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Jouni Häkli & Noora Peltonen

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The European Union as a humanitarian border: the production of vulnerability in the New Pact on Migration and Asylum

Jouni Häkli  and Noora Peltonen

Faculty of Management and Business, Tampere University, Tampere, Finland

ABSTRACT

This article critically examines the EU's New Pact on Migration and Asylum through the conceptual lens of the 'humanitarian border', which captures the entanglement of care and control in migration governance. Analyzing European Commission documents, it shows how the Pact invokes humanitarianism while reinforcing securitized and exclusionary practices. Three mechanisms produce migrant vulnerability: migration securitization, selective categorization of care, and pressure to perform as the 'deserving refugee'. These dynamics expose tensions in liberal democracies, where humanitarianism legitimizes restrictive border policies. The article contributes to debates on humanitarian bordering, showing how vulnerability operates as conditional rather than universal protection.

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Introduction

The governance of asylum migration has been a major problem for the European Union common migration policy for the past two decades. While there is a general agreement among the member states that the EU must respect the international conventions on asylum seeking and refuge, as well as the agreements on human rights, there are persistent disagreements about how to share responsibility for receiving asylum migrants, assessing their cases, and offering them protection (Collyer & King, 2016; Gambazza, 2024). A major line of contention runs between member states that are at the 'frontline' of asylum migration and receive many migrants, mostly from across the Mediterranean Sea, and those member states that are 'buffered' from this migration pressure by the 'frontline' states. The former have had an interest in developing common policies to share the responsibility more evenly in the EU, whereas the latter have been unwilling to take steps towards policies of shared responsibilities (Basile & Olmastroni, 2020; Crawley, 2016).

CONTACT Jouni Häkli  jouni.hakli@tuni.fi  Faculty of Management and Business, Tampere University, Tampere, Finland

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Several initiatives to reform the EU migration policy have been proposed over the past years to resolve this contention. The creation of the Common European Asylum System (CEAS) in 1999 to regulate asylum criteria and procedures, as well as the responsibilities of Member States, represented a significant milestone in the development of a functional and uniform asylum system. Since then, the CEAS has evolved through a series of legislative and policy changes, driven by uneven implementation and divergent challenges within the Member States. Until 2005 the focus was on setting minimum common standards, followed by a harmonization phase (2008–2013) enhancing legal coherence, and a crisis-driven phase (2011–2015) focusing on coordination and solidarity (Chetail, 2016). These adaptations anticipated many forthcoming policy changes, including pre-entry screening procedures and relocation partnerships with third countries. However, it was the so-called ‘refugee crisis’ of 2015 that ultimately exposed the system’s weaknesses, prompting a number of policy reform initiatives in subsequent years (Cornelisse & Reneman, 2020; Spehar, 2025). As these failed, in 2020 the European Commission took initiative to reform the CEAS through a policy initiative titled the New Pact on Migration and Asylum. After several years’ negotiations and debates in and between the EU member states and in various bodies of European Union, a political agreement was reached on the Pact on 20 December 2023 as the European Parliament and the Council agreed on five key proposals for a uniform system of regulations and policies governing migration and asylum in the EU (Gambazza, 2024).

According to the European Commission, the Pact on Migration and Asylum (henceforth the New Pact) represents a sustainable system for managing migration that brings together accountability, solidarity and security. The reform aims to establish a common framework for all aspects of asylum and migration management (European Commission, 2024). The key elements of the agreement are new migration management measures at the Union’s external borders, more efficient procedures throughout the migration and asylum system, more balanced distribution of responsibilities between member states and closer cooperation with third countries. The Commission has called for the EU to move away from ad hoc solutions towards a more predictable, common and reliable asylum system (European Commission, 2024). The protection of vulnerable people is also emphasised and supported by various measures related to relocations, vulnerability assessments during the pre-entry screening phase and the exemption of certain groups from the border procedures (Gazi, 2021).

In this paper, we provide an in-depth analysis of the key texts outlining the New Pact as a policy for European migration governance. Our analysis is based on literature that addresses the inherent contradictions and tensions in migration governance through the conceptual lens of the *humanitarian border* – a term coined to describe the dual role of asylum governance in implementing border control and humanitarian provision (Walters, 2010). This concept has prompted a growing body of literature in critical border and migration studies to examine the different facets of the relationship between humanitarianism and border control in various geographical sites and contexts (e.g. Aas & Gundhus, 2015; Anderlini, 2025; Moreno-Lax, 2018; Pallister-Wilkins, 2017). Building on this scholarship, we evaluate the promises made by the New Pact to resolve cross-cutting tensions between achieving the goals of European Union border security and prioritizing vulnerable groups among migrants seeking protection from the EU.

We seek to contribute not only to critical discussions on the European migration policy but also to the theoretical debates around the concept of the humanitarian border. In alignment with scholarship addressing and making visible the contentious politics that brings together humanitarian responsibilities and national and international border security considerations, we conceptualize humanitarian border as a political construct built to legitimise the hardening migration policies in western liberal democracies (see also Pallister-Wilkins, 2019; Papada, 2023; Perkowski, 2018; Williams, 2015). We argue that rather than responding to, or operating in relation to, existing migrant vulnerabilities, the humanitarian border (re)produces vulnerability both materially and discursively and thus aligns with the shift in liberal border regimes towards an emphasis on national security considerations (Huysmans, 2000; Mountz & Hiemstra, 2014).

