

Aleksandra Matykiewicz and Dorota Gierszewski (Ed.)

German and Polish Perspectives on Migration, Refugee and Border Policy in Europe



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Introduction

Population migration is an integral part of our history. Although this phenomenon is not new, in recent years, due to its scale and global reach have given it a new dimension, becoming a catalyst for political, social, economic, and cultural change around the world. It has also become an important topic of public and political debate in many countries. The list of reasons why people decide to seek a new place to live seems to be getting ever longer. It includes armed conflicts, political persecution, human rights violations, and the instability of many countries. In addition to political reasons, economic reasons remain constant – many people emigrate in search of better living conditions, higher wages, or more employment opportunities. Increasingly, people are forced to migrate by climate change, natural disasters, and environmental degradation. It is without doubt that the decision to migrate is facilitated by technological advances – the development of transport and communication tools.

International migration is a complex phenomenon, full of paradoxes and ambivalence. The countries have changed – both those from which people emigrate and those to which they immigrate – and entire regions, as well as the relations between them. Immigrants may contribute to economic development and innovation, or they may be a burden on the economy. They increase the ethnic and cultural diversity of societies, which for some is an advantage and an opportunity, while for others it raises fears and generates social tensions. Unregulated immigration and unsuccessful integration of immigrants is a catalyst for xenophobia and racism, activating nativist movements in many countries and strengthening the far right. The experience of recent years has shown that managed migration can also be a tool of pressure in international relations, and even an element of hybrid warfare, as is the case on the eastern border of the European Union. Countries affected by all these processes try to manage them by creating immigration policies.

Developing a common, effective, and forward-looking immigration policy is one of the most important challenges facing the European Union. It is an extremely difficult task, requiring the reconciliation of sometimes conflicting interests and different rationales. European states have many legal and international obligations in this area. For many Europeans, the reception of immigrants, especially the granting of asylum,

is a question of European or more broadly humanist values and historical responsibility (especially of former colonial countries or Germany, with its responsibility for the crimes of Nazism). There are also economic arguments in favour of accepting immigrants, primarily related to labour market needs, and demographic arguments, stemming from the low birth rates and ageing populations in EU countries. Against – a fear of dilution of national identity, or even physical danger. A particular challenge nowadays is effective border control. This is one of the basic tasks of the state, an expression of its sovereignty that countries do not want to give up. However, in the case of countries whose borders are also the external borders of the European Union, and which are exposed to particular migratory pressure – such as the Mediterranean countries or Poland and the Baltic States – it seems that this is a task that cannot be accomplished without the solid support of the other members of the European Union.

This volume provides an in-depth analysis of the complex dynamics of immigration policy in Poland and Germany, whose approaches to immigration issues are shaped by both historical circumstances and contemporary political, social, and economic challenges. The book analyses the differences and similarities in immigration strategies, taking into account the changing geopolitical context, the impact of EU regulations, and public reactions to the influx of immigrants. The analyses presented herein are based on an interdisciplinary approach, combining the perspectives of political science, sociology, economics, and the legal sciences, which allows for a better understanding of the evolution of immigration policies in both countries, and their consequences for the future of Europe.

Aleksandra Matykiewicz & Dorota Gierszewski

- 1. Migration Policy as a Challenge for the European Union**

Legal, Institutional, and Aid Instruments of the European Union in Addressing the Refugee and Humanitarian Crisis in Ukraine (2022–2024) A Case Study of the Desecuritisation of the Migration Crisis

JANUSZ JÓZEF WĘC

Abstract: This chapter analyses the European Union's response to the 2022–2024 refugee and humanitarian crisis in Ukraine. The author first presents the legal, institutional and aid instruments implemented by the EU to address the crisis, and then compares the Ukraine crisis with the EU's migration crisis of 2015–2016. Finally, he assesses both crises from a theoretical perspective. The author concludes that the EU securitised the 2015–2016 migration crisis and desecuritised the 2022–2024 Ukrainian crisis.

