states to admit refugees through structured resettlement and humanitarian admission programs. It means to provide legal and safe pathways for individuals in the need of international protection, reducing reliance on dangerous migration routes like the Mediterranean crossings. Member States are given significant discretion in determining their contributions, including quotas, selection criteria and geographical priorities, which may lead to unequal burdens on southern EU countries, which are disproportionately affected by irregular migration flows (González Enríquez 2024). The Regulation does not address the root causes of irregular migration, such as conflict or economic instability in third countries, nor does it ensure transparency in selection processes or procedural guarantees for refugees excluded from resettlement programs. While the framework harmonizes resettlement procedures, its voluntary nature and lack of mandatory commitments limit its effectiveness as a tool for equitable burden sharing and comprehensive migration management (Meijers Committee 2024).

6. Asylum and Migration Management Regulation (European Parliament and the Council of the EU 2024f)

This key Regulation 2024/1351 replaces the Dublin III system, retaining the principle that the Member State of first entry is responsible for processing asylum applications, while introducing a mandatory but flexible solidarity mechanism. This piece of legislation has aroused the most excitement due to its apparent collision with the fundamental principle of the sovereignty of nation-states over internal security and the national regulations issued in this regard. More on this later in the text.

7. Screening Regulation (European Parliament and the Council of the EU 2024g)

This Regulation 2024/1356 imposes an obligation that all third country nationals arriving irregularly at the EU's external borders undergo identity, health, and security checks within 7 days, with the process taking place near the border. Based on the screening results, individuals are swiftly referred either to asylum or return procedures but are not considered to have formally entered the EU's territory during this time (PICUM 2024).

8. Eurodac Regulation (European Parliament and the Council of the EU 2024h)

The revised Eurodac Regulation 2024/1358 significantly expands the scope and duration of biometric data collection, now including facial scans and fingerprints from individuals as young as 6, with data stored up to 10 years. Law enforcement and intelligence agencies are granted broad and simplified access to these data, blurring the line between asylum administration and criminal surveillance, and raising concerns about the privacy and data protection and the risk of discrimination against migrants. The regulation's lack of clear safeguards and transparency regarding the use sharing and transfer of sensitive data – especially the third countries – exposes vulnerable individuals (e.g. children) to potential misuse, miscategorization, and even coercion during data collection.

9. Crisis and Force Majeure Regulation (European Parliament and the Council of the EU 2024i)

This Regulation 2024/1359 allows EU member states to derogate from standard asylum rules during situations of mass influx, instrumentalization of migration by third countries, or *force majeure* events, subject to Council authorization. These derogations include extending the maximum duration of border procedures up to 18 weeks, delaying registration of asylum applications and accelerating deportations, causing the increase of the risk of systemic human rights violations such as arbitrary detention and lack of access to effective remedies. Yet the Regulation lacks sufficient financial guarantees to support border security and crisis management in countries experiencing sudden migration influx caused by orchestrated hybrid ventures of neighboring states, hence the burden on frontline Member States is not adequately addressed (Neidhardt 2024).

The above-listed legislations are intended to redefine the European Union's migration policy and develop a balanced approach to immigration, considering the need for efficient management of legal migration, more effective protection of the community's external borders and an effective fight against illegal immigration. The pact is intended to guarantee a cross-sectoral approach to migration issues, taking into account, among

other things, the standardization of asylum procedure among Member States, deeper integration of migrants and more effective management of external borders. At the same time, these regulations in question are designed to eliminate the deficit of implementing tools in the field of EU asylum and migration law. The Pact on Migration and Asylum revises the regulations adopted in the 2013 Dublin Convention and introduces new, more effective solutions to the regulations on the processing of asylum applications of foreigners arriving at the external borders of the frontline member states.

These legal acts covered by the agreement reached in 2023 by the Spanish Presidency and later by the Belgian Presidency and Parliament, address all aspects of asylum and migration management. These include, for example, the screening of irregular migrants upon their arrival in the EU, the collection of biometric data, the procedures for submitting and examining asylum applications, the ways of determining which member state is responsible for processing an asylum application, as well as cooperation and solidarity between member states and ways to deal with crisis situations, including instrumental treatment of migrants.

The content of the Pact has inflamed the dispute between pro- and anti-immigrant political factions, both in the European Parliament and in national parliaments of EU member states, and the very renaissance of the issue of migration policy in public discourse as the result of a *de facto* unresolved crisis of 2015, which continues to this day with variable intensity. The urgency of adopting this document was dictated by both the internal crisis of the community and the current situation on the international arena, in which the Union has ambition to play the role of a leading player.