The paper proceeds as follows. We begin by tracing how the notion of the humanitarian border has been conceptualized in existing border and migration studies scholarship, engaging with debates about its potential and examining how it has been linked to the production of migrant vulnerability. We then outline the empirical materials on which our analysis is based and describe the methods used to approach this data. Next, we turn to an analysis of the key texts that define the contours of the New Pact on Migration and Asylum. We conclude by summarizing our main findings and discussing their significance in light of the contemporary challenges the European Union faces in managing cross-border mobility.

Migration governance as humanitarian bordering

Since roughly the early 2000s, the seemingly unrelated realities of humanitarian provision and border policing have converged in the context of European Union border management (Pallister-Wilkins, 2017). Reflecting this shift, migrant security and border security have increasingly been harmonized in political and social discourses and seen as mutually attainable goals (Williams, 2015). This development can be explored through the concept of the humanitarian border, which has gained significant attention in recent years, particularly in the context of critical migration and border studies (e.g. Lambert, 2023; Novak, 2025; Vaughan-Williams, 2015).

The term was originally coined by Walters (2010), who describes the humanitarian border as a complex assemblage involving various actors, including NGOs, state agencies, and international organizations. He notes that in practical terms, humanitarian bordering is intertwined with various governance strategies and tactics, including monitoring, security measures, and military involvement. Therefore, humanitarian border is as much about controlling and regulating movement as it is about providing protection. Walters proposed humanitarian border as a term for studying how humanitarian institutions and activities, aimed at providing support and protection, are paradoxically involved in bordering practices to the extent that they participate in the selective sorting between the deserving and undeserving migrants. As Walters (2010, p. 145) puts it, the humanitarian border governs migration through a mix of care and control, mingling a ‘politics of alienation with a politics of care, and a tactic of abjection and one of reception’.

In subsequent literature the term has been used to refer to the generic intersection of border enforcement and humanitarianism, where states and organizations manage migration flows while addressing the humanitarian needs of migrants. Scholars have

examined practices of humanitarian bordering through various lenses, including human rights, security, and international relations. For example, Pallister-Wilkins (2015) explores the ways in which humanitarianism is ingrained into border enforcement practices, arguing that humanitarian actions at borders often serve to legitimize restrictive migration policies. Conversely, such restrictions have made borders increasingly violent in ways that have resulted in the need for humanitarian interventions to relieve the effects of such violence (Pallister-Wilkins, 2017).

Addressing the double-sided nature of humanitarian governance concerned with both care and control, Aas and Gundhus (2015) examine the ethical implications of humanitarian border practices that balance between security and human rights. They argue that humanitarian border practices often prioritize state security over the rights and well-being of migrants. In a similar vein, Tazzioli and Stierl (2021) note the ambivalence in humanitarian border practices, where migrants are simultaneously seen as needing protection and as potential threats.

Building on the idea of care-control nexus, Novak (2025) highlights how this uneasy alliance not only governs border crossings but also actively shapes the social and political realities of our society. He argues that humanitarian borders take on unique forms in different locations. They are shaped by place-specific social forces, material conditions and power relations, and at the same time they transform the places they operate in, creating new realities and struggles. Rather than simply reacting to migration, the humanitarian border is a productive force that actively reinforces societal change, including new forms of control, exploitation, and even resistance. (Novak, 2025; Pallister-Wilkins, 2015) The humanitarian border is therefore shaped by the interplay between its inherent logic and the layered social and structural landscapes of the specific locations where it operates (Novak, 2025).

Humanitarian borders also manifest in different infrastructures and practices. Lambert (2023) extends the concept of the humanitarian border to examine how various infrastructures, such as UN-operated facilities in Niger, function as tools of migration control funded and supported by the EU. These infrastructures provide assistance and protection to migrants while simultaneously redirecting their movement away from Europe. Lambert introduces the concept of 'promises' as a temporal dimension of the humanitarian border. Migrants are offered visions of a better future if they give up migration, but these promises often lack binding commitments. Focusing on the temporal dimension of humanitarian borders, Lambert (2023) shows how future-oriented promises, presence and absence of information, and a politics of time function as mechanisms of control. These spatial and temporal dimensions of the humanitarian border are felt concretely by migrants who face delays, challenges and uncertainties, combined with states of mobility and immobility, as they navigate the complex landscape of care and control. Humanitarian border encounters between migrants and authorities are complex and can vary in intensity depending on the situation (reference removed for review).

While care as aid provision seems to suggest an obvious link between migrant vulnerability and the humanitarian border, several scholars have found the relationship to be much more complex (e.g. Papada, 2023; Sachseder et al., 2024; Williams, 2015). Drawing on this body of literature, we argue that humanitarian bordering produces vulnerability in at least three intertwined ways, each of which reflects the European Union's

hostile immigration policies toward migrants from the Global South. Merging control and care, these modes of producing vulnerability are based on different practices and mechanisms through which migration management operates, ranging from physically preventing, to selectively sorting, to affecting migrants' subjectivities.

