A Comparative Analysis of EU and UK Migration Policy: The 2024 EU Pact and Post-Brexit UK Asylum Governance

by Nele Ettrich

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Introduction

The governance of asylum in Europe is shaped by a persistent tension between protection obligations and political demands for border control. In the European Union (EU), the 2024 Pact on Migration and Asylum restructured the Common European Asylum System through binding procedural rules, a revised responsibility framework, and a mandatory solidarity mechanism intended to reduce disproportionate pressure on frontline states (Regulation (EU) 2024/1351; COM (2025) 319 final). Separately to the EU, the United Kingdom (UK) enabled a reassertion of national control through legislation emphasising deterrence, expanded inadmissibility, and externalisation, while domestic courts have continued to enforce non-refoulement (not forcing the return of asylum seekers) and fair process constraints (R (AAA) v Secretary of State for the Home Department [2023] UKSC 42). This analysis compares the EU's supranational model and the UK's post-Brexit approach across governance structures, asylum procedures, and responsibility sharing versus externalisation. It evaluates strengths and limitations through liberal and realist perspectives, considers cooperation with third countries, and concludes with policy recommendations.

EU and UK Governance Structures

EU asylum policy derives its legal authority from the Treaties, most notably Article 78 of the Treaty on the Functioning of the European Union and is interpreted uniformly by the Court of Justice of the European Union. The central instrument of the Pact is the Asylum and Migration Management Regulation (AMMA), which replaces the Dublin III framework and introduces a mandatory solidarity mechanism (Regulation (EU) 2024/1351). Member States are required to contribute through relocations, financial payments, or operational support. The European Commission (2025) has introduced an annual migration management cycle to coordinate planning for implementation and solidarity ahead of the Pact's full application in 2026. Implementation is supported through operational assistance from EU agencies. The EU Agency for Asylum can deploy support teams and technical expertise, while Frontex provides border management support, including surveillance and operational coordination (EUAA, 2025; Frontex, 2024). This governance structure seeks to reduce unilateral action by enforcing responsibility-sharing within a common framework. Guiraudon's theory of venue shopping helps explain this shift, as relocating

decision-making to the EU-level allows states to manage domestic contestation over migration control more effectively (Guiraudon, 2000, p. 252). This dynamic is one reason why migration policy has increasingly been shaped through EU institutions rather than domestic legislatures alone.

Following Brexit, the UK adopted a series of domestic legislative reforms aimed at restricting irregular routes and increasing the costs of unauthorised entry. The Nationality and Borders Act (2022) expanded safe third country inadmissibility and introduced differentiated treatment based on routes of entry, raising concerns about compatibility with Article 31 of the Refugee Convention (1951). The Illegal Migration Act (2023) further reinforced deterrence by widening removal powers. Externalisation became a central instrument of this strategy, particularly through the Rwanda partnership. However, the UK Supreme Court (UKSC) held that removals were unlawful due to a real risk of refoulement and insufficient guarantees of fair asylum determination ([2023] UKSC 42, paras. 73-75). Subsequent legislative changes shifted direction, as the Border Security, Asylum and Immigration Act (2025) repealed the Safety of Rwanda Act (2024) and removed provisions linked to that approach. UK asylum governance therefore operates under intense political pressure while remaining constrained by domestic judicial review and international obligations. As Boswell argues, repeated high-salience reforms can prioritise symbolic signalling over practical deliverability when administrative capacity is limited (Boswell, 2007, p. 93). This gap between political messaging and administrative capacity has become a recurring feature of UK asylum governance.

The EU and UK governance models illustrate contrasting responses to similar political pressures. While the EU seeks to manage contestation by coordinating authority and enforcing responsibility-sharing within a supranational framework, the UK has relied on repeated domestic legislative intervention. Both approaches aim to restore political control, but they distribute legal and administrative risk in different ways.

Asylum Procedures and Legal Safeguards

The Pact introduces common rules on screening and asylum procedures through the Screening Regulation and the Asylum Procedures Regulation (APR) (Regulation (EU) 2024/1356; Regulation (EU) 2024/1348). Screening at the external border requires identity, health, and security checks within strict time limits. Following screening, certain applicants may be channelled into accelerated border procedures. A procedural advantage of this framework is predictability.

