

Study Guide

SOCHUM



elbMUN

April 20-24, 2022

Dresden, Germany

Welcome letter

Distinguished Delegates,

A warm welcome to elbMUN 2022 in the beautiful city of Dresden.

As your Chairpersons, we would like to briefly introduce ourselves to you:



Felix Heinzl - Hello delegates! My name is Felix and I will be co-chairing this committee. I'm currently enrolled in my 2nd year of university studying international relations in Erfurt. Since this is my first time chairing a committee I am very excited to welcome all of you! I hope that you will have a great time writing and debating resolutions in the following days. I'm looking forward to meeting all of you!



Ankit Mazumdar - Hello delegates! My name is Ankit and I will be co-chairing this committee as well. I am currently a Master's student in Nanobiophysics at TU Dresden. I have been doing MUNs for the past 9 years with specialization of Human Rights, Climate Change and Health advocacy. I firmly believe that MUNs are a platform for students to acquire essential social skills for proper communication and developing opinions of their own about various issues across the world which are socio-politico-economic in nature.

I welcome you all to elbMUN 2022, this year we have picked up two key issues of legal status of climate refugees and political instrumentalization of migration flows for discussion in our committee. We as the chairs would be there to guide you in every way possible to help you lift your public speaking and diplomacy skills. Apart from that, elbMUN would be an amazing destination to make new friends, enjoy the city of Dresden and take away cherishing memories lasting a lifetime.

Good luck and looking forward to meeting you all in person.



Valentin Dreher - Hi, I'm Valentin and I study International Relations at TU Dresden. My interest in the topic of our committee stems from my work as a legal counselor at the Refugee Law Clinic Dresden. I started taking part in MUN conferences in high school. Participating in last year's virtual version of elbMUN as a delegate was already a lot of fun, therefore I'm looking forward to some amazing committee sessions with all of you. If this is your first MUN: Don't worry about it, we will do everything so all of you can participate in the debate. The

most important thing in my experience is to overcome oneself and hold a first speech as soon as possible - from there on, everything will be a lot easier!

Best regards,

Felix, Ankit and Valentin [ankit.mazumdar@mailbox.tu-dresden.de;
valentin.dreher@gmail.com; fecacafe44@gmail.com]

History and mandate of the Committee

Agenda items relating to a range of social, humanitarian affairs and human rights issues that affect people all over the world are allocated by the General Assembly to the Third Committee."

As in previous sessions, an important part of the work of the Committee will focus on the examination of human rights questions, including reports of the special procedures of the Human Rights Council which was established in 2006. In October 2018, the Committee heard and interacted with special rapporteurs, independent experts, and chairs of working groups as mandated by the Human Rights Council.

The Committee also discusses questions relating to the advancement of women, the protection of children, indigenous issues, the **treatment of refugees**, the promotion of fundamental freedoms through the elimination of racism and racial discrimination, and the right to self-determination. The Committee also addresses important social development questions such as issues related to youth, family, aging, persons with disabilities, crime prevention, criminal justice, and international drug control.

Established in 1945, at the end stages of World War II, the United Nations General Assembly serves as the world body's principal policy-making and deliberative organ, providing a forum for multilateral discussion of the full spectrum of international issues covered by the UN Charter. The Assembly makes a big splash every year in late September when world leaders come to UN Headquarters in New York City to present their views about pressing world issues over a number of days, in what is known as the General Debate.

However, the issues and themes under discussion by the General Assembly lend themselves to more effective discussion in smaller settings covering different topics. So, once the Debate is over, the General Assembly's six Main Committees select their officers and get down to dealing with the items on the Assembly's agenda – in 2012, the Assembly had nearly 170 items on it, most of which were carried over from previous years.

All Member States take part in each of the Committees' discussions and the agenda is divided up thematically. The issues are debated, corresponding resolutions are voted on and then forwarded to all UN Member States – in the so-called General Assembly Plenary – for a final decision.

A key part of the Committee's activities involves receiving reports from the world body's Special Rapporteurs, sometimes also known as Independent Experts.

The mandate of these individuals or committees derives from the so-called 'Special Procedures' created by the Geneva-based Human Rights Council to look into the human rights situations in particular countries or with regard to specific human rights violations. These human rights mechanisms include specific committees that monitor the implementation of individual conventions by States parties, as well as extra-conventional mechanisms, or the 'Special Procedures' such as independent experts who report in their personal capacity or as members of working groups.

In 2012, some 38 Special Rapporteurs presented their reports to the Third Committee, on subjects ranging from the situation of indigenous peoples and torture, to extra-judiciary, summary and arbitrary executions to the independence of the judiciary.

According to the Charter of the United Nations, the General Assembly may:

- Consider and approve the United Nations budget and establish the financial assessments of Member States
- Elect the non-permanent members of the Security Council and the members of other United Nations councils and organs and, on the recommendation of the Security Council, appoint the Secretary-General
- Consider and make recommendations on the general principles of cooperation for maintaining international peace and security, including disarmament
- Discuss any question relating to international peace and security and, except where a dispute or situation is currently being discussed by the Security Council, make recommendations on it
- Discuss, with the same exception, and make recommendations on any questions within the scope of the Charter or affecting the powers and functions of any organ of the United Nations
- Initiate studies and make recommendations to promote international political cooperation, the development and codification of international law, the realization of human rights and fundamental freedoms, and international collaboration in the economic, social, humanitarian, cultural, educational and health fields
- Make recommendations for the peaceful settlement of any situation that might impair friendly relations among countries

- Consider reports from the Security Council and other United Nations organs

Under article 22 of the UN charter, the General Assembly has provisions to establish subsidiary organs divided into Boards, Commissions, Committees, Councils and Panels, and Working Groups and others.

