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# **The Rising Issue of Climate-induced Displacement: Exploring the European Union's Actorness**

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## List of abbreviations

|      |  |
|------|--|
| AMIF | Asylum, Migration and Integration Fund |
| CBAM | Carbon Border Adjustment Mechanism     |
| CEAS | Common European Asylum System          |
| CJEU | Court of Justice of the European Union |
| COP  | Conference of the Parties              |
| EIB  | European Investment Bank               |
| EEA  | European Environment Agency            |
| EEAS | European External Action Service       |
| EEC  | European Economic Communities          |
| ENP  | European Neighbourhood Policy          |
| EP   | European Parliament                    |
| ETS  | Emission Trading Scheme                |
| EU   | European Union                         |
| EUAA | European Union Asylum Agency           |
| GFC  | Green Climate Fund                     |
| GHG  | Greenhouse gas                         |
| GRC  | Global Compact on Refugees             |
| HRC  | Human Rights Council                   |
| IDP  | Internal Displaced People              |
| ILO  | International Labour Organisation      |

|        |   |
|--------|---|
| IOM    | International Organization on Migration               |
| IPCC   | Intergovernmental Panel on Climate Change             |
| NDC    | Nationally Determined Contributions                   |
| NGO    | Non-Governmental Organization                         |
| PDD    | Platform on Disaster Displacement                     |
| RSD    | Refugee Status Determination                          |
| TEU    | Treaty on the European Union                          |
| TFD    | Task Force on Displacement                            |
| TFEU   | Treaty on the Functioning of the European Union       |
| UN     | United Nations  |
| UNEP   | United Nations Environment Programme                  |
| UNFCCC | United Nations Framework Convention on Climate Change |
| UNGA   | United Nations General Assembly                       |
| UNHCR  | United Nations High Commission on Refugees            |
| UNSC   | United Nations Security Council                       |

## Section 1. Introduction

In September 2015, a noteworthy event unfolded when the State of New Zealand deported Ioane Teitiota, a native from the Pacific nation of Kiribati. Teitiota's deportation marked the culmination of a legal struggle in which he sought asylum as a 'climate refugee' under the 1951 Convention relating to the Status of Refugees. Teitiota migrated from Kiribati to New Zealand after land disputes and difficulties accessing safe drinking water in his homeland, both consequences of the climate crisis and rising sea-levels. The Supreme Court of New Zealand did not grant Teitiota refugee status (*Teitiota v. The Chief Executive of the Ministry of Business, Innovation and Employment*, [2015] NZSC 107). Subsequently, in February 2016, Teitiota brought the case before the United Nations Human Rights Committee. While the Committee found that Teitiota's deportation had not been unlawful, contending he was not experiencing 'persecution', it recognised that climate change represented a serious threat to the right to life, which should be taken into account by decision-makers when examining deportation cases (*Teitiota v. New Zealand* CCPR/C/127/D/2728/2016, UN Human Rights Committee). In essence, this decision does not rule out the possibility that degradation of the environment or natural disasters, resulting from climate change, could necessitate international protection for victims. The Teitiota case thus constitutes an opportunity in the emergence of the issue of climate-induced displacement. In fact, a number of scholars tried to establish an academic term for 'climate refugees' (El-Hinnawi, 1985 ; Gemenne, 2011 ; Kälin & Schrepfer, 2012 ; Apap, 2020).

The phenomenon of environmental migration has been a persistent facet of human history. As a matter of fact, the world population distribution has been historically influenced by environmental factors, and not only sea-levels rise. Even today, migration is triggered by environmental factors: droughts, floods, resources scarcity, natural disasters. In this context, migrating is a normal human activity. However, this activity has become abnormal with the amplification of extreme weather events driven by climate change. The United Nations High Commission on Refugees (UNHCR) estimates that 20 million people are forcibly displaced by weather-related events every year (2022). The World Bank (2021) estimates there will be 216 million climate migrants by 2050, whose term includes people migrating voluntarily. However, it is imperative to note that such estimations have been lacking scientific grounds or are based on diverging definitions of what is a climate-related displaced individual.

One of the earliest works to investigate the interlinkage of climate and asylum seeking is the Essam El-Hinnawi Report for the UN Environment Programme (UNEP) in 1985 on environmental refugees. In this report, El-Hinnawi defined them as "those who had to leave their habitat, temporarily or permanently, because of a potential environmental hazard or disruption in their life-supporting ecosystems." Indeed, certain individuals are compelled to cross borders in the context of climate change and disasters and may, in some circumstances, be in need of international protection. For the purpose of this dissertation, the overarching phenomenon of people crossing borders in the context of climate change is occasionally referred to as 'climate-induced displacement individuals' and at times as 'climate refugee'. While not legally correct, the latter has gained currency within the academic literature, especially to underscore the urgency of the situation and the potentiality of facing a 'climate refugee crisis' in the upcoming decades (Özdemir, 2023).

The European Union (EU) has also used the term of 'climate refugee'. In a briefing issued in 2020 by the Research Service of the European Parliament, Apap (2020) endeavors to define the concept of 'climate refugees'. The author acknowledges that there is a gap in the international protection for people displaced because of climate factors, especially as they are not covered under the 1951 Geneva Convention relating

to the status of Refugees. It is crucial to emphasize that EU legislation does not explicitly address the issue of climate induced displacement *per se*. Nevertheless, it is believed that the surge in climate-induced migration presents a significant challenge to the EU. As a major global actor, the EU could wield substantial influence in the intersected issues of climate change and displacement. The EU has been at the forefront of international efforts to mitigate climate change and constitute a major destination for migration. This dissertation therefore tries to shed light on the extent to which the European Union could actively engage in the climate-induced displacement field.

The question that guide this dissertation is : ***To what extent can the European Union take action in the rising issue of climate-induced displacement? How can we assess the EU's actorness in the climate-induced displacement field?***

This dissertation critically assesses the level of EU actorness employing the analytical framework proposed by Bretherton and Vogler. In doing so, it empirically contributes to the conceptualization of the notion of actorness. The EU's early response to a rising issue of climate-induced displacement is contingent upon its potential to act as a significant player. Our overarching hypothesis posits that the EU possesses a high level of actorness in the climate-induced displacement field, underpinned by strong levels across all three components of actorness – opportunity, presence and capability.

Section 2 reviews the existing literature on the notion of actorness and displays the methodology and research design adopted throughout this dissertation, drawing on Bretherton and Vogler's framework (1999, 2006, 2013). Section 3 delves into the criterion of opportunity, with the pretention to contribute to the relatively understudied intersection of climate change and displacement, while endeavoring to establish the academic term 'climate refugee'. Sections 4 and 5 apply the criteria of presence and capability respectively. The final section gives concluding remarks.



## Section 2. On the theorization of the European Union's actorness

While the traditional parameters employed to assess a Nation-State's impact on the international scene may not apply to the European Union, it is undeniable that the EU possesses a notable degree of latitude in the realm of foreign policies, akin to that of other major powers (Zielonka, 2011). An insightful notion employed to tackle the extent of the EU's capacity to exert influence within international relations is the notion of "actorness".

### Section 2.1 Notion of Actorness

Introduced in the 1970's (Cosgrove and Twitchett, 1970), the notion of "actorness" garnered increased scholarly attention in the 1990s (Allen and Smith, 1990). This surge in interest was triggered by the realization that the Westphalian model of Nation-States became rather impotent in the face of globalization (Drieskens, 2015). In relation to this post-Westphalian perspective, the globalized world saw the emergence of non-State actors, such as international organizations, non-governmental organizations, or regional organizations. As a matter of fact, the introduction of the notion by Cosgrove and Twitchett (1970) was in order to grasp the emerging influence of the United Nations (UN) and the European Economic Communities (EEC) in international politics. Non-State actors have fundamentally altered the dynamics of international politics. In essence, actorness pertains to the ability of those new actors to engage actively on both internal and external fronts, having a certain level of internal cohesion and separateness from their internal environment. These newly recognized actors can shape international relations and actively pursue their interests and objectives within the global governance system. This shift in the balance of power has an impact on the outcome of negotiated international rules and norms.

Actorness, as conceptualized by Sjöstedt (1977: 15) can be defined as a "capacity to behave actively and deliberately in relation to other actors in the international system". However, it is important to note that the notion of actorness might remain nebulous, as it derives from 'actor' and there has been "no academic consensus on the generic qualities that constitute an international actor" (Drieskens, 2017, p. 1535). Consequently, scholars have predominantly sought to operationalize "actorness" through empirical evidence rather than offering a unified theoretical explanation. One notable consequence of such empirical approach to the notion of actorness is the development of frameworks and criteria to measure it. For example, Jupille and Caporaso (1998) schemed a framework to understand the concepts of actorness under four criteria – *recognition*, *autonomy*, *coherence* and *authority*. On the latter criterion of *authority*, the EU is a major subject of study because of its extended competence. The EU has garnered substantial attention in actorness literature due to its unique status as a *sui generis* organization – neither a conventional Nation-State nor a traditional international organization.

In response to the distinctive character of the EU in the realm of international politics, a substantial body of academic literature has been dedicated to delineating the common elements that underpin the EU's impact on the global stage. This literature seeks to elucidate the key factors that contributed to the EU's ability to wield influence in international negotiations and diplomacy. Drieskens (2011) underscores the pivotal role played by membership in a specialized international institution, the cohesiveness of Member States in their voting behavior and EU's representation in international fora. Panke (2014) explores how the EU and its Member States often craft common negotiations stances prior to engaging in the United Nations General Assembly (UNGA). However, she found that while having a common position is essential, it is not sufficient for the EU to turn into an effective external actor. Smith (2010) found that, despite the

Member States' ability to speak with one voice and maintain solid cohesion, internal factors may act as an impediment to the EU's external action. In context, the fragile place human rights have in EU foreign policies has hindered EU influence within the Human Rights Council (HRC). In sum, the academic literature on EU's role in international politics reveal that action is conditioned by both internal and external dimensions.

