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Faced with attempts to instrumentalise migrants, the European Commission adopted a communication on countering hybrid threats from the weaponisation of migration and strengthening security at the EU's external borders.68 In addition, several countries closed parts of their borders and introduced stricter border protection regimes to prevent illegal border-crossings, for example at the Polish and Latvian borders with Belarus69 and the Finnish borders with Russia.70 These measures were coupled with legislative initiatives, such as the Finnish Act on Temporary Measures to Combat Instrumentalised Migration,71 the Polish Regulation on establishing a buffer zone at the borders with Belarus,72 and the Polish draft amendment to the Act on Granting Protection to Foreigners.73 When activated, the regulations may temporarily allow:

- Border closures, reducing access to territory only through specified border points and, similarly, introducing temporal and territorial restrictions in receiving applications for international protection;
- Creation of buffer zones at the borders, where temporary bans on staying within specified areas apply;
- Intensified patrolling of the border areas by search and rescue teams;
- Simplified procedures to return third-country nationals to the border when they crossed the border illegally;
- Increased budget for human and technical resources for border protection.

The instrumentalisation of migration is often framed as a question of national security and there has been growing agreement among several Member States that they should have the possibility, if necessary, to temporarily derogate from existing EU law for the protection of the nation.74 Over the past years, several EU countries have reintroduced or intensified border checks at internal EU borders,75, a practice that deviates from the principles of the Schengen system. Thus, the Schengen Borders Code was revised in 2024 to formalise flexibility and define the conditions when additional internal border controls can be activated.76 The integration of Bulgaria and Romania into the Schengen framework in March 2024 has facilitated movement across internal borders, while the two countries have intensified cooperation and increased

capacity in the management of external borders, with support from the European Commission and EU agencies.77

Digitalisation played a key role in improving the management of borders. EU+ countries invested in updating information systems in accordance with the Pact on Migration and Asylum. New technologies were also used in border surveillance to improve the quality of border management at sea and on land; better identify people in distress; and support the fight against cross-border crime.78

EU+ countries engaged in bilateral and regional cooperation on migration management in an effort to address irregular migration, curb organised crime and human trafficking, and prevent the loss of life along migration routes. Examples include the tripartite cooperation between Bulgaria, Greece and Türkiye to control irregular flows at their land borders and the regional cooperation among countries along the Western Balkan route.79 Cooperating with third parties, especially countries along migration routes, is an integral part of the external dimension of migration for EU+ countries.80

The greater emphasis on the external dimension of migration management at times led to discussions and practices, whereby migrants rescued at sea would be brought to the territory of partner countries where they are identified and their applications are processed. This approach was exemplified by the Italy-Albania protocol of 2023, which set up a mechanism and the conditions under which Italy would carry out the processing of asylum applications under Italian jurisdiction in designated areas of Albanian territory for third-country nationals originating from the list of safe countries of origin and who are rescued or intercepted in international water by vessels of Italian authorities.81 UNHCR and civil society organisations raised concerns about border externalisation and procedural specifics and guarantees.82 Various sources framed the agreement as an example of what is considered a growingly popular deterrence strategy in the area of migration and asylum.83 In August 2024, UNHCR announced that: “In recent meetings, the Italian government has provided further information on the implementation of the protocol and reiterated its strong desire that it be in line with international law and standards. Based on an exchange of letters with the Italian Ministry of the Interior, UNHCR will therefore undertake a role of monitoring and counselling people to ensure that the right to seek asylum is protected and that the processes put in place under the protocol are consistent with relevant international and regional human rights standards, are fair, and promote protection and solutions for those in need of international protection”.84

