



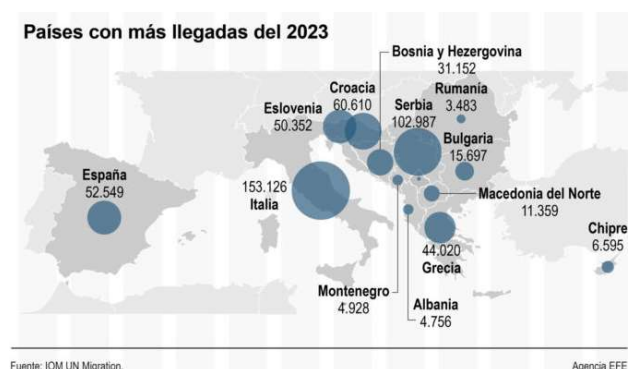
# Outsourcing Immigration: The New Migration Pact

Despite efforts to regulate the flow of migrants, the management of asylum applications in the EU continues to generate tensions among Member States and humanitarian challenges. Outsourcing policies weaken and endanger the human rights of asylum seekers.

In 2022 alone, the EU received 962,160 asylum seekers, a significant reduction from the 1.3 million during the peak of the 2015 migration crisis, but still a relevant figure. These high numbers are problematic both for applicants, who face long wait times and possible human rights violations, and for host countries, which must invest large sums to provide for them. This is why the EU has been implementing various reforms to its Common Asylum Policy, the most recent being in 2023.

The current regulation requires each member state to have the capacity to process a minimum of 30,000 applications per year. After determining who qualifies for asylum, refugees are to be distributed among member countries, which are obligated to either accept the applicants or pay €20,000 per rejected immigrant to the country of entry or finance infrastructure.

However, this procedure does not resolve the issue. The reality is that most asylum seekers enter through Mediterranean countries: Spain, Italy, and Greece, which face immense administrative, economic, and social pressure. Adding to this is the fact that the GDP of these countries is below the EU average, highlighting the significant burden placed on them as they bear most of the high costs.





On top of this, it's worth noting that the host country for asylum seekers depends on the solidarity of other member states: €20,000 is insufficient to support an immigrant. The expenses include healthcare, food, housing, and education, especially for minors. There's also the challenge of finding them jobs. Yet, considering unemployment rates, these three countries are once again at a disadvantage compared to the European average.

Finally, if it is determined that applicants do not meet the necessary requirements to be considered refugees, they must be returned to their country of origin. However, only around 30% of those rejected actually leave European territory. This means that the country of entry must also deal with the additional cost of these individuals' uncontrolled stay.

Due to these problems and high costs, the Prime Minister of Italy, Giorgia Meloni, has proposed a new migration plan to the European Commission to reduce the pressure caused by asylum seekers. However, implementing this plan could result in human rights violations and breaches of international and European law. The proposal involves outsourcing the asylum application process to countries outside the EU, so applicants would be sent directly to centers built in these external countries to process their applications and be deported if rejected. Vulnerable individuals, minors, women, and families would be excluded from this outsourcing. Implementing this proposal

would require the EU to reach bilateral or multilateral agreements with non-EU countries like Libya or establish agreements similar to the existing one between Albania and Italy.



Member countries such as Hungary, the Netherlands, Denmark, and Greece support Meloni's proposal, which is also backed by European Commission President Ursula von der Leyen. However, other countries, including Spain, Germany, and Belgium, oppose the model, seeing it as an ineffective, short-term, and dangerous solution that compromises migrants' human rights.

The transfer of 16 immigrants from Italy to a detention center in Albania under this agreement has sparked debate about the potential human rights violations this system might entail. Amnesty International has stated that this pact will only "increase suffering," while UNHCR has called for the Asylum Pact to focus on protecting migrants. Other organizations, such as Human Rights Watch and Médecins Sans Frontières, have criticized this pact as an instrument for violating the human rights of asylum seekers, particularly as a breach of



the right to asylum protected at both international and regional levels.