Despite being a young field of study, the notion of EU actorness has been developed in numerous studies and applied in numerous policy fields to contribute to the academic research on EU influence in international politics. Though it is sometimes only used as a tool or in conjunction with other concept, it has provided a framework for research in well-established areas such as trade policy (da Conceição-Heldt and Meunier, 2014), environmental affairs (Delreux, 2014; Groen, and Niemann, 2013), European Neighborhood Policy (ENP) (Bengtsson, 2008; Börzel and van Hüllen, 2014), foreign and security policy, with the case of Kosovo (Greiçevci, 2011), or the case of Iran (Dryburgh, 2008). Furthermore, actorness established a context for studying EU's activities at the United Nations, such as within the UN Security Council (UNSC) (Drieskens, 2008) or within the International Labour Organisation (ILO) (Kissack, 2008). Furthermore, EU's actorness has been studied in other emerging or specialized areas, such as the EU's involvement in the Arctic region (Pieper *et al.* 2011) or its role in space governance (Béclard, 2013). Brattburg and Rhinard explored EU's actorness in counterterrorism (2012) and disaster relief (2013). Finally, Groenleer and van Schaik(2007) also used the notion to cross-study EU's actorness in two policy fields, through two cases: the International Criminal Court and the Kyoto Protocol.

Merging academic research on EU influence in international politics and the concept of actorness, Bretherton and Vogler (1999, 2006, 2013) introduced their own framework of actorness in 1999, with subsequent revision in 2006 and 2013. Their work focuses more specifically on actorness of the European Union and presents an alternative perspective to that of Jupille and Caporaso, reflecting the nuanced nature of actorness in the context of the EU's complex and evolving role in international affairs.

### *Section 2.2 The European Union's actorness - Bretherton and Vogler's framework*

In their conceptualization of "actorness", Bretherton and Vogler have directed their attention towards elucidating the EU's potential as a significant actor in the international arena. They have discerned actorness as a multifaceted construct, based on three key dimensions: the *opportunity* of the European Union to be an important actor – i.e. the external context – the *presence* of the Union in the international organization, and its internal *capability* to project influence beyond its borders and shape the global governance on the issue of climate-induced displacement. It is noteworthy that these criteria are not necessarily cumulative nor impervious to one another, but rather serve as a valuable analytical tool for gauging the extent of the EU's actorness.

First, Bretherton and Vogler delve into the external context that frame and shape the Union's action, herein referred to as '*opportunity*'. To measure actorness, one must account for the ideas and events occurring beyond the EU's confines, as these external factors can either facilitate or curtail the Union's agency. For instance, the leap in security policies witnessed after a terrorist attack is instructive: 9/11 created a conducive environment for the enhancement of security policies – an example of how external events can be catalytic in presenting an opportunity. Similarly, the conclusion of the Cold War marked an opportunity for the Union's enlargement towards Eastern Europe. But it is not solely material events that provide opportunities for further integration ; the ideological climate might also play a pivotal role in

augmenting actorness. Bretherton and Vogler put the emphasis on how liberalized discourses can amount for an opportunity for actorness of the EU, especially in an interdependent and globalized world.

Secondly, the EU must assert its '**presence**' on the global stage, entailing exporting its influence beyond its borders to "shape the perceptions, expectations and behaviours of others". In this context, "presence" pertains to the reputation and status accorded to the EU by international organizations and external actors. The EU is perceived as (un)successful, stemming from its policies and international conduct, which will significantly determine its level of attractiveness as an international partner, whose values are respected. On the other side of the coin, such international presence carries with it a certain degree of responsibility and obligations that the Union is constrained to uphold to maintain its international significance. Bretherton and Vogler underlines, for example, how the proliferation of derogations and opt-out regimes can erode the EU's presence, as it impacts the engagement of specific Member States in certain matters. For instance, Denmark and Sweden's reluctance to enter the Monetary Union and adopt the Euro currency has the potential to undermine the European Union's action in the international monetary governance.

Finally, the actorness of the EU is contingent upon its capacity to "respond to opportunity and capitalize on presence". '**Capability**' draws on the delegation of competences from the Member States to the European Union and the concurrent legitimacy bestowed upon it. The EU is an actor *sui generis* owing to the consent of the Member States to give up elements of their sovereignty in favor of a more effective collective action at the supranational level. Consequently, Bretherton and Vogler reminds the importance of internal consistency for a capable Union. The effectiveness of the EU's action is shaped by the competition between the Union's policies and those of its constituent Member States. Reduced competition enhances the Union's overall capability. In sum, capability is appraised by considering various internal factors that exert an influence on the EU's external (in)action.

Bretherton and Vogler's framework has garnered significant acclaim within the academic community, with scholars mentioning it in their analysis of diverse domains. Notably, Bretherton and Vogler themselves have applied their criteria to theorize the EU's actorness in fields such as economic, trade, environment, humanitarian aid, or foreign and security policy.

### *Section 2.3 Research design and evidence*

This paper adds to the literature on EU's actorness by applying Bretherton and Vogler's comprehensive framework to the emergent domain of climate-induced displacement. The essay will empirically explore each criterion individually, keeping in mind that a criterion cannot be *met* and unequivocally establish the EU's status as an effective or ineffective actor. Rather, a criterion can involve both advancements and backlashes that deserve scrutinization. The analysis will elucidate the avenues through which the EU may assert influence in the realm of climate displacement, with actorness being contingent upon the relative levels of *opportunity*, *presence* and *capability*.

*Hypothesis: the EU possesses a high level of actorness in the field of climate-induced displacement due to high levels of opportunity, presence and capability.*

- *Sub-hypothesis 1. High level of opportunity pertains to the discernible potential for an imminent climate refugee crisis.*
- *Sub-hypothesis 2. High level of presence signifies that the EU is successful in influence international decision-making*

- *Sub-hypothesis 3. High level of capability pertains to the EU's extensive substantial legislative body in the field*

Indeed, the climate-related displacement field is deemed to emerge. In order to assess the opportunity of the Union to act in this field, an examination of both material and ideational forces beyond the EU is pertinent, i.e. explore recent environmental event and discourse that could serve as a starting point. The Intergovernmental Panel on Climate Change (IPCC) submits reports that assess the state of climate change and its repercussions on humanity, including displacement (material opportunity). Examining the emergence of an intersection between climate change and displacement would constitute an ideational opportunity. As there is no institutions responsible for collecting data or provide basic services on the international level in this field, environmental institutions and displacement institutions are examined, involving scrutinization of how the environmental field address issues of human mobility and how the displacement field acknowledge climate change as a driver of migration.

Regarding the institutions being studied, the research is delimited to the UN Climate Change (UNFCCC) and the High Commission on Refugees (UNHCR), as they are the two most relevant institutions in their respective fields. The UNFCCC is the UN body tasked to address climate change, primarily focusing on stabilizing greenhouse gas (GHG) emissions in the atmosphere to prevent interference with the climate system. The UNHCR is the UN Refugee Agency, charged with supporting international action for people forced to flee their national country. The agency is custodian of the 1951 Geneva Convention relating to the status of refugee. It provides guidance and support to national governments to promote the best international standards in legislations and procedures regarding the rights and well beings of refugees.

Turning to the examination of presence and capability, the absence of institutions specifically dedicated to climate-related displacement on an international scale poses a limit. Therefore, the sections exploring presence and capability addresses investigation on both fields separately, with the strong assumption that presence/capability in both fields induce presence/capability in the intersected field of climate-induced displacement.

To assess the level of presence, the EU's contribution to the field is a fundamental starting point. This involves quantifying the EU's role and financial commitments to evaluate it as an attractive international partner for third parties. Furthermore, presence encompasses an inquiry on the EU's status in relevant institutions – whether it is a member, observe or enhanced observer. However, the status of an entity within an organization is not necessary nor sufficient to allow it to play an active role (Gehring *et al*, 2013). Broader considerations must be explored, especially the successfulness of the EU's policy initiatives and the channels through which the EU can assert its normative power (Manners, I. 2002). The EU ability to push forwards its agenda in the COP system will be explored. On the other hand, any international resistance to the EU's presence must be acknowledge, as it hinders the EU from acting, such as the EU's reputation following the '2015 refugee crisis'.

Finally, EU capability in a given field is contingent upon its ability to formulate effective policy and use appropriate policy instruments. This entails an overview of the EU's bodies of legislation in the climate change and asylum/migration fields, assessing its competence in these areas (exclusive, shared or no competence) and how effective is the EU in articulating this authority, as competences influence the performance of the EU in international institutions (Jørgensen *et al*. 2011; Wessel, R. A. 2011). Finally, examination of to what extent do the Member States adhere to the common policy or if there are internal conflicts will inform on the level of actorness of the EU on the international level.

## **Section 3. Exploring opportunity – establishing the (international) stage for “climate refugee”**

The phenomenon of environmental migration possesses a historical legacy as old as human civilization itself. As a matter of fact, the distribution of human population across the globe has been historically intricately interwoven with environmental determinants, oscillating between favorable prosperous climate conditions and inhospitable climate conditions. In this regard, climate-induced migration is a normal human activity. However, this activity has become abnormal with climate change. It is in this transformed milieu that the EU discerns a window of opportunity to assert influence and become a significant actor. This transformation is characterized by an accelerated pace of migration driven by a confluence of factors, primarily stemming from extreme weather events and slow degradation of the environment (material opportunity), which could lead to a climate refugee crisis (ideological opportunity).

### *Section 3.1 Material opportunities*

#### *Section 3.1.1 Extreme weather events and slow degradation of the environment*

There are two distinct categories of factors that compel migration, each with its unique attributes. The first category encompasses the slow degradation of the environment, including (non-exhaustively) phenomena such as rising sea levels, desertification, or deforestation. The second category encompasses sudden natural disasters, including (non-exhaustively) floods, cyclones, or tsunamis. Certain phenomena such as droughts can straddle both categories, thereby reinforcing the extent of consequential migration. Moreover, it is imperative to underscore that climate change exerts a pervasive influence on both categories. As a matter of (scientific) facts, the 2021 Climate Report on the physical science basis of climate change issued by the Intergovernmental Panel on Climate Change (IPCC) provides for the first time the evidence of the nexus between human-induced emissions, climate change and slow degradation of the environment and extreme weather events (IPCC, 2021). The panel notes that this greenhouse gas (GHG)-induced trajectory propels global surface temperature escalation and underpins the interconnected phenomena of ocean acidification, global retreat of glacier, increase of global, sea level rise. Importantly, the IPCC underscores the spillover effect of human-induced climate change on an array of weather and climate extremes in all regions of the world. These include but are not confined to heatwaves, heavy precipitations, tropical cyclones, and droughts. Those phenomena have a great deal of impacts on population.

