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SYMPOSIUM ON FINANCING CLIMATE MOBILITY

CHALLENGES TO EU CLIMATE FINANCE UNDER SHIFTING PRIORITIES

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Neither international nor EU law explicitly protect climate migrants from third countries. There is also no agreement on terminology, with terms like "climate migrants," "climate refugees," "environmental refugees," and "environmental migrants" often overlapping in scope and implications.[1] Despite these conceptual challenges, the European Union has directed significant financial resources into lowering greenhouse gas emissions and adaptation to climate change, both within its borders and in developing countries, thus reducing future climate-induced migration. This trend is changing due to five successive crises: the 2009/2010 Eurozone crisis and loss of competitiveness; the 2015/2016 refugee crisis and the re-emergence of "Fortress Europe"; the COVID-19 pandemic and supply-chain disruptions; Russia's invasion of Ukraine; and rising transatlantic tensions and deglobalization. Consequently, the EU's economic framework is shifting toward internal resilience, economic protectionism, and expanded military capabilities, at a time when the U.S. withdrawal from international initiatives is creating a significant global leadership and funding gap. This reprioritization will likely reduce EU climate action and related aid in the short and medium term, resulting in more climate migration in the future. However, this will not necessarily result in more migrants reaching Europe. First, climate migrants are excluded from refugee protection under international and EU law. Second, the re-emergence of "Fortress Europe," through external partnerships and border control will continue to limit migration to the EU, unless needed for labor purposes.

Protection of Climate Migrants by EU Law

The definition of the term "refugee" in the 1951 Refugee Convention, the key legally binding international document protecting refugees, does not expand to cover all people displaced for climate-related reasons.[2] Within the EU legal framework, similar challenges persist. EU asylum rules offer no explicit protection to climate migrants. The definition of "refugee" in Article 2(d) of the Qualification Directive, the EU's instrument setting conditions for international protection, is identical to that of the 1951 Refugee Convention and does not include

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[1] For example, UNHCR, IOM, and OCHA expressed concern about the use of the term "environmental refugees."

[2] For the legal protection gap in international and EU law, see ISABELA M. BORGES, ENVIRONMENTAL CHANGE, FORCED DISPLACEMENT AND INTERNATIONAL LAW: FROM LEGAL PROTECTION GAPS TO PROTECTION SOLUTIONS (2019). However, according to UNHCR's Legal Considerations Regarding Claims for International Protection Made in the Context of the Adverse Effects of Climate Change and Disasters, Oct. 1, 2020, some climate migrants are encompassed by the refugee definition.

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climate migrants.[3] The newly adopted Qualification Regulation, effective from July 2026 under the Pact on Migration and Asylum, retains the same definition.[4] It is also questionable whether subsidiary protection, for those not qualifying for asylum, would include climate migrants.[5] According to Article 2(f) of the Qualification Directive and Article 3(6) of the new Regulation, subsidiary protection requires the existence of "serious harm" upon return to the country of origin.

However, in *M'Bodj*, the case of a seriously ill migrant in Belgium, the Court of Justice of the European Union narrowly interpreted "serious harm" requiring the "conduct on the part of a third party" and excluded the harm resulting from "general shortcomings in the health system of the country of origin."[6] As stated by the Grand Chamber, "risks to which the population of a country or a section of the population is generally exposed do not normally in themselves create an individual threat which would qualify as serious harm" unless the person is "intentionally deprived of health care."[7] Applying this interpretation to climate migrants would likely disqualify them from subsidiary protection.[8]

On the other hand, the Temporary Protection Directive establishes minimum standards for giving temporary protection in the event of a mass influx of displaced persons from third countries who are unable to return to their country of origin.[9] It could apply to climate-induced migration, provided the mass influx condition is fulfilled and there is political will to activate it by a qualified majority in the Council of Ministers. The fact that it was only triggered once in the past, to protect people fleeing war in Ukraine, illustrates the challenge of securing the necessary political will. However, climate migrants could rely on the principle of *non-refoulement* contained in Article 4 of the EU Charter of Fundamental Rights, which is identical to Article 3 of the European Convention on Human Rights, and applies whenever the situation falls within the scope of EU law.[10] Additionally, national legislation of EU member states may serve as the legal basis to protect climate migrants within their territories. While no member states, except Italy, have adopted explicit legislative measures for climate migrants, several provide more general protection grounds, including humanitarian reasons, that could be invoked to address climate-related migration or used to prevent the return of third-country nationals.[11] Even though these member states initially need to invest resources into climate migrants whom they admit to their territories, especially for social assistance and education, over time, these immigrants and their children become important contributors to their budget.[12]

Until today, neither the Court of Justice of the European Union, nor the European Court of Human Rights has heard a case on climate migrants. Should such a case arise, the key legal bases will be Article 2 (right to life) and Article 3 (*non-refoulement* principle) of the European Convention on Human Rights (ECHR), and Articles 2 and 4 of the EU Charter of Fundamental Rights (Charter), as the ECHR's EU counterpart. However, under Article 51 of the Charter, its application would require proving that the situation falls within the scope of EU law, a

[3] Directive 2011/95/EU, Art. 2(d), OJ L 337, at 9 (Dec. 20, 2011).

