



Protect

The Right to International Protection

Policy Brief

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Lost in Migration. Which policies are needed to safeguard the international protection system?



protect-project.eu



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PROTECT CONSORTIUM

The PROTECT Consortium publishes original research on international refugee protection. The Consortium is composed of:

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Lost in Migration. Which policies are needed to safeguard the international protection system?

1. Introduction

Human mobility is not an exception but the rule. This is so although the current world order designates establishedness as the natural mode of human existence. On the other hand, migration has not only shaped, but also survived all forms of political organization that have existed. And it seems, it will also survive and even shape the current world order.

Demographic history teaches us that mobility is as natural a mode of human existence as establishedness. But humans are territorial animals. Despite the long history of our civilization, we still mark and defend our territory and borders against outsiders. This is what encumbers people who are forced to leave their homes, that is, refugees, asylum seekers, stateless people, and other migrants who need protection. In the face of this reality, the international community makes a rule of exception from the privilege of territorial ownership: *The Right to International Protection*.

Yet, PROTECT finds that the right to international protection is lost in migration. It is lost in our struggle to treat refugees as migrants, to evade our responsibility to protect them so as to fill the last remaining state predicament regarding mobility control. This is what we observe in the EU-MENA border in the Mediterranean and Aegean Seas, the US-Mexico border, in the seas around Australia, and elsewhere. Indeed, the right to international protection is contained by all kinds of political concerns, from development and democratization to security, border, economic, development, and foreign policy. PROTECT has shown that such embedment of international refugee protection within other policy concerns is detrimental for those who need international protection.



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As a response to the prior mass movements across borders, and well-aware of this problem, the United Nations introduced the [Global Compact on Refugees](#) (GCR) and the [Global Compact on Safe, Orderly and Regular Migration](#) (GCM) in 2018. The main objective of the former is to improve international collaboration and responsibility-sharing on refugee protection while the latter aims to introduce a global migration management system to serve the goal of sustainable development. The EU introduced its [New Migration and Asylum Pact](#) (EUNP) in 2020, and sparked a legislation process including migration, asylum, border, security, and external policy. In the European Parliament endorsement, on 19 April 2023, of an amendment proposal on funding border fences, we do not observe a significant change in the intension to merge asylum policy with migration and border control policy. This impression is strengthened by the European Parliament's endorsement, on 20 April 2023, of the parts of the EUNP concerning irregular entry, speeding up returns, and mandatory relocations only in emergency situations. If legislated, mandatory relocations supervised by the European Union will be the only component that addresses the objectives of GCR and GCM. Such embedment of refugee and asylum policies in migration policy dilutes the right to international protection, a basic human right, regardless of whether this is done with the intention of limiting refugee and asylum flows or for reasons of efficiency.

If success is defined as getting closer to the high human rights standards stipulated in international law, it is unlikely for these new initiatives to be successful without divorcing the legal norms, governance mechanisms, and discourses of international protection from those of migration and other policy areas and making the refugee protection system receptive to new groups whose human rights cannot be guaranteed without international protection. Though, we observe just the opposite in both the EUNP and its ongoing legislation processes, as well as in other states' policy reforms.

Embedding refugee and asylum policy in migration policy and other policy areas is detrimental for the right to international protection. PROTECT has discovered ways of avoiding the embedment of international refugee protection and asylum policy in other policy areas like migration, security, border, foreign affairs.

2. Evidence and analysis

Focusing on the European Union, Canada, and South Africa, PROTECT has shown, in a comparative-historical study of the evolution of national asylum administrations in selected European countries and Canada and South Africa, that asylum offices have been organized under different ministries in different countries in different times since the 1950s. Asylum offices were observed under the ministries of foreign affairs, labor, interior, and justice and, finally, ministries of immigration. The last arrangement emerged as a response to the demands of the anti-immigration parties in government and partly faded away as those parties lost their government positions. Merging the handling of migration and international protection policy together under a ministry of immigration was in some countries an instrument of re-gaining state control over international protection, which is under the domain of the international law. PROTECT's conclusion on this issue is that, if the aim is to create a fair international protection system, *asylum decision-making must be organized under specialized, autonomous asylum offices whose decisions are only subject to judicial review and UNHCR scrutiny.*



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PROTECT conducted a quantitative study of the effects of different types of legal, institutional, and procedural frames of asylum decision-making on the asylum recognition rates. This was done by using a massive original data set from 16 countries between the years 2000 and 2020. In this study, PROTECT documented the impact of merging international protection with migration and mobility rules. Using the regular entry rules for foreigners – requirement of identity card, passport, visa, itinerary, proof of subsistence and accommodation – to reject asylum applications and use of immigration detention produces severely unfair outcomes in the international protection system. Furthermore, inadmissibility clauses using public order and national security as reasons to reject asylum seekers is not uncommon either. Merging international protection with security policy through security and public order clauses embeds international protection in both migration policy and security policy. Also, institutionalizing the asylum decision-making bodies under ministries dedicated to preserving national security has serious consequences for the right to asylum. *To safeguard the rights of asylum seekers, and refugees, states should avoid applying regular migration rules and procedures to asylum applicants – e.g., immigration detention, strict requirements of ID, passport, visa, itinerary, proof of subsistence and accommodation etc. To avoid such embedment, in addition to organizing the asylum determination under autonomous asylum decision bodies, asylum procedures should include extensive procedural rights.*