In 2024, the practical application of the agreement proved expensive and faced scrutiny by Italian courts in the application of the accelerated border procedure. In the first operation in October 2024, the two centres in Gjader and Shengjin, initially designed to accommodate a few thousands, received only a small number of Egyptian and Bangladeshi applicants who were soon transferred to Italy. For the first group of Egyptian and Bangladeshi applicants, the Tribunal of Rome did not validate their detention orders,85 citing the *CJEU judgment in CV v Ministerstvo vnitra České republiky, Odbor azylové a migrační politiky*. This judgment held that a country cannot be designated as a safe country of origin when certain parts of its territory do not fulfil the criteria for that designation.86 In this case, the Italian court raised the question whether Bangladesh and Egypt could be considered as safe countries of origin despite the fact that for

certain categories of people they are not considered to be safe, also taking into account that “a third country may be considered as a safe country of origin where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution as defined in Article 9 of Directive 2011/95, no torture or inhuman or degrading treatment or punishment, and no threat by reason of indiscriminate violence in situations of international or internal armed conflict”.

Italy then carried out two more operations (in November 2024 and January 2025), which encountered similar judicial challenges. For a second group of applicants, the Tribunal of Rome referred a set of issues to the CJEU concerning the new national list of safe countries of origin and its consistency with relevant EU law. As a consequence of the referral, the tribunal suspended the proceedings without taking any decision, and due to the 48-hour constitutional time limit for the validation of administrative detention, the applicants automatically acquired the right to be set free. This was one of the several referrals sent by the Tribunal of Rome and other tribunals. The advocate general’s opinion was delivered on 10 April 2025, concluding that a Member State may designate safe countries of origin by a legislative act and must disclose the sources of information leading to that designation for the purposes of a judicial review. The advocate general also found that – upon certain conditions – a Member State may designate a country of origin as safe, while at the same time identifying a limited categories of people who would still be at risk of persecution of serious harm in that country.87

Measures by EU+ countries to further secure their borders raised questions among human rights institutions, international and civil society organisations about effective access to territory and, consequently to the asylum procedure for third-country nationals seeking protection.88 Concerns were voiced about restricted access to fundamental rights; alleged pushbacks at the EU’s eastern borders, land borders in the Balkans and in the Eastern Mediterranean route; and the return of people in distress at sea to countries that may not be safe or where they risk chain *refoulement*.89 They also underscored the need for a route-based approach and coordinated search and rescue operations;90 highlighted the importance of providing legal information at borders, hotpots and transit zones;91 and called on authorities to end practices that may inhibit effective access to territory and, consequently, to the asylum procedure.92 To provide guidance on legal interpretations for governments and other stakeholders, in September 2024 UNHCR issued guidelines on the non-penalisation of refugees on account of their irregular entry or presence and restrictions on their movements in accordance with Article 31 of the 1951 Geneva Convention.93 It also provided legal consideration on asylum and non-refoulement in the context of migrant instrumentalisation, outlining state obligations under international refugee and human rights law for admission to the territory and access to asylum.94

In July 2024, the European Agency for Fundamental Rights (FRA) published a report which highlights the inadequacy of investigations into reported serious and widespread rights violations at the EU’s borders and offers a set of recommendations to promote effective national investigations.95 To help reduce the risk of fundamental rights violations at the external borders, FRA prepared a guide on national independent monitoring mechanisms for fundamental rights during screening and the asylum border procedure. Foreseen by the Screening Regulation and the Asylum Procedures Regulation, these independent mechanisms set up by Member

States will aim to monitor compliance with fundamental rights during the screening of new arrivals and when assessing asylum claims at external borders.96

In this context, European and national courts stepped in to review the practices of national authorities and ensure the correct interpretation of the EU asylum acquis. For example, the European Court of Human Rights (ECtHR) issued a number of decisions finding violations of Article 2 of the ECHR (use of force not 'absolutely necessary'), Article 3 (prohibition of torture), Article 4 of Protocol 4 (prohibition of collective expulsion), Article 5(a) and (b) (unlawful detention) in cases concerning Cyprus, Greece, Hungary and Poland.97 In June 2024, the CJEU ordered Hungary to pay a lump sum of EUR 200 million and a penalty payment of EUR 1 million per day of delay for failing to comply with the CJEU judgment in European Commission v Hungary (C-808/18) pronounced on 17 December 2020. In the 2020 judgment, the court found that Hungary had failed to comply with EU law on procedures for granting international protection and returning illegally-staying, third-country nationals.98 (For more jurisprudence in this area, see the *EUAA Case Law Database*.)