Harmonised deadlines and clearer rules can reduce administrative divergence between Member States and mitigate pressure created by uneven processing capacity. The APR also sets out admissibility concepts such as the safe third country principle while maintaining safeguards including individual assessment and non-refoulement checks. Nonetheless, concerns persist regarding rights protection in accelerated procedures. The UNHCR (2025) warns that border procedures and restrictions on movement risk undermining protection standards where detention becomes routine or monitoring is weak. Peers argue that shortened appeal deadlines and limits on suspensive effect place strain on the right to an effective remedy (Peers, 2024, pp. 165-166). Procedural acceleration therefore strengthens governance only if it remains legally enforceable and practically accessible. Otherwise, it is likely to generate litigation and renewed political pressure for unilateral responses. The EU has acknowledged these risks through its emphasis on independent monitoring. The Fundamental Rights Agency (FRA) supports the development of monitoring mechanisms under the Pact and provides implementation guidance to Member States (European Union Agency for Fundamental Rights, 2025, p. 18). However, persistent reliance on temporary internal border controls within the Schengen area weakens the Pact's aim of a common system. Continued national controls preserve incentives for visible domestic enforcement and reduce trust in shared responsibility, undermining long-term solidarity (COM(2024) 173 final).

UK asylum procedure has increasingly relied on inadmissibility rules and enforcement measures rather than on harmonised timelines. The Rwanda judgment illustrates the limits of this approach. The UKSC blocked removals because individuals would face a real risk of refoulement and because Rwanda's system lacked sufficient guarantees of fair and effective determination ([2023] UKSC 42, paras. 73-75). Even where the UK seeks to accelerate decisions, implementation constraints remain significant. The Migration Observatory (2025) links persistent backlogs and frequent policy changes to delays in case resolution, weakened deterrence credibility, and rising accommodation costs. The National Audit Office (NAO) (2024) reports that asylum support cost £4.7 billion in 2023-24, including around £3.0 billion spent on hotels, caused by primarily delays and limited capacity. This aligns with Lipsky's account of street-level bureaucracy, which emphasises how frontline discretion and capacity constraints shape outcomes in high-volume systems (Lipsky, 2010, p. xi). This makes administrative capacity a central constraint on what UK asylum policy can achieve in practice.

In both systems, procedural reform has therefore become a crucial point where control objectives encounter legal and institutional limits. The EU attempts to resolve this tension through

harmonisation and monitoring, whereas the UK has relied on restriction and exclusion. In practice, neither approach can succeed without sustained investment in decision-making capacity and legally robust safeguards.

Solidarity and Externalisation

The EU's principal structural advantage lies in institutionalised solidarity. The AMMA requires all Member States to contribute through relocation, financial payments, or operational support directed toward states facing the highest arrival pressures (Regulation (EU) 2024/1351). The Commission's implementation update indicates that Member States have begun structured planning for these contributions (COM(2025) 319 final). Coordinated responsibility-sharing can reduce pressure on frontline systems and allow EU-level support to be deployed when national capacity is strained (EUAA, 2025). Solidarity nevertheless remains politically fragile. Where relocation commitments are limited, solidarity may default to financial contributions, which do little to relieve immediate pressure on reception and processing. Continued divergence in national practice can also sustain the reintroduction of internal border controls, which undermines the Pact's objective of reducing internal restrictions (De Brouwer, 2025). Effective solidarity therefore depends not only on formal obligations but also on sustained political commitment. Externalisation is also central to the EU's strategy. Cooperation with origin and transit states aims to deter departures, improve returns, and expand legal pathways. While such cooperation can be effective where interests align, it raises strategic and normative concerns. Critics argue that external partnerships risk shifting responsibility without ensuring that partner states meet protection standards (Tagliapietra, 2024). From a dependency perspective, cooperation can generate asymmetric interdependence in which migration control becomes a source of bargaining power. The EU relies on partner states to limit departures and cooperate on returns, while those partners can use this reliance to secure financial support, visa-related concessions, or political legitimacy (Adamson & Tsourapas, 2019, pp. 115-117; Hoffmeyer-Zlotnik et al., 2024, pp. 1353-1354). Market power alone does not guarantee compliance, as conditionality is effective only when partner governments face compatible incentives and domestic constraints support enforcement (Hoffmeyer-Zlotnik et al., 2024, pp. 1351, 1353-1354). From a realist perspective, this reflects the high political and administrative costs of returns cooperation for origin states.