Delegating migration management to neighboring countries has been the predominant policy during the last two decades not only in the EU but also in countries outside the EU. PROTECT revealed that the EU's external policy is increasingly more related to the security sphere, rather than the concrete management of people's movements and rights protection. Many of the EU's international agreements with the countries in the Global South – these may be about development, democratization, trade, and the like – contain conditionality clauses about migration and mobility border control. These aim to prevent people from arriving in Europe, including refugees and protection-seeking migrants. Thus, despite hinging on humanitarian discourses, the policy instruments that the EU has in its international agreements with its southern neighbors, fail to strengthen international protection, creating some sort of 'externalization of international protection'. In other words, the EU's international protection policy is very much embedded in the external dimension of its migration, mobility, and security policy. *The EU should in its future international agreements avoid clauses that may limit the protection seeking migrants' access to safe European territory.*

PROTECT's multi-sited fieldwork reveals another case of conflating international protection with migration policy in the very sensitive area of vulnerability. Studying how the vulnerability concept is applied in the field, PROTECT finds that practices of vulnerability are often used as an instrument of narrowing down the protection-seeking migrants' access to legal and social rights. For, the vulnerability approach in some contexts renders 'vulnerability' a qualification criterion for accessing legal and social rights. That is, the need for a 'vulnerability approach' within the current protection framework is very much tied to states denying or limiting access to legal and social protection. Hence, another example of conflating protection with another policy area to the detriment of international protection. *Lack of legal status is a severe vulnerability. Lack of legal status also boosts the adverse effects of other vulnerabilities like poverty, mental health, disability, minors, etc. States should avoid using vulnerability as a criterion for access to international protection.*



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PROTECT studied civil society organizations' role in the international protection system. Among other things, we find that the civil society organizations that see international refugee protection as a task in itself rather than as part of larger migration policy phenomenon or as part of a broader humanitarian task, tend to have a broader scope of action to help refugees. This finding clearly reveals the undermining consequence of conflating international protection with migration policy. *For CSOs to become fully engaged in international refugee protection work, there needs to be an adequate understanding of the motivations and working conditions of CSOs based on a much stronger commitment by states to the wider international order created by the 1951 Convention.*

PROTECT's studies of citizen attitudes and media discourses reveal the very same tendencies. The attitude surveys in 27 countries in Europe, Middle East, Americas, and Africa, conducted with the help of a consortium of three professional survey companies, show that people for whom immigration is a salient issue, are more negative to international protection in general, and to admitting refugees into their countries in particular. Furthermore, people who are classified as nativists – that is, those who do not distinguish between migrants and people in need of protection and see them simply as intruding foreigners – are more negative to international protection than others. *Governments and politicians should clearly distinguish between refugees and migrants in public discourses.*

PROTECT's media studies show that media framings are no exception from the trend that we found in the other research components. Comparison of the Twitter networks around the EU and UN reveal that the network around the UN is more capable of distinguishing between international protection and migration policy than the networks around the EU institutions. Similarly, our analysis of traditional media framings documents how protection-seeking people were framed as “migrants” during the Syrian-refugee flows and as “refugees” during the invasion of Ukraine. Our studies show there is a global political cleavage system in social media that shapes discourses about refugees and asylum seekers. The struggle is very much about whether we shall call people “refugees/asylum seekers” or “migrants”. Calling protection-seeking people migrants or refugees has consequences for their prospects for getting international protection. *When reporting on issues of international refugee protection and migration management, the media need to establish a clear distinction between migrants and refugees/asylum seekers although some politicians may not be doing so.*

PROTECT's legal studies of the impact of GCR and GCM show similar tensions between international protection and migration. One of the main problems of the international protection system is efforts, to define refugees as migrants or to prevent protection-seekers from becoming refugees by containing their mobility within the Global South. When people flee climate change or environmental hazards, or when they are held in their countries, or when they are prevented by third countries from arriving at the borders of safe countries, it may look as if we do not have a responsibility to protect them. Indeed, the category of protection-seeking migrants, that is, people who haven't yet arrived at the border of a safe country, is the soft stomach of the international protection system. PROTECT's legal research team found that GCM has a realistic potential to strengthen the international protection system by providing access to international protection to such protection-seeking migrants who are not refugees according to the Geneva Convention. *While the GCR addresses the protection needs of refugees, the GCM contains elements that relate to similar needs of protection-seeking migrants other than refugees. In this regard, the GCM and the GCR are complementary components of the special regime governing international protection, and they should be implemented in full.*