First, it is indisputable that during the past two decades the European migration policy has increasingly framed migration as a security problem (Aas & Gundhus, 2015; Huysmans, 2006). Boosted by the rise of populist anti-immigration rhetoric in most EU member states, securitization of migration has helped to legitimize hardening border controls, the erection of border walls, border violence, and tightening of migration policies particularly in the aftermath of the so called 2015 refugee crisis (Fontana, 2022). As Pallister-Wilkins (2017) notes, the presence of increasingly hard borders is what generates vulnerability and suffering, resulting in the consequent need for humanitarian assistance. Securitization of migration has also provided questionable justification for several successive EU/Frontex-led naval operations (e.g. *Mare Nostrum*, *Triton*, *Sophia*) aimed at blocking migration routes by combating trafficking and smuggling – the only means of transit available for most asylum seekers (Anderlini, 2025; Garelli & Tazzioli, 2018). Coupled with EU's and member states' bilateral agreements with countries like Turkey, Libya and Tunisia to outsource border controls to prevent migrants from ever setting sail for Europe, or to intercept their vessels in their territorial waters, these actions have made asylum migration deadly risky and dangerous (Fontana, 2022). Policies that restrict movement and create ambiguous living conditions increase migrants' dependence on humanitarian aid and the presence of a humanitarian border in their lives (Lambert, 2023). In the absence of channels for legal transit and safe arrival in the EU for asylum seekers, it is an undeniable fact that EU's humanitarian bordering directly produces vulnerability as a material (and psychic) condition that undermines migrants' safety and well-being. Besides subjecting migrants to physical danger and abuse, being trafficked across the Mediterranean carries a high risk of hazards caused by operations directed against smugglers and their vessels. In these conflictual operations asylum migrants risk becoming the victims of unqualified seafaring and unseaworthy boats in distress (Moreno-Lax, 2018).

Second, since the early 2000 the term vulnerability has increasingly been used in humanitarian interventions in reference to the original conditions that asylum seekers flee from, as well as the multiple dangers, risks and hardships that pertain to their journeys to seek asylum. While this seems to reflect an unequivocal acknowledgement of asylum migrants' need for assistance and care on behalf of the European asylum system, the notion has become an inherent part of bordering practices through which a sorting is made between asylum seekers whose needs are prioritized and those deemed not in need of aid or protection. Highlighting the growing significance of this facet of the care-control nexus, Sözer (2020) detects a major shift in how vulnerability has come to be employed as part of humanitarian bordering. Whereas before the 2010s the notion was commonly used in reference to irregularised migrants' general and collective vulnerability, over the past fifteen years vulnerability has become a specific label through which the asylum system designates humanitarian concern only to those considered truly vulnerable (Sözer, 2020). To determine who qualifies as vulnerable, specific assessment schemes and metrics have been developed, which enlist criteria that asylum seekers need to fulfil to be labelled vulnerable. On the flipside of this sorting

procedure, with vulnerability as a narrowly defined apriori category, such as age, gender, geographical origin, sexual orientation, and disability, most asylum seekers fail to meet the criteria and thus fall outside humanitarian aid and protection (Papada, 2023). The consequence is not only one-sided humanitarianism that simplifies migrant vulnerability as something that exists or not, but also the reproduction and reification of existing racialized, gendered, and classed hierarchies and inequalities among asylum seekers who face arbitrary classifications between those who are ‘most in need among those in need’ (Bardelli, 2022, p. 136). Much more than a tool for detecting actual vulnerabilities, as a categorical policy label the notion is part and parcel of humanitarian bordering that produces populations deemed undeserving of protection.

Third, with different forms of vulnerability assessment playing a decisive role in asylum seekers’ access to assistance and protection, it is not surprising that migrants face significant pressure to meet the official criteria of vulnerability that pertain to their context of assessment. Besides being a source of anxiety and frustration, especially when the criteria appear unjust or dismissive, this pressure invites what Bardelli (2022, p. 137) describes as migrants’ agency to ‘conform, perform, or negotiate with the figure of vulnerable refugee’, and Jacobsen (2024) designates as strategic mobilization or internalization of the norms of vulnerability. Along similar lines Papada (2023, p. 267) notes how these performative agencies attach vulnerability to formal evidence of specific criteria, such as health certificates, in a way that comes to shadow ‘their everyday experiences within the asylum and reception system’. Moreover, questions about who is vulnerable, and why, and therefore in need of protection, often make powerlessness and lack of agency a precondition for deserving protection (Sözer, 2020). This opens a yawning gap between vulnerability performed according to simplistic and fixed criteria, and the actual, socially and culturally constituted vulnerability that is ‘multifactorial and depends on many regimes of structural inequality’ (Bardelli, 2022, p. 146). In this way the humanitarian border ‘transforms migrants’ subjectivity into the mere expression of their basic needs’ (De Lauri & Brkovic, 2024, p. 749), thus producing vulnerability as a particular kind of migrant subjectivity, whereby migrants ‘need to constantly comply with’ existing criteria to secure their status as vulnerable, being ‘entrapped in vulnerability’ or required to ‘give such an appearance’ (Sözer, 2020, p. 2174). Such performativity may entail a politics of portraying a ‘deserving’ refugee while keeping with one’s sense of self, but it may also be detrimental to migrants’ feeling of dignity and self-worth (reference removed). Associated with dependency and lack of agency, the notion of vulnerability re-produces the idea that migrants in need of protection have little autonomy or control over their situation.