Human-induced climate change has far-reaching and multifaceted impacts on human societies, ecosystems, and economies, potentially leading to human displacement. Being extreme weather events or slow degradation of environment, population voluntarily or forcibly migrates because their environment has become inhospitable. Extreme weather events can damage critical infrastructures and disrupt livelihoods and detrimentally affect public health. Notably, the elevated temperatures lead to increase of heat-related illness, such as heat exhaustion and heatstroke. It also facilitates the expansion of disease vectors, such as mosquitoes, thereby spreading diseases like malaria, dengue fever and Zika virus to previously unaffected areas. Climate change also bears upon resources and can lead to water scarcity, affecting agriculture, drinking water supplies and sanitation, which are critical determinants of human well-being. The resultant reduced agriculture productivity can lead to food insecurity and famine and act as a trigger for migration, as communities grapple with dwindling access to sustenance. Moreover, rising sea levels stemming from the melting of polar ice caps and the thermal expansion of seawater due

to global warming precipitate coastal erosion and inundation. This, in turn, results in the displacement of coastal communities, who are compelled to abandon their lands in response to the degradation of their environment. Finally, climate change is intrinsically entwined with the potential for conflict and economic disruption. Competition for increasing scarce resources in an escalating source of tensions and instability. These conflicts may be pre-existing or may emerge de novo as a direct consequence of climate change. Displacement relating to the rising instability of a region can actually be contributive to the acknowledgement of a 'climate refugee' crisis, a critical debate that will be examined in greater detail in the following paragraph.

The compelling linkage between human-induced climate change and weather extremes was exemplified by the unprecedented heatwaves experienced in North America, Europe and China in July 2023. A study conducted by the World Weather Attribution identified a discernable association between the intensity and likeliness of those events and human-induced climate change (Zachariah, M. 2023). These events engendered record-breaking temperatures and precipitated fatalities with several deaths in all three regions. According to the study, such occurrences have become alarmingly frequent in the contemporary climate: once every 5 years in China, once every 10 years in Southern Europe and once every 15 years in the US/Mexico region, while it would have been an 'extremely rare event' without the imprimatur of climate change (once every 250 years in China and virtually impossible in Southern Europe and the US/Mexico region).

Crucially, as we mention before, the interplay between climate change and its ramification on human placement has already brought a case in front of the international system (Teitiota v. New Zealand, CCPR/C/127/D/2728/2016, HRC, 2020). While the HRC rejected the request of M. Teitiota because he was not under persecution, the Committee acknowledged that persons fleeing the negative effects of climate change should not be sent back to their country of origin if their human rights are under threat. This is a historical decision that could amount for precedent in the field of international protection for people displaced in the context of climate change. This decision alone could constitute a major event for the climate refugee governance. The Teitiota case have brought to light a loophole in international law. There is no existing international status for a citizen compelled to migrate their homelands due to the deterioration of the environment, that the IPCC attributed to human activity and the resultant climate change.

### *Section 3.1.2 Measurement and terminology challenges*

While the linkage between human activity and climate change has been widely studied, the resultant consequences on the population placement patterns remain underexplored terrain. Nonetheless, it is evident that natural disasters are formidable catalysts for migration. However, the measurement of displaced population is an arduous undertaking, chiefly due to the absence of international consensus on what constitutes environmental displacement or a standardized methodology for its measurement (Gemenne, 2011). The measurement of displaced populations in the aftermath of acute natural disasters benefits from the presence of humanitarian relief efforts and thus yields relatively more precise estimation. Conversely, when it comes to displacement due to slow degradation of the environment, quantification proves exceptionally challenging, compounded by the nature of this displacement: temporary or definitive and internal or external. As a matter of fact, the United Nations High Commission on Refugees estimates that 20 million people are forcibly displaced by weather related events every year. The World Bank (2021) projects a substantial increase in climate migrants, estimating a staggering 216 million climate migrants by 2050, encompassing both voluntarily and involuntary migration.

Complicating the discourse further is the issue of terminology. In this essay, the term of “climate refugee” is employed to underscore the proposition that the phenomenon of climate-induced migration may indeed culminate in a migration crisis, denoting a sense of emergency – a connotation embraced by the term “refugee”. Moreover, it is arguable that people “who had to leave their habitat, temporarily or permanently, because of a potential environmental hazard or disruption in their life-supporting ecosystems” (UNEP, 1985) are, in effect, seeking refuge from the ravages of climate change. The main problem with the terminology of climate refugee is the actual state of international law. According to the 1951 Refugee Convention, ratified in Geneva, a refugee is an individual “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality” (Article 1 A (2)). This restrictive definition of a refugee seems to exclude considerations related to environmental factors. At times of negotiating the Geneva Convention, in a post-World War II circumstance, signatory States adopted a circumscribed definition in order to avoid putting heavy obligations on the national governments. Consequently, individuals departing their homelands for reasons unrelated to prosecution are considered as economic migrants. Yet, the term “climate migrant” arguably placed greater emphasis on the “pull” factors of the destination rather than the “push” factors of the source country, potentially reducing the assumed responsibility for the international community (Brown, O. 2008). While the term “climate refugee” has been embedded in international discourse, it is not consensual and remain contested, as it also implies that migration is forced, permanent and international.

It is imperative to mention another category of displacement that is embedded in the notion of “climate refugee” used throughout this essay, namely the category of Internally Displaced Persons (IDP). In this case, displacement caused by climate-related factors is forced but remains within the country’s borders. It is worth mentioning that, while the term of “refugee” is endowed with a legal definition under the 1951 Refugee Convention, there is no universally recognized legal definition for IDP. The term is merely descriptive. This particular situation usually manifests in the aftermath of natural disasters, and often entails the expectation of a return to the homeland once the disasters has subsided.

Nevertheless, as climate change endured and global temperatures are rising, there is little evidence that those phenomena will decrease or retreat. Consequently, it is reasonable to anticipate a corresponding augmentation in the number of displacements, either internally or internationally, owing to climate-related factors. This projection is the reason we argue that the existing reality could lead to a “climate-refugee crisis”. Regardless, the augmenting occurrence of natural disasters and the slow degradation of the environment presents a tangible material opportunity for the development and implementation of consequential policies, that the EU could lead.

### *Section 3.2 Ideological opportunity – defining “climate refugees”*

The debate around the terminology of the existing reality of people displaced in the context of climate change creates another type of opportunity for the drafting of “climate refugee” policies. Even though there is a material opportunity, Bretherton and Vogler’s framework insists on the state of the international discourse to create an opportunity. Is there a liberalization of the issues of climate displacement?

#### *Section 3.2.1. The Nansen Conference on Climate Change and Displacement in the 21<sup>st</sup> Century*

The first example of an international growing concern around the intersection of refugee seeking and climate change was the Nansen Conference on Climate Change and Displacement in the 21<sup>st</sup> century. It took place in Oslo in 2011 and appeared as a milestone towards recognizing and protecting an international status for people externally displaced because of climate change. The Conference created a closer dialogue between climate change scientists, humanitarian actors and policymakers, and brought together 230 delegates from national governments, civil society and the scientific community, to explore the pressing need for policies and capacities to manage climate change-induced displacement. The conference emphasized the need to generate further knowledge in this field and concluded with a set of recommendations for action. It addressed three main questions: (1) what do current science and case studies tell us about climate change and displacement? (2) What should be done to adapt to climate change, reduce disaster risk and prevent displacement? (3) What should be done to protect and assist persons who have been displaced or face risk of being displaced?

Following the Nansen Conference and the pledge of Norway and Switzerland to address the need for a more coherence approached to displaced people at the UNHCR Ministerial Conference in December 2011, the Nansen Initiative was launched in 2012. This bottom-up, State-led consultative process resulted in the Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change (Protection Agenda), endorsed by 109 States in 2015. This Agenda provides States with a set of tools aimed at enhancing their ability to prevent and prepare for displacement prior of a disaster occurrence. In case of inevitable displacement, it assists countries in enhancing their ability to address situations of refugee seeking, whether the displacement occurs within their own territory or across international borders. The Protection Agenda does not necessarily advocate for a new international legally binding treaty, but for the incorporation of national practices into their respective normative framework, tailored to national circumstances.

Finally, the Nansen Initiative led to the launch at the World Humanitarian Summit in 2016 of the Platform on Disaster Displacement (PDD). Guided by a Steering Group, the State-led platform support the implementation and operationalization of the Protection Agenda, building upon the groundwork laid by the Nansen Initiative. Member States foster a collaborative approach to address the challenges of climate disaster displacement, involving advocating for risk reduction, and climate change adaptation. The Platform underscores the significance of infrastructure enhancement, urban planning, land reform and risk reduction, as these measures effectively reduce vulnerability and enhance resilience of population at risk of displacement. Furthermore, the Platform recognizes the importance of evacuations and planned relocations, which not only protect human rights but also provide support for displaced individuals to return home or establish new settlements. One notable achievement of the PDD has been its role in garnering international recognition of the complexities surrounding human mobility in the context of disasters and climate change. To further this cause, the PDD advocates for comprehensive data collection regarding the drivers, patterns and impacts of displacement during disasters, especially in situation involving cross-border movement. This contributes to the international liberalization on the discourse around climate displacement.

### *Section 3.2.2 Discourse on climate refugee within the UN – UNFCCC and UNHCR*

Within the realm of international discourse surrounding climate refugees, a significant development occurred in 2018, when the United Nations General Assembly (UNGA) adopted the Global Compact on Refugees (GRC), following two years of negotiations led by the UNHCR. The Compact promotes international cooperation to address the challenges posed by refugee situations and host countries.



Notable, the GRC represents the first UN text that explicitly acknowledges the growing interplay between climate, environmental degradation and disasters and human mobility (UNHCR, 2018; p. 4).

