Lost in Migration. Which policies are needed to safeguard the international protection system?

Opening Speech prepared for PROTECT's Final Conference, 6-8 March, Brussels
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Deputy Chief of the Cabinet of Vice-President of the European Commission,

Representatives of the United Nations,

Representatives of Governments,

Representatives of non-state organizations,

Esteemed members of the PROTECT team,

Distinguished guests,

Ladies and gentlemen,

Today, I am immensely proud of standing before you to open this conference, on behalf of the PROTECT Consortium and the University of Bergen. Our project lasted about 3 years. It benefited from the knowledge and skills of more than 50 scientists at 12 partner universities as well as a large group of people from other universities, international organizations, state and local authorities, and non-governmental organizations, who supported our activities in different ways.

So, what you will hear at this conference is a combination of pre-existing and new knowledge that goes way well beyond the confines of PROTECT. During these three days, we will only be able to give you some brief illustrations of our discoveries, findings, and results. The main body of the knowledge that we produced is to be found on PROTECT's website and in present and forthcoming international publications.

In the latest International Advisory Board meeting of PROTECT, a prominent board member evaluated our achievements as being "way beyond what is expected from EU framework projects". Standing here before you today, I must admit that I am truly glad that the superlatives that I am soon going to use to describe the PROTECT Team's research are not just my imagination.

Our research has been massive, rich, and novel. We produced around 70 substantial academic outputs – that is, journal articles, book chapters, scientific reports, policy briefs. In addition, we have produced countless promotional impact materials like blogs, vlogs, press releases, media appearances, social media posts, promotion animations, and the like. We used the conceptual and methodological tools of the disciplines of international law, law, political science, history, sociology, anthropology, ethnography, communication and

media studies, and computational social science. But most importantly, our interdisciplinary approaches did not only result in new findings but also discoveries that open new avenues of research and policymaking on the topic of international protection. I will come back to this in a while. But before that, I will guide you into PROTECT's objectives and research components.
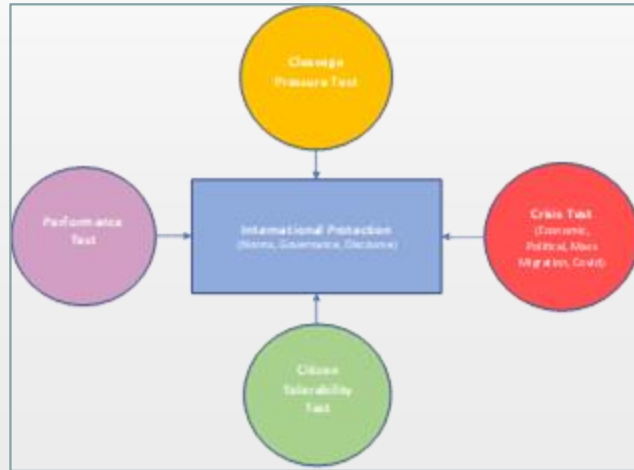
PROTECT research

PROTECT identifies the sets of protection tools preferred by different actors in the international system. By tools, we mean protection instruments like:

- Legal norms
- Governance modes
- Discourses and attitudes

PROTECT assesses how these tools have worked in refugee protection before in different contexts and identifies the best performing norms, governance modes, and discourses.