Overall, the concept of the humanitarian border gets to the heart of how vulnerability is produced as part of the management of migration in liberal democracies. It shows how the securitization of migration leads to a tightening of border control policies that increasingly place migrants in risky and dangerous situations, thus producing vulnerability in the most concrete terms. Moreover, the notion reveals how care and control are intertwined as states and institutions use the concept of vulnerability to justify policies of categorization to distinguish between migrants who deserve protection and support and those who are deemed not vulnerable. Ultimately, these policies can produce vulnerability as a performed or internalized subjectivity, as migrants are

pressured to position themselves in relation to the systems of sorting and the rewards and disadvantages associated with them.

In the next two sections, we discuss our data and methods, and then assess how the most recent European policy for managing migration, the EU Pact on Migration and Asylum, works discursively to resolve the juxtaposition of care and control in ways that allow European states to present themselves as responsible actors that value human rights while producing securitized and restrictive border policies that are multiply implicated in the production of migrant vulnerability. In the analysis, our specific aim is to demonstrate how the three dimensions of vulnerability production discussed above are manifested in key documents related to the design and preparation of this influential European Union migration policy.

Data and methods

In December 2023, the European Parliament and the Council reached an agreement on the five key legislative proposals included in the New Pact on Migration and Asylum. The Pact was further adopted by the European Parliament on April 10 and by the European Council on May 14, 2024. The New Pact entered into force on 11 June 2024 and is now being implemented, or ‘onboarded’, according to a common Implementation Plan – a process that involves multiple actors, including the European Commission, EU Member States, and EU agencies. The process marks the end of years of migration policy reform and sets a two-year timeframe for European Union member states to put the laws into practice.

The proposed regulations are originally detailed in five documents describing the legislative framework of the New Pact, proposed by the European Commission on 23 September 2020 (European Commission, 2024). The *Screening Regulation* establishes a pre-entry screening process for third-country nationals at the external borders of the Union, including procedures to identify potential health, vulnerability and security concerns among the migrants (European Commission, 2020a). The *Eurodac Regulation* aims to enhance the control of irregular migration and unauthorized movements by allowing the existing Eurodac system to gather more accurate and complete data, including biometric data, on various categories of migrants (European Commission, 2020b). The *Asylum Procedure Regulation* (APR) aims to streamline and harmonize asylum procedures in the EU. The regulations include a mandatory border procedure to facilitate faster assessment of asylum applications at the EU’s external borders (European Commission, 2020c). The *Asylum and Migration Management Regulation* (AMMR) sets rules on the distribution of responsibility between the member states, introducing a new solidarity mechanism that combines mandatory support to ‘frontline’ member states from other member states that are allowed to decide on the form of support they provide (European Commission, 2020d). Finally, the *Crisis and Force Majeure Regulation* focuses on measures related to managing crisis situations, allowing member states to temporarily derogate from the normal asylum procedures (European Commission, 2020e).

In this paper, we analyse these five documents that form the base line for the New Pact, complemented by a communication from the Commission titled *Striking a Balance on Migration: An Approach That is Both Fair and Firm*, which evaluates the results achieved

in the area of migration and asylum over the last four years (European Commission, 2024). To this end, we employ critical discourse analysis to explore how language related to a major European migration policy reform is used to achieve its goals and legitimate its outcomes. In alignment with previous scholarship exploring policy discourses, we understand discourses as practices that create and shape social reality, give meanings to social interactions, and serve political legitimation by offering rhetorical solutions to complex problems (e.g. Tekin, 2022; Vaughan-Williams, 2015). In the next section, we examine the European Commission's New Pact proposals and documents, focusing on how they discursively balance respect for human rights and the vulnerability of migrants with the increasingly securitized goals of border control.

Achieving the impossible: border security and the protection of vulnerable people in the new pact

In this section we explore how the New Pact discursively balances between the simultaneous policy goals of enhancing border management and protecting vulnerable people. We begin with a brief quantitative look at the key terminology in our data corpus to illustrate the emphasis that the language of the New Pact gives to the themes of security and vulnerability in general. The frequencies were coded using Atlas.ti software, which also allowed the inclusion of inflectional forms of words and selected synonyms. In addition, the software also made it possible to code the occurrence of word pairs in sentences. This was done, for example, by adding up the occurrences of the word pairs 'fundamental' and 'rights' and 'human' and 'rights'.

Table 1 presents the frequencies of the words or word pairs central to the two policy goals. We searched for terms that in the existing literature on border security are commonly associated with the management of migration (such as border, irregular, unauthorized, security), as well as with the recognition of migrant's rights and vulnerabilities. Besides the concept of vulnerability itself, we searched for expressions containing the words 'special' and 'need' (e.g. 'special needs', 'in need of special procedural guarantees'), since vulnerability is often referred to in these terms. We also included words referring to minors, as children are recognized as particularly vulnerable because of their age.

The table shows that, of the terms studied, the border is the one that appears most frequently in the data. The next most frequent words are those referring to the irregularity or illegality of migrants, and the fourth most common terms are security and threat. In all, the documents contain 1074 terms related to bordering and security. In contrast, words and phrases related to vulnerability, humanitarianism and rights, including words related to minors, account for 341 occurrences. This simple assessment clearly

Table 1. Frequencies of terms related to bordering and vulnerability in the analysed documents.