The United Nations High Commission on Refugees is the UN Refugee Agency, charged with supporting international action for people forced to flee their national country. As mentioned above, the international definition of refugees does not seem to include climate refugees. Yet, the UNHCR have conducted various initiatives to deepen its understanding of the phenomenon of increasing climate-induced displacement. One such effort includes the issuance of *“Legal Considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters”* (2020) to provide guidance for interpreting the notion of refugee within the context of climate change. Although the UNHCR refrains from endorsing the term of climate refugee, the legal considerations foster an inclusive interpretation of the 1951 Convention. They acknowledge the possibility of integrating climate change factors into the Refugee Status Determination (RSD) procedure when they are coupled with other factors that may give rise to well-founded fear of prosecution under the 1951 Convention. Consequently, the UNHCR recognizes the predicament of displacement attributed to climate change, including in situation involving crossing international borders. It recognizes that climate change might affect human rights enjoyment that might amount to prosecution in the meaning of Article 1 A (2) of the 1951 Convention, and thereby acknowledging the potential applicability of refugee status. In this regard, there is a gap in the international law system to provide protection for people crossing borders due to the adverse impacts of climate change (Kälin, W., & Schrepfer, N. 2012).

In addition of these efforts, in 2020, the UNHCR appointed a Special Advisor on Climate Action to spearhead efforts at the intersection of refuge seeking and climate change. The Special Advisor shape the Climate Action agenda of the UNHCR, including offering legal advice to the international community for the development of protection mechanisms for individuals displaced in the context of climate change, engaging in fieldwork to enhance community resilience, and ensuring sustainability and reduce the environmental footprint of the High Commission’s activities.

In parallel, the United Nations Framework Convention on Climate Change assumes a crucial role in addressing the global climate change challenge. Under the UNFCCC, key milestones have been achieved, including the 1997 Kyoto Protocol and the 2015 Paris Agreement, whose objectives are to stabilize GHG emissions in the atmosphere to mitigate interference with the climate system. The Conference of the Parties (COP) convenes annually, allowing the 198 Parties to the UNFCCC to renegotiate treaties and deepen their cooperation in combatting climate change. Of particular significance for our essay is the establishment of the Task Force on Displacement (TFD) during COP 21 in Paris in 2015. The TFC is tasked to better understand the impact of climate change on human mobility. Over time, the TFD’s mandate expanded with the creation of the Warsaw International Mechanism for Loss and Damage. Comprising experts, the TFD has developed recommendations for integrated approaches to avert, minimize and address displacement related to climate change. As a result, the recommendations of the report of the Warsaw Mechanism based on the work of the TFD were adopted during COP24 in Katowice, Poland. These recommendations urge Parties to adopt policies to bolster research efforts, enhance data collection, conduct risk assessment and facilitate sharing of information.

However, it is important to note that, within the context of the UNFCCC, the intersection of climate change and refuge seeking remains confined to the domain of loss and damage. Although this concept is gaining relevance in international negotiations, especially following the adoption of a loss and damage fund at COP27 in Egypt in 2022, the explicit recognition of “climate refugees” as a standalone issue is relatively limited within the UNFCCC discourse. The notion is only punctually mentioned in the work of the

Conferences, but cannot be considered a liberalized issue, contrarily to what it seems to be within the UNHCR.

The annual presence of the UNHCR at COP meetings provide a platform to address these issues. In 2022, at COP27 in Egypt, the High Commission called to action highlighting the intersection between climate change negative effects and already vulnerable groups: “Around 70% of refugees and 80% of people internally displaced by conflict come from countries that are also highly climate vulnerable. Four in every ten refugees are hosted in highly climate vulnerable countries, where they often live alongside host communities in similarly precarious conditions” (UNHCR, 2022). In response to this complex challenge, the UNHCR exhorts Parties to involve displaced people and their host communities in decision-making process. They also call for increased finance for adaptation and for loss and damage, such as meeting the US\$ 100 million per year pledge from developed countries and implementing the Warsaw Mechanism and the TFD’s recommendations and underscore the importance of international protection for people displaced due to climate change.

### *Section 3.3 Conclusion on “opportunity”*

This section of the essay delves into the multifaceted opportunities surrounding the climate displacement. Furthermore, it has the pretention to contribute to the literature on the concept of “climate refugee”. The exploration of material opportunities, encompassing both slow degradation of the environment and natural disasters, reveal that the increase of global temperature due to human activity, induce a growing number of displaced people, potentially leading to a climate refugee crisis. Human-induced climate change has exacerbated the migration drivers. Furthermore, the Teitiota case revealed the protection gap in international law concerning those compelled to migrate due to environmental factors. These material opportunities feed the liberalization of the discourse around the issue of climate refugees.

The Nansen Conference marked the significant steps in recognizing the need to protect those displaced by climate change. The following initiative and the PDD provides tools for States to endorse and prepare displacement and situations of refuge seeking, tailored to national specific circumstances. Within the UN system, there is an open ongoing discussion around the topic of climate refugee. The UNHCR and the UNFCCC have been progressively integrating this intersection within their respective work. For instance, there is a Task Force on Displacement within the UNFCCC, and a Special Advisor on Climate Change within the UNHCR. This illustrates the growing concern around the topic of “climate refugees” and therefore induce a liberalization of the discourse, as Bretherton and Vogler would put it.

However, it is important to note that there are challenges to the complete recognition of a “climate refugee” issue on the international stage. Firstly, there is no international consensus on what does ‘climate refugee’ entail and how to measure, which complicate efforts to address the issue systematically. There are various situations of climate-induced displacement, forced or voluntarily, internally or crossing international borders. As a reminder, this essay engages with the term “climate refugee” to underscore the urgency of the situation and the potential derivation to a refugee crisis. Furthermore, there is a double speed liberalization of the discourse within the UN system, as the issue remains primarily within the realm of loss and damage within the UNFCCC, while the UNHCR has made more significant steps towards addressing it.

Nevertheless, opportunities do exist and create a room of maneuver for the EU to act before it becomes an actual refugee crisis. The following sections will assess if there is the political space and possibility to capitalize on this opportunity.

## **Section 4. Exploring presence – a leading climate negotiator with scattered credibility to welcome and protect displaced persons**

If there exists a relative opportunity for the EU to act in the field of ‘climate refugee’, it is left to assess the feasibility and manner in which such action can occur. The EU is an interesting *sui generis* organization, albeit with inherent limitations, one is the occasional absence of the EU from political debates. To assess the EU’s presence within a policy field, membership within a related international organization represents the first piece of evidence. Given that the EU is not a State, its membership may not always be straightforward and induce special arrangements. However, the mere act of membership does not guarantee a meaningful presence (Gehring, et al, 2013). To assess the EU’s attractiveness as a partner for third parties, the extent to which it has established a comprehensive framework within a particular policy domain is of equal significance. It may also amount to a more coherent and effective action within a given policy field.

This section dissects the EU’s presence in both the climate change and refugee fields separately, under the presumption that a robust presence in both domains contributes to its presence on the intersection issue of ‘climate refugee’, despite the absence of a dedicated international organization addressing this matter.

### *Section 4.1 Exploring the EU presence in the climate change field*

In the context of global climate change negotiations, the European Union aspires to be a leader in the realm of global environmental policy. The current EU Commission’s presidency has the ambition to serve as a role model in the protection of the environment and in the tackling of global warming. This relates to the significant place the EU upholds as one of the prominent actors in environmental governance, which is highly illustrated by and salient in its participation to the annual COP.

#### *Section 4.1.1 The EU significance in the environmental governance and finance*

The EU has historically been one of the foremost contributors to global GHG emissions. The EU-27, referring to the 27 Member States combined, accounted for 6.7% of global GHG emissions in 2022, making it the fourth-largest emitter on the planet (Statista, 2023). The distribution of emissions within the EU significantly varies among Member States, with countries such as Germany, France, Italy and Poland registering the highest emissions. This divergence can be attributed to their larger economies and industrial bases. In terms of emission sources within the EU, the primary culprits are energy production and use (including electricity and heating), followed by transportation, industrial activities and agriculture (European Commission, 2023a). In other words, the EU occupies a distinctive and consequential role within the global environmental landscape, largely owing to its status as one of the world’s major emitters, but also to its efforts to reduce their emissions over the years, accompanied by substantive advancements in increasing the share of renewable energy sources in its energy mix. Remarkably, the EU met emissions reduction target for 2020 (a 20% reduction compared to 1990 levels) ahead of schedule. This relatively important contribution to the share of GHG emission and these efforts both have contributed to the predominantly positive perceptions of the EU within the sphere of international environmental governance.

In the realm of climate finance, the EU plays a pivotal role in advancing sustainable finance as a substantial contributor. In the year 2021, the EU, in collaboration with its Member States and the European

Investment Bank (EIB) allocated a substantial sum of €23.04 billion to support public climate finance initiatives in developing countries. This commitment underscores the EU's dedication to addressing climate-related challenges at the international level. As a matter of fact, approximately 20% of the EU budget was allocated for projects and initiatives with a climate focus in the years 2014 to 2020. A more ambitious target to reach 30% of EU budget has been set for the years 2021-2027 (European Commission, 2021). In parallel, the EU has been actively involved in different initiatives within the sphere of climate finance, with a particular emphasis on involvement in the Green Climate Fund (GFC), launched in 2010. Through this canal, the EU financially supports projects in developing countries to both adapt and mitigate climate change, in particular helping in the reduction of GHG emissions. Since 2014, the GFC has gathered initial pledges totaling approximately \$10.3 billion, with EU Member States accounting for \$4.7 billion, thus nearly half of the total pledges. Following, during the first replenishment of the GFC in 2019, 27 countries, predominantly EU Member States, made substantial pledges amounting to an additional \$9.87 billion equivalent for the subsequent four years. As of May 2022, EU countries had already disbursed \$5.5 billion of the total pledged funds, exemplifying their commitment to fulfilling these financial commitments. Finally, the EU Member States contributed to a significant share of 95% of the annual pledges aimed at sustaining the Adaptation Fund, established under and operationalized by the UNFCCC. This fund is instrumental in assisting developing countries in their efforts to adapt to the adverse effects of climate change. During COP26, the European Commission pledged an additional support to the Adaptation Fund amounting to €100 million (European Commission, 2021). These financial commitments underline the EU's resolute determination to contribute to climate finance initiatives and to support climate efforts in vulnerable regions, beyond EU territory.