3. Policy implications and recommendations

These studies used different kinds of data, different epistemological and methodological approaches, different theoretical approaches, and even different research questions. Yet, they all uncovered the very same simple fact: When conflated with another policy area, asylum and refugee policy tends to be undermined in the implementation phase. Conflating asylum policy with migration policy hinders the implementation of the *1951 Geneva Convention relating to the Status of Refugees*. Yet this is what the European Union's *New Pact on Migration and Asylum* and many states' asylum policies are currently doing. Such conflation contributes to undermining the legal right to international protection by enabling the states and other actors to treat refugees, asylum seekers, and other protection-seekers like intruding migrants. The deterioration of the right to asylum is exacerbated by adjoining protection policy with security and border management policy in the New Pact as well as development policy and external policy in the EU's international agreements. A crystal-clear separation between international protection and other policy goals will significantly strengthen the international refugee protection system. Such separation is needed between the norms, institutions and procedures, and discourses that steer these two policy domains. As the world's most integrated intergovernmental entity, the EU has the best possible potential to achieve the Global Refugee Compact's goal of international responsibility sharing. The European Union and states can achieve this by doing the following:

POLICY IMPLICATION 1

The EU should separate the asylum policy component of the New Pact on Migration and Asylum from its migration component. Following the example of the United Nations' Global Compact for Refugees, the EU should opt for enacting a separate European Pact on Refugees and Asylum Seekers. The new pact should ensure the following measures are taken.

- The EU and states should abide by the Geneva Convention's rule on *exempting asylum seekers from the general entry rules for foreigners* (such as requirement of ID-cards, passport, visa, itinerary, proof of subsistence and accommodation, or immigration detention), including taking account of their specific situation during restrictions *in times of epidemics*.
- Asylum decision making procedures should be organized in *autonomous bodies*, independent of immigration offices, in which professional, specially trained protection officers sensitive to abiding by refugees' rights make decisions on asylum requests.
- The *UNHCR should have full access* to all decisions being made in these bodies as a guarantee that the high standards in refugee protection are upheld.
- The autonomous asylum decision making bodies' *decisions should be subject to only judicial review*.
- *Extensive procedural rights* (legal counsel, interpretation services, appeal rights) should be provided to all asylum seekers to ensure that asylum claims are examined on the basis of their substantive merits.
- The EU and states should create increased awareness of the fact that *lack of legal status reinforces the effects of vulnerabilities*, and they should *avoid narrowing down the scope of refugee rights* by using vulnerability as a criterion for access to international protection.



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POLICY IMPLICATION 2

The UN Global Compact on Migration has the potential to strengthen the international protection system by improving the legal condition of protection-seeking migrants other than refugees. Therefore, the EU and states should live up to their commitments laid down in the Global Compact for Migration in the following ways:

- Expand *safe pathways to protection in the EU*, in particular by providing *humanitarian visas*.
- Re-balance the securitization of asylum policy by tools that entail safe and legal channels such as *humanitarian corridors and resettlement practices*.
- Re-negotiate the existing international agreements to remove the clauses that may limit protection seeking migrants' *access to safe territory and right to seek asylum*. In future international agreements, *avoid including clauses restricting people's access to safe territory and their right to seek asylum*.
- *Make basic rights, including health rights, independent of migratory status*.
- Expand the innovative "relocation" tool – that is *relocation of asylum seekers from overloaded EU Member States to other EU Member States*.
 - *Make relocation mandatory and permanent* beyond times of mass refugee flows.
 - *Open the relocation mechanism to asylum seekers to neighboring third countries* to achieve more international solidarity beyond EU borders.
 - *Export the relocation arrangement to other regions* outside Europe to improve global responsibility sharing.
- Continue providing effective international protection during crises times, including times of mass refugee and migrant flows, pandemics, and wars:
 - Introduce and fully implement the relocation of protection-seeking migrants in crises times, supervised by the UN and/or EU.
 - Introduce duly authorized agile on-site supranational coordination agencies at refugee-intense border zones to organize well-functioning collaborative networks of on-site stakeholders.
 - Expand the implementation of the EU's Temporary Protection Directive, which was successfully used to save many lives during the invasion of Ukraine, to protection seeking migrants from other wars and other regions.
 - Ensure equal treatment of everyone on the territory, irrespective of immigration status as an effective and efficient approach to pandemic control, regarding e.g., inclusion in testing and vaccination schemes.
 - Exempt refugees, asylum seekers, and other protection seeking migrants from international mobility restrictions, taking into account their specific situation during restrictions due to pandemics and other reasons.



POLICY IMPLICATION 3

Commitment to international protection is an integral part of the values of the EU as enshrined in the treaties and in the EU Charter of Fundamental Rights. However, efforts are needed to increase the legitimacy of international refugee protection. In this respect, how we speak about refugees and asylum seekers as well as media frames and civil society and citizen attitudes matter.

- It is important that governments, politicians, media actors, and citizens *clearly distinguish between migrants and refugees when addressing the public*. Policymakers must also improve their effort to provide a counter-narrative to the notion of bogus asylum seeker.
- There is *broad citizen support for the principles and measures* underlying the international protection system and the Global Compacts on Refugees and Migration, including admission of more refugees and asylum seekers.
 - Therefore, governments can opt for implementing the international refugee law, including the Global Compacts, without risking loss of legitimacy or votes.
 - Exceptions to the last statement are the Czech Republic, Slovakia and, to a lesser extent, Estonia, and Hungary. Efforts should be made in these countries to increase people's adherence to international refugee protection.
- To earn input legitimacy to policymaking on international protection, governments must address not only their national constituencies, but also transnational groups in global arenas, which their national constituencies are closely connected to and influenced by. This can be done by using social media and other channels innovatively and in technologically advanced ways.
- For civil society organizations to become fully engaged in making the Global Compacts work, there needs to be much stronger commitment by states to the wider international order created by the 1951 Convention.