- 68

  European Commission. (2024, December 11). Communication from the Commission to the European Parliament and the Council on countering hybrid threats from the weaponisation of migration and strengthening security at the EU's external borders. COM(2024) 570 final.

- 69

  Ministry of the Interior and Administration | Ministerstwo Spraw Wewnętrznych i Administracji. (2024, June 12). Minister Spraw Wewnętrznych i Administracji podpisał rozporządzenie w sprawie utworzenia tzw. strefy buforowej [The Minister of the Interior and Administration signed a regulation on the creation of the so-called buffer zone]. Ministru kabineta rīkojums Nr. 184: Par pastiprināta robežapsardzības sistēmas darbības režīma izsludināšanu [Cabinet of Ministers Order No 184: On the announcement of the enhanced border security system operating mode], March 12, 2024.

- 70

  Ministry of the Interior | Sisäministeriö. (2024, April 4). Finland's eastern border to remain closed until further notice

- 71

  Ministry of the Interior | Sisäministeriö. (2024, July 16). Finland enacts legislation to combat instrumentalised migration.

- 72

  Ministry of the Interior and Administration | Ministerstwo Spraw Wewnętrznych i Administracji. (2024, June 12). Minister Spraw Wewnętrznych i Administracji podpisał rozporządzenie w sprawie utworzenia tzw. strefy buforowej [The Minister of the Interior and Administration signed a regulation on the creation of the so-called buffer zone].

- 73

  Ministry of Internal Affairs and Administration | Ministerstwo Spraw Wewnętrznych i Administracji. (2024, December 18). Rada Ministrów przyjęła projekt ustawy o zmianie ustawy o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej [The Council of Ministers has adopted a draft act amending the act on granting protection to foreigners within the territory of the Republic of Poland]

- 74

  Ministry of the Interior | Sisäministeriö. (2024, June 10). The European Union must be able to protect its security in situations of instrumentalised migration. Chancellery of the Prime Minister of Poland | Kancelaria Prezesa Rady Ministrów. (2024, October 17). "Odzyskać kontrolę. Zapewnić bezpieczeństwo" - strategia migracyjna na lata 2025 - 2030 ["Taking back control. Ensuring security" - migration strategy for 2025 - 2030].

- 75

  European Commission. (2025, May 14). Temporary Reintroduction of Border Control. Euronews. (2024, October 10). Poland and Czech Republic condemn renewed border checks within EU.

- 76

  Regulation (EU) 2024/1717 of the European Parliament and of the Council of 13 June 2024 amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders, 13 June 2024.

- 77

  European Commission. (2024, December 12). Statement by the European Commission on the occasion of Bulgaria and Romania becoming fully part of Schengen. European Commission. (2024, March 4). Bulgaria and Romania strengthen cooperation on border and migration management.

- 78

  European Commission. (2024, July 19). Bulgaria and Cyprus receive funding to upgrade external sea borders. Ministry of the Interior | Ministerstvo Vnitra. (2024, February 27). Lepší ochrana hranic a bezpečnější cestování. V Praze probíhá významná mezinárodní konference [Better border protection and safer travel. A major international conference is taking place in Prague]. Ministry of Immigration and Integration | Udlændinge- og Integrationsministeriet. (2024, November 8). Regeringen præsenterer ny strategi for Danmarks ydre grænser [The government presents a new strategy for Denmark's external borders]. Ministry of the Interior | Sisäministeriö. (2024, September 26). Finland to apply for EUR 50 million in funding from the Commission to strengthen surveillance at eastern border. Government of Portugal | Governo de Portugal. (2024, June 3). Plano de Ação para as Migrações: conheça as principais medidas [Action plan on migration and its main measures approved].