The UK's strategy similarly centres on deterrence and externalisation, combined with bilateral cooperation. Cooperation with France, including funding and joint measures to counter

small-boat crossings, is presented as a key mechanism for reducing Channel arrivals (House of Commons Library, 2025, pp. 6-7). The same briefing highlights operational sensitivities that illustrate the UK's dependence on cooperation for enforcement outcomes (House of Commons Library, 2025, p. 11). The UK approach faces structural constraints. Externalisation depends on the availability of a receiving state that is demonstrably safe and capable of delivering fair asylum procedures, as the Rwanda judgment confirms ([2023] UKSC 42, paras. 73-75). Administrative capacity is equally decisive. Deterrence messaging does not reduce costs if decision-making remains slow. The NAO (2024) identifies accommodation spending as the primary cost pressure, driven by delays and prolonged hotel use. Weak domestic responsibility-sharing further complicates implementation, as uneven dispersal has increased local resistance and political contestation (House of Commons Home Affairs Committee, 2024, pp. 6, 66-67). The UK therefore remains deeply interdependent despite its emphasis on unilateral control.

The contrast between liberal and realist approaches helps frame these dynamics. The EU's supranational approach reflects liberal institutionalism through cooperation, common rules, and managed solidarity (Hollifield, 2024, pp. 3-4). At the same time, reinforced border controls reflect realist pressures arising from domestic politics, producing a hybrid governance model (Hollifield, 2024, pp. 2, 5-6; Carnegie Europe, 2025). Putnam's two-level game framework explains why this hybridity persists, as governments negotiate internationally while constrained by domestic win-sets that limit feasible commitments (Putnam, 1988, p. 434). The result is a system that seeks cooperation in principle while repeatedly reverting to control measures in practice.

Outcomes and Migration Trends

Figure 1 shows how asylum demand has increased in both systems, though with different trajectories. EUAA (2025) data show that first-time applications peaked in 2015-16, declined, and then rose again in the early 2020s, reaching approximately 1.05 million in 2023 and 0.91 million in 2024. UK Home Office (2025) statistics indicate a sharp rise after 2021, with around 74,000 applications in 2022 and sustained high levels thereafter.

Policy performance should be assessed in terms of timely and lawful decision-making, sustainable reception, and coherence under legal constraints. On this basis, the EU's principal risk lies in uneven implementation. Formal solidarity mechanisms cannot compensate for persistent political disagreement if Member States pursue minimal compliance or reintroduce internal

controls (COM(2025) 319 final; De Brouwer, 2025). The UK's primary risk is administrative bottleneck and cost escalation. Backlog-driven hotel reliance generates substantial fiscal costs, undermining public confidence and limiting scope for balanced reform (NAO, 2024). In both systems, control-orientation must be matched by operational capacity and credible safeguards if it is to succeed.
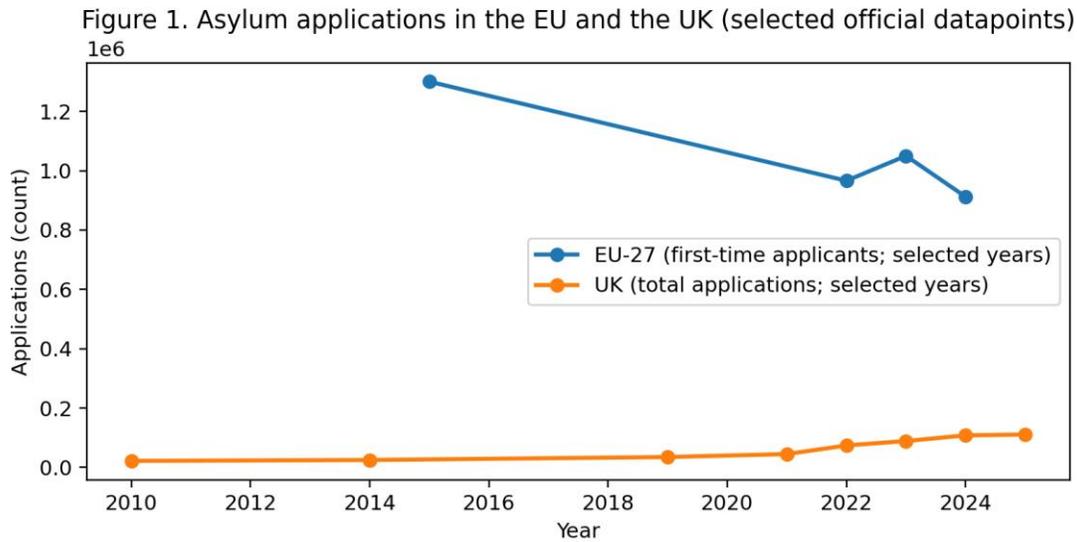