[4] Regulation 2024/1347, Art. 3(5), OJ L, 2024/1347 (May 22, 2024).

[5] European Migration Network, *Displacement and Migration Related to Disasters, Climate Change and Environmental Degradation*, at 6 (2023).

[6] Case C-542/13, Mohamed M'Bodj v. État Belge, ECLI:EU:C:2014:2452, Judgment, para. 35 (Dec. 18, 2014).

[7] *Id.*, para. 36. Even though the ECtHR's judgement in *KlimaSeniorinnen* (Application No. 53600/20) does not deal with international protection, it could have a positive impact on international protection of climate migrants.

[8] European Migration Network, *supra* note 5, at 6.

[9] Council Directive 2001/55/EC, OJ L 212 (Aug. 7, 2001).

[10] In its non-binding decision in *Teitiota v. New Zealand* (CCPR/C/127/D/2728/2016, Jan. 7, 2020), the UN Human Rights Committee for the first time recognized that climate change effects could trigger the *non-refoulement* obligations of sending states.

[11] European Migration Network, *supra* note 5, at 7.

[12] See in this issue Katerina Linos, *Financing Climate Mobility – From Duty to Investment*, 119 AJIL UNBOUND 107 (2025).

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challenge given the narrow definition of "refugee" in the Qualification Directive and Regulation.[13] Meanwhile, legal ambiguity forces climate migrants to fit into other legal categories, such as economic migrants, who are primarily regulated at the national level, apart from certain "desirable" categories, such as highly skilled migrants, seasonal workers, students, and intra-corporate transferees, who are subject to harmonized EU rules.[14]

The EU's Financing of Climate Migration

The legal protection gap and terminological disagreements have made it difficult for the EU to earmark funds specifically for climate migration. As a result, the EU has largely engaged in indirect financing, prioritizing climate action that reduces drivers of climate migration over direct support for displacement or resettlement. Such indirect financing operates through mitigation and adaptation. Mitigation prevents displacement by reducing the expected physical impacts of climate change, while adaptation helps vulnerable regions remain habitable, whether in areas of origin or destination. While reducing global warming and building resilience is often more cost-effective than managing large-scale migration,[15] migration has historically served as an ultimate strategy for coping with environmental and other hazards and can be considered as a form of climate adaptation. However, as elaborated later, border security and deterrence spending frequently outweigh proactive efforts, reflecting political priorities over economic efficiency and humanitarian concerns.

The European Green Deal and the European Climate Law place climate action at the core of EU policies, focusing on achieving climate neutrality by 2050.[16] The EU also employs regulatory tools, such as the Carbon Border Adjustment Mechanism, to extend its influence globally and curb greenhouse-gas emissions.[17] The current Multiannual Financial Framework (MFF) 2021–2027 allocates significant resources for both mitigation and adaptation.[18] In addition, the European Union Solidarity Fund (EUSF) provides financial support to EU member states and accession countries after severe natural disasters.[19]

However, there are concerns about poorer and populous regions, such as the Sahel, MENA, and the Asia-Pacific, which face greater climate risks and lack the capacity to cope with growing environmental pressures. These regions are particularly vulnerable due to weak institutions, limited resources, and the combined effects of high population growth and climate stress. Climate-induced migration from these regions is therefore likely. While in the 2000s the EU's primary concerns were potential cross-continental inflows and encouraging

[13] For a wide interpretation of Article 51 of the Charter, see Case C-617/10, Åklagaren v. Hans Åkerberg Fransson, ECLI:EU:C:2013:280, Judgment (Feb. 26, 2013), and for its narrow interpretation, Case C-638/16, PPU X and X v. État Belge, ECLI:EU:C:2017:173, Judgment (Mar. 7, 2017). For the discussion of *X and X*, see Iris Goldner Lang *Towards "Judicial Passivism" in EU Migration and Asylum Law?*, *in* THE CHANGING EUROPEAN UNION: A CRITICAL VIEW ON THE ROLE OF LAW AND THE COURTS (Tamara Ćapeta, Iris Goldner Lang & Tamara Perišin eds., 2022).

[14] Iris Goldner Lang, *The European Union and Migration: An Interplay of National, Regional and International Law*, 111 AJIL UNBOUND 509 (2018).