Terms	Frequency (n)
border, borders	655
irregular, illegal, unauthorized, undocumented	225
child, children, minor	199
security / threat	194
fundamental / human rights	71
vulnerability, vulnerable, vulnerabilities, special needs	47
humanitarian, humane	24

shows that while vulnerability is given a great deal of attention in the analysed documents, border-related terminology far outweighs vulnerability in the political language of the New Pact.

Based on this quantitative assessment, we next explore the content of the New Pact documents qualitatively with focus on three discourses through which they work to resolve the need to respect human rights while producing securitized and restrictive border policies that are multiply implicated in the production of migrant vulnerability. We used Atlas.ti in the analysis as a systematic tool for organizing and interpreting the data. Our work proceeded through iterative cycles of coding and reflection, allowing us to systematically identify from the material the key discursive themes of securitization, categorization, and performativity. In the qualitative analysis our focus was on identifying how meanings were constructed and connected across the New Pact documents, and in revealing the interplay between humanitarian and security logics.

Humanitarian bordering through securitization

One of the dominant themes in the New Pact documents is the insistence on protecting Europe and its citizens from migrants who ‘pose a security threat’ (European Commission, 2024, p. 2). In alignment with this, ‘more secure external borders’ is an explicit goal listed among changes that the Pact is expected to bring (European Commission, 2024, p. 2). This security discourse is operationalized in screening and border procedures that are justified as necessary to quickly identify and contain those deemed a risk to the Union’s internal security. A key element in migrant’s screening procedure is ‘to verify that the person does not constitute a threat to internal security’ and ‘[t]o contribute in this manner to the security of the Schengen area’ (European Commission, 2020a, p. 2, p. 10). Yet, as Huysmans (2006) and Aas and Gundhus (2015) note, such securitization frames migration itself as a threat, legitimizing increasingly restrictive and punitive border practices. Rather than guaranteeing migrants’ safety, these measures aim at ‘better management of mixed migration flows’ at the cost of producing new vulnerabilities by exposing migrants to uncertainty, exclusion, and violence (European Commission, 2020a, p. 1).

The New Pact’s introduction of a ‘pre-entry’ phase exemplifies this logic. Migrants who arrive through irregular routes are subjected to identity, health, and security risk screenings before they are legally recognized as being present on EU territory. A key element in pre-entry screening is to determine ‘whether an asylum application should be assessed without authorising the applicant’s entry into the Member State’s territory’ (European Commission, 2020c, p. 4). This legal fiction of ‘non-entry’ (Rondine, 2024) enables states to deny asylum seekers the protections they would ordinarily be entitled to under international law. After the screening process, migrants are directed to the appropriate procedure, which can be the border procedure, standard asylum procedure, prevention of entry, or a ‘return procedure’ (European Commission, 2020b, p. 1). The Commission further states that the border procedure is mandatory ‘where the applicant poses a threat to security or is unlikely to be in need of international protection due to their nationality’s recognition rate’. (European Commission, 2020c, p. 16).

The Pact’s provisions for ‘instrumentalisation of migrants’ further reinforce the security logic (European Commission, 2024, p. 12). In situations where migration is perceived

as being used as a political tool, member states are granted derogations from standard procedures, allowing for more robust border enforcement to protect ‘our external borders while preserving access to asylum and respect for fundamental rights’ (European Commission, 2024, p. 2). Yet, by holding people in a liminal legal and physical space, the EU effectively curtails rights while rendering migrants dependent on humanitarian interventions to survive the very insecurity and vulnerability produced by these practices (Lambert, 2023; Pallister-Wilkins, 2017). This reinforces the idea of the border not merely as a territorial line but as a symbolic and material barrier between the EU and the Global South, where migrants are treated as potential threats rather than individuals seeking protection (see also Van Houtum & Pijpers, 2007).

The security discourse also extends outward, through the EU’s reliance on ‘third countries’ to perform border enforcement and ‘to incentivise and improve the cooperation with third countries to facilitate return and readmission’ (European Commission, 2020d, p. 2). Two areas of cooperation can be identified, one focusing on the strengthening of external borders through ‘capacity building in land and maritime border management’ combined with ‘fight against migrant smuggling’, and the other ‘preventing irregular migration through addressing its root causes’ in third countries (European Commission, 2024, p. 8, p. 14). The externalization of border surveillance to third countries exemplifies the use of ‘overwhelming force’ effectively transferring the peril of death away from EU shores and relocating it to other regions (Garelli & Tazzioli, 2018, p. 690). While framed as efforts to combat smuggling and address root causes of migration, outsourcing containment not only shifts responsibility away from the EU but also displaces the risks of violence and death onto migrants intercepted before they reach European shores. The Commission’s stated idea is ‘both to reduce the space in which smugglers operate and to put an end to the needless loss of life’ (European Commission, 2024, p. 7). Here, security operations and humanitarian justifications are discursively merged: migrants are placed in situations of acute risk, which in turn legitimizes humanitarian intervention as a response to crises produced by border enforcement itself (Fontana, 2022; Garelli & Tazzioli, 2018).

