

**Bridging Theory and Practice: Evaluating and Enhancing the Effectiveness of the
European New Pact on Migration and Asylum**

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Abstract

Migration is a wicked issue that the European Union (EU) aims to address through the New Pact on Migration and Asylum. Despite EU's intention to create a humane and sustainable common migration system, the Pact has received criticism from NGOs and scholars concerning violations of migrants' rights. This criticism highlights gaps between policy and practice.

Using a theoretical framework, this thesis investigates the New Pact on Migration and Asylum's effectiveness. After the explanation of the New Pact and its criticism, significant differences between the Pact's objectives and actual policy execution are identified using the framework and classified into either the implementation or efficacy gap. Additionally, this thesis proposes three sub-categories: (1.) subjectivity, (2.) dissonance with reality and (3.) intention vs. outcome.

These sub-categories helped creating recommendations for the EU to bridge the gap between theory and practice regarding the New Pact on Migration and Asylum. The proposed recommendations include to reduce subjectivity and ambiguity in policies as much as possible; provide financial support with sufficient and appropriate monitoring; employ a rights-centred approach; and carry out several meantime impact assessments by independent oversight bodies. These recommendations can help policymakers in the EU to promote transparency, accountability, and responsiveness, which would ultimately lead to creating a common, humane, and sustainable migration system that adheres to human rights.

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Introduction

The primary concerns for Europeans are immigration and the war in Ukraine, according to the Eurobarometer Autumn 2023. To be more precise, 28% of Europeans identified immigration as one of the top concerns facing the EU (European Union, 2023). Currently, migration is mainly discussed as a challenge. This public apprehension of migration as a challenge in Europe is particularly fuelled by memories of past events, such as the 2015 refugee "crisis" when over a million mainly Syrian refugees entered the EU seeking protection (European Union External Action, 2023). Similarly, the ongoing Russia-Ukraine war has led to approximately six million Ukrainian refugees registering in Europe. Moreover, the influx of migrants reaching South European countries via the Mediterranean Sea has intensified (European Union External Action, 2023). According to FRONTEX data, the number of irregular entries via this route surged to 330,000 in 2022 which is an increase of 64% in comparison to the previous year (FRONTEX, 2023). Irregular migration is defined as "The movement of persons that takes place outside the laws, regulations, or international agreements governing the entry into or exit from the State of origin, transit or destination." (IOM UN Migration, 2019).

These increases in refugee arrivals have exposed significant deficiencies in EU policies regarding asylum, external borders, and migration (Apap et al., 2019). Human Rights Watch (2016) characterizes the European migration policy as endangering to migrants, because the EU lacks leadership, vision, and solidarity rooted in human rights principles. Among others, Amnesty International and the International Rescue Committee (IRC) also echo these concerns. According to them, EU-member states (MS) have consistently failed to agree on how to handle people seeking refuge in Europe. This inability has led to heightened political polarization, deviation from international and EU law, increased human rights abuses at European borders, and suffering endured by refugees

(International Rescue Committee, 2024). As an attempt to tackle these issues, the EU announced a reform of the European migration policy in 2020, called the European New Pact on Migration and Asylum. Nevertheless, the IRC is of the opinion that much remains to be done to ensure the Pact adequately addresses these challenges. They are convinced that, in its current form, the Pact fails to offer sustainable solutions for refugees seeking safety within the EU (International Rescue Committee, 2023).

Given the widespread belief among individuals and organizations that the New Pact needs improvement, along with migration being a primary concern for European citizens, this thesis aims to assess the effectiveness of the European New Pact on Migration and Asylum by bridging theory and practice. In other words, this thesis investigates the discrepancies between policies and the extent to which they are currently effectively used. Using the theoretical framework proposed by Czaika and De Haas (2013), this thesis explores the main problems that the New Pact faces concerning its effectiveness. Through this analysis, it seeks to identify strategies to address these challenges. In light of the above, this thesis is guided by the following research question: What are the primary obstacles hindering the effective implementation of the New Pact on Migration and Asylum, and what strategies and recommendations can be adopted to improve the alignment between theory and practice to ensure its successful application?

The focus of this thesis on European migration policy originates from the recognition of migration as is a wicked issue (Raadschelders et al., 2019). Wicked problems have many interdependent factors and stakeholders which make it seem impossible to solve such issues. Being able to solve wicked problems requires a deep understanding of the different stakeholders involved, and a creative and innovative approach (The Interaction Design Foundation, 2024).

Given the complex and wicked nature of migration, it is important to research it from a transnational perspective. Therefore, this thesis examines EU migration policies.

Conceptual framework

As the theoretical framework and the used methods in this thesis are intertwined, I decided to merge them together within the conceptual framework section.

a. Theoretical framework

i. Assessment of the effectiveness of EU migration policy:

Since immigration is a highly debated topic in Europe, it has sparked controversy regarding the effectiveness of immigration policies (European Union, 2023). On one hand, academics have argued that even though migration policy was implemented with the right intention, they have often failed (Czaika and De Haas, 2013). Scholars have provided multiple arguments which have been combined in three arguments by Czaika and de Haas. First, migration policies have generally failed because migration policies have very little impact on factors such as labour market demand, economic inequality, environmental danger and political conflicts in origin countries which are usually key drivers of international migration (Essentials of Migration Management, 2020 ; Czaika and de Haas 2013). Second, according to de Haas (2010), international dynamics concerning migration have the potential to create a self-perpetuating system which limits immigration policy effectiveness. This self-perpetuating system indicates that once migration reaches a certain threshold, migration networks, employers and the "migration industry" often promote the onward movement of people. Smugglers, for example, are part of the migration industry and make money by offering services including documentation, transportation, and settlement support. They are only profitable if there is a constant flow of immigrants and therefore, they encourage migration

which makes it a self-perpetuating system. This process seriously hampers the effectiveness of policies (De Haas, 2009). Finally, set aside from all the good things, (human) rights, such as the right of family life and protection of asylum seekers, very much limit legal and practical means to control immigration (Hollifield, 1992; Czaika and de Haas 2013). Italy, for instance, has been seeking for tools to reduce irregular migration by relying on their criminal justice system and restricting the rights of undocumented migrants. These policies were designed to make life more difficult for migrants in an effort to deter them from entering Italy. Consequently, the Italian Constitutional Court was asked to determine whether these new laws were legitimate. As it turned out, the Court made a statement declaring that human rights are fundamental. Thus, Italy was not allowed to implement policies that would restrict the rights of undocumented migrants even when they could possibly reduce immigration numbers (Di Pascale, 2014). Thus, this example demonstrates that although human rights are extremely valuable and have positive effects, they also limit the effectiveness of immigration policies.

Having explained the three main rationales behind scholars' characterization of immigration policy as mostly ineffective, the contrasting viewpoint will now be elaborated upon. Scholars believing that immigration policy is effective substantiate their argument with the fact that empirical research has shown that the magnitude and composition of immigration flows have been affected by certain restrictions such as visa requirements, and improved detention of irregular migrants (Hatton, 2009; Mayda, 2010; Czaika and de Haas 2013).

Concluding, there is still a lot of controversy regarding the effectiveness of immigration policies. Therefore, the study "On the Effectiveness of Immigration Policies" by Czaika and de Haas (2013) provides insights into this complex topic and suggests a theoretical framework for evaluating the nature and efficacy of immigration policies. This framework will be used in this

thesis to assess the effectiveness of the European New Pact on Migration and Asylum. However, before the framework will be applied to this specific case, it's important to define key terms used in the framework and provide a comprehensive exploration of the framework itself.

ii. Clarification of key terminology in the framework:

This duality of opinions concerning the effectiveness of migration policies arises from the fuzzy meanings of both immigration policy and effectiveness (Czaika and De Haas, 2013). To properly explain the framework, these terms will first be elaborated upon.