PROTECT offers novel perspectives, results, and policy implications beyond what is presented above. Shorter versions of PROTECT's policy implications in different domains are attached to this policy brief. Full versions of our policy briefs can be downloaded from [this link](#). Our research outputs and publication on which the policy recommendations are based can be read via [this link](#).

4. Project Identity

- Coordinator: Hakan G. Sicakkan, University of Bergen, Norway, Hakan.Sicakkan@uib.no
- Horizon 2020
- Duration: 1 February 2020 – 30 April 2023 (39 months).
- Website: <https://protectproject.w.uib.no/>
- Social Media: [Facebook](#), [Twitter](#), [YouTube](#), [LinkedIn](#), [Blog](#)

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ANNEX A

LIST OF ENCLOSED POLICY BRIEFS

1. Protection seeking migrants
2. Changing asylum institutions in Europe and protection effectiveness. A historical approach
3. How to devise legal and institutional frames for asylum procedures
4. Vulnerability and field level governance of international protection
5. Civil society organizations and international protection
6. How to gain public support to international responsibility-sharing in refugee protection
7. How to communicate about international protection



POLICY BRIEF ON PROTECTION SEEKING MIGRANTS

Research in PROTECT's Work Package 2 (WP2) focussed on the *rights* dimension of the international protection regime. It analysed the legal interaction of the Global Compact for Migration (GCM) and the Global Compact on Refugees (GCR) with pre-existing frames of protection, especially human rights treaties. Taking the Compacts seriously, in particular the substantive commitments laid down in the Migration Compact's Objectives, would entail substantial changes in EU policies, in asylum and beyond.

Core findings regarding EU policies

The bifurcation between refugees and migrants on which the two Compacts seemingly build is less straightforward than one would assume. Accordingly, not only the GCR but also the GCM has major implications in asylum policy. It addresses specific protection needs of protection-seeking migrants who are not covered by the Refugee Convention, and it serves as an 'umbrella', strengthening core human rights of migrants regardless of their status.

The GCM has the potential to strengthen the international protection system in improving the legal condition of protection-seeking migrants other than refugees. GCM Objective 5 stands out as an example, laying down the commitment to expand safe pathways to protection. **The European Union and its Member States should live up to their commitment, laid down in the Global Compact for Migration, to expand safe pathways to protection in the EU, in particular by providing humanitarian visas.**

The GCM has the potential to strengthen the social and economic rights of protection-seeking migrants. Objective 15 of the GCM reflects a human right to a 'minimum core' of basic services for all migrants independent of their status. This is particularly relevant for the reception conditions of protection-seeking migrants whose status determination is pending, including asylum-seekers who are subject to so-called Dublin transfers.

Immigration detention is another example where the GCM functions as an 'umbrella', shielding protection-seeking and other migrants alike. The GCM, with its Objective 13, has the potential to limit the use of detention as a means of asylum policy, in particular in the context of border procedures.

Faithfully observing Compact standards could also have policy implications beyond the CEAS instruments, such as the Return Directive or the Schengen Borders Code. Moreover, the GCM may create legal effects for EU development policy.

Select references to research output

- D2.5: Elspeth Guild, Kathryn Allinson, Nicolette Busuttil and Maja Grundler, 'A Practitioners' Handbook on the Common European Asylum System (CEAS) and EU and Member States' Commitments under the UN Global Compact on Refugees and the UN Global Compact for Safe, Orderly and Regular Migration' (Protect 2022) <<https://zenodo.org/record/7053969#.Y1vPjy337PD>> (accessed 28 October 2022)
- D2.6: Jürgen Bast and Janna Wessels, with Anuscheh Farahat, 'The Dynamic Relationship between the Global Compact for Migration and Human Rights Law' (Research Paper, Protect 2022)

To discuss findings further, please contact Prof. Dr. Jürgen Bast (Justus Liebig University Giessen), Jurgen.Bast@recht.uni-giessen.de and Prof. Dr. Elspeth Guild (Queen Mary University London), e.guild@qmul.ac.uk



POLICY BRIEF ON CHANGING ASYLUM INSTITUTIONS IN EUROPE AND PROTECTION EFFECTIVENESS, A HISTORICAL APPROACH

A robust legal-administrative framework for asylum is essential for access to asylum and to enable the asylum institutions to protect refugees.

- The historical record shows that a crucial ingredient for an optimal refugee protection are the **legal norms** on which asylum policy is based. Legal norms which provide procedural guarantees to asylum applicants, including those wanting to request asylum at the border.
 - **Important are also institutional arrangements** for enabling non-state actors to inform asylum seekers, including those in detention at the border about their right to request asylum.

Asylum institutions' position changing throughout time and place

In the early 1950s the first Asylum Offices were created in France, Italy and Germany. In these countries a corps of specialized personnel with the necessary qualifications were making the recognition decisions, while elsewhere mostly civil servants of the immigration office did so. **UNHCR** had in all countries at least **oversight** over the **national RSD**, in the Benelux this task was even outsourced to this organization.