Keywords: Temporary Protection Mechanism, European Union Civil Protection Mechanism, Desecuritisation of the Migration Crisis

Introduction

The Russian aggression against Ukraine has triggered one of the largest refugee crises worldwide since the Second World War. According to UNHCR data, between 24.02.2022 and 31.12.2024 (UNHCR, 2024b, 10)¹, a total of 43,883,730 displaced persons crossed Ukraine's borders into Poland, Slovakia, Moldova, Romania, and Hungary. Of these, 40,352,655 subsequently returned to Ukraine. The majority of refugees crossed into Poland (27,473,825), followed by Hungary (6,311,965), Romania (5,852,255), Slovakia (3,001,235), and Moldova (1,244,455) during the specified period. The corresponding numbers of returnees to Ukraine from these countries were as follows: 25,481,455 from Poland; 5,780,315 from Hungary; 5,061,990 from Romania; 2,965,775 from Slovakia, and 1,063,125 from Moldova. Furthermore, during the same period, some refugees fled to Russia and Belarus during the same period, with 2,852,395 individuals crossing into Russia and 15,890 into Belarus². However, data from Russian and Belarusian sources

¹ The reference date of 31.12.2024 is conventional, as data were collected on different dates: Poland (14.01.2025), Slovakia and Hungary (9.02.2025), Moldova (31.01.2025), and Romania (1.12.2024).

² Data for Russia were recorded as of 30.06.2024, while data for Belarus were collected as of 31.12.2024.

es regarding their potential return to Ukraine are unavailable. This means that, in total, 46,752,015 displaced persons crossed Ukraine's borders into neighbouring states during the period under analysis, while at least 40,352,655 returned (UNHCR, 2024b, 1–2).

This chapter presents legal, institutional, and aid instruments implemented by the European Union in response to the refugee and humanitarian crisis in Ukraine between 2022 and 2024. In response to the mass influx of war refugees caused by Russia's aggression against Ukraine, EU institutions chose to implement pre-existing legal and institutional mechanisms that had been previously underutilised or never activated. These include the Temporary Protection Mechanism for war refugees, the Integrated Political Crisis Response (IPCR) mechanism, and the Union Civil Protection Mechanism (UCPM). The economic and macro-financial assistance mechanisms for Ukraine discussed in this chapter – specifically activated by the EU for this purpose – include two instruments, namely the Instrument for Macro-Financial Assistance + (MFA+) and the Ukraine Facility. With regard to EU humanitarian aid mechanisms, this analysis will cover the REACT-EU and UCPM instruments, along with the EU's Strategic Reserve, which was reactivated in response to the refugee and humanitarian crisis in Ukraine. Additionally, the study will examine emergency humanitarian assistance directed towards war refugees and civilians in Ukraine, funded through reallocations from the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Asylum, Migration, and Integration Fund (AMIF), and the Fund for European Aid to the Most Deprived (FEAD). Finally, economic, macro-financial, and humanitarian support instruments provided by EU Member States, as well as by the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD), will also be presented. The analysis is essentially limited to the legal framework as of 31.12.2024.

Methodology and Theoretical Framework

This study is guided by three research objectives: one primary objective and two specific objectives. The primary objective is to examine the effectiveness of the European Union's response to the refugee and humanitarian crisis in Ukraine, which was triggered by Russia's aggression between 2022 and 2024 (O₁). The specific objectives include evaluating the significance of the legal and institutional instruments used by the EU in addressing this crisis (O₂), as well as identifying and exploring the scope and impact of the EU's economic, macro-financial, and humanitarian aid instruments, along with those provided by its Member States, for Ukraine, its war refugees, and its civilian population (O₃). This chapter also formulates two research hypotheses. The first hypothesis posits that the European Union and its Member States handled the refugee and humanitarian crisis caused by Russian aggression in Ukraine far more effectively than the migration crisis of 2015–2016 (H₁). The second hypothesis suggests that

the European Union and its Member States actively engaged in the desecuritisation of the Ukrainian crisis (H₂). In this context, the study seeks to answer the following three research questions: (Q₁) What legal, institutional, and aid instruments did the EU employ to address the refugee and humanitarian crisis in Ukraine, and how effective were they?; (Q₂) How was the crisis perceived within the European Union and its Member States?; (Q₃) How was the desecuritisation of the Ukrainian crisis carried out?