1. Immigration policy

The main issue with defining immigration policy centres on the question “what counts as immigration policy?” (Czaika & De Haas, 2013). Many policies impact migration dynamics even when they are not specifically designed to influence the behaviour of a particular group of migrants. Illustratively, policies relating to labour markets, social safety, etc. have big influence on migration patterns while not being implemented with the goal to change migration patterns (OECD Development Centre, 2016). Therefore, it is extremely important to bear in mind the main objective of a policy (Czaika and de Haas, 2013). However, this is easier said than done since migration policies are usually the outcome of compromises between many different stakeholders such as the EU, MS, refugees, etc. (International Organisation for Migration, 2013). Furthermore, publicly stated intentions and objectives of different stakeholders are often not properly shared (Czaika and De Haas, 2013). Therefore, immigration policy effectiveness can never be assessed without having adequate background knowledge about different stakeholders and their interests (Czaika and De Haas, 2013). To make the meaning of immigration policy clearer, it is important to specify what counts as migration policies. In this paper, the following definition, introduced by Czaika and De Haas 2013 is used: “international migration policies are rules (i.e., acts, laws, directives, regulations, and measures)

national states define and implement with the objective to affect the volume, origin, direction, and internal composition of immigration flows.” Even though this definition refers to national states, this thesis uses this definition as EU law and policies encompass both national laws and EU law which are both recognized by MS, making this definition suited for this study.

2. *Effect vs effectiveness*

Assessing the effectiveness of migration policy is dependent on maintaining consistent definitions (Czaika and de Haas, 2013). Even though the core focus of this thesis is centred around effectiveness, it is important to explain the difference between effectiveness and an effect. To explain the nuances between those terms, non-academic definitions of Cambridge dictionary will be used. According to this dictionary, effectiveness is defined as “the degree to which something is effective” (Cambridge Dictionary, 2024a) and an effect is explained as “the result of a particular influence” (Cambridge Dictionary (2024b)). These definitions show us that the difference between these two terms can be easily seen in their measurements. An effect can be measured because it centres around the results instead of the quality. Whereas effectiveness is inherently subjective because it focuses on quality of an effect rather than on the effect itself. Therefore, it defies objective measurements.

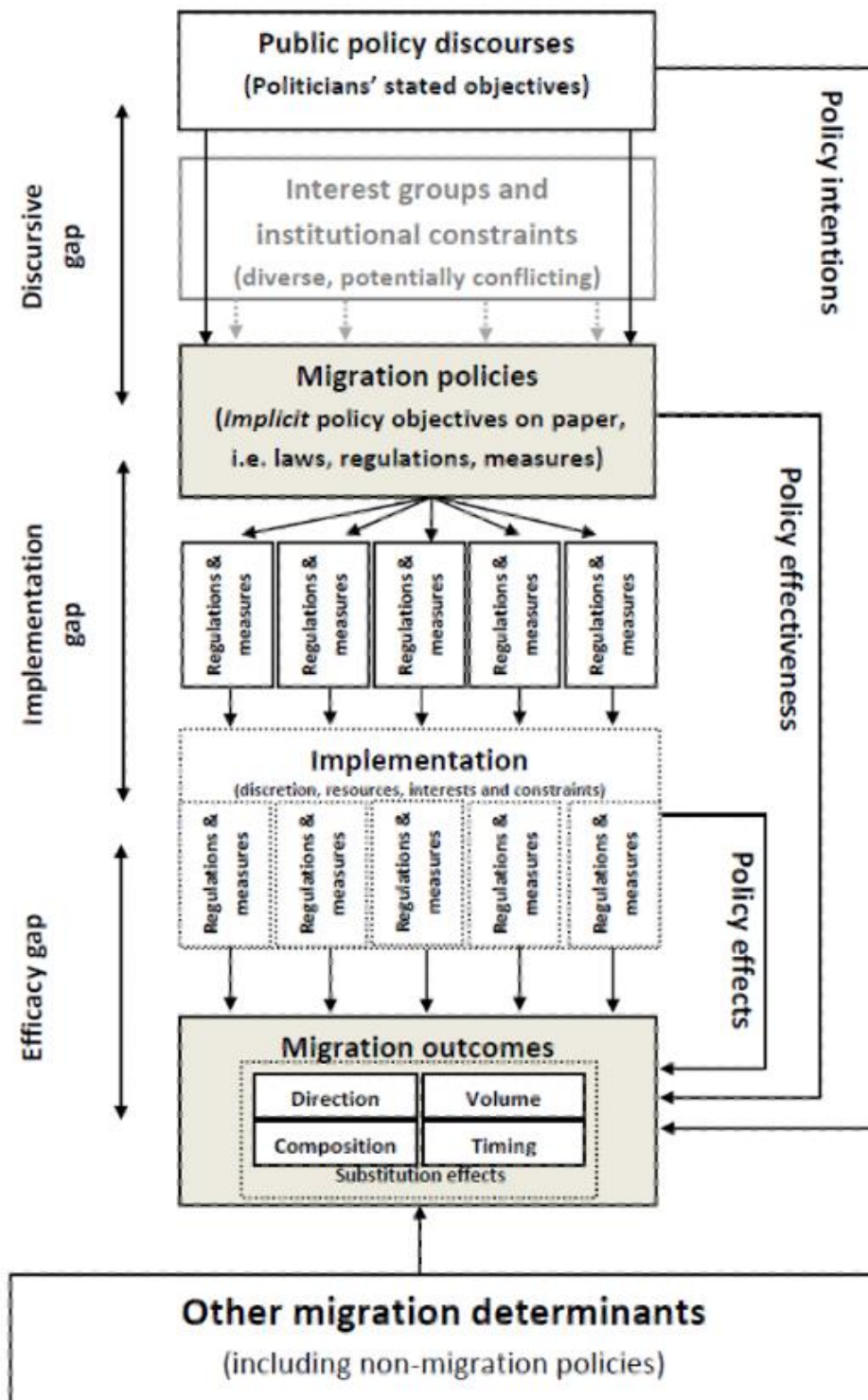
iii. Unpacking the framework

As the most important terms used within the framework are now clarified, the actual framework will now be explained. Unlike other frameworks, this one observes written legal documents, along with how they are implemented and enforced. To be more precise, Czaika and De Haas (2013) have designed a conceptual framework to evaluate migration policy effect and effectiveness (Figure 1). Their framework consists of four different levels at which migration policy can be conceptualized. (1.) public policy discourses, (2.) actual migration policies

written down on paper, (3.) policy implementation and (4.) migration policy outcomes. These 4 different dimensions give room to identify three “immigration policy gaps”. First, it introduces the discursive gap which entails the difference between public discussions/conversations and policies on paper. Secondly, the implementation gap delves into the discrepancy between policies on paper and their actual implementation. In other words, this gap focuses on rules and regulations that are written down, but not or only partly implemented. This gap frequently occurs when policies are open to subjective interpretation. Finally, the extent to which implemented policies are also able to affect the migration situation is examined in the efficacy gap. Migration policy efficacy is constrained because migration is driven by both structural pull and push factors in origin and destination countries (e.g., labour demand, health care system, etc) as well as internal dynamics of migration networks and systems which is previously explained (De Haas, 2009).

For this thesis, the discursive gap becomes less significant because it concentrates on pre-policy dynamics and policies written on paper while ignoring policies in practice. In other words, the significance of the discursive gap diminishes for this thesis as this paper focusses on policies that are already on paper and policies in practice. As a result, this thesis will disregard the discursive gap as it would be beyond the scope. Consequently, this thesis will focus on the implementation and efficacy gap. By focusing on these gaps, this thesis will examine the effectiveness of the New Pact on Migration and Asylum and accordingly present recommendations to improve it. Furthermore, policy makers could use this thesis to transform current migration policies into more responsive and effective policies to better address the complicated challenges of European migration.