The Ministry of Foreign Affairs was the dominant actor in refugee policy as it asylum policy was considered part of states' **international obligations and to pacify interstate relations**. During the *Trente Glorieuses*, **immigration** was largely managed by the **Ministry of Labor and/or Social Affairs**. Requesting asylum was a rather minor immigration flow.

In the 1980s and early 1990s when the **number of asylum seekers** were rising spectacularly as a result of the postindustrial transition, acceleration of globalization, by times violent regime changes and the fall of the communist bloc granting protection became considered a **sovereign decision** of national authorities. In all countries envisaged an Asylum Office was created, mostly embedded in the Ministry of Justice or the Interior. **The stake of protecting refugees remained high** as in order to legitimize an increasingly restrictive immigration policy human rights norms had to be abided by. **The role of the Asylum Office was to assure that no refugee would fall victim to the deportation of unwanted immigrants**. The different objective explain **that UNHCR**, notwithstanding its support of accelerated procedures for handling weak asylum claims mainly from Eastern Europe, **was sidelined in the national RSD procedures** and that the influence of the Ministry of Foreign Affairs on asylum policy waned. **The creation of an AO** in all countries envisaged did **not imply immediately a professional handling of asylum claims**. In particular from 1983 to 1993 the staff was increased manifold and the poorly trained protection officers were pressurized to swift decision making. In the following decades when sufficient financial means were made available for handling the asylum requests institution building went along with better decisions. The protection officers of the Greek and Italian AOs would only by the end of the second decade of the 21th century attain a professional level.

During the 1980s, in most Western European countries the **Ministry under which the national police** fell, be it Justice or the Interior **took over command of immigration policy** from the Ministry of Labor and/or Social Affairs. Concomitant with this institutional change the **restrictive turn** in West European immigration policy started. The direct line with the national



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police and more resources liberated **enabled a return policy** by which many rejected asylum seekers and other irregular immigrants were deported (eventual after being interned).

The first decades of the 21st century have seen a homogenization within EU asylum policy, also in the manner the national AOs work. Most of the countries in Northern Western Europe **moved away from the asylum office as an agency specialized in protection issues** embedded but separate in the Ministry charged with immigration policy towards a **stronger (re-)integration of the AO in the Immigration Office (IO)**. The new IO/AO became a vast organization engaged in a much more resourceful and **centralized management of immigration**.

Immigration policy had moved up on the political agenda and a need was perceived for a high-profile management of migration. The AO **was incorporated into the hierarchy of the IO/AO and all matters concerning immigration, including protection were indistinctly covered by the Minister of Interior/Justice**.

The history of refugee recognition and the role of institutions

Civil war and failed states were new push factors that generated refugees not always fully covered by the Convention of Geneva. The sidelining of UNHCR in RSD from the 1980s onward enabled reframing the concept of refugee in national fora as to exclude from the definition of refugee all those fleeing war. Calling war refugees fake refugees or displaced persons added to the delegitimization of the asylum inflow and underlined the need for a well-funded deportation policy. On the other hand, from the end of the 1980s onward the influence of the ECtHR on immigration policy did put pressure on states to expand protection to war refugees.

Analyzing protection effectiveness of the continental West-European AOs by a comparative approach finds that asylum offices which had a separate identity have been important and even by times proactive actors in pointing out to policymakers the need for additional protection to war refugees. The resulting weak subsidiary protection introduced by national legislators or even only by the executive power would ultimately culminate in a European strong and innovative protection norm for all war refugees.

For more detail about the evolution of European asylum institutions and its effects on international protection see our working documents: <https://zenodo.org/record/7437875#.Y-9Y83bMKUI> & <https://zenodo.org/record/7525600#.Y-9Y-nbMKUI>

To discuss findings further, please contact Prof. Frank Caestecker (frank.caestecker@ugent.be) or Eva Ecker (eva.ecker@ugent.be) at Ghent University.