PROTECT tests the performance and resilience of the identified tools with respect to their performance and resilience in times of citizen pressure, global cleavage pressure, and global crises.
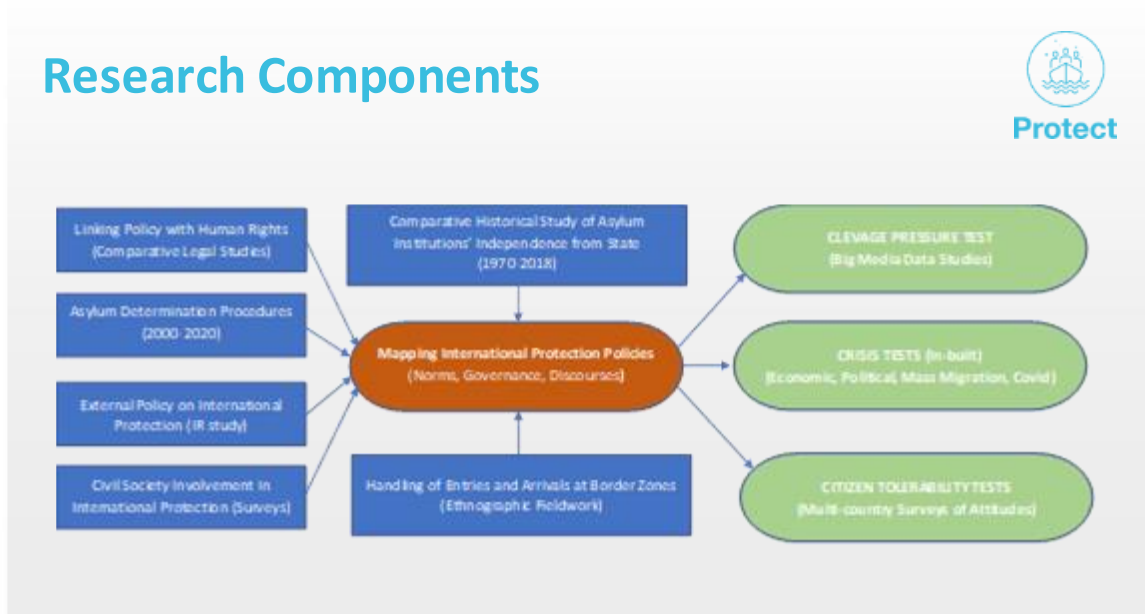
PROTECT's Resilience Tests

Policy Evaluation Workflow

This is done in eight research work packages.

Results in a nutshell

In my presentation of PROTECT's results, I will be focusing on the common discoveries and findings across PROTECT's research components – not all findings.

International protection lost in migration

Human mobility is not an exception but the rule. This is so although the current world order designates establishedness, as the natural mode of human existence. On the other hand, migration has not only shaped, but also survived all forms of political organization that have existed. And it seems, it will survive and even shape also the current world order.

Demographic history teaches us that mobility is as natural a mode of human existence as establishedness. But let us make no mistake: humans are territorial animals. Despite our long history of civilization, we still mark and defend our territory and borders against outsiders. This is what encumbers people who are forced to leave their homes, that is, refugees. Despite being populated by us, the territorial animals, the international community has a rule of exception from our privilege of territorial ownership: *The Right to International Protection*. **Though, we find that the right to international protection is lost in migration**. It is lost in our struggle to classify and treat refugees as regular migrants, to evade our responsibility to protect them. This is what we observe in the EU-MENA border in the Mediterranean and Aegean Seas, the US-Mexico border, in the seas around Australia... Indeed, the right to international protection is lost in all kinds of political concerns, from development and democratization to security, border, economic, and foreign policy.

Focusing on the European Union, Canada, and South Africa, the PROTECT's research team at the Ghent University has shown in their historical study of the evolution of national asylum administrations, that asylum offices have been organized under different ministries in different countries in different times since the 1950s. The asylum offices were observed under ministries of foreign affairs, labor, interior, and justice and, finally, ministry of immigration. The last arrangement emerged as a response to the demands of the anti-immigration parties in government and faded away as those parties lost their government positions. That is, merging the handling of migration and international protection policy under a ministry of immigration was actually an instrument of re-gaining national sovereignty and control over international protection, which is actually under the domain of the international law. The

Ghent University-team's conclusion on this issue is that, if the aim is to create a fair international protection system, asylum decision-making must be organized under specialized, autonomous asylum offices whose decisions are only subject to judicial review and UNHCR scrutiny.

The PROTECT team at the University of Bergen conducted a quantitative study of the effects of different types of legal, institutional, and procedural frames of asylum decision-making on the asylum recognition rates. This was done by using a massive original data set from 16 countries between the years 2000 and 2020. In this study, the University of Bergen-team documented, among many other things, the impact of merging international protection with migration and mobility rules. Using the regular entry rules for foreigners – identity card, passport, visa, itinerary, proof of subsistence and accommodation, detention – to reject asylum applications produces severely unfair outcomes in the international protection system. Furthermore, inadmissibility clauses using public order and national security as reasons to reject asylum seekers is not uncommon either. Merging international protection with security policy through security and public order clauses embeds international protection in both migration policy and security policy.

Delegating migration management to neighboring countries has been the predominant policy during the last two decades not only in the EU but also in other countries. The PROTECT team at the University of Catania revealed that the EU's external policy is increasingly more related to the security sphere, rather than the concrete management of people's movements and rights protection. Many of the EU's international agreements with the countries in the Global South – these may be about development, democratization, trade, and the like – contain conditionality clauses about migration and mobility border control. These aim to prevent people from arriving in Europe, including

refugees and protection-seeking migrants. Thus, despite hinging on humanitarian discourses, the policy instruments that the EU has in its international agreements with its southern neighbors, fail to strengthen international protection, creating some sort of 'externalization of international protection'. In other words, the EU's international protection policy is very much embedded in the external dimension of its migration, mobility, and security policy.