Figure 1: Conceptual framework of migration policy effects and effectiveness (Czaika & De Haas, 2013)



b. Methodology

To explain the methodology to answering the research question: “What are the primary obstacles hindering the effective implementation of the New Pact on Migration and Asylum, and what strategies and recommendations can be adopted to improve the alignment between theory and practice to ensure its successful application?”, I divided the research questions into 2 segments for better and more logical organization of the methodology section. For the first part, “What are the primary obstacles hindering the effective implementation of the New Pact on Migration and Asylum?” I have used the framework by Czaika and De Haas (2013) that they have explained in the article: “The Effectiveness of Immigration Policies”. Even though this framework is focussed on assessing the effectiveness of immigration policies on a national level, I regarded it as highly applicable and relevant for the evaluation of the effectiveness of European Migration policies. This is because the framework takes a systematic approach that facilitates a deeper understanding of the wicked problem of migration within European policy.

To evaluate policy's effectiveness, it was first necessary to gain an overview of current EU legislation and competences concerning migration. Subsequently, the formation and content of the Common European Asylum System was elaborated upon. The method underlying this literature review included conducting policy document analysis, legal doctrine research and exploring specific case studies. This literature review laid the basis for assessing the effectiveness of the New Pact on Migration and Asylum. This Pact was dissected piece by piece with NGOs and academic scholars offering critical analysis and feedback. The choice to present the criticism of NGO's and academic scholars was made since NGOs don't strive for revenues, but rather monitor governments and encourage them to adhere to human rights (Verenigd voor Mensenrechten, n.d.). By clarifying the New Pact and its drawbacks, the basis for the

implementation of the framework and assessing the effectiveness of migration policy was established.

Criticisms raised by NGOs were vital in applying this framework, as they facilitated the identification of gaps within the New Pact. Finding these gaps is beneficial because it reveals where the EU's present immigration policy needs improvement(s). This leads to the second part of the research question: “what strategies and recommendations can be adopted to improve the alignment between theory and practice to ensure its successful application?”. To answer this question, existing literature from two NGO’s, the IRC and Caritas Europe, was examined to suggest ways in which the New Pact on Migration and Asylum could be improved. The choice to use suggestions stemming from the IRC and Caritas Europe was made because both NGOs are reliable and experienced on the topic of migration and take a holistic approach while examining topics related to the field. Subsequently, as the application of the framework has identified areas in which policy could be improved to bridge the gap between theory and practice, I have used those findings to draw upon different measures to enhance current European migration policy by bridging the gap between theory and practice.

In conclusion, by systematically applying the framework introduced by Czaika and De Haas, the effectiveness of the European New Pact on Migration and Asylum was assessed. By drawing upon literature from two NGOs, recommendations for the New Pact were proposed. Furthermore, by applying the framework to the criticism voiced by NGO’s and scholars on this new Pact, suggestions to bridge the gap between theory and practice are made.

Literature review: theoretical examination of EU migration policies:

a. Examination of European Union's legal basis for migration policy

According to the 1951 Geneva convention on the protection of refugees, asylum is a fundamental right and an international obligation for countries (European Commission, n.d. - a). As the EU shares these fundamental values, the Treaty on the functioning of the EU (TFEU) contains several important articles that outline a framework for common cooperation in managing migration flows. Important articles in this Treaty regarding this topic are article 78, 79, and 80.

Article 78 lays the groundwork for developing “a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate statuses to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement” (Rossi & Sandhu, 2022; European Union, 2012). The main aim of this article is to provide appropriate legal status to any third-country national, referring to those who are neither citizens of the European Union under Art. 20(1) of the TFEU nor beneficiaries of the EU's freedom of movement (European Commission, n.d.-b). This applies specifically to those who require international protection to ensure that the principle of non-refoulement is followed. This principle, as defined by international human rights law, ensures that no one should be sent back to a nation where they would be subjected to torture, cruel, inhuman, or degrading treatment or punishment, or other irreversible harm (European Union, 2012). Regardless of their immigration status, all migrants are subject to this concept at all times (OHCHR, 2018). In other words, this article lays the groundwork for the creation of a unified EU asylum policy that respects the protection of people in need of international protection while adhering to the principle of non-refoulement (European Union, 2012).

Article 79 of the TFEU builds further on the common migration policy introduced in article 78, by sharpening its focus to legal migration which is defined as “migration in accordance with the applicable legal framework” (European Commission, n.d.-c). The main aims of this policy on legal migration are centred around efficient management of migration flows, equal treatment of third-country nationals who are legally residing in the EU and the prevention of illegal immigration and human trafficking (European Union, 2012).

Moving onto article 80 of the TFEU, this article puts its emphasis on solidarity and equal distribution of responsibility between MS regarding the topic of migration. It highlights the importance of tackling migration collectively with all MS. In cases when states lack the necessary solidarity, the Union may take the necessary actions to put this principle of solidarity into practice (European Union, 2012).

When these provisions are combined, it can be concluded that with these articles, the EU establishes a unified framework for a migration policy that is based on human rights, efficiency, solidarity, and distributed responsibility. Building upon this, Article 4 of the Treaty of the European Union (TEU) facilitates this unified framework for migration policy by requiring MS to seek collaboration in full mutual respect and support each other in carrying out responsibilities which come from the treaties. Furthermore, article 4 entails that the MS must take the necessary actions to properly fulfil their obligations to the EU and refrain from taking any action that would compromise the Union's objectives (European Union, 2012a). Therefore, it can be concluded that Europe has a legal basis for its dealing with regular and irregular migration.

b. Examination of European Union's competences for migration policy

For this thesis, it is important to explore EU competences to avoid judgement on EU policies without considering its judicial boundaries. Additionally, the division of competences between the European Union ('EU') and its MS is a central constitutional issue of EU law and very important concerning its migration policy, according to Sarmiento (2019).

The EU is obligated to follow the principle of conferral. This principle obligates the EU to only act within the limits of the competences that have been agreed upon by EU treaties. In other words, MS will retain all powers in areas not explicitly mentioned by the treaties. Therefore, MS would keep competences in two scenarios. First, in case the EU does not act on its shared competence. Second, it remains in complete power in areas of policy which are not included in shared competences (Sarmiento, 2019). The legal basis that was previously explained specifies in which cases the EU is allowed to interfere concerning migration. EU's competences can be divided in four different categories of migration.

The first category is regular immigration. Concerning regular immigration, the EU is allowed, according to article 79 of the TFEU, to lay down conditions regarding entry into and legal residence in MS, including cases of family reunification for third-country nationals. However, MS continue having the right to determine volumes of admission for people coming from third countries to find jobs (European Parliament, n.d.). Germany, for example, enacted the "Skilled Workers Immigration Act." One provision of this legislation states that as of June 2024, the maximum number of German labour market permits that individuals from Western Balkan countries are allowed to obtain will increase from 25,000 to 50,000 permits (Bundusagentur für Arbeit, 2023; Make It in Germany, Federal Government, 2024). This example shows MS retain power in determining volumes of admissions for people coming from third countries.

For the second category, the principle of conferral determines that the EU can provide incentives and encouragements for measures taken by MS to stimulate the integration of legally resident third-country nationals. On the other hand, MS continue having a lot of rights since, the EU is not allowed to interfere in the harmonization of national laws and regulations according to EU law (European Parliament, n.d.). For example, France introduced the HOPE project. This project provides career guidance, language training and professional training (Mandola, 2019). This example demonstrates how MS like France retain autonomy in creating and carrying out integration programmes suited to their unique socioeconomic cultural settings, while the European Union can only provide incentives and support for such actions under the concept of conferral.