POLICY BRIEF ON HOW TO DEVISE LEGAL AND INSTITUTIONAL FRAMES FOR ASYLUM PROCEDURES

- The international protection regime shows, in the countries investigated, responsiveness to salient contextual factors in origin countries. Violation of rights and violence lead to higher recognition of protection. However, the impact of institutional designs regarding asylum recognition in destination countries is not negligible. In addition, the EU and its member states have made considerable efforts to externalise the management of borders, which has dire consequences on asylum seekers fleeing persecution.
 - **States signatory of the 1951 Geneva Convention need to reaffirm their commitment to international protection and uphold their responsibility of protecting those whose state no longer protect. The following policy recommendations detail how this can be achieved.**
- The Asylum Office (AO) decides on protection claims. It is usually located within larger administrative structures—such as the ministry to which it is attached—which may affect its autonomy by subjecting it to political pressures. So demonstrates historical insights into AO's functioning from the 1950s to nowadays. In addition, administrative capacity shows to be an effective barrier to political pressure on asylum decision-making. A capable administration with dense sets of rules guiding case-workers is well equipped to carry out its tasks.
 - **Asylum Offices need to function in full autonomy to guarantee appropriate examination of asylum claims, independently from political pressures. Institutional design should reflect the pursuit of autonomy.**
- Having trained professionals process claims is not to be taken for granted. History shows that processing asylum claims can result in a trade-off between speed and quality, all the more so in cases of sudden increase in applications. While swift evaluation is desirable both for the administration and the asylum seekers, accurate assessment of claims is of prime importance. Measures should also be in place to face sudden increases.
 - **Asylum Offices must be adequately staffed, both in terms of quantity and quality of personnel. Case workers must be satisfactorily trained to carry out their activities. Facing sudden increases in asylum claims remains a challenge that can be met through having trained reserve civil servants in other administrative sectors and through reinforcing solidarity between EU member states in operational matters.**
- People who have fled their countries in haste, travelled long distances--sometimes for years— or destroyed their documents to reduce risks of persecution may fail to produce travel documents (such as visa or passport) when they lodge their protection claim. The risk of considering claims inadmissible—and thus not examining them against Geneva Convention criteria—on this basis outweighs its benefit.
 - **States should refrain from considering claims inadmissible on the grounds that an asylum seeker fails to produce identification or travel documents. Failure to produce said documents may be circumstantial and not an attempt to mislead case-workers.**
- Extensive procedural rights in access procedures guarantee their legitimacy and abidance by the Rule of law principle. Lack of proper remedy (conditional appeal or no suspensive effect of appeals) and failure to provide legal counsel risks leading to wrongful expulsion orders which, if enforced, could put lives in danger.



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- **States must ensure that asylum seekers have adequate means at their disposal to challenge decisions rendered on their applications in access procedures. The right to appeal should be unconditional, appeals should suspend expulsion, and legal counsel should be provided.**
- Guaranteeing rights are enforced also implies a proper provision infrastructure be in place. Formally defined rights are only as good as the efforts made to ensure they are actually enjoyed by asylum seekers. While NGOs are doing tremendous work on the ground to help people in need, their resources are not infinite and their territorial coverage is limited.
 - **States must guarantee enforcement of rights through positive means to ensure asylum seekers effectively benefit from the rights formally provided for in the law.**
- Detention of asylum seekers as a practice has grown over the years. Whilst it is legal in all its effects, it is often more expensive than hosting asylum seekers in open reception centres. Deprivation of liberty is also disproportionate a means and should only be used as a last resort. Asylum seekers in detention likely face difficulties to build and defend their case.
 - **Detention is unnecessary hardship on asylum seekers and costly for states. States should thus refrain from using detention of asylum seekers and, instead, resort to the many alternatives already outlined by NGOs and Inter-governmental organizations.**
- The external dimension of the EU's migration and asylum policies comprises a myriad of agreements with different levels of bindingness. Most policy instruments in this domain are geared towards the control of human mobility and *de jure* or *de facto* delegates border controls to neighbouring countries. Because it may prevent would-be asylum seekers from reaching the Union, it comprises the risk of breaching the EU's commitment to international protection by delegating it to countries with potentially lesser standards.
 - **The EU and its member states should strive for a more balanced approach to migration overall. If they are willing to externalise the control of their borders, they should also provide for means to claim asylum from neighbouring countries.**
- The fact that asylum policy is merged with migration, border management and security policies in the European Union's New Pact on Migration and Asylum, contributes to the undermining of the EU Member States' responsibility to protect refugees. When conflated with another policy area, asylum and refugee policy tends to be undermined in the implementation phase.
 - **Following the example of the two separate global migration and refugee compacts of the United Nations, the European Union is recommended to implement its international protection responsibility through legislation, in a new EU Asylum Pact which is strictly separate from migration, border, security, development, and external policy concerns.**

For more information, please refer to the research working papers and academic articles listed below:

For the historical analysis of RSD institutional architectures:

Caestecker F. and Ecker E. (2022) The Right to International Protection. Institutional Architectures of Political Asylum in Europe (Part I, 1970-1992). *PROTECT Working Paper series*. DOI: <https://zenodo.org/record/7437875>



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Caestecker F. and Ecker E. (2022) The Right to International Protection. Institutional Architectures Historical Analysis in Selected EU Countries (Part II, until 2018). *PROTECT Working Paper series*. DOI: <https://zenodo.org/record/7525600>

Linley C. and Atak I. (2023) Mapping Canada's Refugee Determination System: 1950-2020. *PROTECT Working Paper series*. DOI: <https://zenodo.org/record/7521407>

Maple N., Vanyoro K. and Vearey J. (2022) The Role of Institutional Architecture in the Reception of Refugees in South Africa. *PROTECT Working Paper series*. DOI: <https://zenodo.org/record/7437478>

For the effect of RSD institutional architectures on protection recognition:

Van Wolleghem P.G. and Sicakkan H.G. (2022) Asylum seekers in the machinery of the state: administrative capacity vs. preferences. Recognition rates in EU member states. *European Union Politics*. DOI: <https://doi.org/10.1177/14651165221135113>

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POLICY BRIEF ON VULNERABILITY AND FIELD LEVEL GOVERNANCE OF INTERNATIONAL PROTECTION

Vulnerability functions as a governance tool in the reception of people on the move with problematic implications for field level governance of legal and social protection.