This chapter primarily employs two qualitative research methods: the institutional-legal method and the comparative method. The first is used to analyse EU legal acts in detail. The latter is used to enable, even in a summarised form, a comparison between the migration crisis of 2015–2016 and the 2022–2024 refugee and humanitarian crisis in Ukraine. In addition, this method facilitates the identification of six key differentiating factors between these crises.

Furthermore, this paper refers to two theoretical frameworks: securitisation theory and desecuritisation theory. Securitisation theory, developed in the 1990s by scholars of the Copenhagen School of security studies (Barry Buzan, Ole Wæver, and Jaap de Wilde), explores how threats of critical significance to state and societal security are defined, typically by political elites and the media. According to this perspective, such threats are often presented as existential in nature, necessitating the mobilisation of extraordinary security measures for their neutralisation. The Copenhagen School views securitisation as a negative phenomenon – an extreme form of politicisation in which even imagined threats to state and societal security are constructed, resulting in the implementation of emergency measures. Another scholar and critic of the Copenhagen School, Ali Diskaya, argues that the core premise of securitisation theory is that “in international relations an issue becomes a security issue not because something constitutes an objective threat to the state (or another referent object), but rather because an actor has defined something as existential threat to some object’s survival” (Diskaya, 2013, 2). At the same time, some proponents of the theory consider desecuritisation as a positive phenomenon, offering alternative solutions to threats and challenges that emerge in crisis situations, including migration crises (Buzan, Wæver, de Wilde, 1998, 23–24). According to Ole Wæver, the *détente* policy of the 1970s serves as a key example of the negotiated desecuritisation between East and West. He argues that this policy contributed “to the modifications of the Eastern societies and systems that eventually made possible, via sudden desecuritisation, the radical changes of 1989” (Wæver, 1998, 10). Thus, if securitisation employs extraordinary measures to eliminate actual or perceived existential threats, then desecuritisation addresses security concerns through conventional political measures.

The European Union in Search of an Adequate Response to Migration Crises

One of the European Union's responses to the 2015–2016 migration crisis was an attempt to reform its immigration policy, external border controls, and asylum policy (Węc, 2017, 14–24, 35–38). However, an analysis of legislative statistics indicates that the legislative packages proposed by the European Commission between 2015 and 2018 largely failed (Węc, 2023a, 25–44). Of the 14 legislative proposals submitted by the Commission, only three were adopted in 2015–2016. These included two Council Decisions from 14 and 22.09.2015, which established provisional migrant relocation schemes, as well as the European Commission Recommendation from 8.06.2015 on a European resettlement scheme (Procedure, 2015a, 1; 2015c, 1; 2015e, 1–2; European Commission, 2015, 32–37). Three further drafts were withdrawn by the Commission itself between 2019 and 2021 (Procedure, 2015b, 1–2; 2015d, 1–2; 2016c, 1–2), while legislative work on seven drafts prolonged and was not concluded by 2020.

As a result, the EU failed to establish effective permanent legal and institutional frameworks capable of effectively addressing the 2015–2016 migration crisis and future migration challenges. A key reason for this failure was that most of the Commission's drafts faced serious objections and controversies among Member States. The most significant one – the establishment of a permanent relocation mechanism – was blocked by Member States, leading the Commission to withdraw the draft in 2019 after four years of unsuccessful negotiations. Meanwhile, the provisional relocation mechanisms established by the Council Decisions of 14 and 22.09.2015 yielded only partial success. The first decision, based on a voluntary agreement among Member State governments in a resolution of 20.06.2015, was in force from 16.09.2015 to 17.09.2017. The second decision, which imposed a legal obligation on Member States to carry out relocations, was in force from 25.09.2015 to 26.09.2017. Both mechanisms aimed to relocate 160,000 migrants from Italy and Greece to other EU Member States but achieved only moderate results. Additionally, both decisions temporarily suspended certain provisions of the Dublin III Regulation, particularly Article 13(1), which assigned responsibility for processing asylum applications to border states such as Italy and Greece rather than the countries to which migrants were relocated. A turning point in managing the 2015–2016 migration crisis came with the EU-Turkey agreement of 18.03.2016 on cooperation in combating the migration crisis, which introduced the EU-Turkey 1:1 scheme. The implementation of this agreement was highly effective, significantly reducing migration along the Eastern Mediterranean route, including the influx of war refugees from Syria (Węc, 2023, 25–44).