Finally, the Union is a signatory of the UNFCCC and of the 2015 Paris Agreement alongside the EU Member States. During the UN Conference on Environment and Development (Rio Earth Summit) in 1992, when the Framework Convention was adopted, the Union was granted full participant status. Though lacking voting privilege or the ability to submit procedural motions, the EU was able to speak with one voice on behalf of its Member States and defend a common position at the conference. In conformity with the obligations outlined in the Paris Agreement, the Union collectively submit a unique Nationally Determined Contributions (NDC) on behalf of all Member States. The NDC serves as the main tool of the Paris Agreement to track and monitor progress and actions of Parties in fulfilling their commitments and targets under the Agreements. The EU's decisions to submit a single NDC is a strong symbol of the 'one voice policy', signifying a unified and concerted approach to climate change. They therefore appear as a strong coalition, which preclude any opt-out option. The Member States are collectively bound by the shared NDC. Moreover, the EU is diligently champions the causes of multilateralism and wields great influence in the UNFCCC COP meetings.

#### *Section 4.1.2 EU presence within the COP system*

Within the realm of climate policy, the EU has a significant role in brokering climate agreements. Bäckstrand and Elgström (2013) argue that the EU has effectively become a 'lead actor' in the climate change negotiations. Its stance exerts considerable influence on the global climate governance, establishing the Union as a key player role in promoting multilateralism. In this regard, the EU is perceived as a successful actor to push its agenda and influence other countries and regions' positions, especially during the UNFCCC COP meetings. As Party to the UNFCCC, the EU assumes representation through the rotating Council Presidency. Simultaneously, Member States partake as individual Parties in the negotiations. Several academic studies have accounted for the EU's role as an environmental actor and the positive evaluation of its endeavors. Scholars have noted a "growing expectation of a leading role for

the EU in the protection of the global environment, in particular how to tackle global warming” (Lucarelli, 2007, p. 264). Empirical research conducted by Karlsson *et al.* (2011) reveals that, among a diverse cohort of 233 stakeholders representing government bodies, non-governmental organizations (NGOs), businesses, the UN, and media, a substantial 62% of respondents recognized the EU as a leader in climate change negotiations at the Poznan Climate Change Conference in 2008 (COP14). Further studies on perceiving the EU’s leadership during COP14 examine viewpoints from both EU and non-EU participation and find that the EU is widely regarded as a coherent and credible actor from an external perspective and exerts a significant influence on the course of negotiations (Kilian and Elgström, 2010).

However, while the EU has garnered acclaim from its environmental endeavors at COP14, it is not immune to challenges and setbacks. As a matter of fact, following the Copenhagen Climate Change Conference in 2009 (COP15), questions were raised concerning the EU’s effectiveness and coherence. Groen and Niemann (2013) found that, despite its endeavors to ‘lead by example’, the EU faced impediments in assuming a leadership role during COP15. This setback was due to several factors, including limited coherence between Member States and the Council Presidency. Owing to disagreements on the questions of the EU’s commitment to a GHG emission reduction goal among Member States and on climate finance to developing countries, the EU grappled with difficulties to reach consensus on concrete and ambitious proposals prior to the conference. Consequently, on a number of issues, the EU did not have a common position to bring to the Copenhagen table, and the Council Presidency was not able to speak on behalf of the Union and had to let the heads of individual governments do the talking. As a result, the outcomes of COP15 predominantly reflected the interests and preferences of other actors with disparate and less ambitious positions, especially the US and the BASIC group, comprising Brazil, South Africa, India and China.

Nonetheless, these setbacks notwithstanding, the EU’s consistent actions and commitments collectively underscore the EU’s significant presence in addressing climate change. It not only serves as a model for climate action but also persists in advocating for ambitious global climate policies and agreements. As a matter of fact, subsequent COP meetings, such as COP16 in Cancun in 2010 and COP17 in Durban in 2011, portrayed the EU in a more favorable light concerning the realization of its objectives. Conversely to the COP15, during these conferences, the EU demonstrated enhanced conference. Overall, the Union’s rules-based approach to climate change negotiations has resulted in ambitious binding targets within the COP decisions, as illustrated with the Paris Agreement.

In exploring the goal achievement potential in international negotiations of the European Union, Oberthür and Groen (2018) uses the Paris Agreement as an illustration to apply their conceptual framework. The authors emphasized that the EU were able to push most of their immediate policy objectives for the Paris conference but fell short of their earlier ambition. Indeed, several factors helped the EU to effectively represent their interest, such as their expertise in the climate field, and their status as a big emitter and a relative heavy economy. Even if considered as a middle power in the turmoil of the US-China bipolarity, the EU was able to keep a large scope of influence. Furthermore, it appeared that the Paris conference was the last resort to address climate change after the failure of the Copenhagen conference, while climate protection interests was rising on the global scale. This sentiment of urgency was used wisely by the French Presidency, that carried out a successful management policy, as it held meetings and an open-door policy. During the Paris Conference, the Union managed to be a moderate reformist, to take into consideration all interests at stake, to lead the negotiations, through coordinated policy and strategy of bridge-building. Their high level of unity, and their ability to downscale their ambition to ensure the conclusion of the accords have shown successful. Consequently, it is undeniable that the EU voice is one

to be heard in the context of climate negotiations, and that competition between the Union's voice and the Member States individual voices is almost inexistent.

The overall large cohesion the EU holds within the UNFCCC system witnesses of the presence of the EU in the climate change field. The EU remains a major actor, a 'leadiator', and committed to promoting ambitious and effective climate action, especially within the UNFCCC COP meetings.

#### *Section 4.2 Exploring the EU presence in the displacement/migration/asylum-seeking field*

According to neo-functionalist theories, the significance of the Union in the domain of migration, asylum and refugee matters is a direct spill-over effect resulting from the establishment of an area of free movement of people (Stetter, 2000). With the removal of internal borders, the movement of people within the EU territory necessitates supranational policies. Moreover, there is a necessity for a collective agreement on strategies and mechanisms to EU's control the external borders. The complexity of this challenge is compounded by Europe's prominent position within the broader landscape of international migration patterns. Yet, the Union is not consistently up to the challenges caused by these global patterns.

##### *Section 4.2.1. The EU international key role in refugee protection and financial commitments*

Europe has evolved into a significant a hotspot for individuals seeking refuge, a role that inherently position it as a central figure in the realm of migration and asylum protection. By the end of 2022, Europe, including Türkiye, hosted an impressive 36% of all refugees globally, amounting to an approximate total of 5 million individuals actively seeking protection (UNHCR, 2023; EUAA, 2023). It is worth mentioning that the conflict in Ukraine has played a role in driving these refuge-seeking numbers, as it represents 4 million registrations for temporary protection out of the 5 million. This means that approximately 1 million individuals sought refuge in 2022 unrelated to the Ukraine situation. These statistics underscore Europe's profound significance in the context of refugee field. Remarkably, as elucidated in the UNHCR Global trends Report in 2022 (2023), Germany emerged as the world's second-largest recipient of new individual applications for asylum, trailing only the United States, as most of the refugees are located in developed countries. This prominence of Europe in hosting refugees illustrates its role in the global management of migration and asylum-seeking flows.

Turning to financial dimension of refugee support in the world, the EU has exhibited a resolute commitment to fulfilling its share of responsibility. Collectively with the Member States, the EU is one of the world's leading humanitarian donors. In 2022, its contribution exceeded \$8 billion, with a specific allocation of \$1.2 billion contribution to the UNHCR (EEAS, 2022). Significantly, approximately 80% of the EU humanitarian aid budget is dedicated to supporting hosts communities and assisting forcibly displaced people (European Commission, 2016). As a matter of fact, the EU has extended considerable support to refugee hosting countries, notably the countries affected by the Syria crisis. These efforts include the development of dedicated instruments such as the EU's Facility for Refugees in Turkey, amounting to €3 billion. Additionally, for the period spanning 2021-2027, the EU has allocated a substantial budget of €9.88 million under the Asylum, Migration and Integration Fund (AMIF). The primary objective of this Fund is to enhance national capacities and improve procedures related to the management of migration and refuge-seeking. It further promotes solidarity and responsibility sharing between Member States, in particular through emergency assistance and relocation mechanisms. It is imperative to note that the Member

States themselves are beneficiaries of the AMIF, with the exception of Denmark who has consistently opted out of any Treaty provisions in the field of Justice and Home Affairs, including issues concerning asylum (Article 78 TFEU).

Turning to the UNHCR, the EU is a key player. As a United Nations' Agency – and neither an organization nor a treaty, there is no formal membership to the UNHCR. The High Commission was created in 1950 by the UN General Assembly and is custodian of the 1951 Refugee Convention. It provides guidance and support to national governments to promote the best international standards in legislations and procedures regarding the rights and well beings of refugees. The Union is present within the UNHCR through an EU Delegation to the UN and other international organizations in Geneva. The delegation is part of the network of 143 EU Delegations worldwide that carries out the EU's foreign policy and supports the work of the High Representative of the European Union for Foreign Affairs and Security Policy. The objective of the delegation is to promote EU's values beyond their borders and represent the values and interests of all Member States with the UN organizations in Geneva. The Delegation fosters coordination and represent a common EU position within the UN framework in Geneva to enhance European visibility.

The Geneva delegation has a section for humanitarian affairs and migration that works closely with the UNHCR as well as the International Organisation on Migration (IOM), non-governmental organizations (NGOs) and other relevant stakeholders. The EU is the second biggest donor to the UNHCR and ensure fair representation and participation of the EU in the High Commission's work. As a result, the EU has a status of observer during the tri annual UNHCR Standing Committee meetings, that reviews the High Commission's activities and programmes. During the Committee meetings, the EU can make statements and declarations lined to agenda items. For instance, during the UNHCR 87<sup>th</sup> Standing Committee, held in June 2023, the Union acknowledged the increasing impact of climate change on displacement as a risk multiplier (EEAS, 2023) and supports the further contribution and engagement of the UNHCR on this issue.

Furthermore, the EU holds the current tenure as Chair of the Platform on Disaster Displacement, established by the Nansen initiative, from 1 July 2022 until 31 December 2023. In fulfilling its mission, the EU has issued conclusion and launched several ambitious initiatives such as the preparation of a large-scale regional development programmes in both Asia and the Sub-Saharan Africa to tackle climate-induced displacement.