The General Assembly may also welcome regional groups for consultation and procedural work.

Topic: The Legal Status of Climate Refugees

Introduction

According to the UN Refugee Agency 82.4 million people were forcibly displaced at the end of 2020, as a result of persecution, conflict, violence, human rights violations or events seriously disturbing public order. Out of these people, only 4.1 million have been classified as asylum seekers by the UN. Furthermore, there are also millions of stateless people, who have been denied a nationality and who therefore lack access to basic rights such as education, health care, employment and freedom of movement. Paradoxically only 14% out of all hosted refugees are living in developed countries, whereas the vast majority are hosted by developing countries. These numbers shine a light on the current situation of refugees all over the world. These individuals, fleeing their homes and countries of origin, often have to live in precarious situations based on their legal status as refugees - or, even worse, based on the refusal of a status as refugees. Often this results in a complicated maze of legislation and rules, which have a devastating impact on the safety and well-being of forcibly displaced people.

With the 1951 Refugee Convention being more than 70 years old this year and in the wake of the events shaking the Ukraine and its citizens, it is imperative that this council reexamines the laws and treaties determining the status of refugees and that therefore impact the lives of many people all over the world. These treaties not only determine when people are legally called refugees, but they also oblige the participating states to act in certain ways. Since these conventions have such an impact on the social, cultural, and humanitarian circumstances of people who get and don't get classified as refugees, it is this council's obligation to work on solutions and improvements targeting the legal status of refugees.

In particular, we will **focus on the legal status of climate refugees**. As climate change progresses around the world, more and more people are affected by the adverse effects such as

extreme weather conditions, rising sea levels and heat waves. These conditions can result in famines or the uninhabitability of whole regions. It is the obligation of this council to come up with sustainable ideas to target these issues.

Migration flows have always been and undoubtedly are today subject of intense social and political debate. This is not any different in the case of climate refugees. Therefore, we will debate the **political instrumentalization of migration flows** as a second topic in our council. However, please make sure that your proposals relate back to our main topic of climate refugees.

Legal status of climate refugees

In this section, we will briefly outline pre-existing international law relating to refugees and analyze whether climate refugees are subject to the protection provided.

Convention relating to the Status of Refugees (1951)

With 146 parties, the 1951 Refugee Convention is the treaty with the most ratifications in the field of refugee protection and therefore the most relevant when it comes to refugee protection. It was established bearing in mind the horrors of the people fleeing World War II.

But how does it define the term “refugee”? See Art. 1 of the Convention:

Article 1 of the convention who “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”

In consequence, this means that the group of persons who can invoke the rights of the convention is narrowly defined. Climate refugees as well as refugees fleeing the consequences of climate change such as poverty or civil wars do not fall within this definition if they are not personally prosecuted by a state due to one of the aforementioned criteria. Some have therefore argued that the complex nature of 21st century refugee relationships calls for a new treaty that recognizes the evolving nature of the nation-state, economic migrants, population displacement, environmental migrants, and modern warfare. Others argue that the scope of Art. 1 of the Refugee Convention should be expanded to include other groups such as climate refugees. It is important to notice, however, that even if the definition was expanded, it would not cover the

majority of refugees who are displaced within their own country. It is questionable whether such a definition is politically feasible in the United Nations system as multiple countries have taken a restrictive approach towards refugees in the past years.

However, the convention grants a number of rights to those who fall into its scope.

States shall:

- provide free access to courts for refugees (Article 16)
- provide administrative assistance for refugees (Article 25)
- provide identity papers for refugees (Article 27)
- provide travel documents for refugees (Article 28)
- provide the possibility of assimilation and naturalization to refugees (Article 34)

States shall not forcibly return or "refoul" refugees to the country they have fled from (Article 33). It is widely accepted that the prohibition of forcible return is part of customary international law. This means that even states that are not party to the 1951 Refugee Convention must respect the principle of non-refoulement. Therefore, states are obligated under the Convention and under customary international law to respect the principle of non-refoulement. If this principle is threatened, UNHCR can respond by intervening with relevant authorities and, if it deems necessary, will inform the public.

Refugees shall be treated at least like nationals in relation to:

- freedom to practice their religion (Article 4)
 - the respect and protection of artistic rights and industrial property (Article 14)
 - elementary education (Article 22)
 - public relief and assistance (Article 23)
 - labour legislation and social security (Article 24)
1. Convention relating to the status of refugees (1951):

Provisions, K. (1969). Convention relating to the Status of Refugees.

Other international treaties and decisions

To this date, there are no international treaties specifically addressing displacement relating to the impact of climate change.

However, there has been a remarkable view by the Human Rights Committee on whether climate refugees must be granted asylum on the basis of human rights. Mr. Teitiota is a national

of the island Kiribati. It is likely that the island will vanish in the next 10-15 years due to climate change. Already, the rising sea levels have triggered a housing crisis and land disputes. Mr. Teitiota tried to seek asylum in New Zealand. His application was denied.