Combating irregular immigration, the third category, emphasizes that the EU is required to prevent and reduce irregular immigration, as mentioned in article 79 of the TFEU (European Parliament, n.d.). Frontex, the European Border and Coast Guard Agency, serves as an illustration of EU's approach doing this as this agency fights to stop cross-border crimes FRONTEX (n.d).

Within the final category, readmission agreements, the EU is allowed to initiate conversations with third countries regarding the readmission to their country of origin (European Parliament, n.d.). An example of this is Europe's negotiations with Turkey in November 2015. The goal of these negotiations intended to improve collaboration on the migrant situation while also boosting the relationship between the EU and Turkey (European Parliament, 2024a).

Academics have identified the principle of conferral as both a key constraint on policy action as well as the main strength of the European Union (Sarmiento, 2019). This duality results from

the fact that the Treaties remain crucial in defining the EU's scope in this area, but that the ambitious objectives outlined in the immigration policy of the EU have not yet been met. A situation which clearly illustrates this duality concerning the principle of conferral can be seen in the situation at the Dutch reception centre in Ter Apel. In 2022, the centre was overwhelmed with asylum seekers, causing chaos and terrible living conditions (NOS, 2022). Over 700 people were left without shelter and forced to sleep outdoors which led to a humanitarian crisis that called for emergency aid from organizations such as the Red Cross and Médecins Sans Frontières (Doctors without Borders) (NOS, 2022; Artsen Zonder Grenzen, n.d.). This situation shows that while the EU may provide guidelines or support for managing asylum seekers, the actual operation and management of this remains with the MS. Building upon this means that despite the EU's intentions, the actual outcome of migration policy isn't always effective because lots of responsibilities stay with MS, as seen in the crisis faced by the Dutch reception centre in Ter Apel. This leads to the identification of the efficacy gap which underscores the gap between European policy measures and their actual impact on migration dynamics.

In conclusion, the principle of conferral limits EU powers and safeguards that of the MS, while simultaneously raising questions regarding the effectiveness of migration policy in the EU. This is because although the EU holds competences in the aforementioned areas, MS continue to keep their authority in matters not specifically conferred upon by the EU which can potentially lead to ineffectiveness of migration policy, as seen in the example of Ter Apel.

c. The formation of the Common European Asylum System

In compliance with Article 78 of the TFEU, the main aim of EU asylum policies is to “offer appropriate status to any third country national requiring international protection in one of the

MS and ensure compliance with the principle of non-refoulement.” (European Parliament, 2018). To achieve this, the EU is striving to develop an effective Common European Asylum System (CEAS). Multiple steps were taken to develop such a system (European Parliament, 2018). Starting with an exploration of the Treaty of Amsterdam, followed by the explanation of a meeting in Tampere and the Hague Program, key Treaties and policies that were put into practice with the goal of achieving a common migration policy will be explained.

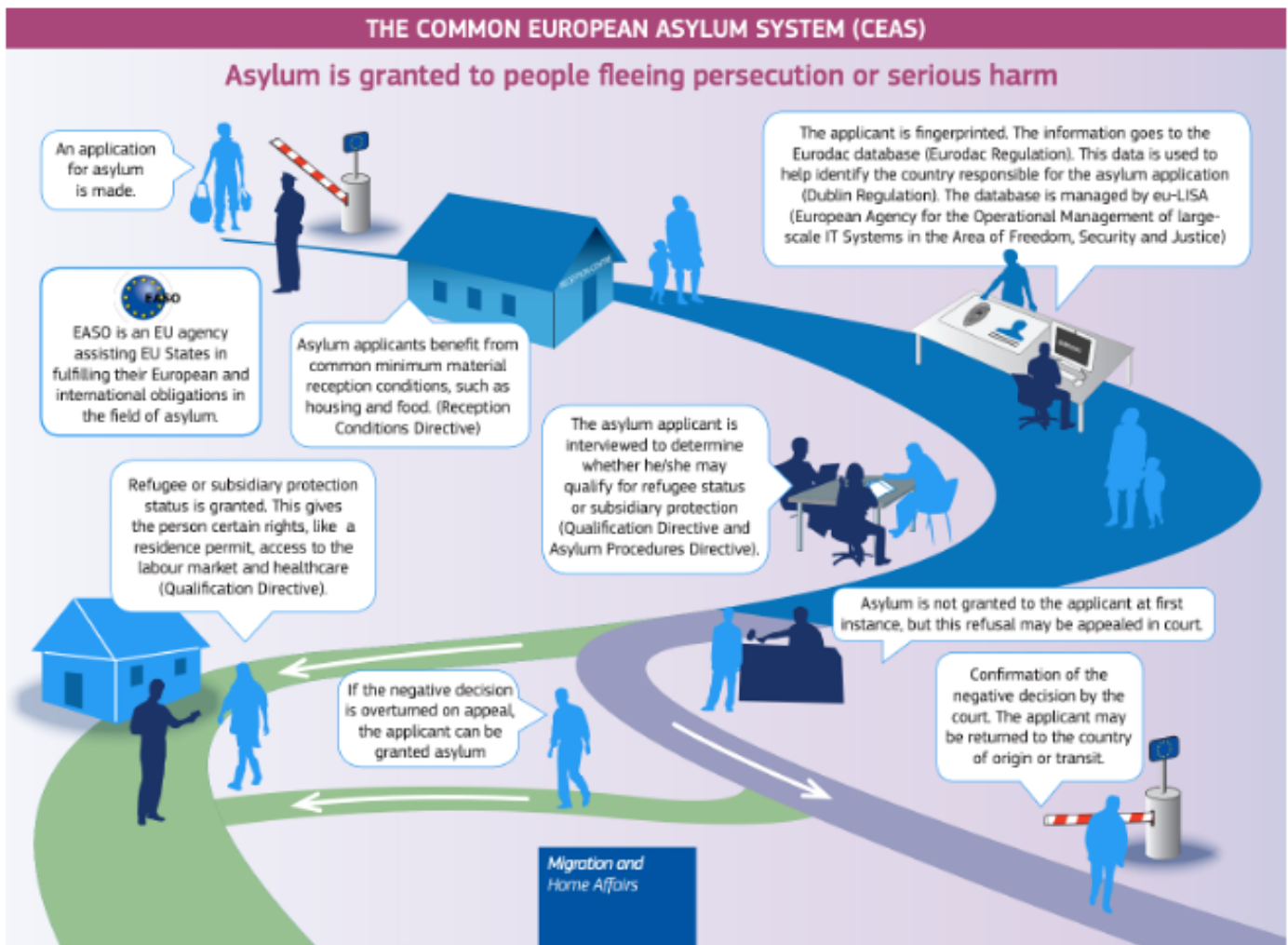
In May 1999, the Treaty of Amsterdam was implemented (Maciejewski, 2023). This Treaty gave EU institutions power to create asylum-related laws using an institutional mechanism. This institutional mechanism included a five-year transitional period, after which the EU council had to adopt measures on several aspects. These covered identifying which MS would be in charge of reviewing an asylum application submitted by a third-country national and setting minimum standards for the reception of asylum seekers, the status of refugees, etc. (European Parliament, 2018).

To make use of all the possibilities offered in the Treaty of Amsterdam, a meeting in Tampere was held on establishing an area of freedom and security on the 15th and 16th of October 1999. Outcomes of this meeting included the creation of an environment of prosperity and peace, for both EU citizens and refugees. Since third-country citizens would be attracted to an area as such, the EU would be in contradiction with its traditions to deny freedom to people under circumstances that lead them justifiably to search for access to EU territory. Therefore, it required the EU to develop common policies on asylum and immigration, while preventing illegal immigration (European Parliament, 1999). It was decided to implement a common European policy on asylum and immigration in two phases. The first phase involved the recognition of common minimum standards that, in the long run, would have to result in a

common procedure and uniform status for asylum seekers throughout the Union. This resulted in the beginning of the Common European Asylum System (CEAS) from 1999-2004 (European Parliament, 2018).