However, despite the EU undeniable considerable role in refugee-related issues notwithstanding the Danish reservation, it has not always shown perfect management of migration flows. As one of the most sought-after destinations for refugees, the Union bears a profound responsibility to administer equitable RSD processes while upholding fundamental human rights standards.

#### *Section 4.2.2. The EU's scattered reputation following the 2015 refugee crisis*

Despite a prominent role of the Union in the refuge seeking field, a great lack of cohesiveness between Member States became pronounced during the extraordinary surge of refugees from Syria between 2014 and 2016. A record of 1.3 million migrants sought asylum in the EU (Barlai *et al.* 2017). These individuals, often unable to enter the first safe country within the EU by regular means, had to revert to irregular entry into the EU, often using dangerous routes. As regular entry is typically contingent on possessing valid and lawful documents, it becomes very difficult for individuals fleeing situations of civil war or political prosecution in their home country, to obtain a regular visa. In fact, during the 2015 'refugee crisis', the routes mostly employed for entry into the EU were centered around the Mediterranean region, in particular the Central and the Eastern Mediterranean as well as the Western Balkan. Although EU law



unequivocally affirms the right for refugees to apply for asylum, it failed to specify “how” precisely a safe country could be reached through regular means.

This phase, often referred to as Europe’s ‘migrant or refugee’ crisis in the literature and mass media, laid bare the contrasting approaches adopted by different EU countries. Mahama Tawat (2016) argued that governments in Western EU have shown a willingness to embrace refugees – as exemplified by Angela Merkel’s choice to set aside temporarily the Dublin Regulation which determines the country responsible for assessing asylum claims. Conversely, leaders from Eastern Europe, including Lithuania, Latvia, Estonia, Poland, Hungary, Czechia and Slovakia, voiced their opposition to hosting the Syrian refugees. For instance, Hungary, led since 2015 by Viktor Orban, decided to build a wall along its borders with Serbia and occasionally obstructed the freedom of movement of people at the borders with Austria and Germany. The disparities in acceptance rates for refugees were striking, as in 2014, Sweden had a refugee acceptance rate of approximately 77%, in contrast to Latvia’s meager 24% (The New Humanitarian, 2015). This substantial gap serves as a significant and illustrative testament of the fragmentation of the EU Member States when it regards asylum policies, despite the common policy on asylum that will be explored in the subsequent sections.

As a result, the EU was perceived as unable to manage the crisis in a coherent manner, and the crisis brought about an institutional challenge. EU Member States failed to find a suitable agreement to reform the Dublin approach to refugee policy. They also failed to properly establish an EU wide resettlement scheme and reverted to the re-adoption of border controls within Europe, in contradiction with the provisions of the Schengen Treaty, creating an area of freedom of movement.

At the peak of the crisis, the EU tried to redress the imbalance distribution of asylum seekers and in September 2015, it approved a plan that provided for the relocation of 160,000 asylum seekers from camps in Greece and Italy to other Member States over the subsequent two years. The allocation was intended to be based on GDP, population size and previous numbers of asylum applications (Nugent, 2017). However, the plan was on the voluntary basis and eventually failed, with merely 5% of the refugees within the quota having been successfully distributed to other countries from Italy and Greece by the end of 2016 (Guiradon 2018: 157). Subsequently, the EU resorted to seeking an agreement with Turkey, in which the latter would welcome irregular refugees from Greece in exchange of financial compensation, amounting to billions of euros, and promise to further the discussion on the Turkish accession to EU. This arrangement encountered challenges, primarily because of the number of refugees involved, and international resistance from UN institutions and NGOs, but also witnessed EU’s inability to manage a large flow of asylum-seekers, as it reverted to externalization (Reslow, 2017).

In conclusion, the lack of cohesion between Member States, impeding the EU from speaking with one voice, amounts to the divergence of national interests at play. In particular, the discord manifest through two overarching obstacles. Firstly, certain countries, notable Italy and Greece, grapple with a greater pressure from wave of asylum-seekers, placing a substantial burden on their respective capacities to accommodate and protect these individuals. Secondly, several EU Member States have governments that show reluctance towards the reception and safeguarding of individual countries. This lack of shared responsibility creates tension with other countries that are willing to welcome asylum-seekers. This schism between the “old” and the “new” Europe endangers a significant brake the EU’s aspiration for a unified stance on refugee issues, ultimately resulting in a fragmented asylum policy.

However, it is worth mentioning that the recent influx of displaced individuals from Ukraine can serve as a note-worthy counterargument to the EU’s inability to accommodate asylum-seekers effectively. With

nearly five million Ukrainian refugees at the EU's doorstep, the Union showed reactivity in the response to an urgent situation using for the first time the European Union's Temporary Protection Directive (Directive 2001/55/EC). Member States similarly implemented national schemes for inclusion in national systems and local communities, showing a collective concern and willingness to provide refuge to Ukrainian nationals. Conversely to the 2015 situation, the EU garnered recognition as a successful actor capable of addressing the challenges posed by the crisis. This evolution suggests a potential refinement of the EU's asylum policy since 2015, rendering it better equipped to handle other similar situations, such as potential waves of climate-related migration. The experience of temporary protection for Ukrainian refugees acted as a catalyst for more comprehensive inclusion efforts for refugees. However, it is crucial to acknowledge that factors beyond mere policy evolution could explain the contrasting failure of 2015 and success of 2022, including sociocultural factor. Under these circumstances, it remains uncertain whether the effective management of a prospective 'climate refugee crisis' and the attainment of high level of Member States coherence can be guaranteed.

### *Section 4.3 Conclusion on presence*

It appears that the EU exhibits a notable presence in the two interconnected domains of climate change and migration. In the realm of climate governance, the Union has positioned itself as a global leader, pioneering climate-related policies. The Union is actively engaging in international negotiations and demonstrating strong commitment to addressing climate-related challenges, including human displacement. It has historically been one of the major contributors to GHG emissions, which induced a strong responsibility, that it arguably has upheld, in particular with substantial financial contributions to climate initiatives and an active participation in the COP system. However, the EU's presence in the refugee-seeking field is not as evident. While the EU has emerged as a common destination for asylum seekers and has played a crucial role in providing humanitarian aid, the EU management of inflows of migration has been under pressure. The EU's response to the 2015 refugee crisis exposed internal divisions and major disagreements among Member States regarding the distribution of asylum seekers, border controls and asylum policies. This lack of cohesion restrained the EU's ability to present a unified and effective response to an urgent situation. However, the use of Temporary Protection for Ukrainian refugees and the willingness of Member States to provide refuge suggest a potential evolution in the EU's presence in asylum matters.

In conclusion, it is believed that the EU's presence in a 'climate displacement' field is a sum of its presence in the climate change field and in the asylum field. Consequently, as long as the EU's presence is limited by an inadequate response to waves of migration, the EU's presence in 'climate refugee' field is compromised. However, there is a potentiality for evolution, especially as the EU remains an attractive partner, but this evolution owes to Member States' cohesiveness in managing a potential 'climate refugee crises'.

## **Section 5. Exploring capability – an environmentally capable Union facing limitations in displacement management**

The EU stands a prominent subject of due to the extensive scope of its competence. As a result of the process of European integration, Member States have willingly delegated a portion of their sovereign authority to the supranational level, fostering the development of harmonized policies across multiple fields. This transfer of authority delineated within the Treaty on the Functioning of the European Union (TFEU), which enumerates the specific fields where the EU wields exclusive or shared competences with the Member States (Articles 3 and 4). Competence, in this context, pertains to the EU's capacity to articulate unified positions and minimize competition with national-level policy initiatives. Nevertheless, further than the mere delegation of competence, Bretherton and Vogler emphasize the relevance of the Union's performance and effectiveness in utilizing these available tools, to engender consistency and cohesion between the action of the Member States and that of the EU.

Article 3 of the TFEU lists the exclusive competence of the EU – signifying that only the Union possesses the authority to legislate and adopt legally binding measures in the specific area. The Member States have voluntarily constrained their policy-making power in this area, allowing the EU to legislate exclusively, albeit subject to the requirement that Member States implement Union acts. For instance, the EU has exclusive competence for the conservation of marine biological resources under the common fisheries policy (Article 3(d) TFEU). Moreover, article 4 of the TFEU lists the shared competence of the EU – signifying that both the Union and the Member States are empowered to legislate and adopt legally binding acts in a specific area. Nevertheless, it is important to note that “the Member States shall exercise their competence to the extent that the Union has not exercised its competence. The Member States shall again exercise their competence to the extent that the Union has decided to cease exercising its competence” (Article 2(2) TFEU). In other words, article 2(2) of the TFEU induces that the EU is competent to legislate in a specific area until it opts to relinquish that competence. Fields characterized by shared competence include environmental matters (Article 3(2)(e) TFEU) and area of freedom, security and justice (Article 3(2)(j) TFEU). This shared competence framework underscores the dynamic nature of EU governance, where competence may be wielded jointly with Member States, emphasizing the importance of coordinated decision-making, which this section delves into.

### *Section 5.1 Exploring EU's capability in the climate change field*

As mentioned before, the EU is a relevant policymaker on the international scene concerning climate change. This is partly due to the competence it holds in the field. The shared competence of the EU and Member States in the field of environment is in reality used and abused by the Union, which is illustrated by the extensive and sophisticated climate change policy framework enacted by the Union over the years.

#### *Section 5.1.1 The TFEU and shared competence in the environmental policies field*

The EU legislative framework is guided by a significant room given to environmental matters. First and foremost, scholars have noted that, following the entry into force of the Treaty of Lisbon, the European Parliament (EP) has obtained further power, including the one to veto future international agreements and must be informed at all stages of negotiations. Given that the Parliament holds generally a pro-environmental position, the Lisbon Treaty has given the EP the possibility to use this new power to engage

in a more prominent and progressive attitude in the EU's external climate policy. This is illustrated by a large body of climate change legislation, explored in the next sub-section.

In parallel, overall, the TFEU gives a special stance to environment protection in EU law. The integration principle, enshrined in Article 11 TFEU, assigns paramount importance to environmental protection and promotion of sustainable development. They must be transcending the rest of the broad spectrum of EU's policies and activities. As a result, these two imperatives must permeate every facet of the EU's decision-making procedures, including in the adoption of secondary legislation. The fundamental environmental objectives are explicitly delineated in Article 191 of the TFEU that encompass a range of imperatives, therein: “

- preserving, protecting and improving the quality of the environment,
- protecting human health,
- prudent and rational utilisation of natural resources,
- promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.”