In its decision, the committee argued that states are not allowed to send back a person to a state where his right to life and humane treatment (Art. 6 and 7 ICCPR) is under threat, even if this threat results from climate change. However, the committee rejected the claim that the likelihood of the vanishing of the island was a real risk to his life at the moment. The committee argued that in the coming years, steps could be taken by Mr. Teitiota's home country to mitigate the threats of climate change. The view of the committee is not legally binding. However, it might be fruitful to take a look into the options human rights provide to protect the victims of climate displacement.

1. Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2728/2016 * , ** , *** - <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsjvfljqiI84ZFd1DNP1S9EKG9gxBGj9kie9DBbO0eH5N3hhnsj%2fmXyyUMRGqAMBUPEmGiVv115ueyf40YfsDu0dp9yZLW4jePTIgY0yjbRLV1mhrLmEomP8%2bgyRbPvKRQ%3d%3d>

Additional legal Instruments for the rights of the refugees.

Since the first quarter of the twentieth century, the international community has been concerned with the challenges of forced migration and, for humanitarian reasons, has begun to assume the role of protection and assistance of refugees. From the end of the Second World War, frameworks concerning refugees and their concerns have been built up and are steadily increasing. Alongside the states, non-governmental and supranational actors are now defining the contours of global problems and formulating guidelines to solve them. International humanitarian law attributes several rights to refugees and internally displaced persons to guarantee their fundamental human rights inside of refugee camps. However, the real practices may differ from what the law has stated. Refugees and internally displaced persons are usually abandoned without any guidance and therefore without knowledge of their rights or means for implementing their rights. Human rights inside refugee camps are sometimes neither respected nor realized. Refugees are forcefully deported to their country of origin in violation of the principle of non-refoulement which by the definition of the 1951 United Nations Convention relating to the Status of Refugees, in Article 33(1) prohibits the contracting states of returning refugees to their countries where they can face persecution. This was the case for Ethiopian

Refugees in Yemen. Alternatively, refugees must seek international protection elsewhere to start a new life and have their basic rights recognized by the state. Refugees and internally displaced persons (IDPs) often must deal with an uncertain future as existing barriers hinder their participation in and contribution to the social, economic, political, and cultural life in their host communities.

The international justice resource center has identified many conventions that apply to the legal status of refugees and IDPs. The 1951 Convention relating to the Status of Refugees has almost universally (ratified by 145 states) defined the term “refugee”. It introduced the principle of non-refoulement and described a legal framework for the protection of the displaced. Other conventions include the 1967 Optional Protocol relating to the Status of Refugees, the UN Guiding Principles on Internal Displacement, the Universal Declaration of Human Rights (Art. 14), the OAU Convention Governing the Specific Aspects of the Refugee Problem in Africa, the Arab Charter on Human Rights (Art. 28) and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa

Refugees are protected by several legal instruments in international refugee law, mainly the 1951 Geneva Convention Relating to the Status of Refugees, the 1969 Refugee Convention, and the Cartagena Declaration. International human rights law is based on the Universal Declaration of Human Rights and the Geneva Convention relative to the Protection of Civilian Persons in Time of War. Refugees are under dual supervision, on the one hand of the UNHCR which is the international institutional framework in protection, assistance and solution for refugees, and of the states. The 1951 Convention Relating to the Status of Refugee is the main legal framework document for refugees. It contains the definition of a refugee and their rights as well as the states’ obligations towards them. This convention was restricted by geographical and temporal conditions, which the introduction of the 1967 Protocol removed. The 1951 Convention Relating to the Status of Refugee defines the rights of refugees, especially the right not to be forced to return to their countries characterized by danger (non-refoulement). These rights also include basic human rights such as the rights to work, education, housing or freedom of religion, but also specific rights, for example the right to access to courts, freedom of movement within the territory or identity and travel documents. A country that has not signed the 1951 Convention Relating to the Status of Refugee does not have the right to return asylum seekers to the countries where they feel threatened and persecuted

1. “OAU CONVENTION GOVERNING THE SPECIFIC ASPECTS OF REFUGEE PROBLEMS IN AFRICA”. CAB/LEG/24.3.http://www.achpr.org/files/instruments/refugeeconvention/achpr_instr_conv_refug_eng.pdf https://oas.org/dil/1984_Cartagena_Declaration_on_Refugees.pdf
2. UNHCR. “International Conventions and Human Rights Treaties” <https://www.unhcr.org/ph/international-conventions-human-rights-treaties>.

Importance of distinguishing climate refugees and internally displaced people

With respect to the current Agenda, while describing the legal status of the refugees, we need to be careful in understanding the difference between refugees and Internally displaced people. During a climate change related displacement the main form of displacement that happens is internal. Though the committee places the agenda into the bracket of refugees we as the third committee should not keep it limited.

In October 2009, African states adopted the world’s first and only binding continent-wide treaty to protect people forcibly displaced within their countries (internally displaced persons, or IDPs). Its full title is the African Union (AU) Convention for the Protection and Assistance of Internally Displaced Persons in Africa, but the treaty is better known as the Kampala Convention.

