

# **The Weaponisation of Refugees: Intelligence Gathering, Surveillance, and Violations of International Law**

by Francisco Antonio Pereira Marques De Almeida Santos



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# **The Weaponisation of Refugees: Intelligence Gathering, Surveillance, and Violations of International Law by Francisco Antonio Pereira Marques De Almeida Santos**

Throughout history, refugees from various countries have been used indiscreetly as valuable sources of information about perceived enemies. However, since the adoption of the adoption of the Refugee Convention in 1951 and other international treaties, a series of legal norms have been established that protect the dignity and privacy of those who are refugees or asylum seekers. However, despite this robust legal framework, contemporary practices continue to challenge refugees' universal human rights under the pretext of national security

(UNHCR, 1951; UNOP, 2022).

In recent years, several governments have reportedly used refugees as sources of intelligence. Authoritarian regimes such as Russia have allegedly weaponized migration flux and coerced refugees for information or punished them as foreign agents; even democratic states like Germany have also been using coercive and unlawful intelligence-gathering and surveillance practices against refugees and asylum seekers (Burrell, 2014; Mikhailov, 2025; Taylor, 2013; Jones, 2016; and Rose, 2025). Intelligence services are known for often operating within a legal grey area, where the boundaries between lawful security practices and violations of international norms become blurred. This ambiguity allows agencies to engage in practices such as recruiting or coercing refugees for information that may conflict with international refugee and human rights law yet remain difficult to prosecute or regulate. (Najem and Aljahani, 2025).

Therefore, this research aims to scrutinize how the weaponisation and the recruitment of refugees and asylum seekers by Russian intelligence services constitute a violation of international law, with a focus on the principles of non-refoulement and protection from coercion. It also aims to analyse how surveillance and intelligence-based coercion by Germany harms refugees' privacy and dignity. It will adopt a qualitative approach, analysing legal instruments such as the 1951 Refugee Convention, the Human Rights Conventions, and the EU General Data Protection Regulation. Consequently, this research also seeks to contribute to ongoing debates about the balance between state security imperatives and the protection of vulnerable populations, as well as the need to update new legal frameworks internationally.

## **The weaponization of asylum seekers**

In July 2023, the Finnish government accused Russia of exploiting migration flows by encouraging, aiding, and coercing asylum seekers and migrants from Africa and the Middle East to cross the border from Russia, likely as part of a coordinated effort. The Finnish Prime Minister Petteri Orpo claimed that

these border crises were most likely orchestrated to put pressure on state institutions, drain resources, and fuel anti-migration rhetoric for far-right parties across Europe (Vock, 2023).

Russian intelligence services have recruited civilians, often immigrants and asylum seekers from Belarus and Ukraine, with the intention of carrying out hostile acts in Poland (Linonek, 2025). According to Mikhailov (2025), many of these recruits are unaware that they are part of a Russian operation and, when arrested, receive no legal support from the Kremlin. Despite the seriousness of these accusations, Russia has never issued an official statement in its defence, thereby demonstrating a clear bias. For the Kremlin, these agents are disposable, a fact that has been confirmed in cases where these individuals were accused of espionage in Germany, Finland, and Czechia and ended up not receiving any consular or legal support. Mikhailov (2025). These agents are low-skilled and low-paid individuals. Their motivations often stem from financial vulnerability, coercion, or threats to themselves and their families, which force them to carry out these actions.

This hybrid warfare, as the European Commission has termed it, has been increasing the skepticism of European countries towards asylum seekers and political refugees from Russia. According to German intelligence, there was a higher incidence of terrorist attacks in the weeks leading up to the February 23, 2025, elections. German intelligence officers also reported that they are exploring the theory that Russia may be behind the attacks committed by asylum seekers, to increase support for the far-right, pro-Kremlin AfD (Rothwell, 2025). This weaponization of emigrants is within a legal grey area as it does not constitute a direct aggression towards a state, but it is still capable of disrupting and destabilizing targets without necessarily suffering a military response (Najem and Aljahani, 2025). The place of instrumentalized migration within the framework of international law seems indeterminate; however, there is room to argue for its placement. Countries that may be willing to instrumentalize migrants...If the weaponisation of migrants is broadly understood as an act of aggression, states may be significantly less willing to engage in such practices. Therefore, it would be beneficial to legislate the occupation of refugees as a direct attack on a country, as this would reduce the cost-benefit of using this practice, since the reprisals under international law would be considerably greater (Perry, 2022).