The suite of measures available to the EU is expansive and diverse. They can be preservative, curative, repressive, precautionary, or pro-active actions. As a matter of fact, the EU has adopted a comprehensive set of environmental legislation, governing various resources such as flora and fauna, ecosystems, land, soil protection, air (emission and air quality standards), water management or waste management.

Article 191 follows with further underscoring the EU's unwavering ambition to establish a high level of protection, following four main principles: the precautionary principle, preventive action, rectification at source and the polluter pay principle. The precautionary principle calls for preemptive action in the face of uncertain environmental risks and justifies action to prevent damage in case of risk. In other words, scientific uncertainty cannot be used as a reason to postpone measures that prevent environmental degradation. Likelihood of a real harm to environment justifies adoption of restrictive measures. The prevention action principle promotes action at an early stage and prioritizes prevention over cure. The rectification at source principle emphasizes addressing the roots of environmental issues, such as reducing waste instead of managing it. Finally, the polluter-pays principle stipulates that those responsible for environmental degradation bear the costs of mitigating it or the cost of restorative measures.

Moreover, Member States retain the competence to enact environmental measures, provided that these measures are more stringent than the standards set forth by the EU environmental legislation body (Article 193 TFEU). This provision implies that the EU has established a baseline of minimum standards regarding environmental protection, allowing Member States the latitude to adopt more ambitious measures if they choose to do so. Importantly, this provision does not undermine the overall cohesion of the EU in the climate change field. Such proactive additional measures must be indeed compatible with the Treaties. If anything, adopting more ambitious local provisions further strengthens the EU's narrative as pioneer in the environmental policies at the global scale.

Finally, the Treaty put the emphasis on the significance of international cooperation in the environmental policy field and promote multilateralism as a cornerstone approach to find sustainable solutions to planet-scale issues. Notably, the EU enjoys an exclusive competence, as articulated in Article 3 of the TFEU, to negotiate and conclude international agreements. This prerogative allows the EU to be a Party to the UNFCCC, and the 2015 Paris Agreement. Furthermore, as abovementioned, the EU holds a key pivotal role in those instances, owing in large part to a high level of cohesiveness and consistency between the Union and its Member States (Lucarelli, 2007; Kilian and Elgström, 2010; Karlsson *et al.* 2011; Bäckstrand and Elgström 2013; Oberthür and Groen, 2018). Indeed, the EU and Member States exhibit a certain level of concordance when it comes to matters concerning environmental policies, where policies' competition

between the supranational and domestic level is exceedingly rare. This prevailing harmony and mutual policy alignment allow the EU a significant degree of legislative latitude and maneuverability, illustrated by the diverse and expansive array of environmental measures that the EU has undertaken and implemented since the Lisbon Treaty.

### *Section 5.1.2. EU's climate change policies – from the EU-ETS to the European Green Deal*

The EU has displayed pro-active engagement in exercising its shared competence within the environmental realm. Following the ratification of the UNFCCC (1992) in Rio, the EU developed a substantial body of environmental law – notable examples include the 1993 Decision on a monitoring mechanism (93/389/33C) or the 1993 directive on limiting CO<sub>2</sub> emission by improving energy efficiency (93/76/EEC). One of the most illustrative examples of this commitment towards ambitious environmental measures was the adoption of the EU- Emission Trading Scheme (ETS) in 2003 (Directive 2003/87/EC). The EU-ETS is a market-based mechanism that involves the trading of GHG emission quotas, thereby capping and trading GHG emissions from European operators and facilities. In practice, if a European operator exceeds its emission allowance, it must rectify the situation through the quota allowance market, purchasing allowances from other operators who have not met their emissions cap yet. This carbon market is a major policy tool to reduce emissions as it covers 43% of EU emissions generated during the production process of EU based firms of relevant sectors, such as the sector of energy production and of heavy industry. Moreover, the sectors covered by the ETS are expanding, with the addition for instance of the sector of aviation in 2008 (Directive 2008/101/EC) or more recently, the sector of maritime transport in 2023 (Directive EU 2023/959). As a result, the EU-ETS has become one of the world's most extensive carbon pricing systems. Furthermore, building on this framework, the EU has introduced a Carbon Border Adjustment Mechanism (CBAM) (Regulation EU 2023/956). The CBAM consists in creating 'emission certificates' that external operators must purchase to access the EU market. It aligns with the abovementioned polluter-pay principle, as it is designed to complement the EU-ETS to ensure that imported products bear the same economic cost that is borne by EU producers. The mechanism ensures this through internalizing the price of climate change to third partners that are not obliged under their national jurisdiction to a stringent climate change policy. In this regard, the CBAM is also expected to contribute to promoting decarbonisation in third countries, as the imports that meet the same level of climate requirement would be exempted of the mechanism.

Another main illustration of the EU's robust commitment to addressing climate change is the 2019 European Green Deal Communication. The Green Deal is a comprehensive and ambitious policy framework outlining the Union's strategy to achieve climate neutrality by 2050, which would make it the first climate neutral continent. It also includes ambitious Emission Reduction Targets, including reducing GHG emissions by 55% compared to 1990 levels by 2030. Furthermore, the EU has pledged to commit to the deployment of renewable energy sources, such as wind, solar and hydropower and to boost energy efficiency across various sectors, including buildings, transport, and industry. The aim is to achieve 32% of share of renewable energy in the Union's energy mix by 2030. The Green Deal also mentions strategies to ensure a just, fair and equitable transition towards a more environmentally friendly system. The Just Transition Mechanism supports regions and sectors that are particularly affected by the movement towards a greener economy. Consequently, the Green Deal serves as a blueprint for an ambitious set of climate change policies and legislation. The Union institutions, especially the EP, have been actively working on the development of sophisticated political instruments to achieve the Green Deal's objectives, through regulations, and directives. Those measures are legally binding for both Member States and EU institutions, as the 2021 European Climate Law enshrines the carbon neutrality and the GHG emission targets into EU law (Regulation EU 2021/1119). The European Climate Law also establishes a mechanism

for monitoring progress and actions towards the achievement of the Green Deal goals, aligning with the Paris Agreement's global stocktake, conducted by the UNFCCC every 5 years. Finally, the Law also establishes a European Scientific Advisory Board on Climate Change, that provides independent scientific advice. Ultimately, the Green Deal promotes a multilateral approach to addressing the issue of climate change, emphasizing the EU's aspiration to assume a leading role at the international level. It underscores the importance of diplomacy and international partnerships to collectively confront this global challenge.

Henceforth, EU environmental law constitutes one of the most sophisticated branches of supranational legislative constructs. It includes a wide range of norms and standards governing for instance air and water quality, waste management, flora and fauna conservation (exemplified by the Natura 2000 network), protection of birds and endangered species. This all-encompassing legal framework assumes jurisdiction over every facet of environmental safeguarding. It also includes provisions facilitating access to environmental information and ensuring public participation in environmental decision-making. Access to justice in environmental matters is also a key priority and has resulted in a substantial body of jurisprudence established by the Court of Justice of the European Union (CJEU).

It can be argued that the EU has actively engaged in extensive legislative undertakings within the environmental field, owing to the fact that climate change transcends national borders and constitutes a collective issue. As a result, the actions and objectives are better achieved at the supranational level. The EU has adeptly assumed an effective role in drafting a collective and cohesive European climate action, which can give it a strong voice to advocate on the international level.

### *Section 5.2 Exploring EU's capability in the displacement/migration/asylum-seeking field*

Because migration and asylum policies are an external dimension of internal policies, they imply a particular articulation between the Union level and Member States. Moreover, it is a very transversal field, as a fundamental human right, but also more and more treated as a security issue (Talani, 2021). Overall, the body of migration and asylum legislation is arguably under construction in the EU system.

#### *Section 5.2.1 EU fundamental right to asylum and the Area of Freedom, Security and Justice*

With the entry into force of the Lisbon Treaty (2009), the EU underwent a significant transformation with the incorporation of the European Union Charter of Fundamental Rights fundamental rights into the corpus of EU primary law. This legal framework becomes binding for both EU institutions and Member States when they are implementing EU Law. Notably, Article 18 of this Charter provides for a right to asylum. The EU's fundamental right of asylum entails two crucial elements: entitlement to initiate procedure of RSD, and the right to remain in the Member State pending the examination of the application. The Treaty of Lisbon confirmed the objective of establishing a common policy in the area of immigration and introduced co-decision and qualified majority voting mechanisms in legal migration matters. Another notable innovation of the Treaty was the explicit acknowledgement that migration and asylum affairs are a competence shared between the EU and the Member States, notably concerning the quantity of migrants entering the Member State. In the event of a sudden inflow of nationals of third countries in a Member State, the Treaty empowers the EU to adopt measures aimed at supporting the Member State concerned. The Treaty also eliminated the restrictions on the role of the Court of Justice in

the field of migration and asylum, which were laid down in the previous treaties. Consequently, the CJEU is now enabled to adjudicate on matters related to migration and asylum on equal footing with other areas of EU ordinary law.

In parallel, Articles 78 and 79 of the TFEU promotes a common policy on asylum, in accordance with the principles of the 1951 Geneva Convention. The EU is vested with the authority to implement measures aimed at establishing a uniform status for refugees across the Union, creating a common system of protection for displaced persons, standardizing a common procedures for the granting of asylum or subsidiary protection status, setting criteria and mechanisms for determining which State is responsible for examining the asylum application, defining the standards concerning the conditions for the reception of applicants and finally establishing partnership and cooperation measures with third countries for the purpose of managing inflows of people. The overarching objective is to offer appropriate status upon third-country nationals in need of international protection while ensuring compliance with international refugee law, as set out in the Geneva Convention and other relevant treaties.