Despite the failure of the 2015–2018 legislative initiatives, the European Commission remained committed to addressing migration challenges. On 23.9.2020, it announced the New Pact on Migration and Asylum, which aimed to comprehensively reform the EU's immigration policy, external border control, and asylum system. Contrary to the

official title given by the Commission, however, this was not an entirely new legislative package. The New Pact included ten legislative proposals, but only three were entirely new. The remaining proposals had already been under negotiation between 2016 and 2018. For five of them, political compromises had already been reached at the level of the Council of the EU and the European Parliament, while the remaining two were modified by the Commission itself. The core element of the New Pact on Migration and Asylum was the draft regulation of the European Parliament and the Council on migration and asylum management (European Commission, 2020, 3–4). The draft proposed the establishment of a new permanent solidarity mechanism among Member States in asylum policy, the clarification of migrant registration procedures, and the introduction of migrant relocation and return sponsorship procedures. The proposal aimed to repeal and replace the Dublin III Regulation and continue the reform of the Common European Asylum System, initiated in 2016. In many respects, this draft mirrored the 2019 Commission proposal for a permanent relocation mechanism, which had been withdrawn. The newly proposed permanent solidarity mechanism – intended to replace the permanent relocation mechanism – once again sparked significant political controversy (European Commission, 2020, 45–50). On 18.12.2020, the governments of six EU Member States – Poland, Czechia, Slovakia, Hungary, Estonia, and Slovenia – issued a joint non-paper, submitting it to the outgoing German Presidency and the incoming Portuguese Presidency. The document strongly criticised the New Pact on Migration and Asylum, particularly the proposed permanent solidarity mechanism. These states deemed the proposed distribution key for asylum seekers within the EU “unacceptable”, as it was based on an algorithm incorporating population size and GDP of each country (Non-paper, 2020, 2).

For a long time, legislative efforts concerning the Regulation on Migration and Asylum Management, as well as the remaining nine legislative proposals, failed to yield any breakthroughs. The only exception was the Regulation adopted on 15.12.2021, which transformed the European Asylum Support Office (EASO) into the European Union Agency for Asylum (EUAA) (Procedure 2016a, 1). The EUAA became operational on 19.01.2022. A political compromise on the remaining nine legislative drafts was finally reached at the turn of 2023 and 2024. These new legal acts – comprising seven regulations and two directives – were adopted by the European Parliament and the Council of the European Union on 10.04 and 14.05.2024, respectively (Procedure 2020c, 1–2; 2016b, 1–2; 2016d, 1–2; 2016e, 1–2; 2016f, 1–2; 2016g, 1–2; 2018, 1–2; 2020b, 1; 2020a, 1–2).

The prolonged legislative process concerning the Pact on Migration and Asylum, coupled with the possibility of applying extraordinary legal measures for war refugees in the Ukrainian crisis, led the European Union to implement the three aforementioned legal and institutional instruments: the Temporary Protection Mechanism for war refugees, the Integrated Political Crisis Response Mechanism, and the Union Civil Protection Mechanism.