Among the documents presented, the Regulation on Managing Asylum and Migration raises the most controversy due to the proposal to supplement the Dublin system with the so-called solidarity mechanism, which in fact, imposes obligation on member states to contribute to the costs of protecting the EU's external borders and updates the rules for relocation of migrants (European Parliament and the Council of the EU 2013). The currently functioning migration and asylum management solutions, based on the Dublin system, remain ineffective and unfair. Although the key regulation reforms the Dublin III system, retaining the first-entry country principle, at the same time it introduces a solidarity mechanism which boils down Member States to the choice between relocating migrants, paying €20,000 per person, or offering operational support. The regulation also sets a minimum annual relocation target of 30,000 people and financial contributions of €600 million to support frontline states. So far mainly Poland and Hungary have openly opposed the mechanism as a sovereignty infringement and, considering their forthcoming presidency in the Council consecutively in the second half of 2024 and first half of 2025, will not act in favor of rapid implementation of the Pact (González Enríquez 2024).

The global vector of south-to-north migration and the geography of Europe make the burden of cushioning migratory pressures on the Mediterranean, and northern, and eastern EU member states uneven. Countries located on the external border (Italy, Greece, Spain), and transit countries (Hungary, Austria, Bulgaria), through which the main migration routes leading to more developed countries pass (France, Germany, Belgium, the Scandinavian countries), experience the problem of increased or illegal migration to a much greater extent than the countries on the "periphery" of the European Union's main migration itineraries (Slovakia, Poland, Baltic states) (Mikołajczyk 2018, 9). The inefficiency, in turn, results in overburdening of the institutions examining asylum applications and detention centres being overcrowded with refugees, from which, with the tacit consent of state authorities, illegal migrants made their way to other European countries.

In addition to the solidarity mechanism introduced in the Migration and Asylum Management Regulation, controversy also surrounds the mechanism, based on the arbitrary assessment of the Commission and the Council, for deciding on the allocation of aid from the solidarity pool, which is, in practice, the extent of mandatory support required of Member States not directly affected by the increased influx of migrants. The bone of contention is also the included *opt-out* option for the solidarity mechanism, the application of which, however, depends on the Commission and its assessment of the migration situation of a given Member State, which is drawn up by Frontex and the EUAA on the basis of a number of criteria enumerated exhaustively in article 10 of the Regulation, including "the geopolitical situation in relevant third countries as well as the

root causes of migration and possible situations of instrumentalisation of migrants and possible developments in the area of irregular arrivals through external borders of Member States that might affect migratory movements". It is worth noting that the regulation – containing *opt-out* options or other provisions allowing individual treatment of states – reduces the agreements reached from the threshold of consensus to the level of compromise.

The controversy regarding the new Pact on Migration and Asylum has been presented, thoroughly analysed and subjected to substantive criticism in many scientific studies and press articles published since September 2020 (Szymańska, Kohut 2023; Grosse 2023; Górczyńska, Klaus, Fertlińska 2021). However, a secondary description of the migration problem, emphasizing the importance of this phenomenon for the future of European Union integration and duplicating the conclusions contained in the cited sources, is not the purpose of this article.

The chronology of attempts to normalize the issue of legal and illegal migration at the Community level, presented in the initial part, including the most important (in the author's opinion) elements of the genesis of the European Union migration policy, proves the complexity of the matter in question and the low effectiveness of the implemented solutions. However, an in-depth search of available sources allows us to conclude that in the discussion on the proposed regulations, insufficient attention is paid to external factors that create conditions conducive to the emergence of migration crises and the particular vulnerability of the European Union to their effects.

Conclusions and recommendations

The designation of the EU's migration governance crisis as a "perilous stalemate" reflects the convergence of three mutually reinforcing pathologies that render the European Union's current institutional and policy trajectory fundamentally unsustainable. A stalemate, in its classic definition, represents a deadlock wherein no party can secure advantage or progress – precisely the condition characterizing EU migration governance wherein supranational ambitions for harmonized asylum systems collide irreconcilably with member state sovereignty prerogatives. The designation as "perilous" – rather than merely "critical" or "problematic" – signals that this stalemate generates profound risks not merely for the effectiveness of migration management, but for the internal security and political cohesion of the European Union itself.

The New Pact on Migration and Asylum, despite its legislative comprehensiveness, has not resolved this stalemate but rather crystallized it into institutionalized legal form, thereby creating the illusion of progress while perpetuating the underlying contradictions generating crisis. The Pact has failed to establish genuinely binding, universal burden-sharing mechanisms that should amplify procedural frameworks prioritizing the internal security of the EU and border control over migrants' rights protection. The absence of coherent external strategy collectively addressing the root causes of migration ensure that the EU's migration governance will remain characterized by reactive crisis response, political recrimination between member states, and cyclical failure to achieve either effective management or equitable responsibility distribution.