The second phase of implementing a common European policy on asylum and immigration was called upon in the Hague Program in November 2004. This second phase highlighted the EU's intention to surpass minimum standards and create a unified asylum system with a uniform status for those who receive protection (European Parliament, 2018). The second phase was further developed in the Treaty of Lisbon which aimed to enhance the efficiency and democratic legitimacy of the European Union and to improve the coherence of its actions (European Parliament, 2018; European Commission, n.d. -d). The Treaty of Lisbon boosted the second phase of creating a common European policy by changing the measures on asylum from minimum standards into creating a common system. This common system was comprised of a uniform asylum status, uniform subsidiary protection status, uniform system of temporary protection, uniform procedures for the granting and refusal of common asylum or subsidiary protection status, criteria for determining which MS is responsible for an application, guidelines for reception conditions, and cooperation with third countries (European Parliament, 2018). This change from minimum conditions into creating a common system led to the actual formation of the CEAS. Figure 2 provides an overview of the CAES and its processing procedure of asylum applicants upon arrival in an EU MS.

Figure 2. The Common European Asylum System (CEAS) (European Asylum Support Office (EASO), n.d.)



However, during the 2015 migration “crisis”, the system was under a lot of pressure (European Union Agency for Asylum, n.d.). It turned out that the primary problems with the CEAS, according to research by CEASEVAL, included the fact that centralized decision making led to issues among countries, because national policies did not always sufficiently meet local concerns. Moreover, differences in migration systems between MS increased because MS often selectively implemented specific elements of EU regulations that suited their own interests best. Another factor contributing to CEAS inefficiency, was that the principle of the first country of

arrival was often not followed by migrants. This principle states that those who are seeking asylum should apply for protection in the first secure nation they arrive in after fleeing persecution or violence. However, further movements were common among migrants, motivated by matters like family ties and the perception of job chances abroad (Cordis, 2020). Furthermore, some MS, including Italy, France and Germany, expressed their concerns about this principle and called for another approach (France24, 2015). Because of these issues, in 2020, the European Commission introduced the New Pact on Migration and Asylum to reform the system and aim to make it more unified, efficient, and resistant to migratory pressure. Additionally, the EU would look for ways to reduce incentives for people to move between countries and provide better support to MS facing the greatest challenges in this New Pact (European Council, n.d.).

Exploration of the New Pact on Migration and Asylum and its practical implications: an analysis within the framework

Having outlined the formation of the CEAS, this thesis will now examine the reform, known as the New Pact on Migration and Asylum, which was proposed in 2020. The Pact includes 6 legislative tools and several new proposals to improve how the EU handles migration (*Common European Asylum System*, n.d.). Even though the EU sees this Pact as a step closer to a truly common migration approach (Oetjen, 2024), multiple NGOs criticise the New Pact, including Amnesty International, Civil Right Defenders, Save the Children, and more (Sanderson, 2023). They share the opinion that the New Pact on Migration and Asylum moves away from upholding human rights. Eve Geddie, Amnesty International's Head of the European Institutions Office and Director of Advocacy expressed her concerns as follows:

It is clearer than ever that this EU Pact on Migration and Asylum will set back European asylum law for decades to come, lead to greater suffering, and put more people at risk of human rights violations at every step of their journeys” (Amnesty International, 2024).

Additionally, Civil Rights Defenders fear that the agreement will weaken the right to asylum, increase the number of adults and children in detention, and promote the use of inadequate asylum procedures (Scruggs, 2024). To properly understand this criticism of NGOs on the New Pact of Migration and Asylum, two of the new proposals and six legislative tools will be discussed.

a. Examination of two proposals of the New Pact on Migration and Asylum

First, the new proposals introduce a “pre-entry phase” in which screening and border procedures are carried out. This screening process aims to register the identity of migrants and conduct various security and health checks. The process may take up to five days, but in certain circumstances, it may be extended with an additional five days. The problem with this, according to associate professor EU Law and Public International Law, Galina Cornelisse, (2021), is that the screening procedure is ambiguous on whether migrants should be detained throughout the screening. The Pact mentions that countries should take measures to prevent migrants from entering their territory during the screening. Therefore, without explicitly mentioning it, the commission suggests that national authorities should detain migrants during the screening procedure. This is troublesome as it does not take into account the implications of the link between border control and the liberty of individuals sufficiently (Cornelisse, 2021). Another issue with the screening procedure has to do with the inconsistency of checking whether a migrant needs additional care. The proposal mentions that it will be checked if a

person needs special care when it is deemed relevant. This indicates that the check-up is not a regular procedure (Caritas Europa, 2020). Lawyer and professor at Mykolas Romeris University, Lyra Jakuleviciene, agrees with this point and opposes the proposal's screening regulation for blurring the difference between migrants and asylum applicants. She is of the opinion that the screening procedure treats asylum seekers like any other undocumented immigrant, despite the fact that they should receive advantages because of their need for protection. In other words, this raises the concern that this blurring could undermine asylum seekers' rights, such as the ability to complete the asylum processes and the freedom to remain in the country while the process takes place (Jakulevičienė, 2020). These concerns are shared by Amnesty International (Amnesty International, 2023). To identify this issue along the framework, this can be assigned to the implementation gap as the EU doesn't explicitly mention how to deal with migrants during their screening procedure. Because of this lack of clarity, the policy allows for subjective interpretation which in this case leads to the unrightful treatment of migrants according to Cornelisse (2021), Jakulevičienė (2020) and Amnesty International (2023).

The concerns raised by Cornelisse and Jakulevičienė about the rights of migrants during the screening regulation are echoed in the lack of clarity surrounding the border procedures outlined in the New Pact on Migration and Asylum. After the screening results, migrants are referred to a suitable next step consisting of either asylum application, refusal of entry, or return. In case people are referred to the asylum procedure, their asylum applications will be addressed either in a normal way or in a border procedure. The normal way means that applicants for asylum are allowed to live in the country while their application is being processed. In contrast, the maximum 12-week border procedure offers MS the possibility to investigate applications of migrants “with low chances of being accepted rapidly without requiring legal entry to Member

States territory”. However, it doesn’t provide clarity concerning the way how this refusal to MS territory relates to immigrants’ personal liberties. The New Pact proposes to implement border procedures without detention. Nevertheless, it still permits detention based on unclear standards, similar to the screening process. Subsequently, concerns for immigrants’ liberties are raised and human rights endangered (Cornelisse, 2021). Similar to the screening procedure, the challenges concerning the border procedure can also be identified in the implementation gap as the EU is not specific about their standards. Consequently, this leads to subjective interpretation.

b. Examination of six legislative tools of the New Pact on Migration and Asylum

Before diving into the six legislative tools, it's important to explain what legislative tools are. Legislative tools include a wide range of instruments that are used by policy makers to debate, create, and implement laws (EU Monitor, n.d.). This thesis will only look at two types of legislative tools: directives and regulations. A directive “is a legislative act that sets out a goal that EU countries must achieve. However, it is up to the individual countries to devise their own laws on how to reach these goals.” (European Union, n.d.). Whereas a regulation is a legally binding act that has to be implemented throughout the European Union (European Union, n.d.).

The first legislative tool is the “Asylum Procedures Directive” which aims to create a coherent system to guarantee that applications for international protection are processed quickly, efficiently, and fairly by adhering to the following guidelines: (1.) Establish precise guidelines for submitting applications to ensure that anybody wishing to obtain international protection may do so in a timely and efficient manner, (2.) set a deadline for the review of applications (six months at the administrative stage), (3.) permit border procedures and safe country

concepts, (4.) train decision makers and provide access to legal help, (5.) provide suitable support to those in need of special care, (6.) establish rules on the right to stay and appeals before courts or tribunals and (7.) create stricter rules to prevent abuse of the system with the objective to remove ambition for secondary movements (Asylum Procedures, n.d.).