Legal and Institutional Instruments of the European Union and EU Member States in Addressing the Crisis

Temporary Protection Mechanism for War Refugees

The first legal instrument was Council Decision 2022/382, adopted by the Justice and Home Affairs Council on 4.03.2022, which determined the existence of a mass influx of war refugees from Ukraine into the European Union (Council, 2022c, 1–6). This decision served as an implementing act for Council Directive 2001/55/EC on temporary international protection, which had been adopted earlier on 20.07.2001 in response to the mass influx of displaced persons into the EU, particularly from Bosnia and Herzegovina and Kosovo, due to the Balkan conflicts at the time. The implementing decision entered into force on the day of its adoption. Initially, it was valid for one year, but the Justice and Home Affairs Council extended its validity three times: first until 4.03.2024, then until 4.03.2025, and most recently until 4.03.2026 (Council, 2024, 1–2). The decision covered Ukrainian nationals residing in Ukraine before 24.02.2022, along with stateless persons and third-country nationals (other than Ukrainians) who had been granted international protection or equivalent national protection in Ukraine before this date. It also extended to family members of the aforementioned individuals (Article 2(1) of the Decision). The European Commission was responsible for coordinating cooperation and information exchange among Member States, particularly in monitoring reception capacities and identifying the needs of displaced persons. In this regard, the Commission collaborated with EU Member States, the European Border and Coast Guard Agency (Frontex), the European Union Agency for Asylum (EUAA), and Europol. All three agencies were also mandated to provide operational support to any EU Member State that requested assistance in handling the influx of refugees and implementing the decision (Article 3(2) of the Decision) (Council, 2024, 5–6).

The Council Implementing Decision, in accordance with the provisions of Council Directive 2001/55/EC of 20.07.2001, enabled the establishment of a temporary protection mechanism for war refugees from Ukraine across the entire territory of the European Union (Directive 2001, 163). Denmark, which – pursuant to Protocol No. 22 annexed to the TEU and the TFEU – was not bound by the directive (Protocol, 2012, 299–300), provided temporary protection to Ukrainian refugees under its own national programme. Meanwhile, Ireland, which – under Protocol 21 annexed to the TEU and the TFEU – has the flexibility to opt in or out of cooperation within the area of freedom, security, and justice, chose to participate in the adoption and implementation of the directive in this instance (Protocol, 2012, 295–296).

As mentioned earlier, the temporary protection mechanism for war refugees from Ukraine guaranteed them immediate and collective protection. This meant that host countries were not required to assess asylum applications individually. However, tem-

porary protection did not prejudice the recognition of refugee status under the Geneva Convention of 28.07.1951, supplemented by the New York Protocol of 31.01.1967 (Art. 3(1) of the Directive). On the contrary, beneficiaries of the temporary protection within the EU had the right to apply for asylum at any time. If an asylum application was not processed before the expiry of the temporary protection period, the procedure could continue beyond that period (Art. 17(1)–(2) of the Directive). Registration under the temporary protection mechanism granted individuals a status equivalent to that of a displaced person. Temporary protection ensured respect for human rights and fundamental freedoms, including the principle of non-refoulement (Article 3(2) of the Directive). Furthermore, the establishment, implementation, and suspension of the temporary protection mechanism were to be regularly consulted with UNHCR and other relevant international organisations (Art. 3(3) of the Directive). All measures outlined in the directive under consideration were to be financed through the Asylum, Migration and Integration Fund (Art. 24 of the Directive). To address the specific needs of Member States (including those concerning persons with disabilities), emergency mechanisms and flexibility instruments under the Multiannual Financial Framework 2021–2027 were also activated. Applications for temporary protection for war refugees could also be submitted in Norway, Iceland, Liechtenstein, and Switzerland, as these countries are part of the Schengen area under separate international agreements with the EU.