- 79

  Ministry of Migration and Asylum | Υπουργείο Μετανάστευσης και Ασύλου. (2024, November 14). Συνάντηση Υπουργού Μετανάστευσης και Ασύλου, κ. Ν. Παναγιωτόπουλου με τον Υπουργό Εσωτερικών της Τουρκίας, κ. Ali Yerlikaya στο περιθώριο της διάσκεψης [Meeting of the Minister of Migration and Asylum, Mr. N. Panagiotopoulos, with the Minister of Inte . Ministry of the Interior of the Republic of Slovenia | Ministrstvo za notranje zadeve. (2024, January 16). Migracije: Notranji ministri Slovenije, Italije in Hrvaške za še bolj intenzivno sodelovanje, [Migration: Slovenian, Italian and Croatian interior ministers to step up cooperation]. Ministry of the Interior | Ministerstvo Vnitra. (2024, February 14). Evropské řešení migrace i policejní spolupráce. Vít Rakušan jednal s německou ministryní vnitra [European solutions to migration and police cooperation. Vít Rakušan met with German Minister of the Interior].

- 80

  García Andrade, P. (2024, September 9). Cooperation with third countries within the EU legislative reform on migration and asylum. EU Immigration and Asylum Law and Policy Blog.

- 81

  European Union Agency for Asylum. (June 2024). Asylum Report 2024.

- 82

  United Nations High Commissioner for Refugees. (2024, January 9). Audizione UNHCR alla Camera dei Deputati sul Protocollo tra Italia e Albania [UNHCR hearing at the Chamber of Deputies on the Italy-Albania Protocol on Migration]. Peers, S. (2024, February 24). The Italy/Albania asylum treaty reaches the CJEU: what are the issues? EU Law Analysis. Thym, D. (2024, July 5). Safe Third Countries: the Next 'Battlefield'. EU Immigration and Asylum Law and Policy Blog. Melting Pot Europa. (2024, November 6). No CPR né in Italia, né in Albania né altrove: verso le manifestazioni dell'1 e 2 dicembre contro il protocollo [No CPR in Italy, Albania or elsewhere: towards the demonstrations of December 1st and 2nd against the protocol].

- 83

  De Leo, A., & Celoria, E. (2024). The Italy–Albania Protocol: A new model of border-shifting within the EU and its compatibility with Union law. *Maastricht Journal of European and Comparative Law*, *31*(5), 595–618. European Council on Refugees and Exiles. (2024, October 24). Op-Ed: Does the Rome court's refusal to validate the detention order of the first asylum seekers brought to Albania mark the end of the Italy-Albania deal? Andreina De Leo, member of ECRE member organisation the Association for Juridical Studies on Immigration (ASGI). PRO ASYL. (2024, October 12). Italiens Deal mit Albanien: Kein Modell für Deutschland [Italy's deal with Albania: No model for Germany]. International Rescue Committee. (2024, October 16). Italy-Albania deal: First arrivals will mark "a dark day for

the EU's asylum and migration policies". aditus foundation. (2024, November 18). Outsourced Borders, Out of Sight: What the Italy-Albania Deal Means for Malta and European Human Rights.

- 84

  United Nations High Commissioner for Refugees. (2024, August 14). Italy-Albania Protocol - UNHCR to undertake monitoring activities to safeguard and promote fundamental human rights.

- 85

  Italy, Civil Court [Tribunali], *Applicants* v *Questura di Roma*, 18 October 2024. Link redirects to the English summary in the EUAA Case Law Database

- 86

  Italy, Civil Court [Tribunali], *Applicants* v *Questura di Roma*, 18 October 2024. Link redirects to the English summary in the EUAA Case Law Database.