Crisis regulations in the New Pact further reinforces this securitized humanitarian bordering. In situations of ‘mass influx of third country nationals or stateless persons’, Member States can be granted ‘derogations from the provisions on registering applications for international protection’, enabling them to bypass safeguards in the name of protecting external borders and the Schengen area (European Commission, 2020e, p. 13, p. 15). The framing of such situations consistently portrays irregular migration as a danger to European and the Member States’ stability. The explicit goal is ‘to enable the Member States and the Union to deal with the specific situations of crisis caused by a mass influx of third country nationals onto the territory of a Member State’ (European Commission, 2020e, p. 8). Rather than recognizing migrants as individuals fleeing insecurity, this reproduces the paradox identified by Léonard and Kaunert (2019): asylum seekers are reimagined as sources of insecurity rather than its victims.

Taken together, the New Pact’s security discourse does more than justify the reinforcement of the EU’s territorial borders. It actively produces material conditions of risk and dependency. Practices of containment, externalization, and legal ambiguity translate into lived precarity for migrants held in overcrowded reception centres or stranded in liminal spaces such as Libyan detention camps or the Greek ‘hotspots’ where humanitarian aid

and border enforcement intertwine (Davies et al., 2017; Mainwaring & Brigden, 2016). By denying safe and legal pathways, situating migrants in non-entry zones, and outsourcing enforcement to countries where violence and exploitation are well documented (Fontana, 2022), the New Pact transforms protection into conditional survival. Derogations in crisis situations and ad hoc border procedures heighten migrants' dependence on humanitarian agencies for basic needs, while perpetuating exposure to insecurity and abuse. The outcome is a regime in which the EU's promise of care coexists with systemic harm – producing the very humanitarian emergencies it purports to alleviate (Pallister-Wilkins, 2017). In this sense, security and care function as intertwined mechanisms of control that both sustain and legitimate the vulnerability of migrants from the Global South.

Categorizing vulnerability: humanitarian sorting and excluding

Alongside security narratives, the New Pact also places strong emphasis on vulnerability as a central category in migration governance. At first glance, this appears as a commitment to recognizing the needs of asylum seekers and ensuring procedural safeguards. The extension of the definition of family to siblings and relationships formed during migration journeys, as well as the easing of evidentiary requirements in family reunification cases, are presented as important humanitarian advances (European Commission, 2020d, p. 24, p. 42). Similarly, the Screening and Asylum Procedures Regulations stress the early identification of individuals with 'special procedural needs' in order to guarantee adequate reception conditions and procedural fairness (European Commission, 2020a, p. 9).

Yet when examined through the lens of humanitarian bordering, the New Pact's vulnerability discourse operates less as a universal recognition of asylum seekers' rights and more as a sorting mechanism that selectively distributes care. As the Commission states in regard access to health care, '[p]articular attention should be paid to individuals with vulnerabilities, such as pregnant women, elderly persons, single parent families, persons with an immediately identifiable physical or mental disability, persons visibly having suffered psychological or physical trauma and unaccompanied minors' (European Commission, 2020a, p. 21). The discourse reflects a broader shift from a general humanitarian concern for asylum seekers to a targeted and conditional logic of care, where only those who meet specific, pre-established vulnerability criteria are deemed worthy of protection (see also Sözer, 2020). While in the New Pact vulnerability operates as an administrative label aimed at identifying the most pressing needs for support, those who do not fit within these administrative templates, such as victims of trauma or survivors of trafficking whose needs are not immediately visible, risk exclusion from humanitarian concern altogether.

This narrowing of recognition reduces vulnerability to an a priori status, assessed by observation or through checklists, as seen in the Screening Regulation, which allows health checks to be waived if 'the overall condition of the person appears to be very good' (European Commission, 2020a, p. 21). Such procedural simplifications rely on surface-level observation that risks reducing vulnerability to what is legible to authorities 'at first sight', thus obscuring the complex, structural, and often invisible ways in which vulnerability is produced along migration routes, including through the very policies that

deny migrants safe and legal pathways to protection (European Commission, 2020a, p. 21). Instead of addressing structural inequalities, the New Pact reifies vulnerability as a fixed attribute, reinforcing hierarchies between those deemed ‘most in need among those in need’ and those considered undeserving of care (Bardelli, 2022, p. 136).

By embedding vulnerability into border procedures, the EU institutionalizes humanitarian bordering as a system of selective recognition. For example, while the extended definition of family as laid out in the Asylum Migration Management Regulations appears to enhance protection, it is still partly contingent on the asylum seeker’s ability to produce ‘coherent, verifiable and sufficiently detailed’ circumstantial evidence (European Commission, 2020d, p. 24). Such requirements continue to place the burden of proof on the applicant, reinforcing a conditional humanitarianism that filters access to rights through bureaucratic thresholds. This logic not only simplifies the complex realities of migrant precarity but also reifies existing inequalities by institutionalizing a hierarchy of deservingness. As the Commission notes in reference to the relocation of asylum seekers between Member States, for ‘third-country nationals who are applicants for international protection and are vulnerable, regardless of how they crossed the external borders, the solidarity pool may also be used for the purpose of quickly relocating such persons’ (European Commission, 2020d, p. 20). Here vulnerability becomes a regulatory category defined by exclusionary filters through which most asylum seekers fail to qualify for protection (Papada, 2023). Far from ensuring rights, this produces new vulnerabilities by leaving large groups outside the scope of humanitarian concern, exposed to prolonged detention, expedited border procedures, or return. What emerges is a paradox: the rhetoric of care simultaneously legitimizes practices of control, allowing the EU to portray its asylum system as humanitarian while producing and reproducing racialized, gendered, and classed inequalities (Gilodi et al., 2024; Sarkin & Morais, 2025).