The right to asylum is enshrined in Article 14 of the Universal Declaration of Human Rights and the Geneva Convention on the Status of Refugees. This right ensures that applicants can receive protection when fleeing their country of origin. At the European level, it is also protected under Article 18 of the Charter of Fundamental Rights of the EU, and further supported by the prohibition of collective expulsions in Article 19 of the same Charter, which safeguards immigrants from being returned, expelled, or extradited to a state where they face serious risks.

Many critics of the proposal argue that outsourcing aims to shift responsibilities and evade obligations towards immigrants. These obligations and responsibilities are often transferred to developing countries with insufficient resources to **safeguard the human rights of applicants and ensure an effective and fair process**. Additionally, by outsourcing to other countries, the EU loses control over conditions in reception centers and potential human rights violations, given the principle of sovereignty. The transferring state must ensure that the receiving state meets minimum standards. Failure to fulfil this obligation would violate international law.

Regardless of whether adequate living conditions can be provided in these countries, concerns also arise over whether **legal advice**—guaranteed under the EU Common Asylum Policy—will be easily accessible to immigrants sent to detention centers. This includes not only the opportunity to speak with a legal professional but also the assurance that such professionals are competent and knowledgeable about EU law, particularly regarding immigrant processes and rights.

The concept of a **Safe Country**, according to the European Court of Justice, can only be considered when safety extends to the entire territory and all citizens. In theory, this concept helps determine where immigrants' rights can be respected. However, there is no unified EU list of Safe Countries; it is up to each member state to decide. For instance, in Albania's case, 17 of the 27 members consider it a Safe Country. This exacerbates the problem, as even an attempt to conduct guaranteed outsourcing would depend on the political ideologies and interests of each member state.





Outsourcing to non-safe countries may also contravene the **fundamental principle of international law of non-refoulement**, whereby the country receiving refugees is prohibited from returning them to a country where they may be at risk of persecution, be it for reasons of race, religion, ideology, etc. If we take into account the lack of cohesion in terms of the Safe Country concept, this situation of unprotection could easily arise. Although externalisation is in principle only for the time it takes to resolve the asylum application, migrants would be in a situation of inferiority and lack of protection vis-à-vis the authorities of the external country for the duration of the process. This could be aggravated in the event that the application is rejected, since, if the immigrant is in a country with few guarantees, the deportation could be made to a country in which the immigrants are in serious danger, infringing this international principle even more.

It is undeniable that the right to asylum and the fundamental principle of non-refoulement are being called into question. Furthermore, we cannot ignore the violation of other fundamental rights such as freedom of movement or the right to compensation for damages. Through externalisation, migrants are transferred to detention centres from which they cannot move until the asylum claim is resolved. This is a clear infringement of the right to freedom of movement protected in Art. 13 of the Universal Declaration of

Human Rights. Additionally, by externalising immigration, accountability for human rights violations becomes more limited, as these actions are shifted to countries that generally do not have a history of respecting human rights. This is compounded by the lack of transparency that often characterises these countries, which only exacerbates the problem.

Nor can we forget that these measures, apart from infringing human rights, contribute to the criminalisation and dehumanisation of migrants, when the asylum application process should focus on protection and respect for life and human dignity. This could create problems in the future by creating a negative perception of these people in European society, leading to difficulties of integration in the host country, if they are recognised as refugees. It also creates a perception of rejection from the perspective of the refugee who feels unwelcome by the system that is supposed to protect them, which can lead to their self-marginalisation when it comes to participating in the social and economic life of the host country, further limiting their opportunities to prosper.





What is clear is that it is necessary to weigh up which weighs more: the national sovereignty of each member state to decide how to handle immigration, or the protection of the human rights of these people who find themselves in situations of serious vulnerability as they normally come from areas of risk.

In other countries, such as Australia, the priority is to control immigration at any cost, thus ignoring possible human rights violations that may be committed. Their model is based on 'zero tolerance' towards migrants, making off-shore arrests in order to avoid the legal obligation to offer asylum and to avoid accountability for the conditions of migrants in detention centres. After arrest, migrants are taken to islands such as Nauru, Papa New Guinea or Christmas Island. This dynamic of relocation to prison islands is based on cooperation with third countries not only to create these detention centres, but also as a measure of immigration containment and border control. In return, Australia offers trade agreements and development aid to these third countries.