Recommendations

- **‘Vulnerability’ is increasingly propagated, but also contested, within recent policy frameworks dealing with migration and international protection.** The concept has the malleability to emphasise either individual, situational or the structural grounds for disadvantage. ‘Vulnerability’ has mainly taken root in policies in ways that downplay structural dimensions, whereas migrants and civil society actors involved in field level governance have mobilized the notion to draw attention to how inadequacies in the reception system such as failure to provide legal assistance and basic needs as well as practices of border surveillance and return policies are exposing people to harm and making them more vulnerable.
- **Different conceptions of vulnerability are often used in implicit and arbitrary ways in policy documents, including the Global Compacts, and in field level governance.** Attempts at ‘fixing’ the vulnerability label by creating new taxonomies and categories of vulnerability, or by twisting the terminology by using terms such as ‘specific needs’ or ‘in a situation of vulnerability’ in policy documents do not necessarily solve dilemmas related to vulnerability governance on the ground. In fact, such attempts have rather contributed to fragmenting and narrowing the scope of the vulnerability label and who gets to be included.
- **Although the language of vulnerability gestures to caring approaches, the operationalization of a vulnerability approach in the reception of people on the move tends towards selective rather than additional assistance.** Various hierarchical vulnerability classifications implemented in different contexts serve as filtering and excluding mechanisms, which often favour ‘obvious’ or ‘essentialising’ characteristics. Attempts at creating more flexible approaches that respond to migrants’ diverse needs and complex positionalities, must therefore first address how the need for a ‘vulnerability approach’ within the current protection framework is tied to states denying or limiting migrants and asylum seekers’ access to legal and social protection in the first place.
- **A broad range of actors, including diverse civil society organizations, play an important role in providing legal and social assistance to people on the move.** However, the tendency towards outsourcing or ‘marketizing’ the reception of migrants, and as such to a juridification and contractualization of the role of CSOs, fundamentally structures the opportunities for and functioning of collaboration on the ground, and as such the way vulnerability is deployed. When vulnerability becomes a commodity for CSO to sustain their own organisational existence, it can weaken their advocacy role.

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Protect

The Right to International Protection

POLICY BRIEF ON CIVIL SOCIETY ORGANISATIONS AND INTERNATIONAL PROTECTION

Civil Society Organisations (CSOs) are indispensable in creating and delivering an effective, legitimate and resilient system of international protection for refugees.

Recommendations:

- **CSOs working in international protection are key partners for accessing both refugees themselves and wider social groups.** CSOs are expressions of collective social interests and priorities. This produces groups with high levels of motivation and with specialist knowledge and resource, which public bodies are likely to find of particular use when trying to enact public policy in the field. But these groups are also gateways back into the societies from which they emerge and so offer opportunities for public bodies to engage with CSOs as representatives of broader constituencies;
- **The diversity of CSO forms and interests requires policymakers and other partners to be aware of the implications of different framings.** There is a key distinction between groups that see refugees as a case in themselves and those that see them as exemplars of humanitarian need. Consequently, public bodies need to engage closely with CSO partners to understand the particular ways in which these conceptualise and operationalise policy and actions. It cannot be assumed that a group that works well on one element of international protection will be able to translate that to other elements;
- **CSOs might be the harshest critics of the Global Compacts, but also are their strongest supporters.** Where groups have been involved, they have shown a thoughtful and well-reasoned view of the challenges involved: These groups are more than willing to make more of the Compacts, should states make material efforts to uphold their side of the arrangements, and this in turn would give cause to more CSOs to become active in their implementation and enforcement. CSOs thus represent a critical resource, but one that can only be unlocked by states;
- **Global Compact implementation cannot be separated from the general enforcement of the international legal order.** The Compacts have still to make much impact in operational terms, partly through limited knowledge among medium- and small-sized CSOs, but mostly because all CSOs see the international regime as a whole as being under threat from states, especially the 1951 Convention. States and relevant international organisations could readily build effective relations with CSOs on the Compacts if they so desired, as long as there is built on substantive action across the board on international protection.

For more detail, read CSO attitude and activity analysis:

<https://zenodo.org/record/7096484#.Y9k8CBfP2UJ>

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POLICY BRIEF ON HOW TO GAIN PUBLIC SUPPORT TO INTERNATIONAL RESPONSIBILITY-SHARING IN REFUGEE PROTECTION