Figure 1. EU Member States and UK asylum applications (selected official datapoints). EU series reflects first-time applicants; UK series reflects total applications. Datasets recommended for full series replication (Eurostat migr_asyappctzm; UK Home Office ASY_D01).

Policy Recommendations

EU Recommendations

The Pact's credibility depends on administrative output and compliance with rights. Member States should approach implementation as a capacity project, scaling EUAA deployments, stabilising reception capacity through targeted funding, and upgrading case-management systems so that screening and admissibility checks do not create parallel bottlenecks (COM(2025) 319 final; EUAA, 2025). Accelerated border procedures should be accompanied by enforceable safeguards.

Independent monitoring under the Screening Regulation should operate from the outset with full access, transparent reporting, and sustained engagement from the FRA, alongside adequate legal aid and interpretation (UNHCR, 2024; UNHCR, 2025; European Union Agency for Fundamental Rights, 2025, p.18). Solidarity should be made effective by linking contributions to measurable impact on frontline systems and by strengthening external scrutiny to discourage minimal compliance (De Brouwer, 2025; European Council on Refugees and Exiles, 2025, pp.2-4). External cooperation should remain transparent and conditional, with suspension clauses to ensure it complements rather than replaces internal responsibility-sharing (Tagliapietra, 2024).

UK Recommendations

Improving decision-making speed and quality is essential, as delays drive hotel dependency, appeals, and rising costs. Reform should prioritise sustained recruitment and training of caseworkers, faster processing of clearly well-founded claims, and early legal advice to reduce avoidable errors that prolong cases, like with the Rwanda Bill (NAO, 2024; Migration Observatory, 2025; Refugee Council, 2024, p. 4). Accommodation policy should move away from ad hoc procurement toward fair dispersal and community capacity. This should be supported by predictable multi-year funding, minimum standards, and structured engagement with local authorities (House of Commons Home Affairs Committee, 2024, pp. 6, 66-67; Rutter, 2024). In parallel, the UK should stabilise and expand safe pathways. This includes resettlement, family reunion, and community sponsorship so that control objectives are not pursued through legally fragile externalisation strategies (OECD & UNHCR, 2024, p. 5; International Organization for Migration, 2023, p. 1).

Joint EU and UK Recommendations

External partnerships should be treated as managed dependencies rather than definitive solutions. Agreements require transparent conditionality, credible non-refoulement guarantees, and monitoring independent of implementing authorities, recognising that partner states can exercise bargaining power (Greenhill, 2010, pp. 28-29, 38-39; Hoffmeyer-Zlotnik et al., 2024, pp.1353-1354). The EU and UK should also pursue structured cooperation on returns and anti-smuggling efforts with clear rights safeguards and information-sharing, building pragmatically on existing bilateral frameworks such as UK-France cooperation (UK Government, 2025; House of Commons Library, 2025, pp.6-7, 11).

Conclusion

The EU and the UK are converging on stricter border control and greater reliance on external partnerships, while continuing to diverge in governance structure. The EU benefits from institutionalised solidarity and harmonised procedures but remains vulnerable to uneven political commitment and rights risks in accelerated processing. The UK benefits from unitary control and policy flexibility but faces strong judicial constraints on externalisation and high fiscal costs when administrative capacity falls short. A sustainable approach in both systems requires implementation that is legally durable and administratively effective. Faster decisions, enforceable safeguards, and cooperation that reflect interdependence are central to credible asylum governance. Looking ahead, the effectiveness of both systems will depend less on further legislative innovation and more on whether existing frameworks are implemented consistently, funded adequately, and insulated from short-term political escalation. Without this shift, the gap between formal control objectives and practical outcomes is likely to persist.

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