The persistence of EU migration governance stalemate generates cascading threats to internal European security extending far beyond traditional migration management concerns. The asymmetric geographic distribution of irregular migration, concentrated in Mediterranean and eastern frontier states, creates two parallel security vulnerabilities. First, it generates overloaded asylum and detention systems incapable of conducting adequate security vetting, thereby creating conditions enabling infiltration of criminal networks, trafficking organizations, and potentially security threats into EU territory. Second, it generates political backlash within frontline member states, wherein populist and nationalist political movements exploit genuine grievances regarding burden concentration to advance increasingly exclusionary political agendas that fragment European political consensus and destabilize democratic institutions.

The systemic inadequacy of asylum processing capacity in frontline states, compounded by the Pact's acceleration of procedural timelines, creates perverse incentives for inadequate security vetting or hasty determinations prioritizing efficiency over rigor. Irregular migrants and asylum seekers subject to expedited

procedures receive insufficient time for background investigation, biometric verification, or cross-referencing with international security databases. This procedural acceleration, presented as efficiency enhancement, paradoxically undermines security by privileging speed over thoroughness.

Simultaneously, the political effects of unresolved migration governance within individual member states generate security threats of distinct character. The consistent EU's inability collectively manage migration to effectively feeds political narratives of EU weakness and failure, thereby providing electoral oxygen to anti-EU, nationalist political movements that challenge the legitimacy of supranational governance. As a result of inadequate management of the EU migration policy and attempts to impose solutions with systemic defects, far-right populist and Eurosceptic political movements gain substantial electoral support. In France Rassemblement National (National Rally) consistently polls at 25-30 percent support, being the most significant opposition party in the French parliament. In Germany, the Alternative for Germany (Alternative für Deutschland, AfD) polls at approximately 25 percent, mainly through its anti-migratory rhetoric. Furthermore, Hungary's unilateral adoption of aggressive border securitization measures, Poland's extended resistance to relocation commitments, or Italy's *de facto* rejection of mandatory solidarity mechanisms all reflect and reinforce the erosion of consensus regarding the EU's capacity to manage migration challenges. This political fragmentation, originating in grievances regarding migration burden-sharing inequities, transmutes into broader destabilization of the EU's political fabric and internal security arrangements.

The European Union's external geopolitical environment is fundamentally hostile, characterized by rivals and competitors systematically exploiting EU's vulnerabilities to advance asymmetric strategic objectives. Russia and Belarus have demonstrated capacity and willingness to weaponize migration as a hybrid warfare tool, deliberately directing irregular migrants toward EU borders to generate political crisis, expose internal divisions, and undermine European institutional coherence. China has similarly demonstrated interest in leveraging migration-related security vulnerabilities to amplify EU internal divisions. Non-state actors including terrorist organizations, criminal networks, and human trafficking syndicates systematically exploit migration governance inadequacies to advance their operational objectives.

The EU's capacity to respond coherently to these external threats is catastrophically constrained by its institutional architecture and decision-making procedures. While the Pact represents meaningful achievement regarding asylum harmonization, the EU has no comparable capacity to respond strategically to external actors weaponizing migration against the Union. Responses to Russian instrumentalization of migration have been fragmented across member states rather than coordinated European strategy (as were the responses to Russian full-scale invasion on Ukraine). Turkish strategic utilization of migration leverage over European policy (particularly regarding Syria and regional balance of power) receives only *ad hoc* inconsistent responses rather than comprehensive and strategic one.

Moreover, post-colonial syndrome and anti-Western resentments persist across African societies. These sentiments hamper development of relationships between African states and European capitals, as well as the European Union as a whole. Africa is projected to reach the population of 2.5 billion inhabitants by 2050. This demographic trajectory amplifies strategic significance of African grievances regarding historical colonialism and contemporary Western dominance. This situation creates strategically attractive vacuum for Russia and China, increasingly expanding their presence across Africa. Both powers explicitly position themselves as alternatives to Western engagement, both deliberately cultivate anti-Western narratives emphasizing post-colonial grievances, and eventually both offer development assistance and security cooperation without Western conditionality regarding governance standards or human rights. Regarding future rivalry or confrontation with Europe, Russia and China could strategically weaponize migration flow management. Moscow and Beijing possess capacity and have demonstrated willingness to instrumentalize migration as coercive tool. Migration flows originating from Africa and directed toward Europe represent potential instrument for demographic, economic, and political pressure on European states.

The EU currently lacks integrated strategic response to such instrumentalization. This creates compounding vulnerability. African anti-Western resentments facilitate Chinese and Russian strategic positioning in Africa.