- 87

  Court of Justice of the European Union. (2025, April 10). International protection: according to Advocate General Richard de la Tour, a Member State may designate safe countries of origin by a legislative act and must disclose, for the purpose of judicial review, the sources of information upon which that designation is based. Press release No 49/25.

- 88

  European Ombudsman. (2024, February 26). Conclusions of the European Ombudsman on EU search and rescue following her inquiry into how the European Border and Coast Guard Agency (Frontex) complies with its fundamental rights obligations in the context of its maritime surveillance activities, in particular the Adriana shipwreck. Case OI/3/2023/MHZ. Council of Europe, Commissioner for Human Rights. (2024, October 31). Cyprus: Commissioner O'Flaherty expresses concern about the situation of migrant and asylum-seeking people stranded in the buffer zone and allegations of summary returns at sea. Council of Europe, Special Representative of the Secretary General on Migration and Refugees. (2024, October 2). Report of the fact-finding mission to Finland by Mr David Best, Special Representative of the Secretary General on Migration and Refugees 21-23 May 2024. Jesuit Refugee Service Europe et al. (2024, July 9). Joint Statement: The future EU must uphold the right to asylum in Europe. Ombudsman | Rzecznik Praw Obywatelskich. (2024, June 14). Stanowisko RPO dotyczące wprowadzenia strefy buforowej przy granicy z Białorusią [The position of the Commissioner for Human Rights regarding the introduction of a buffer zone at the border with Belarus]. Ombudsman | Rzecznik Praw Obywatelskich. (2024, December 5). Strategia migracyjna Polski na lata 2025-2030. Pytania RPO do Prezesa Rady Ministrów - odpowiedź MSWiA [Poland's migration strategy for 2025-2030. Questions from the Commissioner for Human Rights to the Prime Minister - response from the Ministry of the Interior and Administration]. Lithuanian Red Cross Society | Lietuvos

Raudonojo Kryziaus. (2024). Input to the Asylum Report 2025.

- 89

  Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. (2024, June 12). Council of Europe anti-torture Committee (CPT) again calls on Greece to reform its immigration detention system and stop pushbacks. United Nations, Human Rights Committee. (2024, July 4). Experts of the Human Rights Committee Commend Malta on Political Quotas for Women, Raise Questions on Measures to Combat Corruption and Obligations Under Maritime Law in Search and Rescue. Border Violence Monitoring Network. (2024). Input to the Asylum Report 2025. I want to help refugees | Gribu palīdzēt bēgļiem. (2024). Input to the Asylum Report 2025. Helsinki Foundation for Human Rights | Helsińska Fundacja Praw Człowieka. (2024). Input to the Asylum Report 2025. International Rescue Committee. (2024). Input to the Asylum Report 2025. Lithuanian Red Cross Society | Lietuvos Raudonojo Kryziaus. (2024). Input to the Asylum Report 2025. Network for Children's Rights | Δίκτυο για τα Δικαιώματα του Παιδιού. (2024). Input to the Asylum Report 2025. aditus foundation et al. (2024, April 11). NGO Press Statement: Malta must stop illegally pushing back people to Libya! aditus foundation. (2024, September 13). (The lack of) Search and Rescue Operations in Malta. Greek Council for Refugees | Ελληνικό Συμβούλιο για τους Πρόσφυγες. (November 2024). At Europe's Borders: Pushbacks Continue as Impunity Persists. Helsinki Foundation for Human Rights | Helsińska Fundacja Praw Człowieka. (2024, May 9). Jak Polska poszukuje zaginionych migrantów? HFPC prowadzi monitoring [How does Poland search for missing migrants? HFHR conducts monitoring]. Association for Legal Intervention I Stowarzyszenia Interwencji Prawnej. (2024, January 9). Stop wywózkom! Podpisujemy apel do Donalda Tuska [Stop deportations! We sign the appeal to Donald Tusk]. Doctors without Borders | Médecins Sans Frontières. (2024, October 16). Stanowisko wobec Strategii migracyjnej dla Polski na lata 2025-2030 [Position on the Migration Strategy for Poland for 2025-2030]. 11.11.11 et al. (February 2025). Pushed, Beaten and Left to Die: European Pushback Report 2024.