The second legislative tool is the “Reception Condition Directive”. This directive is focused on offering proper housing and living standards in line with the fundamental charter of Human rights for asylum seekers across the EU. Furthermore, it provides attention to vulnerable groups and people by obliging the EU to conduct individual assessments to identify the special needs of vulnerable people. Finally, it includes that in accordance with Member States' international legal responsibilities of the Geneva Convention, detention of applicants shall obey to the notion that seeking international protection alone should not be grounds for detention. Besides, this directive clearly defines extraordinary circumstances that may give reason for detention. (*Reception Conditions*, n.d.).

Nevertheless, according to Amnesty International, the Reception Condition Directive, the screening, and the border procedure, will very likely result in an increase in the number of individuals, including vulnerable individuals and children, being placed in detention at EU borders as stricter border assessments will be carried out (Amnesty International, 2023). Building upon this, the Asylum Information Database (AIDA) states, for example, that there isn't a system or mechanism in place to monitor the quality of reception conditions in Greece. Furthermore, there is no mechanism or location in Greece to file complaints about living and receiving conditions (Asylum Information Database, European Council on Refugees and Exiles, 2023). Article 28 of the Reception Condition Directive states that “Member States shall, with due respect to their constitutional structure, put in place relevant mechanisms in order to

ensure that appropriate guidance, monitoring and control of the level of reception conditions are established” (FRA – European Union Agency For Fundamental Rights, 2017). It can be concluded that the current system in Greece is in contradiction with this article. (Asylum Information Database, European Council on Refugees and Exiles, 2023). Even the European Court of Human Rights (ECTHR) condemned Greece for failing to comply with the provisions of the Reception Directive on the 4th of April 2023 (Radjenovic et al., 2024). Another illustration of a reception system that is insufficient according to the standards specified in the Reception Condition Directive can be seen in the Dutch reception centre in Ter Apel, where it is overcrowded, and individuals were forced to spend nights outside (Asylum Information Database, European Council on Refugees and Exiles, 2024).

Even though the reception conditions and the duty of the MS to assure for guidance is specified in the policies on paper, the actual implementation of these policies are not seen in reality as showcased by the two different examples of Greece and Ter Apel. This gap between policies on paper and the lack of actual implementation suggests an implementation gap. It was evident in the Ter Apel case that a severe lack of resources was the primary cause of the problem. To be more precise, a severe shortage of living places for refugees with Dutch residence permits combined with poor policy led to the appalling living conditions as well as unsafe circumstances. Because of this bad policy and housing shortage, there weren't enough places for refugees to reside, which forced them to stay in asylum seekers' centres far longer than it was initially intended (BNNVARA, 2022).

Third, the "Qualification Directive" outlines the requirements that applicants must meet to be awarded subsidiary protection status or refugee status, as well as the rights that people who have been granted either of those statuses have. These rights include the ability to get an

employment permit, a travel document, residence permit, access to healthcare, social welfare, education, and integration facilities. In addition, the directive contains special provisions for children and vulnerable individuals (*The Qualification Directive*, n.d.).

The fourth legislative tool is the “Dublin Regulation” which helps determining which country is responsible for assessing an asylum application by the following criteria (ranked by importance from most to least important): family considerations, recent possession of visa or residence permit in a MS and whether the applicant has entered EU irregularly, or regularly. Using these criteria to determine which country is responsible for assessing an application would ensure that asylum seekers get fast access to the asylum process and have their application reviewed by one specific EU MS (*Dublin Regulation*, n.d.). Another important element of the Dublin regulation that was added in 2020, is “The Asylum Migration Management Regulation”. This aims to create a new solidarity mechanism among EU MS to balance the current system, where a few countries handle most asylum applications. In other words, it aims to establish clear rules for distributing responsibility for processing asylum applications. MS can show solidarity by choosing one of the following options: MS have the option of relocating asylum seekers, sponsoring their return, or offering further assistance, financing, or looking for external collaboration for the management of migration in the nations of origin or transit (De Bruycker, 2020).

However, Amnesty International claims that the Dublin Regulation does not go far enough in providing practical support to countries where migrants arrive first, such as Greece, Italy, or Spain. Because of this lack of support for these countries, it could create incentives for border states to neglect boats at sea with migrants in distress and engage in illegal pushback operations, where migrants are forcibly sent back to other countries without having the right to apply for

asylum in Europe which is against migrants' rights (Sunderland, 2023). This specific issue of the Dublin Regulation could be put into the implementation gap as there is policy to provide support, but, in reality, there is not enough help.

Another issue with the Dublin Regulation is that, according to the Regulation, states will be allowed to fund countries outside the EU to prevent individuals from reaching Europe, or they can choose to show "solidarity" through the funding of strengthening external borders. Consequently, it makes Europe more dependent on other countries by providing funds to non-EU nations. This is a move away from developing a humane and sustainable reception system within the EU (Amnesty International, 2023). The Türkiye-Europe deal can be seen as a clear example of how outsourcing responsibilities to non-EU countries can be a move away from a sustainable reception system. The EU-Türkiye deal was presented in 2016 as a statement of cooperation containing three main points. First, Türkiye would implement ways to prevent people from travelling irregularly from Türkiye to Greek islands. Second, anyone who would go around those measures and reach one of the Greek Islands would be returned to Türkiye. Finally, for every Syrian who returned from the Greek islands to Türkiye, EU MS would accept one Syrian refugee who had resided in Türkiye. In exchange for all of this, the EU would pay Türkiye 6 billion euros to improve the humanitarian situation faced by refugees in the country. Furthermore, Turkish nationals would be able to travel to Europe without visas (International Rescue Committee, 2022). At first glance, this deal doesn't necessarily seem like a move away from a sustainable and humane reception system. However, as Amnesty International (2017) pointed out, in real life, this deal has left thousands of refugees in squalid and dangerous living conditions on Greek Islands. Dangerous living conditions on those Islands included, among others, verbal or physical sexual harassment, violence and other safety issues, including an exploding gas canister that took several lives (Amnesty International, 2017).

In other words, this issue within the Dublin Regulation is considered troublesome as it still lacks real solidarity measures and moves away from a European sustainable humane reception system. Therefore, this could be classified within the efficacy gap because, by outsourcing its responsibilities to non-EU countries, the EU may be damaging its commitment to a humane and sustainable reception system while potentially failing to address the underlying causes of migration and displacement. Thus, in this instance, the term "efficacy gap" refers to the difference between the Dublin Regulation's goals, which include promoting solidarity among MS and creating a humane and sustainable reception system, and the actual results, which, according to critics, indicate that the regulation falls short of adequately addressing the root causes of migration and displacement.

Fifth, the "EURODAC Regulation" supports the Dublin Regulation's determination of the MS in charge. Additionally, to prevent, detect, or investigate the most serious crimes, like murder and terrorism, law enforcement agencies are granted restricted access to the EU database containing the fingerprints of asylum seekers (European Commission, n.d.-a).

Human Rights Watch criticizes the fact that the finger printing of asylum seekers starts at the age of six (Sunderland, 2023). The organization Save The Children, claims that the EURODAC Regulation permits the use of coercion against young children, including threats of physical or psychological harm. Although they agree that identification and registration of children is important, they disagree with how the EU proceeds about achieving this. Rather than being properly welcomed and cared for, children are fingerprinted. In addition, treating migrants and their children like criminals (e.g., put them in detention and take fingerprints) affects how the public views these people and how governments interact with them (Mets, 2017). The efficacy gap best illustrates the problem mentioned by Mets (2017) and Save the Children (2017). The

efficacy gap highlights the difference between the intended goals of the EURODAC Regulation, such as guaranteeing accurate registration of asylum seekers (especially children) and its actual impact or effectiveness in accomplishing these goals while respecting human rights standards.