The importance of immigration, asylum and border control topics is also related to the Area of Freedom, Security and Justice, set out in the Amsterdam Treaty (1999) that conferred the EU Institutions new powers to develop legislation on immigration matters. The Lisbon Treaty provides that the Union shall offer its citizens area devoid of internal frontiers where the free movement of persons is ensured. In order to safeguard these rights, the EU has put forth measures pertaining to border control, asylum, immigration and prevention of combating crime. The abolishment on internal borders fosters trust among Member States responsible for the EU's external borders control. Furthermore, the 1991 Dublin Convention provides the principle that an individual who has acquired refugee status in one EU Member States holds that refugee status in all EU Member States. In essence, the EU has progressively become more deeply involved in addressing the challenges of migration and asylum, to the extent of framing them as a security issue, within the ambit the Area of Freedom, Security and Justice (Talani, 2021). With exception of Denmark, that has consistently opted out of any Treaty provisions in the field of Security, including Article 78 of the TFEU on asylum, all Member States are bound by the abovementioned provisions and the subsequent secondary legislation that created a common system for all Member States.

### *Section 5.2.2. The ongoing restructuring of the Common European Asylum System*

Since 1999, the EU has sought to establish a Common European Asylum System (CEAS), based on the principle that the Member States have a shared responsibility to provide equitable treatment to asylum seekers. This initiative aims at ensuring that asylum seekers across the EU territories have access to a standardized procedures for applying for the refugee status, with uniform outcomes under EU refugee law. Furthermore, the EU bears collective responsibility for safeguarding the rights and well-being of asylum seekers within its jurisdiction. In this regard, the CEAS is a comprehensive and unique asylum system in comparison to other regional asylum systems, such as the African Union or the Central and Latin American asylums systems, as it addresses both procedural and substantive aspects of asylum seeking. As a matter of fact, the specific rules on the application process and on examination procedures are set out in the Asylum Procedures Directive (2013/32/EU), while the common standards for reception, such as providing housing, food and clothing, access to health care, education, or employment, while the application is pending, are prescribed in the Reception Conditions Directive (2013/33/EU). Additionally, the Dublin III Regulation (604/2013/EU) sets out the criteria for determining which EU Member State is responsible for examining an asylum application.

However, the CEAS has yet to fully achieve the objectives set out in the TFEU and has consequently fallen short during the 2015 Refugee crisis. The refugee crisis underscored systematic flaws within the existing structure as well as the inadequacy of the ongoing containment policies, such as border controls, detention and deportation (Cortinovis, R. 2017; Wunderlich, 2013). Substantial evidence has demonstrated that facilitating mobility in its different forms is key to address displacement and secure sustainable solutions. The tension between the two policy hinders the coherence of the EU external action in the field of asylum and refugee protection. As the unfolding of the 2015 refugee crisis called into question the effectiveness of the EU to protect refugees, the European Commission proposed a reform of the CEAS, with the aim to improve and accelerate the RSD procedures, while upholding the principles of fair responsibility sharing and solidarity. The core components of the 2020 proposal for a 'New Pact on Asylum and Migration' include establishing new procedures for swift status determination upon arrival, a common framework for solidarity and responsibility sharing, a new common asylum and migration database and finally a new EU Asylum Agency that would collaborate more effectively with UN agencies, notably the UNHCR and IOM. It is worth mentioning that, whereas the new pact aims to protect refugees, to provide for legal pathways and enhanced integration, it does not explicitly recognize climate change as a reason for migration nor does it list climate disasters as a legitimate motive for asylum seeking.

In essence, the Pact seeks to introduce a new Asylum and Migration Management Regulation, and a new Asylum Procedures Regulation (to replace the existing directive). To advance the negotiations around the adoption of the Pact, the 2022 French and Czech presidencies of the Council of the EU advocated a gradual approach and further fostered practical cooperation among Member States. This resulted in the adoption of an updated screening procedures at the external borders and a revised database for asylum seekers fingerprints, as well as a joint roadmap for negotiations on the reform package and in the agreement on the Voluntary Solidarity Mechanism. These commitments, grounded on a balance between expressions of solidarity and responsibility, could cumulatively influence policymakers and eventually facilitate the adoption of the Pact in the coming years. However, as of September 2023, three years after the publication of the proposal, negotiations between Member States (represented in the Home Affairs Council) and the Parliament remain ongoing (European Commission, 2023b). The latest milestone was the agreement reached within the Council on two key pillars of the Asylum and Migration Management Regulation and Asylum Procedures Regulation proposals in June 2023. In fact, the Commission set an expected date of adoption for April 2024 (European Commission, 2023b).

Consequently, there EU's potential capability in the displacement/migration/asylum seeking field is contingent upon the ongoing legislative overhaul. Past experiences, notably the EU's more adept handling of the Ukrainian crisis through the use of the Temporary Protection Directive compared to the 2015 refugee crisis, suggest that the EU is becoming a more proficient entity in this regard. In fact, the UNHCR called on Sweden and Spain to use their 2023 EU Council Presidency to build on the Ukrainian experience in taking in millions of refugees and to protect displaced persons (Fox, 2023). The evolution of the CEAS framework could bode well for offering protection to asylum seekers, potentially 'climate refugees'. However, these aspirations remain subject to the verification in practice of the new CEAS legal framework. In fact, this assumption of a better-equipped EU remains obscure, given the pact's current status, unadopted, unimplemented and untested.

### *Section 5.3 Conclusion on capability*

While the TFEU outlines the scope of the EU's competences, the challenge lies in their effective utilization to create coherence and consistency among Member States and EU policies. Whereas there is close to no



competition within the European environmental policy scope, the asylum-seeking policies is under restructuration, following the failure to effectively manage a large influx of migrants.

In the realm of climate change, the EU holds remarkable capabilities and commitments, and plays the role of a significant policymaker. Its competences in environmental matter are largely exploited to the extent of creating a truly harmonized EU environmental policy. Moreover, the Treaty of Lisbon empowered the EU Parliament to pursue this role in setting ambitious objectives to address climate change. It has done so particularly through the adoption and implementation of the EU-ETS and the European Climate Change Law. The cohesion and alignment between the EU and its Member States have strengthened the Union's capacity and maneuverability.

Conversely, in the realm of displacement, while the EU has made a significant stride in establishing the CEAS, the system has faced challenges. Efforts to reform the system through the New Pact on Asylum and Migration are ongoing, seeking to improve procedures and responsibility sharing. Consequently, it cannot be asserted that the EU has been fully exploiting its competence in the domain, even though the Treaty is giving it the possibility. This is largely due to divisions between Member States on how to deal with those issues, undermining the overall Union's capability.

Consequently, as of today, the potential capability of the EU to address climate-induced displacement is contingent upon the successful adoption and implementation of the reforms on Asylum and Migration policies. Moreover, the recognition of climate change as a legitimate motive for asylum-seeking remains absent from the current proposals, which questions the overall capability of the EU to manage a potential 'climate refugee crisis'. In summary, the EU has demonstrated prowess in addressing climate change through a robust legislative framework and international leadership, but its capability in the climate-related displacement field remains uncertain. This will only become clear as reforms are put into practice.

## Section 6. Concluding Remarks

Climate change is one of the most pressing issues of our time, and its impact on human displacement has increasingly gained attention, although it remains understudied. This dissertation has explored the European Union's (in)action in addressing climate-induced displacement, employing the analytical framework of Bretherton and Vogler's on actorness. Within this framework, the assessment of EU's actorness hinges upon existing *opportunity*, discernible *presence* and *capability* demonstration.

*Initial hypothesis: the EU possesses a high level of actorness in the field of climate-induced displacement due to high levels of opportunity, presence and capability.*

This dissertation found that EU's actorness in the field of climate-induced displacement is more intricate and multifaceted. The EU's actorness is nuanced by significant impediments, which undermines its overall actorness.

- *Initial sub-hypothesis 1. High level of opportunity pertains to the discernible potential for an imminent climate refugee crisis.*

The external context and international discourse surrounding the field of climate-related displacement create a high level of opportunity for active engagement. The academic literature converges towards an undeniable intersection of climate change and displacement. Yet, there is no international institutions that can collect data and provide guidance on the protection of people crossing international borders due to climate change (either slow degradation of the environment or natural disasters). Nevertheless, this section of the thesis contributes to the acknowledgement of the academic term of 'climate refugees', underscoring the growing concern pertaining to displacement in the context of climate change. In this regard, our findings match our initial sub-hypothesis.

- *Initial sub-hypothesis 2. High level of presence signifies that the EU is successful in influence international decision-making*

The EU undeniably retains a position of leadership in climate change governance. It is known to be a prominent participant in climate negotiations and a 'lead actor' within the climate change governance, especially regarding its work within the COP system and within its own institutions. Nonetheless, the 2015 refugee crisis has shed lights on EU's limitations in terms of reception and protection refugees and asylum seekers, which undermines its presence in the 'climate refugee' field. This precedent raises concern about the EU's standing on the asylum-seeking field. In this regard, our findings nuance our initial sub-hypothesis, as presence is contingent to a scattered reputation of the Union in managing large flows of displaced individuals.

- *Initial sub-hypothesis 3. High level of capability pertains to the EU's extensive substantial legislative body in the field*

The EU attempts to create the necessary internal political space to exhibit capability, primarily through its capacity to legislate extensively in specific domains such as environmental protection and asylum seeking. The unity of the Member States and EU institutions' policies in the environmental field confer a strong capability upon the Union to act in this field. However, the contentious issues of RSD within the Member

States is an obstacle to the EU’s active engagement with the climate-induced displacement. While the EU has recognized the nexus between climate change and migration, there is no legal status for ‘climate refugees’, nor an effective framework for asylum-seekers. In this regard, our findings nuance our initial sub-hypothesis, as capability is contingent to the improvement of the EU’s response to climate-induced displacement through the ongoing review of the actual asylum-seeking system (the CEAS).

*Summary table of our findings.*

|                          | Climate Change | Refuge seeking, migration, displacement | Climate Refugee |
|--------------------------|----------------|---|-----------------|
| Opportunity              | (Not explored) | (Not explored)                          | +++             |
| Presence                 | +++            | +-                                      | ++-             |
| Capability               | +++            | +-                                      | ++-             |
| <b>Overall actorness</b> | +++            | +-                                      | ++-             |

In spite of these concerted efforts, there exists various avenues where the EU can improve its approach to climate-induced displacement, in particular in terms of displaced individuals’ management. This nuanced perspective challenges our initial hypothesis of a high level of EU actorness. In summation, the evaluation of EU actorness is characterized by areas of maneuverability and prospects for improvement, thereby shedding light on the window where the EU could elevate its actorness in the field of climate-induced displacement.

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