In all, the New Pact’s vulnerability discourse exemplifies the care – control nexus of humanitarian bordering, where the language of protection conceals mechanisms of regulation and exclusion. Vulnerability functions not only as a recognition tool but as a disciplining device that conditions access to aid and legal status on migrants’ conformity to institutional expectations of fragility and dependency. This selective logic transforms vulnerability from an acknowledgment of lived precarity into an administrative technology that actively produces risk and subordination. Empirical studies from EU reception centres show how restrictive vulnerability assessments have left many asylum seekers, especially single men and those whose suffering is not visibly legible, excluded from adequate shelter, healthcare, and procedural guarantees (e.g. Jacobsen, 2024). In the overcrowded ‘hotspots’ of Lesbos or the Italian detention system, those deemed ‘non-vulnerable’ face protracted uncertainty, material deprivation, and dependency on humanitarian actors for survival (Davies et al., 2017). Hence, in the New Pact’s discourse, vulnerability is not simply a condition to be alleviated but a policy tool that stratifies migrants into hierarchies of deservingness. The humanitarian border, in this context, does not merely protect the vulnerable but also constructs vulnerability itself as a gate-keeping device that legitimizes exclusion from protection and sustains the very precarity it claims to remedy.

Discursive juxtaposition of deservingness and rights

Although the New Pact repeatedly invokes the universality of human rights and grounds itself in international conventions such as ‘the Geneva Convention on the Status of Refugees, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant for Civil and Political Rights’, the framework it proposes reveals a selective application of these principles (European Commission, 2020c, p. 11). The humanitarian discourse of the New Pact does not extend equally to all asylum seekers. Instead, protection is conditioned on migrants’ ability to embody or demonstrate particular kind of needs deemed legitimate by the system.

In this sense, human rights appear as universal in rhetoric but become contingent in practice, requiring asylum seekers to meet predefined criteria of deservingness. These criteria, while presented as neutral and objective, are deeply embedded in structural inequalities and assumptions about the geographical distribution of vulnerabilities across migrants’ countries of origin. As such, vulnerability becomes not a lived condition but a status to be proven, performed, and maintained. The stakes for migrants are high because the New Pact stresses the need for ‘quick access’ to protection for ‘those in genuine need’, while simultaneously ensuring the expedited return of those considered ‘without genuine claims’ (European Commission, 2020c, p. 1; European Commission, 2020d, p. 10). Such language presupposes the existence of clear distinctions between ‘real’ and ‘false’ refugees, effectively transforming the humanitarian border into a site where migrants’ rights depend on their ability to perform or conform to the figure of the ‘deserving refugee’, or what the Eurodac Regulations document characterizes as ‘third-country nationals with clear international protection needs’ (European Commission, 2020b, p. 1).

This conditionality fosters what Bardelli (2022) and Jacobsen (2024) identify as performativity: migrants are compelled to present themselves as powerless, dependent, and in need of rescue to qualify for assistance. Consequently, migrants are often entrapped in a cycle where they must continuously appear vulnerable to remain eligible for protection, thus internalizing or strategically mobilizing the norms of vulnerability. This requirement is manifested by the weight given to matching vulnerability criteria in the pre-entry examination that determines how the asylum seeker’s case will be processed: ‘screening should also ensure that persons with special needs are identified at an early stage, so that any special reception and procedural needs are fully taken into account in the determination of and the pursuit of the applicable procedure’ (European Commission, 2020a, p. 18). Tied to performative action to build evidence, the very notion of human rights becomes entangled with bureaucratic expectations that the specific need for international protection is visible, documentable, and consistent with institutional norms. Those who cannot or choose not to perform this need risk exclusion from protection (Papada, 2023).

This process produces a troubling paradox. Humanitarian language asserts the EU’s responsibility to uphold fundamental rights, but in practice, these rights are distributed selectively. While the Asylum Procedure Regulation document states that the proposed procedure will operate fully ‘respecting fundamental rights’ it nevertheless highlights that some asylum seekers are pre-emptively disadvantaged by the fact that they come from ‘third countries with a low recognition rate’ (European Commission, 2020c, p. 4). In such case, ‘simpler, clearer and shorter procedures’ will be used at the external

border potentially ‘without authorising the applicant’s entry into the Member State’s territory’ (European Commission, 2020c, p. 4). Despite discursive manoeuvring in the New Pact documents, the goal of quickly assessing ‘inadmissible asylum requests at the border’ is difficult to reconcile with universal ‘respect for fundamental rights in all aspects of the EU’s migration policy’ (European Commission, 2020c, p. 10).