The Kampala Convention builds upon the 1998 UN Guiding Principles on Internal Displacement, the internationally recognized framework on internal displacement, which restates the principles of international human rights, humanitarian and refugee law applicable to IDPs.

The Kampala Convention gives these non-binding principles the force of law in Africa. In line with the Guiding Principles, the Kampala Convention’s Article 1 defines IDPs as “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border”.

The Kampala Convention is framed principally in terms of state obligations in relation to internal displacement, including state obligations of prevention, protection and assistance obligations during displacement and obligations in relation to return and compensation.

In addition to the central role of the state, the Kampala Convention also recognizes the important roles of various groups. It mandates a role for international organizations and humanitarian agencies, and addresses the responsibilities of armed groups arising in situations of armed conflict, including the prohibitions of impeding humanitarian access and recruiting children to take part in hostilities.

1. Kampala Convention, (2009) <https://www.unhcr.org/about-us/background/4ae9bede9/african-union-convention-protection-assistance-internally-displaced-persons.html>
2. Kampala Convention overview (2009), <https://www.unhcr.org/5cd569877.pdf>

Suggested discussion questions

Delegates could, in their position papers, resolutions and in the debate, discuss questions such as, but not limited to:

- Should the international community implement further rules?
- Should climate refugees have the same rights as refugees under the definition of the 1951 Refugee Convention?
- Should climate refugees be obligated to first seek refuge inside their countries of origin or should fleeing to another country always be permitted?
- How can the international Community adapt to the future challenge of a potentially high number of climate refugees?
- Should the UN support countries that are accommodating a high number of climate refugees? If yes, how?
- How should climate refugees in particular be integrated in the host state's society and culture? Should they adapt to the culture of the host state or maintain their own culture in autonomy?

Please also include proposals relating to the second topic of the committee “Political Instrumentalization of Migration Flows” into your resolutions. However, make sure these proposals also relate to climate refugees as their situation will be our focus in this committee.

Sources & Further Reading

These documents might help you to gain further insights into the UN system and subject of climate refugees.

Regarding the legal status of climate refugees:

1. Aleksandrova, Mariya / Benjamin Schraven / Diogo Serraglio (2020). The implications of the UN's ruling on "climate refugees": <https://www.die-gdi.de/en/the-current-column/article/the-implications-of-the-uns-ruling-on-climate-refugees-1>
2. Margit Ammer (2010). Legal Status and Legal Treatment of Environmental Refugees. https://www.umweltbundesamt.de/sites/default/files/medien/461/publikationen/texte_54_2010_kurzfassung_e1_0.pdf
3. Spyridoula Katsoni, Jan-Phillip Graf (2021). The Future of "Climate Refugees" in International Law. <https://voelkerrechtsblog.org/the-future-of-climate-refugees-in-international-law/>
4. Guy S Goodwin-Gill and Jane McAdam (2017). UNHCR & Climate Change, Disasters and Displacement. <https://www.unhcr.org/596f25467.pdf>

Regarding the UN system:

1. Weiss, T. G., & Thakur, R. (2010). *Global governance and the UN: An unfinished journey*. Indiana University Press.
2. Alston, P. (2006). Reconceiving the UN human rights regime: challenges confronting the new UN Human Rights Council. *Melbourne Journal of International Law*, 7(1), 185-224.
3. Sanders, D. (1989). The UN working group on indigenous populations. *Human Rights Quarterly*, 11(3), 406-433.
4. Blau, J. R., & Moncada, A. (2005). *Human rights: Beyond the liberal vision*. Rowman & Littlefield.
5. Simma, B. (Ed.). (1995). *The charter of the United Nations*. oup.
6. United Nations. "Charter of the United Nations," 24 October 1945, 1 UNTS XVI." (1945).

Topic 2: Political Instrumentalization of Migration Flows

Introduction to the Agenda

A humanitarian emergency is a far and wide crisis circumstance which influences a whole local area or gathering in a district, including elevated degrees of mortality or malnourishment, the spread of sickness, and other crisis related to human health and well-being. As a rule, this situation relates to the ill effects of disparity, neediness and absence of fundamental administrations ultimately increasing the chances of poverty and hunger. The trigger for these situations being social and regional disparity leading to persecution, conflicts, and displacement relation to climate and environmental changes¹.

Whenever the circumstance worsens because of the country's trouble in adapting to the outcomes of these occasions, humanitarian aid becomes an essential part in helping these vulnerable groups. Whether it is food, clinical consideration, or recreation of their infrastructure, diminishing the quantity of casualties to end the emergency and start a time of improvement collaborative action².

As a result of the present circumstance, a huge population of individuals are compelled to escape these shocking circumstances to get by and proceed with an honorable life in another country. Then again, lately we have seen an expansion in mass movements which, although they compare to the causes referenced above, are advanced by state parties with coercing and political targets, particularly in the European Union space³.

Under global regulation, displaced people, who are compelled to move exclusively due to wars and threats in their nations of origin, are qualified for assurance and protection solely from adjoining states. Along these lines, the mass passage of transients into the EU (Turkey, Algeria, and so on) is viewed as unlawful, as their status can't be considered as migrants or displaced people, considering that the EU borders no conflict regions^{5,6,7}.

migrants are a uninhibitedly accessible "signifies" of instrumentalization and can be taken advantage of by nations that enjoy not many other key benefits, pushing individuals across boundaries to weaken or constrain the objective state. A grouping of repeated perpetrators like Russia appears to be shockingly allowed to weaponize the EU's acceptance towards migrants, coercing monetary and political concessions for controlling the borders across states^{5,6,7}.