Trump's re-election as president will also bring added difficulties for US immigration, given his policy of prioritising US citizens above all else. His immigration policies include the construction of detention camps for those immigrants who are to be deported, seeking to encourage rapid and large-

scale deportations, ignoring the rights of the individual. Already, in his previous presidential term, he restricted the requirements to be considered a refugee and made access to professional legal help more difficult. Finally, he now wants to introduce a fee to apply for asylum. This would add hardship for migrants, who in many cases escape their home countries with little more than the clothes on their backs.



In short, it seems that the introduction of greater hardship for asylum seekers is an increasingly common strategy in developed countries, but it is not necessary to go as far as the US or Australia. The 2016 EU-Turkey pact is also a clear example of a migration policy that seeks to favour the interests of the country, or in this case region, over the protection of human rights. Despite the fact that Turkey is considered a Safe Country by only three EU countries, this agreement was concluded, under which Turkey committed to prevent irregular migrants from leaving its borders to the EU and to take in refugees arriving in Greece. In return, the EU promised financial compensation and improved



access to the EU for Turkish citizens. The reality is that the conditions of security and protection for migrants were not met in Turkey. Taking this arrangement into account, Meloni's proposal is not so strange for the EU. In fact, it seems that the only difference is where the migrants would be sent.

In the end, the premise of these policies is always the same; they seek to have greater control over immigration, but also to deter potential asylum seekers by offering poor living conditions upon arrival. However, all countries must remember the importance of solidarity. People who seek asylum do not do so out of pure preference, but decide to take the extreme decision to leave their whole lives behind because they find themselves in truly deplorable situations, in many cases in serious violation of human rights. It is a duty to offer protection and welcome to countries that have the capacity to give them a chance to prosper. If instead of providing protection to those who need it most, these countries decide to outsource immigration to states indifferent to human rights protections and more specifically to refugees, then why was legal protection of these rights approved at the international level?

It is crucial that the EU and its leaders rethink their priorities and seek solutions that do not compromise the protection to which asylum seekers are entitled while sharing the burden among all member states. There is no doubt that the current migration model has many shortcomings and puts a lot of administrative,

social and economic pressure on just a few countries. Nor can it be denied that there is a lack of solidarity on the part of other member states in terms of the support they can give to the main receiving countries. Therefore, the EU needs to re-imagine the model in such a way that all Member States play an active role in the reception and redistribution of asylum seekers. This could include, for example, the creation of a common EU fund to finance, with immediate application, the full cost of maintaining migrants until the application is resolved and the obligation on other Member States to accept a certain number of refugees per year, without the possibility of rejecting them in exchange for a financial amount. In this way, the demand for asylum applications would be met, relieving the receiving countries of the great economic, social and administrative burden that immigration entails.

On the other hand, bilateral agreements with countries outside the EU to promote controlled immigration and prevent the development of mafias that traffic in the lives of vulnerable people in a state of extreme poverty, offering them a journey without guarantees that often end in abandonment, could be a good tool for resolving this scourge.



By creating these new measures that attack the root of the problem, not only would it be ensured that the management would be carried out under European territory and therefore respecting the rights of immigrants, but it could also be generating solutions to other problems such as the demographic problem or the regularisation of people willing to serve as labour in sectors dominated by non-EU workers. The influx of refugees is a great opportunity to increase the young population willing to work, and thus solve the difficulty generated by the inverted pyramid we have in the EU. Moreover, this labour force is usually distributed in sectors with low employment levels among the European population and with high levels of irregular contracts, such as construction, hotel and catering or domestic workers. By improving the asylum system, the legal status of these people could be regulated, allowing them access to contracts, which in turn would result in them starting to pay contributions, which would increase income for the country itself.

The truth is that asylum seekers deserve respect and solidarity from the European community, and the solution that the EU should seek is not externalisation, but the creation of a fair and equitable process that allows refugees to integrate into the host society. Until a consensus is reached to this end, the human rights of immigrants will remain in question.

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