Finally, the New Pact introduces the Crisis and Force majeure Regulation. This regulation should ensure that, in the future, the EU is prepared to face situations of crisis (European Commission, 2024a). More specifically, it sets rules for asylum applications in crisis situations. (European Parliament, 2024b).

However, the term "crisis" and "force majeure" are not clearly defined, and therefore leave a lot of space for interpretation (Orav, 2024). Rather than obligating MS to deal with big influxes of migrants in a constructive and efficient manner or forcing MS to anticipate for a big increase, this Regulation allows MS to significantly restrict procedural requirements. This implies that, rather than being evaluated based on a migrant's true need for protection, those who ask for asylum will be treated differently depending on when they happen to arrive (crisis or not) (International Rescue Committee, 2024). The subjectivity underlying this regulation calls for the identification of the implementation gap. As the terms crisis and force majeure are not clearly stated, MS are given discretion with regards to their interpretation and application of these terms and this regulation. Consequently, MS may exploit this ambiguity to apply this regulation in a time when it is not necessary which leads to inconsistent treatment of asylum seekers. Besides the fact that this regulation undermines a common, humane response to people in need of protection, Amnesty International also emphasizes that this regulation increases the risk of normalizing disproportionate emergency crises measures at European borders which brings the right to asylum in big danger (Amnesty International, 2023). Bringing the right to

asylum in danger was not the intended goal of the EU, but rather the outcome. Therefore, this regulation is deemed to not be effective by NGO's. Consequently, the efficacy gap can be identified here.

Above, two of the new proposals and six legislative tools have been discussed. Criticisms from NGO's and academic institution reports were simultaneously highlighted. This allowed for the evaluation of the New Pact's effectiveness using the theoretical framework. A summary of the application of the theoretical framework to the New Pact can be found in table 1. While insightful, the existing theoretical framework fails to shed light on the nature of these gaps. In short, the analysis reveals that there are multiple ways in which the implementation and efficacy

Table 1. Summary of the application of the theoretical framework by Czaika and De Haas to the New Pact on Asylum and Migration

	Implementation Gap	Efficacy Gap
Subjectivity	<ul style="list-style-type: none"> • <u>Screening procedure:</u> No explicit guidelines for treatment of migrants during screening procedure. • <u>Border procedure:</u> No explicit guidelines for treatment of migrants during border procedure. • <u>Crisis & force majeure regulation:</u> No clear standards on definitions of "crisis" and "Force majeure" 	
Dissonance with reality	<ul style="list-style-type: none"> • <u>Reception condition directive:</u> Failure to effectively implement policies for providing refugees/ migrants with adequate housing and living conditions, despite being outlined in the regulation. • <u>Dublin regulation:</u> In practice, no practical assistance for border member states is offered despite it being outlined in the regulation 	
Intention vs outcome		<ul style="list-style-type: none"> • <u>Dublin regulation:</u> The EU aims to establish a humane and sustainable reception system while tackling the root causes of migration in practice. Yet, <u>in reality, this is endangered by outsourcing responsibilities to non-Eu countries.</u> • <u>Eurodac regulation:</u> Disparity between the goal of obtaining accurate migrant registration and the actual result, while simultaneously respecting and upholding human rights. • <u>Crisis & force majeure regulation:</u> While the intention was to prepare for crises and situations of force majeure, the outcome of this regulation jeopardises the right to asylum

gap may express itself. Hence, this thesis suggests three further subcategories to provide necessary depth and nuance to the implementation and efficacy gaps. These subcategories, while shown in table 1, will be expanded upon in the discussion section.

Discussion: analysis and recommendations for the New Pact on Migration and Asylum

The aforementioned paragraphs have demonstrated that, in the opinion of academics and NGO's, the New Pact on Migration and Asylum is distanced from its intended effectiveness. Rather than only identifying the current issues, this study aims to suggest ways to enhance the current EU migration policy. First, this thesis will elaborate upon existing recommendations for the New Pact on Migration and Asylum. Afterwards, I will make additional recommendations based on the theoretical framework and the sub-categories proposed by this thesis to suggest ways to improve the New Pact by bridging the gap between theory and practice.

a. Recommendations based on previous research

Most of the recommendations to improve the New Pact emphasize the importance of prioritizing human rights and solidarity (Gazi, 2021). One NGO that proposes several improvements, is the International Rescue Committee (IRC). According to the IRC, the EU should address the protection crisis that is currently going on in Europe, especially in Greece, as explained before. The IRC advises the EU to improve this by investing in proper services for asylum-seekers and by continuing negotiations with the aim to establish a system in which the responsibility for receiving migrants is better shared among MS. Secondly, as there currently is no common European approach to help the social inclusion of refugees, the IRC believes that the EU should include promoting integration in the EU as an objective. Third, the EU should increase the volume of resettlements to 250.000 by 2025. This initiative hopes to present more opportunities for refugees to find a safe and sustainable living environment in new host

countries. At the same time, it would lower the burden on countries with large refugee populations, such as Italy and Greece. Fourth, The IRC would like to see the EU protecting people on the move better at Europe's borders and beyond, including irregular migration routes. Finally, the New Pact should strengthen the coherence between migration and development policies more which involves cooperation with African countries and including migrants in measuring progress towards the SDG's (International Rescue Committee, 2021).

Caritas Europe has also provided lots of recommendations. As it is not feasible within the scope of this thesis to include all of them, I decided to include the ones that concern the issues highlighted before. Regarding the screening and border procedure, Caritas Europe called for amendments to prevent the systematic use of detention during those periods (Caritas Europe 2020). Furthermore, Caritas Europe (2020) proposed multiple ways to enhance solidarity and responsibility among MS.

First, the EU needs to develop a legal mechanism in which the criteria of family unity can be ensured. The purpose behind this is to provide people with the ability to pursue legal action in the event that a MS refuses to allow them to reunite with family members. Therefore, the actual application of family unity would be strengthened by this.

Second, the first entry criteria should be amended in a way that it removes pressure on EU border states. This would reduce incentives for EU border states to carry out push backs.

Another recommendation is that instead of punishing secondary movements to another MS, the EU should offer positive incentives to limit those movements. For instance, if a person can prove stable employment, that person should be able to move within the Schengen Area.

Fourth, concerning the crisis or force majeure regulation, Caritas Europe proposes to narrow down the situations when the crisis or force majeure regulation can be called upon. By doing this, the regulation would be less subjectively (mis)used and human rights would be better considered.

A final suggestion to improve European migration policy by Caritas Europe concerns cooperation with third countries. They suggest that to guarantee the principles of nonrefoulement and migrant rights, collaboration with third countries on migration management must always be subject to human rights safeguards and accountability mechanisms (Caritas Europe, 2020).

Concluding, the above recommendations made by the IRC and Caritas Europe would be an improvement to the New Pact on Migration and Asylum to achieve a Common European Asylum System that protects refugees' rights better.

b. Recommendations focussed on bridging the gap between theory and practice

By applying the theoretical framework to the problems in the New Pact, this thesis identified three subcategories that offer the required depth and nuance to the implementation and the efficacy gap. Within the implementation gap, this thesis recognized two subcategories: (1.) subjectivity, (2.) dissonance with reality. With regards to the efficacy gap, one main category was identified: (3.) intention vs outcome. These three subcategories are also included in table 1. All sub-categories are centred around the disparity that exists between theory and practice; something intended in a policy may be too subjective, or it may be obvious in policy but not carried out in practice, or it may turn out differently in practice than expected. Pinpointing these

three subcategories will allow for more specific recommendations to diminish the discrepancy between theory and practice and in turn improve the New Pact on Migration and Asylum.