The EU has huge number of kilometers of land and ocean borders, as well as uncovered abroad domains, and it is very simple for neighbors to utilize its boundary weaknesses to captivate the

EU, minimize its standing, and additionally force concessions from it. In the event that the EU exhausts such a large number of assets on protecting itself against MI, its main enemies will have scored a modest triumph, utilizing an unreservedly accessible wellspring of influence - upset people - to set off expensive countermeasures losing both on resources and power^{5,6,7}.

Migrant instrumentalization could have all the earmarks of being a heavy-handed strategy not as effective. The strategies seemed to be varied and identifying the patterns of these tasks is also not an easy job. MI is, for example, sometimes about sheer numbers - about the capacity of the culprit to drive enormous volumes of individuals into the objective state. Culprits regularly use relocation in unmistakable and designated ways. They handpick travelers from specific ethnic, strict or segment gatherings. They center around specific geographic region of the objective -, for example, impeded borderlands, where there are unmistakable inclinations of disengagement from the metropole. Furthermore, they join assaults on the boundary with different areas to support or heighten their missions - from spyware to "lawfare" (taking advantage of the lawful structure on refuge)^{5,6,7}.

Understanding Migration Instrumentalization (A Taxonomical chart)

STRONG STATE	PROXY STATE	WEAK STATE	NON-STATE
<p>In a nutshell:</p> <ul style="list-style-type: none"> • "Coercive diplomacy": a state seeks to gain immediate or gradual relative advantage or a change in international order by degrading the EU's capacity to act, sometimes by directing migration through a proxy. • Typical strong state: <u>Russia</u> 	<p>In a nutshell:</p> <ul style="list-style-type: none"> • "Tail that wags the dog": the proxy state becomes an independent player, attempting to use migration flows to play EU and patron state off against each other for its own gain. • Typical proxy states / governmental actors: <u>Hezbollah</u> 	<p>In a nutshell:</p> <ul style="list-style-type: none"> • "Weak weapons of the weak": weak states have serious governance problems, for instance with territorial integrity or unemployment and use their control of flows of refugees or unemployed citizens to draw the EU into helping with the root causes of their problems. • Typical weak state: <u>Kosovo</u> 	<p>In a nutshell:</p> <ul style="list-style-type: none"> • "Politico-commercial strategy": the non-state actor uses migration facilitation and control to take on state attributes such as welfare or security provision. • Non-state actors include terrorist groups with territorial and commercial aims (ISIS/Daesh), but also militias, criminal networks and even humanitarian bodies.
<p>Context:</p> <ul style="list-style-type: none"> • Strong states that instrumentalize migration see MI as just one of a range of means, often just an incidental by-product of action elsewhere. Where the opportunity arises, migration is slotted into a much longer running influence campaign. Strong states are often engaged in the (military) action that has caused migration flows. • The EU, despite finding itself weakened by an internal crisis, has been forced into assertive action against the strong state (e.g. sanctions, diplomatic isolation). The EU may also be seeking broader decoupling from the strong state. 	<p>Context:</p> <ul style="list-style-type: none"> • Proxy states that use migration are near to the EU but, despite the proximity, have stronger ties to a non-EU power like Russia or Iran. Their legitimate means of building relations to the EU are blocked by the patron state. They use migration to gain EU attention or to push back against the EU if they feel member states are punishing them in place of the patron for another action. • The EU finds itself temporarily at odds with the patron state. The proxy lacks legitimate means to attract EU attention and migration is a way to play one off against the other. 	<p>Context:</p> <ul style="list-style-type: none"> • Weak states that instrumentalize migration are in fact often trying to diversify diplomatic and economic ties away from the EU, by opening themselves to migration from new regions (e.g. Balkan states opened themselves to migration from Middle East). • The EU has already entered into a quid pro quo with the weak state to hold back migrants, but the weak state feels the advantages are not paying off. Their citizens complain that irregular migrants transiting the territory enjoy better access or rights in the EU than they do. 	<p>Context:</p> <ul style="list-style-type: none"> • Non-state actors that instrumentalize migration are primarily smuggling gangs, but they stand out from other criminal gangs, linking the usual commercial/financial goals with territorial/international goals. • The EU itself has governance failures which are filled by non-state actors, such as search and rescue in the Mediterranean or problems in its common asylum and border system in peripheral member states (small islands, Balkan member states).