### **Discrimination and the non-refoulement dilemma**

European states suffering from this weaponization of refugees face a dilemma as they must not return or reject people in any manner whatsoever to danger. If a state blocks asylum seekers at the border, refuses to let them file a claim, pushes them back, or closes the border completely, it exposes them to danger on the other side. This might constitute indirect refoulement, which is prohibited under international law. According to Article 33 of the Refugee Convention, *“A refugee should not be denied entry regardless of their country of origin unless they commit a crime that poses a risk.* Therefore, the assumption that a refugee may commit a crime is not sufficient to deny them entry. Asylum seekers

cannot be prevented from entering, even if they enter illegally. According to Article 31: *“No punishment for irregular entry: Asylum seekers often arrive without visas or documents, and States cannot reject them for irregular entry. Blocking them on this basis is unlawful.”* (UNCHR,1951). Therefore, Russia uses international law for its own benefit. Once EU member states begin restricting asylum or engage in illegal practices (such as pushbacks and emergency border closures), Russia benefits politically by exposing contradictions in Europe’s commitment to human rights, increasing internal EU divisions, amplifying far-right narratives about migration, and straining the legitimacy of EU and international norms. With the start of the war in Ukraine, asylum requests from Russian citizens also rose significantly, raising “security political questions.” According to ProAsyl ( 2023), Germany has rejected most asylum requests submitted by Russian men of draft age since Moscow launched the full-scale invasion of Ukraine. Between the beginning of 2022 and April of 2025, only 349 of 6,374 asylum requests from Russian men aged between 18 and 45 were accepted. This means that approximately 95 percent of applications were denied. This includes asylum, refugee status, or protection from deportation. According to international law, this constitutes a violation of Article 3 of the 1951 Refugee Convention, which states: "The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion, or country of origin (UNHCR, 1951).

Nevertheless, stricter screening measures were imposed. In September 2024, Germany also introduced temporary checks at all its land borders, which were later extended for another 6 months. The Interior Minister justified these measures as intended to stop irregular migration. All these measures in the face of this migratory flow have been accused of violating the Refugee Convention by consistently denying asylum applications, as well as violating the Schengen Area by restricting the free access of people to German territory. As a result of the current war, left-wing and socialist groups, such as the Rosa-Luxemburg-Stiftung and the refugee advocacy group Pro Asyl, also claim that Germany is indeed applying surveillance against asylum seekers. Even so, these surveillance tactics are not something new (Jones, 2025).

## **Surveillance**

Since 2017, the Federal Office for Migration and Refugees (BAMF) has consistently demanded access to the mobile phones, tablets, and laptops of asylum seekers upon arrival without valid IDs. Consequently, the BAMF has extracted personal data, such as metadata from photos, call logs (including country codes), messages, and browsing history. According to several reports, this is not done only when there is a specific and well-founded suspicion, but rather constantly and abruptly. The lack of transparency has raised serious concerns because the BAMF has refused to reveal which software is used, its consistency, and has rarely sought migrants' consent, leaving migrants unsure about the type of data used (Pugliese, 2021).

Although digital extraction of refugee data did not exist when the 1951 Refugee Convention was adopted, screening asylum seekers' mobile phones without voluntary and informed consent violates fundamental rights. It breaches Articles 6 and 7 of the EU Charter of Fundamental Rights, which guarantee respect for private and family life and protect personal data, respectively. It also contravenes Article 8 of the European Convention on Human Rights, which safeguards the right to privacy (Euro-Med, 2021). It also breaches Article 5, paragraph 1, points a, b, and c, of the EU General Data Protection Regulation, and Article 6, paragraph one, point, and it must comply with Article 6, points c and e. The lack of transparency regarding data collection and its destination might also breach Articles 13 and 14 of the GDPR (GDPR, 2025; Alajak, et al, 2024)

However, on February 16, 2023, the German Federal Administrative Court (BVerwG) ruled that the practice of analysing data carriers, including mobile phones, by the Federal Office for Migration and Refugees (BAMF) during the registration of asylum seekers is illegal. It was also established that phone data would only be extracted as a last resort. where no other milder measures are available. Therefore, the BAMF will not be able to force asylum seekers to unlock their phones or collect data; they will only be able to do so after an assessment of individual need. Even so, this practice does not necessarily comply with the GDPR. According to Article 6 of the GDPR, "lawful data processing requires a clear legal basis, such as consent or legitimate interest." Although this ruling represents an important victory for asylum seekers, further clarification is needed regarding what happens to their data and how it will be used (Palmiotto and Ozkul, 2023).