[15] See in this issue, Melissa Johns, *Reaching Refugees with Climate Adaptation and Disaster Response: What Multilateral Development Banks Can Do*, 119 AJIL UNBOUND 113 (2025).

[16] Communication from the Commission: The European Green Deal, COM/2019/640 final (Dec. 11, 2019); Regulation 2021/1119 Establishing the Framework for Achieving Climate Neutrality and Amending Regulations 401/2009 and 2018/1999, OJ L 243 (July 9, 2021) (European Climate Law). See in this issue, Janka Deli, *Financing Climate Mobility: The European Union and Its Member States*, 119 AJIL UNBOUND 89 (2025).

[17] Regulation 2023/956 Establishing a Carbon Border Adjustment Mechanism, OJ L 130 (May 16, 2023).

[18] Council Regulation 2020/2093 Laying Down the Multiannual Financial Framework for the Years 2021 to 2027, OJ L 433I (Dec. 22, 2020).

[19] Council Regulation 2012/2002 Establishing the European Union Solidarity Fund, OJ L 311 (Nov. 14, 2002).

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development aid to these regions, recent analyses suggest most climate migration will be internal, reducing the EU's sense of urgency.[20]

Nevertheless, the EU and its member states have allocated significant development aid, reducing the drivers and need for climate-induced migration. Instruments such as the Neighborhood, Development and International Cooperation Instrument (NDICI),[21] which consolidates EU development funding within the 2021–2027 MFF, and the Global Gateway Initiative[22] seek to enhance resilience and mitigate migration pressures. Member states are also the largest contributors, both in absolute and relative terms, to multilateral initiatives, including international financial institutions and the Organisation for Economic Co-operation and Development (OECD)'s Official Development Assistance (ODA). Additional funding flows through Conference of Parties (COP)-related mechanisms, such as the Green Climate Fund and Loss and Damage Fund. In contrast, migration-specific funds, such as the MFF's Asylum, Migration and Integration Fund (AMIF) and the EU Trust Fund for Africa, prioritize border control and deterrence over responses to climate-induced migration. The absence of a dedicated EU framework leaves displaced persons reliant on broader humanitarian mechanisms.

The Collapse of the Existing System: From "Peace Dividend" to Strategic Autonomy

Since the end of the Cold War, the European Union benefited from a "peace dividend," allowing member states to allocate resources toward socially beneficial uses, including climate action and external aid. The EU's finances rested on the assumption that economic integration would drive long-term growth, while security remained secondary. However, this model began to unravel in the 2010s, as successive crises—the eurozone crisis, refugee crisis, COVID-19 pandemic, Russia's invasion of Ukraine, and transatlantic tensions—revealed EU vulnerabilities. As a result, the EU's economic framework is being restructured to address emerging challenges demanding greater internal resilience, economic protectionism, and expanded military capabilities.

Eurozone Crisis and Loss of Competitiveness

The EU has faced a series of economic shocks that have eroded its financial flexibility. The 2009/2010 eurozone crisis exposed structural weaknesses in the monetary union, particularly the lack of fiscal and capital market integration. Strict fiscal rules under the Stability and Growth Pact, designed to prevent fiscal transfers among member states, constrained public investments and altered the structure of public finances. Simultaneously, China's rise, enabled by production offshoring and technology transfers, led to a decline in Europe's competitiveness, industrial capacity and economic resilience. In response, the EU has reformed its economic governance framework, allowing for greater fiscal flexibility. The Enrico Letta and Mario Draghi reports emphasize the urgent need to deepen internal market integration and enhance EU competitiveness in sectors like green technology, semiconductors, and artificial intelligence.[23] Consequently, financial priorities are shifting toward industrial policy and strategic autonomy.

[20] Kanta K. Rigaud et al., *Groundswell: Preparing for Internal Climate Migration*, WORLD BANK GROUP (2018).

[21] Regulation 2021/947 Establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, OJ L 209 (June 14, 2021).

[22] Joint Communication: The Global Gateway, JOIN(2021) 30 final (Dec. 1, 2021).

[23] Enrico Letta, *Much More Than a Market* (2024); Mario Draghi, *The Future of European Competitiveness* (2024).

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Refugee Crisis and the Re-emergence of "Fortress Europe"

Since the 2015/2016 refugee crisis, the EU's migration, asylum, and border control policies have been tightening, both at the EU level and through member states. Internally, the EU has fortified external borders and adopted new rules, culminating in the Pact on Migration and Asylum and new screening and border procedures. Externally, the EU and its member states have entered into various arrangements with third countries: return, readmission, and visa facilitation agreements, informal arrangements and financial support to manage migration in third countries. While cooperation with third countries, border fortification, and digitalization aim to prevent irregular arrivals and keep third-country nationals away from the EU territory, border procedures are intended to keep those who manage to get to the EU's soil and apply for asylum, at the Union's external borders, without allowing them to enter deeper into the territory until their claims are decided.