STRONG STATE	PROXY STATE	WEAK STATE	NON-STATE
<p>Ends:</p> <ul style="list-style-type: none"> International goals include gaining prestige at the EU's expense and politicizing the post-1989 model of globalization. These goals are likely to be rather broad, achieved by degrading the EU over many years. Domestic goals include demographic engineering (pushing out minorities like Kurds and Chechens). 	<p>Ends:</p> <ul style="list-style-type: none"> International goals include securing relative advantage from the EU and the patron state, forcing each to compete for the proxy state's allegiance. May also involve international rehabilitation and sanctions relief. Domestic goals include demonstrating a degree of independence as regards large powers and recognition. 	<p>Ends:</p> <ul style="list-style-type: none"> International goals include trying to gain recognition as not just an independent state but a state with strategic positioning and diplomatic leverage vis-à-vis the EU. Domestic goals include trying to prevent the EU using market access as leverage to force domestic reform in the weak state. 	<p>Ends:</p> <ul style="list-style-type: none"> International goals include trying to alter EU law-making or political cohesion. Internal goals include filling in for the local state, securing territory and providing local populations with fundamental needs.
<p>Means:</p> <ul style="list-style-type: none"> The strong state may manufacture migration flows by redirecting existing population movements (Russia) or even undertaking bombing and displacement campaigns at home and abroad (Russia). Migration tools are mixed with supply chain control, diplomatic engagement, information campaigns and cultural outreach in non-target states to undermine intra-EU solidarity, including arming Orthodox vigilantes in Bulgaria or Serbia. 	<p>Means:</p> <ul style="list-style-type: none"> Proxy states tend to already be transit states for foreign nationals heading for the EU; their own nationals typically migrate away from the EU towards the patron state. This frees the proxy from the usual EU influence (visa liberalization) but leaves it bound to the patron. The proxy state typically instrumentalizes migrants hostile to the patron (for instance, Hezbollah controlling flows of Sunnis in line with wishes of Shiite Iran). 	<p>Means:</p> <ul style="list-style-type: none"> The weak state instrumentalizes its own population, typically the middle classes that have given up hope of a better life at home and want to move on to the EU. Weak states with diasporas outside the EU, and whose own nationals are unlikely to seek to migrate to the EU, duly instrumentalize migrants present on their territory (e.g., Libya and migrant workers). 	<p>Means:</p> <ul style="list-style-type: none"> Non-state actors provide services for refugees and other irregular migrants, and at the same time instrumentalize these migrants for political purposes. The modus operandi is to push clandestine migration flows into public awareness in order to effect political changes, posting evocative images on Facebook and Twitter to shame EU lawmakers, using diaspora and humanitarian voices in the EU to amplify the message.

<p>Development of action:</p> <ul style="list-style-type: none"> Action can play out in different theatres, for instance to the South and East of the EU, or on the EU's and US's southern borders. Action can be tailored to picking apart Western alliances (NATO/EU), targeting different member states at different times, and probing mutual defence and solidarity clauses. Action will be reactive to European threat perception, hacking into European intelligence and targeting individual intelligence analysts with disinformation. 	<p>Development of action:</p> <ul style="list-style-type: none"> Campaign is triggered by a crisis in the proxy state, coupled with shaken support of patron state and heightened criticism and sanctions in EU. Proxy states seek to exploit the EU legal framework on asylum by drawing populations that would seek asylum. This is a fairly risk-free strategy for proxy states, since they only benefit from very limited visa facilitation agreements with the EU, if any, and therefore avoid a potential public backlash in case of sanctions. 	<p>Development of action:</p> <ul style="list-style-type: none"> Weak state offers to undertake dirty tasks which the EU would usually proscribe (e.g., Kosovo preventing exit of Roma population). 	<p>Development of action:</p> <ul style="list-style-type: none"> Non-state actors capitalize on existing smuggling operations (goods, people) to yield revenues (i.e., taxes on border-crossings for smugglers, kidnapping and extortion of migrants, forced labour) and force the EU into action.
<p>Completion of action:</p> <ul style="list-style-type: none"> Successes include inflicting permanent reputational damage on the EU in the form of legal restrictions to liberal norms or gaining greater autarky by reducing economic and political dependence on the EU. EU incurs "hypocrisy costs". Costs include reputational damage of allowing kin to die on precarious routes to the EU (Turkey allowing Muslims to die in the Aegean), the growth of dissident populations abroad (Chechens, Gulenists), and domestic chaos as smuggling gangs take hold. Loss of internal cohesion over military campaign or offering transit to the EU to foreigners but not to own nationals. 	<p>Completion of action:</p> <ul style="list-style-type: none"> Successes include gaining greater recognition from the EU, the patron state or preferably both. Costs include when the EU and the patron state make a deal over the heads of the proxy state, with the patron state gaining concessions from Brussels for bringing the proxy to heel. Patron state may cut off the flow of transit migrants or close its own labour market to nationals of the proxy. 	<p>Completion of action:</p> <ul style="list-style-type: none"> Successes include gaining greater recognition from the EU in the form of diplomatic engagement in a breakaway territory, financial support, deployment of a FRONTEX or CSDP mission, relief from sanctions and blacklists. Costs include reputational damage amongst own citizens or in the migrant country of origin (e.g., Serbia in Iran) or damaging its own labour market by weaponizing migrants who in fact want to remain and work there (Libya). 	<p>Completion of action:</p> <ul style="list-style-type: none"> Successes include taking on state-like tasks, such as border control, humanitarian and welfare tasks; border closures and greater public hostility to migrants or identity groups create demand and legitimacy for these groups amongst their clientele. Costs include tension inside multi-ethnic criminal networks and loss of status as providers of viable entry points to EU. It is difficult for non-state actors to provide a reliable service for migrants whilst also instrumentalizing them for political effect. Non-state actors often struggle to maintain their positions and alliances, in turn impeding their smuggling activities.