In all, it is apparent that the New Pact’s human rights discourse does not embody universal principles. Instead, it manifests as a humanitarian bordering practice that transforms vulnerability into a prerequisite for recognition and care. The border thus becomes a performative site where to access protection, migrants must embody the ‘right kind of people’ – genuinely needy, visibly suffering, and compliant with bureaucratic expectations. Those unable or unwilling to conform to these institutionalized scripts of victimhood are often excluded from aid and legal recognition, despite facing genuine hardship. Such conditional humanitarianism materializes in Europe’s asylum hotspots and reception facilities, where asylum seekers’ access to shelter, health services, or relocation often depends on their perceived vulnerability or moral worthiness (Buffon et al., 2025; Spathopoulou et al., 2022). These practices not only erode dignity but create sustained dependency on humanitarian actors, forcing migrants to perform docility and neediness as survival strategies. In this way, the Pact’s emphasis on harmonized and efficient asylum procedures reduces human rights to a stratified system of conditional inclusion, privileging certain performances of suffering while disqualifying others (Gambazza, 2024). For those who fail to meet these expectations, the rhetoric of universality becomes hollow, turning rights into discretionary favours rather than entitlements, and further entrenching the precarity and inequality that humanitarian discourse claims to overcome.

Conclusions

This paper has examined the European Union’s New Pact on Migration and Asylum through the conceptual lens of the humanitarian border, arguing that the Pact exemplifies the entanglement of care and control in contemporary migration governance. Drawing on critical border and migration studies, we showed that the humanitarian border is not merely a site of protection but a political construct that legitimizes increasingly restrictive and securitized policies under the guise of humanitarian concern (see also Moreno-Lax, 2024).

By foregrounding vulnerability as both a discursive construct and operational tool, we demonstrated that the New Pact does not simply respond to migrant precarity but actively produces it. While discursively balancing the imperatives of border security and humanitarian protection, the EU’s migration policy materially reproduces migrant vulnerability in multiple ways. This occurs through three interrelated mechanisms: (1) the securitization of migration that exposes asylum seekers to physical and legal precarity; (2) the administrative categorization of vulnerability that selectively distributes care; and (3) the performative expectations placed on migrants to embody vulnerability to access protection. Together, these mechanisms reflect a broader shift in liberal democracies toward migration policies that prioritize security while maintaining a humanitarian façade (Huysmans, 2000).

The New Pact’s security discourse legitimizes restrictive border practices by framing migration as a threat to European stability (Stivas, 2024; Učakar, 2025). Through

measures such as pre-entry screening, externalization, and crisis derogations, it constructs spaces of non-entry that deny migrants access to protection, thus producing the very humanitarian emergencies it claims to address. Simultaneously, the vulnerability discourse functions as a sorting mechanism that stratifies asylum seekers according to narrow criteria. Administrative assessments exclude many whose precarity is not immediately visible, reducing vulnerability to a fixed status and obscuring its structural roots (Jacobsen & Karlsen, 2025).

Finally, the Pact's conditional human rights discourse compels migrants to conform to institutional expectations of visible suffering. Human rights, while invoked rhetorically, become contingent on migrants' ability to perform deservingness, thereby reinforcing racialized, gendered, and classed hierarchies (Gilodi et al., 2024; Lazaridis & Wadia, 2015). The border thus becomes a site of moral and bureaucratic judgment rather than universal protection.

Taken together, our analysis shows that the New Pact institutionalizes a humanitarian bordering regime that legitimizes exclusionary practices through the language of care, cementing vulnerability as both a condition for assistance and a mechanism of exclusion. For asylum seekers, this means deepened precarity, dependency, and erosion of agency within systems that claim to protect them. For Europe, it signals a moral and political turning point where human rights discourse increasingly serves to justify containment, exposing the erosion of solidarity at the core of the European project.

At this historical juncture, the humanitarian border framework remains analytically vital precisely because it reveals how exclusion today is rarely justified in purely punitive terms. Even amid the rise of openly hardline and anti-immigrant politics across Europe, the language of vulnerability, protection, and human rights continues to legitimize coercive border practices by presenting them as acts of care. This deceptive moral economy allows the EU to maintain a liberal self-image while enforcing deterrence and containment. Yet, as Pallister-Wilkins (2022, p. 17) observes, 'the humanitarian border is a symptom and not a cure'. In Europe's bordering practices humanitarian rationalities remain central to the governance of mobility, operating alongside, rather than in opposition to, openly hostile or securitarian political agendas.

Future scholarship should continue to interrogate how vulnerability is produced and managed across contexts, combining critical policy analysis with ethnographic and participatory approaches that centre migrants' lived experiences. Such work is essential to understanding how individuals navigate, resist, and negotiate the bureaucratic expectations of humanitarian bordering.

In conclusion, the EU Pact on Migration and Asylum epitomizes the paradoxes of humanitarian border governance: framed as a humane response to migration, it entrenches selective recognition, securitized containment, and performative vulnerability. By tracing these dynamics, this paper contributes to ongoing debates on the politics of migration, the ethics of humanitarianism, and the future of asylum in Europe.

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Notes on contributors

Jouni Häkli is a professor of Regional Studies and the leader of the Space and Political Agency Research Group (SPARG) at Tampere University. His research lies at the intersection of political geography and global and transnational sociology. His work focuses on the study of political subjectivity and agency, lived citizenship, forced migration, and borders. His recent publications include *Devaluing personhood: The framing of migrants in the EU's new pact on migration and asylum* (Transactions of the Institute of British Geographers, with G. Kudžmaitė and K.-P. Kallio).

Noora Peltonen holds a Master's degree in Administrative Sciences and is an independent researcher at Tampere University.

ORCID

Jouni Häkli  <http://orcid.org/0000-0002-3033-2976>

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