All these measures align with the notion of "Fortress Europe."[24] Officially designed to counter irregular arrivals, they also aim to reduce the number of asylum applications. This shift reflects a broader socio-political climate marked by the rise of right-wing political parties, reframing migration as a security issue and redirecting EU funds from resettlement to strengthening the EU's external borders and migration deterrence.[25]

COVID-19 Pandemic and Supply-Chain Disruptions

The COVID-19 pandemic and the supply-chain disruptions revealed the EU's dependence on external production and technology. This realization pushed the EU toward greater strategic autonomy. To address the negative economic effects of the pandemic, the EU launched the €800 billion NextGenerationEU recovery fund, creating a long-term debt that limits its future fiscal space and marks a definite turn to crisis response and resilience.[26]

Russia's Invasion of Ukraine and Security Concerns

Russia's invasion of Ukraine in 2022 has fundamentally reshaped the EU's priorities. Defense budgets across member states have surged, with many now meeting NATO's 2 percent GDP target. The EU introduced new mechanisms to fund security initiatives, including the European Peace Facility (EPF), which allows direct EU financing of military aid to Ukraine, marking a historic departure from its prior stance.[27] As already mentioned, border security has also become a priority, with increased funding for Frontex, surveillance technology, and third-country migration agreements. The 2022–2023 energy crisis and inflation surge further strained national budgets, reducing resources for global commitments.

[24] Iris Goldner Lang, *Editorial: The Re-emergence of "Fortress Europe,"* 29 EUR. FOR. AFF. REV. 399 (2024).

[25] Iris Goldner Lang, *Financial Implications of the EU's New Pact on Migration and Asylum: Will the Next Multiannual Financial Framework Cover the Costs?*, *in* THE FUTURE OF LEGAL EUROPE: WILL WE TRUST IN IT: LIBER AMICORUM IN HONOUR OF WOLFGANG HEUSEL? (Gavin Barrett, Jean-Philippe Rageade, Diana Wallis & Heinz Weil eds., 2021).

[26] Council Regulation (EU) 2020/2094 Establishing a European Union Recovery Instrument to Support the Recovery in the Aftermath of the COVID-19 Crisis, OJ L 433I (Dec. 22, 2020).

[27] Council Decision (CFSP) 2021/509 Establishing a European Peace Facility, and Repealing Decision (CFSP) 2015/528, OJ L 102 (Mar. 24, 2021).

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Strains in Transatlantic Relations and Deglobalization

Uncertainty in transatlantic relations, including the possibility of U.S. disengagement from NATO under the new administration, has intensified calls for European defense autonomy. Trade disputes and subsidy competition following the U.S. Inflation Reduction Act have already accelerated Europe's push for economic self-reliance. The emergence of a new tariff war reinforces the EU's push for strategic autonomy. The Niinistö Report on EU resilience underscores the necessity for the EU to secure its economic, financial, and security interests independently of U.S. policies, shifting focus toward European-centered priorities.[28]

Conclusion

The preceding discussion has shown that the EU's shifting priorities could redirect its resources toward internal resilience, protectionism, and defense, thereby marginalizing EU climate action and external aid—precisely as the U.S. withdrawal from international initiatives is creating a significant global leadership and funding gap. Although this shift is already underway, it remains constrained by the current MFF, which runs until 2027. The real test will come during negotiations for the 2028–2034 MFF. While a radical reform is possible, past experience suggests that moderate adjustment is more likely.[29] This means that EU aid to third countries may be reduced to reflect redefined priorities. At the same time, NextGenerationEU and EU support to Ukraine show that member states can mobilize significant resources when political will exists. Additionally, the Draghi report highlights the need for greater EU investment into renewable energy. Whether the EU will maintain its climate leadership or allow shifting priorities to weaken its response remains uncertain. However, rising climate migration will not necessarily result in more arrivals in Europe, for two reasons. First, climate migrants are excluded from refugee protection under international and EU law. Second, in line with the "Fortress Europe" narrative, the EU will continue using third-country arrangements, border walls, and new procedures to keep migrants away from its territory—unless needed for labor purposes.

[28] Sauli Niinistö, *Safer Together: Strengthening Europe's Civilian And Military Preparedness and Readiness* (2024).

[29] Alexei Jones, Mariella Di Ciommo & Andrew Sherriff, *The Multiannual Financial Framework After 2027: Financing the EU's Global Ambitions*, ECDPM, 13 (Discussion Paper No. 383, 2024).

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