## **Coercion**

The BAMF is not the only authority responsible for the screening process, despite being unknown to the public. The Berlin-based Office for Interrogation (HBW), which is officially part of the chancellor's office and has since 1958 gathered information to support Germany's domestic Federal Intelligence Service (BND). When refugees apply, they go through a lengthy process before their stay is approved. HVW inspectors frequently conduct interviews and ask asylum seekers about their home country and whether they have suffered political persecution. This agency is also responsible for discovering whether, when asylum seekers transited to Germany, they were brought by smugglers or entered through other European countries. If they did, international law requires the asylum seeker to return to their country of origin. Nevertheless, according to George Paff, a lawyer who has advised asylum seekers and refugees on their rights for over 40 years, if his clients provide useful information to the agency, their residence permits may be granted in just a few days (Dick, 2013).

Conversely, in 2016, in response to the New Left party, the Federal Intelligence Service (BND) released figures showing that around 1,000 people were granted asylum in Germany in exchange for intelligence tip-offs. Data show that most individuals who were granted asylum after providing information between 2000 and 2015 came from the Middle East; however, the Federal Intelligence Service (BND) did not specify their countries of origin. Besides offering asylum and a faster integration process, this can be considered a practice of coercion. Although coercion is not explicitly stated in the 1951 Refugee Convention, it can be considered a human rights violation. In addition, this practice of coercion in exchange for intelligence can pose extreme danger to the refugees, as terrorist groups or authoritarian states may seek revenge and cause harm (Jones, 2016).

### **Policy Recommendations**

International law is not static and evolves continuously in response to changing realities. Therefore, it is important to recognize and develop new legal frameworks to address current problems. For example, the Refugee Convention of 1951 was not designed to legislate against possible coercion by intelligence agencies. Although intelligence agencies operate in a grey area, the UNHCR will need to develop guidelines to protect refugees from potential violations of their rights within a universal framework. It is necessary to formally characterise the weaponisation of refugees as a direct act of hostile state conduct against another country. This would increase the political and legal costs to the aggressor country of employing this tactic, thereby reducing its prevalence.

It is necessary to update not only the problem of coercion but also data protection. The EU should also establish mechanisms that ensure compliance between intelligence agencies, auditing member states' asylum procedures, and restrictions on sharing refugee information with intelligence agencies. GDPR and asylum regulations should be rigorously enforced to prevent coercion and unauthorized data extraction. At the domestic level, legal firewalls between asylum systems and intelligence agencies. The example of the German asylum regarding the refugees' data was a starting point. However, states need to increase their transparency concerning their practices. Together, these measures would not only provide refugee protection but also strengthen the integrity of the asylum system at the national and international level.

### **Concluding Thoughts**

The cases of Russia and Germany demonstrate how the contemporary weaponization of migration extends across a spectrum ranging from coercion to subtle forms of securitised governance. Russia's actions allegedly constitute a direct and deliberate manipulation of the asylum system to achieve its geopolitical and strategic objectives. This involves coercive recruitment and hybrid operations that

exploit displaced populations, often turning them into intelligence assets. The German case illustrates how democratic states may also drift into legally ambiguous or unlawful conduct when security imperatives dominate. Consequently, increased surveillance, data extraction, and discriminatory screening measures reveal how refugees can be viewed not as rights-bearers but as potential security threats. Both cases expose fundamental gaps in the 1951 Refugee Convention and related international legal instruments. Although the convention explicitly protects refugees from discrimination and refoulement, it does not cover modern techniques of intelligence manipulation, digital surveillance, or even migration-based hybrid warfare. As a result, states can exploit these legal grey areas both as a weapon and under the pretext of national security. This ambiguity severely affects the rights and protection of refugees and normalizes the treatment of asylum seekers as tools within geopolitical conflicts. It is therefore necessary to strengthen international legal frameworks. States must ensure compliance with international law, including non-rejection, nonrefoulement, and respect for the privacy and dignity of refugees. It is also important to emphasize that the international community must address the structural vulnerabilities that make refugees vulnerable to coercion, whether derived from discrimination, bureaucratic problems, or failures of the asylum system. Strengthening refugee protection is therefore not only a legal necessity but also a strategic one. When a state violates the rights of refugees regarding weaponization or other threats, as is the case in Germany, it ends up legitimizing the very tactics it uses to combat them.

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