Under Articles 12, 13(1)–(4) and 14(1)–(2) of Council Directive 2001/55/EC, refugees were granted: the right to reside in the host country; access to accommodation; social assistance; access to the labour market (depending on the labour policies of EU Member States); medical assistance, including psychological care and support for children; the right to education and vocational training for minors; legal assistance and safe accommodation for unaccompanied minors; access to banking services (e.g. the right to open a basic bank account); the right to visa-free movement within the EU (outside the country of residence in the EU) for up to 90 days within a 180-day period after a residence permit in the host EU country is issued; and the right to relocate to another EU country, either before or after a residence permit is issued. A person registered under temporary protection could move to another EU Member State, or to Norway, Iceland, Liechtenstein, or Switzerland, as the rights conferred by temporary protection were equivalent across all these countries. If a registered individual chose to relocate, they were only required to inform the authorities of the Member State where they were initially registered. Upon relocation, the individual would lose their residence permit from the initial Member State, and the destination country would then register them, grant them temporary protection status, and issue a new residence permit (Directive, 2001, 166).

The effectiveness of the European Union's response to temporary protection beneficiaries was particularly evident in three key areas: the number of refugees registered; guaranteed access to refugee rights under Council Directive 2001/55/EC; and the rel-

actively short waiting time for registration of displaced persons. According to Eurostat data, between 24.02.2022 and 31.12.2024, a total of 4,260,000 refugees from Ukraine were registered under the EU's temporary protection mechanism, including in Denmark and Ireland, while 151,526 individuals registered in EFTA states. In total, EU and EFTA countries granted temporary protection to 4,411,526 refugees.³ Among EU Member States, the highest numbers of displaced persons were registered in Germany (1,161,450), Poland (991,630), and Czechia (388,625), followed by Spain (226,615), Romania (179,715), Italy (163,100), Slovakia (131,525), the Netherlands (121,300), Ireland (109,990), and Belgium (87,240) (cf. Table 1) (Eurostat, 2024e, 1–3; 2024a, 1–3; 2024f, 1–3). As of the end of December 2024, the percentage shares of the three countries that admitted the largest number of beneficiaries in the entire EU were as follows: Germany – 27.3 % of the EU total, Poland – 23.3 %, and Czechia – 9.1 % (Eurostat, 2024e, 1–3). It is important to note that Ukrainian refugees frequently exercised their right to relocate between EU Member States, leading to significant fluctuations in refugee numbers across different countries from 2022 to 2024. For instance, the peak number of registered refugees in Germany occurred on 31.12.2023, reaching 1,251,245 persons. In Poland, the highest point was recorded much earlier, on 30.09.2022, when Eurostat statistics showed 1,370,625 beneficiaries. In Czechia, the peak was reached on 28.02.2023, with 447,830 refugees registered. In the following months, the number of registered refugees declined in Poland and Czechia, whereas in Germany, it continued to rise.

As of 31.12.2023, the lowest recorded number of beneficiaries was observed in Poland and Czechia (954,795 and 373,035 persons, respectively), while Germany recorded the highest number (1,251,245 persons) (Eurostat, 2024c, 1–2). Naturally, refugees relocating from Poland and Czechia did not register exclusively in Germany but also in other countries, with the most frequent destinations being Austria, the Netherlands, Spain, Ireland, and Norway (Eurostat, 2024b, 1–2). Compared to the end of November 2024, the number of individuals under temporary protection increased by 25,590 across the EU by the end of December 2024 (+0.6 %). The largest absolute increases were recorded in Germany (+8,830; +0.8 %), Poland (+3,705; +0.4 %), and Czechia (+3,435; +0.9 %). Conversely, only three EU countries experienced a decrease in the number of beneficiaries of temporary protection: Denmark (-1,995; -5.1 %), Italy (-1,310; -0.8 %), and France (-595; -1.0 %) Eurostat (2024e, 1–2).

³ According to UNHCR data, as of 16.11.2025, the total number of registered Ukrainian war refugees worldwide was 6,863,400. Of these 6,303,200 were in Europe and 560,200 were in non-European countries, including approximately 400,000 in Canada and the USA. Additionally, around 3.6 million Ukrainians remain internally displaced (IDPs) within their own country, although millions of IDPs have already returned home (UNHCR, 2024a, 1–2; 2024c, 1–2). Furthermore, between 24.02.2022 and 31.08.2024, a total of 11,743 civilians were killed in Ukraine, while 24,614 were injured (U.S. Committee, 2024, 1–3).