- Public support for international collaboration to protect the world's refugees constitutes compelling evidence for policymakers: pursuing the goals established in the UN's Global Compact on Refugees and in the EU's New Pact on Asylum and Migration will not lead to popular backlash.
 - **Policymakers need to strengthen their engagement to collaborate to protect the world's refugees, be it in the framework of the UN's Compact or the EU's New Pact.**
- People's preference for admitting asylum seekers over paying financial contribution to another country that hosts them clearly points to the sustainability of responsibility-sharing through relocation programmes. Most people choose admitting over paying, a share that increases as the cost of financial contributions rises.
 - **Policymakers should adopt responsibility-sharing mechanisms that guarantee the best possible protection standards, even if it entails admitting more asylum seekers. The public supports it.**
- While some people may be concerned about "bogus" asylum claims, a larger share of the population considers it is more problematic not to grant protection to someone who needs it. Even those who worry over claims lodged under false pretences may support the principles of international protection.
 - **The principles underlying international protection receive support in the population. Policymakers must improve their effort and provide a counter-narrative to the "bogus" refugee one.**
- People who are most critical towards refugee protection, regardless of what aspect of it is considered, are those who display welfare chauvinist and nativist traits. They also present a preference for the autonomy of the state with regard to international governance bodies such as the UN and the EU. These characteristics are the reflection of deeply anchored beliefs and require a long-term perspective to be adequately addressed. Punctual communication campaigns, although useful in many ways, may not tackle the issue.
 - **Policymakers need to plan long-term strategies to improve the image of asylum seekers and refugees in public opinion. This implies sensitising citizens to otherness and human rights more generally at an early stage in the formation of their beliefs (e.g. primary school, sport and other extra-curricular activities, etc.) and continuously towards adulthood.**
- People in some countries, notably in the EU, display significantly more critical views towards refugee protection. This is the case in the Czech Republic, Slovakia and, to a lesser extent, in Estonia and Hungary. These countries also display high levels of welfare chauvinism and nativism.
 - **Commitment to international protection is an integral part of the values of the EU as enshrined in the treaties and in the EU Charter of Fundamental Rights. Particular efforts shall be made in these countries to increase people's adherence to said values.**



Protect

The Right to International Protection

- Due to pervasive political globalization, it may no longer be possible to resolve controversies on international refugee protection through political processes within individual countries. Policymaking is now more challenging and complicated than before as it requires both an in-depth knowledge of the global political landscape and a know-how of how to strategically navigate in it to achieve one's policy objectives.
 - **To earn input legitimacy to policymaking on international protection, governments must also address and appeal to transnational ideological groups operating in global arenas, to which their national constituencies are closely connected to. This must be done by using social media and other channels innovatively and in technologically advanced ways.**

For more information, please refer to the research working papers and academic articles listed below:

Cappelen C., Sicakkan H.G. and Van Wolleghem P.G. (2022) The trade-off between admitting and paying. An experimental analysis of people's attitudes toward responsibility-sharing in refugee issues. *Protect Working Paper series*. Soon to be available.

Cappelen C., Sicakkan H.G. and Van Wolleghem P.G. (2022) The Trade-off Between False Negatives and False Positives in Asylum Policies. *Protect Working Paper series*. Soon to be available.

Cappelen C., Sicakkan H.G. and Van Wolleghem P.G. (2023) The trade-off between admitting and paying: Experimental evidence on attitudes towards asylum responsibility sharing. *European Union Politics*. Soon to be available.

Sicakkan H.G. and Van Wolleghem P.G. (2022) Political globalization and citizens' support for international Refugee protection. *Protect Working Paper series*. Soon to be available.

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POLICY BRIEF ON HOW TO COMMUNICATE ABOUT INTERNATIONAL PROTECTION

for media actors—journalists, editors, media regulators, and social media users—regarding the establishment of an effective, legitimate, and resilient system of international protection for refugees:

- **The European institutions should seek to engage and communicate with civil society organizations** that support EU policies in their strategic communications to increase the reach of their message in online networks and discussion fora on this topic. Strategic communication at the EU level should also be aware that social media is not an effective medium to reach and engage with those holding views critical of the international regime for refugees and migrants.
- **The European institutions should be mindful** that many global inter-state organizations, global NGOs and global activist groups are outside of their reach on Twitter, which means not able to effectively reach many organizations interested in refugee protection issues and thus may not be able to influence the views of important players.
- **Focus on producing quality content** on social media that is shared among their peers and building relationships with ideologically diverse actors to increase their reach and influence.
- **Focus on conceptual issues and problem solving:** Journalistic coverage of migration often focuses primarily on visible events or "facts" and their actors that can be visualized. However, it is also important to cover conceptual issues and problem-solving strategies in relation to the protection of refugees.
- **Use precise language and avoid the use of "migrants" when referring to refugees:** The study found that the use of the term "migrant" in the media is associated with the policy objective of limiting refugee and asylum seeker inflows. Therefore, journalists and editors should use precise language and avoid the use of "migrants" when referring to refugees.
- **Highlight the legal status of refugees:** The study found that the designation of refugees as migrants was more frequent during the period of the European migrant and refugee crisis, indicating a relativization of their legal status and the presence of an anti-migration discourse. Therefore, it is important to highlight the legal status of refugees and avoid undermining their status.
- **Cover both traditional and social media:** The study found that traditional and social media retain their distinct characteristics in terms of scope and function when discussing migration. Particular attention should be paid to curating content in traditional and social media that can inform media organizations on how to provide a comprehensive understanding of public discourses on migration, ensure more balanced and accurate coverage of refugee issues and avoid contributing to polarization on the topic.
- **Communicate shared values and maintain ties to ideologically diverse actors:** To maximize the impact of their online communication efforts, political actors should communicate shared values similar to others in their political subsystem. In order to reach a wider audience, those active on social media must maintain ties with actors who are as ideologically diverse as possible. This can be achieved by communicating shared values in a similar way to other actors in their policy subsystem.

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