- 90

  United Nations High Commissioner for Refugees, & International Organisation for Migration. (2024, June 14). One Year on from the Tragic Shipwreck off Pylos, Greece. United Nations High Commissioner for Refugees. (June 2024). A Route-Based Approach: Strengthening protection and solutions in the context of mixed movements of refugees and migrants

- 91

  Association for Juridical Studies on Immigration | Associazione per gli Studi Giuridici sull'Immigrazione. (2024, May 24). L’esercizio del diritto di informazione in frontiera: analisi e raccomandazioni ASGI [The exercise of the right to information at the border: ASGI analysis and recommendations]. Equal Legal Aid. (2024). Input to the Asylum Report 2025. Spanish Commission for Refugee Aid | Comisión Española de Ayuda al Refugiado. (2024). Input to the Asylum Report 2025

- 92

  Helsinki Foundation for Human Rights | Helsińska Fundacja Praw Człowieka. (2024, May 9). Jak Polska poszukuje zaginionych migrantów? HFPC prowadzi monitoring [How does Poland search for missing migrants? HFHR conducts monitoring]. Association for Legal Intervention I Stowarzyszenia Interwencji Prawnej. (2024, January 9). Stop wywózkom! Podpisujemy apel do Donalda Tuska [Stop deportations! We sign the appeal to Donald Tusk]. Council of Bars and Law Societies of Europe. (2024, November 21). CCBE Statement on recent developments and upcoming EU actions in the field of asylum.

- 93

  United Nations High Commissioner for Refugees (UNHCR). (2024, September 23). Guidelines on International Protection No 14: Non-penalization of refugees on account of their irregular entry or presence and restrictions on their movements in accordance with Article 31 of the 1951 Convention relating to the Status of Refugees.

- 94

  United Nations High Commissioner for Refugees. (2025, March 11). Legal considerations on asylum and non-refoulement in the context of 'instrumentalization'.

- 95

  European Union Agency for Fundamental Rights. (2024, July 30). Guidance on investigating alleged ill-treatment at borders.

- 96

  European Union Agency for Fundamental Rights. (2024, September 19). Monitoring fundamental rights during screening and the asylum border procedure – A guide on national independent mechanisms.

- 97

  Council of Europe, European Court of Human Rights [ECtHR], *M.A. and Z.R.* v *Cyprus*, No 39090/20, ECLI:CE:ECHR:2024:1008JUD003909020, 08 October 2024. Link redirects to the English summary in the EUAA Case Law Database. Council of Europe, European Court of Human Rights [ECtHR], *M.D. and Others* v *Hungary*, No 60778/19, 19 September 2024. Link redirects to the English summary in the EUAA Case Law Database. Council of Europe, European Court of Human Rights [ECtHR], *Z.L.* v *Hungary*, 13899/19, ECLI:CE:ECHR:2024:0912JUD001389919, 12 September 2024. Link redirects to the English summary in the EUAA Case Law Database. Council of Europe, European Court of Human Rights [ECtHR], *Sherov and Others* v *Poland*, No 54029/17, 54117/17, 54128/17 and others, ECLI:CE:ECHR:2024:0404JUD005402917, 4 April 2024. Link redirects to the English summary in the EUAA Case Law Database. Council of Europe, European Court of Human Rights [ECtHR], *Alkhatib and others* v *Greece*, No 3566/16, ECLI:CE:ECHR:2024:0116JUD000356616, 16 January 2024. Link redirects to the English summary in the EUAA Case Law Database.

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  European Union, Court of Justice of the European Union [CJEU], *European Commission v Hungary*, C-123/22, ECLI:EU:C:2024:493, 13 June 2024. Link redirects to the English summary in the EUAA Case Law Database.

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