Chinese investment in African infrastructure, Russian security cooperation with African militaries, and both powers' cultivation of African diplomatic support within international forums all reflect their deliberate strategy to expand influence. Migration management becomes one of the elements of this broader strategic competition. Future African migration toward Europe could be deliberately channelled, encouraged, or weaponized by China or Russia to generate political crisis within Europe and damage EU institutional legitimacy.

The fundamental institutional constraint is a unanimous or qualified-majority decision-making procedures that grant disproportionate veto authority to individual member states regarding security and foreign policy responses. Member states with divergent geopolitical interests regarding Russia, China, Turkey, and regional powers possess capacity to obstruct coherent EU responses through non-cooperation or explicit obstruction. Hungary's historical resistance to EU-coordinated responses regarding Russian aggression exemplifies how national interest divergence, articulated through institutional veto power, prevents EU strategic coherence. The absence of a unified EU foreign policy and comprehensive defense strategy ensuring coherence between migration governance, external security, and diplomatic strategy means that migration continues functioning as an exploitable vulnerability rather than as an integrated element of coherent EU external strategy.

The remedy for EU migration governance stalemate would, in theory, reside in demonstrated political will among member states to subordinate narrow national interests to collective EU objectives and to commit substantive resources toward equitable burden-sharing, institutional capacity development, and comprehensive – extensive negotiation and compromise produced comprehensive legislative consensus despite profound member state divergence regarding appropriate migration policy and its operationalization.

However, the implementation trajectory of the Pact reveals the practical limitations of this political will. Multiple member states have already signalled resistance or half-hearted commitment to the provisions of the Pact, particularly regarding relocation obligations and burden-sharing mechanisms. The mechanism's voluntary character – permitting financial substitution for relocation – ensures that states with preference for exclusionary migration policies can circumvent genuine responsibility-sharing through financial payments manifestly inadequate to support frontline state processing and reception infrastructure. This pattern reflects a more fundamental institutional pathology: the EU's decision-making architecture, privileging consensus or supermajority thresholds, structurally incentivizes dilution of collective measures to accommodate lowest-common-denominator member state preferences rather than enabling unified, decisive action.

This architectural deficiency is not amenable to resolution through migration policy reform alone. It reflects the EU's foundational tension between supranational governance ambitions and persistent national sovereignty prerogatives. The near-term future will likely see continued stalemate, with member states adopting rhetorical commitment to collective EU approaches while maintaining operational flexibility to adopt unilateral measures prioritizing national interests. Further genuine advancement in migration governance will require institutional transformation – potentially including qualified-majority voting on migration policy without member state opt-outs, or consolidated supranational authority regarding asylum determination and burden-sharing – that member states have systematically rejected on grounds of sovereignty protection. Without such institutional transformation, the EU's migration governance will remain trapped in perpetual cycles of crisis, inadequate policy response, and renewed politicization.

Within the constrained institutional context of EU migration governance, Frontex represents the sole institutional mechanism through which the EU possesses potential capacity for enhanced operational coordination and strategic action. However, the Agency possesses operational capacity only through member state authorization and cooperation, and it cannot autonomously conduct border management operations. Nevertheless, Frontex remains the singular EU institution that currently possesses the potential for enhanced operational effectiveness regarding border management and coordinated asylum processing. However, it can only improve EU border management efficiency through incremental expansion of member state cooperation.

The Pact alone cannot resolve the structural contradictions endemic to EU migration governance. The remedy requires that the EU achieve heightened strategic maturity regarding the magnitude and character of migration governance as a security challenge intersecting with external geopolitical competition, demo-

graphic transformation, and environmental change. This strategic maturity must translate into institutional willingness to undertake genuine transformation of EU decision-making architecture – including expansion of qualified-majority voting in migration matters, consolidation of supranational institutional authority, and integration of migration governance into comprehensive foreign policy and defense strategies. The incremental reform trajectory characterizing the Pact risks perpetuating the stalemate that this analysis has identified as perilous to European security and institutional cohesion.

The window for gradual, consensual institutional evolution remains open, yet it is narrowing. The demographic and environmental trajectories projecting increased migration pressure, combined with accelerating external geopolitical threats weaponizing migration as a tool of strategic competition, suggest that reactive crisis management and incremental institutional adjustment will prove inadequate within the next decade. The EU faces a choice: either undertake strategic institutional transformation enabling coherent, decisive migration governance, or confront increasingly severe crises of legitimacy and institutional efficacy as member states abandon collective frameworks and adopt unilateral migration and security policies. A genuine progress toward sustainable migration governance simultaneously providing internal as well as external security of the EU requires far more fundamental transformation, both institutional and strategic, than the current policy trajectory presented in the Pact.

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