First, for the subcategory, subjectivity, it seems that the EU should specify what regulations precisely entail. Even though, strategic subjectivity and grey areas can be used strategically in migration policies, I consider it ineffective when it jeopardizes human rights. Concerning the screening and border procedure, the main issue lays in the fact that it is unclear for MS how to deal with migrants during the process of their application which endangers migrants' rights. Therefore, I believe the EU should take more responsibility and elucidate their view on this, instead of leaving this issue to MS. Furthermore, the EU should clarify the situation in which MS are allowed to use certain policies. While it is not feasible to prepare for all hypothetical situations in which a certain regulation could be necessary, I propose that ambiguity is diminished as far as possible. Additionally, when the use of a regulation (for instance, the crisis and force majeure regulation) is unclear due to multiple reasons for its implementation, I argue that MS will have to go to the European Commission and ask for permission to implement the regulation.

An example of a country that uses transparent immigration laws that reduce subjectivity in the way immigrants are treated is Sweden. Integration policies are important because they have a big impact on how immigrants and the general population interact. Well-defined integration policies are one of the most important elements that influence public acceptance of immigrants as well as immigrants' personal feelings. By taking an objective rather than subjective stance, the public and immigrants are more likely to develop positive attitudes towards each other which promotes a more unified community as is visible in Sweden (MIPEX Sweden, 2020). Despite allegations that Sweden has become less tolerant towards migrants due to the rise of

far-right Swedish Democrats (Sonja Ciesnik, 2023), the Swedish model can still serve as a great example for the rest of the EU in dealing with subjectivity.

Second, to overcome the issue of dissonance with reality, the EU could offer more incentives and financial support to MS. However, offering financial support without monitoring its expenditures is not effective. Therefore, in addition to financial support, the EU should increase its monitoring of the actual implementation of regulations and compliance with migrants' rights. An approach achieving this would be to engage with stakeholders. Engaging with relevant stakeholders, including NGOs, civil society organizations, and refugee/migrant communities, can help to gather feedback on the implementation of the regulation and identify areas for improvement. Additionally, if it turns out that a MS ignores, violates or partly implements the regulation, there should be repercussions, such as financial penalties and putting conditionality on funding.

An example of a country that combines financial support with rigorous monitoring, transparency and accountability is Germany. In Germany, asylum processes and refugee protection are handled by the Federal Office for Migration and Refugees (BAMF). In addition, BAMF oversees the promotion of integration, conducts migration research, and makes sure funds are allocated properly and regulations are followed. (*ECOI, 2022*; European Commission 2024b). Therefore, Germany could be used as an example for the EU to improve their (financial) monitoring of regulations.

Third, to provide common suggestions for the discrepancy between the intention and outcomes within the effectiveness gap, it is crucial to acknowledge that, despite the differences in intention, the main theme of the outcomes is the infringement of human/migrant rights.

Therefore, I would recommend prioritizing a rights-centered approach. As the EU strives for a humane and sustainable migration system, it would make sense to continuously keep this goal in mind while designing new policies. Additionally, to prevent the outcome to differ from the intention, I would suggest multiple meantime impact assessments by independent oversight bodies to check if the intention and outcome are still aligned. As it is almost impossible to create an objective static policy that will function properly in every hypothetical future scenario, policies should be adaptive (Walker et al., 2001). By carrying out regular evaluations, policymakers can detect possible differences early on and make the required changes to realign the outcome of policies with intention. Consequently, this would lead to more sustainable and humane migration system as accountability, openness, and responsiveness would be fostered.

An example of a country that employs a rights-centered approach concerning migration policy is Canada. As early as 1985, Canada implemented the Multiculturalism policy. This policy promotes integration, reduces barriers for immigrants to contribute to society, promotes exchanges between minorities and the indigenous population to minimize the risk of segregation and it facilitates language training (Government of Canada, 2014). Because of this approach, multiculturalism is now seen as a beneficial force. As a result, Canada has a sustainable and welcoming immigration system in which governing bodies and legislators frequently gather data to assess programmes. In addition, they evaluate the experiences of other nations, consider nongovernmental organisations for their knowledge, and keep an eye on mainstream media to spot problems with integration outcomes. Overall, they respect migrants' rights while using an evidence-based approach that serves as the foundation for recommendations to the government about current and new challenges as well as political goals (Griffith, 2017). Thus, Canadian migration policy could serve as an example for the EU to reduce the disparity between theory and practice.

Concluding, numerous recommendations were made to improve the New Pact on Migration and asylum as well as ways to bridge the gap between policy and practice. Recommendations to improve the current policy were made by examining current NGO policy recommendations for the New Pact on Migration and Asylum. Subsequently, ways to bridge the gap between policy and practice were proposed by using the implementation and efficacy gaps, along with the three sub-categories that were identified in this thesis.

Limitations

While this thesis assessed the effectiveness of European migration policies with the framework, certain limitation must be acknowledged. First of all, this thesis is based upon secondary literature from various NGO's and academic sources which may present certain biases. In addition, engaging in conversations with NGO's, scholars, EU migration lawyers and/or EU politicians would have possibly shone light on other aspects. In other words, besides the use of secondary data, a more empirical stance would have been a valuable addition. Furthermore, as this thesis is only focussed on assessing the New Pact on Migration and Asylum it may neglect other ongoing policy developments. Additionally, considering every country has a different legal system, administrative capacity, and political environment, the New Pact on Migration and Asylum is implemented very differently in each MS. As a result, it is difficult to reach general assessments concerning the New Pact's effectiveness throughout the EU. A final limitation of this research is the fact that the theoretical framework developed by Czaika and de Haas may not adequately account for all the nuances and complicated nature of migration policies. In conclusion, this thesis is limited by using secondary data, possibly overlooking other ongoing policy developments, variability in the Pact's implementation across MS, and inherent limitations of the chosen framework.

Conclusion

Migration is a wicked problem which means there is not a single easy solution to it. However, this thesis contributes to solving the problem in a way of bridging the gap between theory and practice of the New Pact on Migration and Asylum. After examining the legal basis of the EU, exploring the principle of conferral, and investigating the formation of the CEAS, the basis was established for further analysis. In 2020, the New Pact on Migration and Asylum was suggested as an improvement of the CEAS. Despite EU's effort to create a common and effective migration policy, a lot of criticism was raised by mainly academics and NGO's. For those organizations, the violation of human rights was the main concern. Subsequently, this thesis has used the framework by Czaika and de Haas to sort those issues in either the implementation or efficacy gap. Through this analysis, it became clear that issues that exists within the screening and border procedure, the reception condition directive, the Dublin regulation and the crisis & force majeure regulation could all be classified within the implementation gap. Whereas the Eurodac regulation and other issues of the Dublin regulation and crisis & force majeure regulation could be assigned to the efficacy gap. Through this categorization of the two gaps this study recognized three sub-categories including "subjectivity", "dissonance with reality", and "intention versus outcome". By recognizing these specific sub-categories, this thesis has made recommendations for improvement. Put simply, the main recommendations for the New Pact on Migration and Asylum are to: reduce subjectivity and ambiguity as much as possible; provide financial support with sufficient and appropriate monitoring; employ a rights-centred approach; and carry out several meantime impact assessments by independent oversight bodies. These recommendations could help policymakers in the EU to promote transparency, accountability, and responsiveness, which would ultimately lead to creating a common, humane, and sustainable migration system that adheres to human rights. In short, because the EU has to deal with the wicked issue of migration, it must strive for improving the effectiveness

of their migration policies by living up to their goals and responsibilities. Do better. Be better, EU.

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