Political instrumentalization examples in European Union case studies

Morocco: Morocco's desire to gain international recognition of its sovereignty over the Western Sahara¹¹ was at the heart of this episode (and indeed previous MI events). The Kingdom has repeatedly used migration to force Spain and its other European neighbors to change course on decisions related to the Western Sahara, more often than not with success.¹² This time, the spark came from a Spanish hospital where Brahim Ghali, leader of the Sahrawi nationalist movement the Polisario Front, was being treated for Covid-19 in April 2020. Morocco saw an opportunity to renew pressures on Spain, boosted by President Trump's recognition amid US efforts to stabilize relations between Israel and Arab powers in late 2020^{8,9,10,11,12,13}.

Morocco has its eye on the Spanish cities of Ceuta and Melilla and uses their geographical exposure as an instrument. In a bid to force Spain to open negotiations about the status of the semi-enclaves, Morocco has long leveraged questions of access and border control. At the end of 2019, Morocco suspended tax-free cross-border trade but also cracked down on the illicit smuggling of goods. This cut a lifeline to the two Spanish cities, which are economically weak. Morocco's leverage automatically increased following Covid pandemic-related border closures. Evidence has subsequently emerged that the Kingdom used (Pegasus) spyware to retrieve information on Western Sahara supporters and other high-level politicians not only in Spain but across Europe, potentially calibrating its border activities to coincide with their activities^{8,9,10,11,12,13}.

Belarus: Ruled by authoritarian President Alexander Lukashenko for 27 years, has long been dependent on Russia politically, militarily, and also economically. However, the post-election crisis of August 2020 constituted a fundamental change: Lukashenko could preserve his power only with Russia's active, multi-domain assistance. The fact that he could stay in power only with Russia's help eroded Lukashenko's freedom of manoeuvre decisively, and is likely to do so even further, as Moscow keeps gradually extending its influence over Belarus. Hence, since 2020 Belarus has largely qualified as a proxy of Russia, particularly regarding its relations to the West. In early July 2021, Belarus started to move irregular migrants first to its border with Lithuania, and thereafter also to Poland and Latvia, setting them loose on what Frontex calls the Eastern Borders Route.²⁸ On the EU's Eastern borders there have historically been far fewer irregular migrants than on any other migratory route to the EU. Between 2004 and 2018, Lithuania received an average of 500 asylum applications per year. This is why the policy of

Belarus to deliver non-European migrants to the country's Western borders constitutes a major shock, and an apparent case of MI. As of mid-September, Poland reported more than 7,000 attempts to illegally cross the border. Lithuania intercepted approximately 4,200 migrants, and Latvia more than a thousand^{14,15,16}.

Ukraine: Once the conflict began in 2014, inducing significant internal displacements in **Ukraine**, many in Brussels were worried that Kyiv might try to instrumentalize migration against the EU, and thus coerce the EU into providing more support. In fact, quite the opposite happened: while Ukraine did not consciously employ migration against the EU, migration was instrumentalized against Ukraine by Russia. Hence, the Ukraine case illustrates how migration patterns induced or aggravated by armed conflicts may be instrumentalized against a weak state, and how these may also have collateral effects on the EU. While Ukraine is too weak to instrumentalize migration, it is also too weak to resist when Russia also employs MI against it. In line with the general purpose of the present study, only those aspects of Ukraine's migration patterns are analyzed, which may serve as a tool of MI against Ukraine as well as the West. Ukraine was one of the major sources of labor migration both to the EU and Russia even before the 2014 crisis. Migration from the Russian Federation to Ukraine, and vice versa, constituted the two busiest migration corridors in Europe,⁵⁶ with approximately three million Ukrainians working in Russia, and several hundred thousand in the West before the conflict began in 2014. With the current crisis of the Russian invasion there is also a migration drive that we can from this crisis, and these are completely not built upon violence as the sheer propagation of the idea of war is driving people out of the country as a repercussion and this is the longshot that the Russian Federation is eyeing on. Taking the message of war without targeting all cities in the entire country to drive people to migration is also an issue to look upon^{17,18,19,20}.

Libya: Since the fall of Muammar Gaddafi in 2011, **Libya** has become a major launch point to Europe for migrants from Northern, Western, Central and Eastern Africa, but also from countries further afield (Bangladesh, Iran, Afghanistan).⁷⁵ Between 2009 and 2020, over 800,000 irregular border crossings were reported along the Central Mediterranean Route (see graph for details)⁷⁶ despite huge dangers (the International Organization for Migration reported close to 14,000 deaths along the route between 2014 and 2020⁷⁷). The vast majority of migrants taking the Central Mediterranean route passed through Libya, where the EU finds itself dealing with an array of "rent-seeking" non-state actors looking for funds, engagement, and a formalization of their de facto role in carrying out functions usually reserved for the state. The large numbers of migrants crossing the Mediterranean have earned Libya a reputation as

Africa's "human conveyor belt", which can be activated by smuggling gangs as well as the armed militias fighting in the country since 2011.⁷⁹ Rather, long-established smuggling practices along Libya's southern borders, coupled with the presence of migrants seeking work in Libya's oil and household sectors, produced a huge potential source of cash and power which militias and other state and non-state actors have leveraged for their own survival. Europe is not a primary target in their survival strategies, but it is very much a collateral victim of these dynamics.

Tackling Political instrumentalization (A European Union Perspective- Case Study Belarus)

The EU reaction to the instrumentalization of migrants by the Lukashenko regime follows increasing concern about Belarus flouting international norms, both in terms of repression of democracy and the forced landing of the Ryanair flight in May. 6 Sanctions responding to the fraudulent elections and the crackdown on civil society and opposition, as well as to the flight diversion, have been progressively scaled up and a total of 166 individuals and 15 entities are now designated under the sanctions regime. This is complemented by a comprehensive package of economic and financial measures against Belarus as well as a ban on the overflight of EU airspace and on access to EU airports by Belarusian carriers. These measures are now being extended as a specific response to the state-sponsored instrumentalization of migrants and refugees by Belarus. On 15 November, the Council amended the EU sanctions regime regarding Belarus and the EU is now also able to target both individuals and entities organizing or contributing to activities that facilitate illegal crossing of the EU's borders. Further actions may be applied after International Civil Aviation Organization (ICAO) investigations^{21,22,23}.

On 9 November 2021, the Council adopted the Commission proposal on the partial suspension of the EU-Belarus Visa Facilitation Agreement. The suspension concerns government officials of Belarus (members of Belarus official delegations; members of Belarus national and regional Governments and Parliaments, Belarus Constitutional Court, and Belarus Supreme Court). This means that Belarusian officials will have to submit the full set of supporting documents on each visa application, the issuance of multiple-entry visas will not be facilitated, and they will not be entitled to the waiver of the visa fee. The other provisions of the Visa Facilitation Agreement remain in force and facilitation will continue for the ordinary citizens of Belarus^{21,22}.

The issue of the state-sponsored instrumentalization of migrants has also been addressed by the EU in the Organization for Security and Cooperation in Europe and at the United Nations in both New York and Geneva. On 11 November, a closed UN Security Council meeting on the situation at the border and on Belarus' instrumentalization of migrants was held on the request of the EU. The G7 Foreign Ministers issued a statement on 18 November declaring solidarity with Poland, Lithuania and Latvia, and commended the actions of the EU working closely with countries of origin and transit to put an end to the actions of the Lukashenko regime^{21,22},

The EU's continuous engagement has led to results. Discussions with Iraq, in the light of the Commission's proposals under Article 25a of the Visa Code to improve cooperation on readmission, have highlighted the imperative to strengthen cooperation on returns, including non-voluntary returns. Following the first dedicated outreach in July, by both HRVP Borrell and Commissioner Johansson, the government of Iraq acted swiftly, with a suspension of direct flights from Baghdad to Belarus in August. This remains in place today. Following Vice-President Schinas' visit, flights from Erbil transiting through third countries to Belarus were also stopped. Iraq has further investigated smuggling activities and has closed Belarusian honorary consulates^{21,22}.

With some possibilities to provide humanitarian support for stranded migrants in Belarus now being created, the EU has recently been able to channel direct support to the situation in Belarus. This includes the immediate allocation of €200 000 to the International Federation of Red Cross and Red Crescent Societies (IFRC) as part of the EU's overall contribution to the Disaster Relief Emergency Fund, managed by the IFRC. This immediate EU funding supports the IFRC and its national society, the Belarus Red Cross, to deliver much needed relief assistance, including food, hygiene kits, blankets, and first aid kits. The Commission's Small Scale Tool has also been activated with €500 000 available for international organizations such as IOM, UNHCR, IFRC to provide emergency assistance. This can provide lifesaving assistance to the most vulnerable people stranded at the border, including food and water, non-food items (blankets, clothing, baby items) and health support, and preparing for winterization. The Commission is currently in contact with its humanitarian partners on the implementation of these funds. It is imperative that they have the necessary access to the people in need^{21,22,23}.

A humane response to the crisis includes helping people to return home where possible. There is already evidence that many people are ready to return to their countries of origin. The Commission will mobilize up to €2.5 million to facilitate assisted voluntary returns. This will cover the costs of return and reintegration to countries of origin, as well as essential

humanitarian, medical, and legal support while on the territory of Belarus^{21,22,23}.

EU funding can give further support to the most affected Member States, drawing upon the Asylum, Migration and Integration Fund (AMIF) and the Border Management and Visa Instrument (BMVI). While the Member States have received allocations for national programs, the two funding instruments also each establish a Thematic Facility. This funds priorities at EU level, including emergency assistance for urgent and immediate needs and support to Member States under migratory pressure. This has already been drawn upon for the €36.7 million in emergency aid now under way in Lithuania. This program shows how the EU can help to address a wide variety of financial and operational needs, from operating equipment and border surveillance systems to transport for border guards. It can help with the quality and availability of reception centers, as well as the transport of migrants, and to build up dedicated facilities to support the vulnerable. The Commission is in dialogue with Lithuania, Poland and Latvia about the extent of this funding and how it can help, based on a full needs assessment. In addition to the €360 million foreseen for these Member States under the BMVI for this financial period, a further top-up of around €200 million will be available for 2021 and 2022^{21,22}.

Questions to be answers

- Defining political instrumentalization with respect to different geographies?
- How political instrumentalization takes place?
- Current crises related to migration instrumentalization?
- Actions taken by United Nations on the issue?
- How can accountability be assured for MI considering it is a backend strategy?

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