PROTECT's fieldworks in Cádiz, Catania, Marseille, Lesvos, Thessaloniki, Musina, and Toronto were conducted by our teams at the University of Bergen, University of Catania, University of Surrey, University of Witwatersrand, and the Toronto Metropolitan University, led by the University of Bergen. This multi-sited fieldwork reveals another case of conflating international protection with migration policy in the very sensitive area of vulnerability. Studying how the vulnerability concept is applied in the field, PROTECT finds that practices of vulnerability are often used as an instrument of narrowing down the protection-seeking migrants' access to legal and social rights. For, the vulnerability approach in some contexts renders vulnerability a qualification criterion for accessing legal and social rights as well. That is, the need for a 'vulnerability approach' within the current protection framework is very much tied to states denying or limiting access to legal and social protection. Hence, another example of conflating protection with another policy area to the detriment of international protection.

The PROTECT teams at the University of Surrey and the Open University of London studied civil society organizations' role in the international protection system. Among other things, they find that the civil society organizations that see international refugee protection as a task in itself rather

than as part of larger migration policy phenomenon or as part of a broader humanitarian task, tend to have a broader scope of action to help refugees.

PROTECT's studies of citizen attitudes and media discourses reveal the very same tendencies. The attitude surveys in 27 countries in Europe, Middle East, Americas, and Africa, conducted by the University of Bergen with the help of an international consortium of three professional survey companies, show that people for whom immigration is a salient issue, are more negative to international protection in general, and to admitting refugees into their countries in particular. Furthermore, people who are classified as nativists – that is, those who don't distinguish between migrants and people in need of protection and see them simply as foreigners – are more negative to international protection than others.

PROTECT's analyses of traditional and social media show that media discourses and framings are no exception from the trend that we found in the other research components. Comparison of the Twitter networks around the EU and UN, done by the University of Stuttgart and the University of Bergen, reveal that the network around the UN is more capable of distinguishing between international protection and migration policy than the networks around the EU institutions. Similarly, an analysis of media framings conducted by the University of Ljubljana and the University of Bergen documents how protection-seeking people were framed as "migrants" during the Syrian-refugee flows and as "refugees" during the invasion of Ukraine by Russia. The Lund University's studies of social media clearly show that there is a global political cleavage system in the social media that shapes discourses and frames about refugees and asylum seekers. The struggle is very much about whether we shall call people "refugees/asylum seekers" or "migrants".

PROTECT's legal studies of the impact of GCR and GCM, led by the Queen Mary University of London and Giessen University, show similar tensions between international protection and migration. Currently, one of the main problems of the international protection system is such efforts as those I exemplified above to define refugees as migrants or to prevent protection-seeking people from becoming refugees by containing their mobility within the Global South. When they flee climate change or environmental hazards, or when they are held in their countries, or when they are prevented by third countries from arriving at the borders of the EU, the USA, Canada, or Australia, it may look as if we do not have a responsibility to protect them. Indeed, the category of protection-seeking migrants, that is, people who haven't yet arrived at the border of a country that can provide international protection, is the very soft stomach of the international protection system. PROTECT's legal research team find that GCM has a realistic potential to strengthen the international protection system by providing protection to such protection-seeking migrants who are not refugees according to the Convention. "While the GCR addresses the protection needs of refugees, the GCM may contain elements that specifically relate to similar needs of protection-seeking migrants other than refugees. In this regard, both the GCM and the GCR are complementary components of the special regime governing international protection.

These studies, whose results are generically mentioned above, used different kinds of data, different epistemological and methodological approaches, different theoretical approaches, and even different research questions. Yet, they all uncovered the very same simple fact: When conflated with another policy area, asylum and refugee policy tends to be undermined in the implementation phase. Following the example of the two separate global

migration and refugee compacts of the United Nations, states need to do everything in their power to clearly separate their international protection laws, institutions, and policies from those that are devised to handle other policy areas.

If the policy objective is to comply with the international-legal obligation to give adequate protection to people in need of international protection, the European Union should implement its international protection responsibility through legislation, in a new EU International Protection and Asylum Pact which is strictly separate from migration, border, security, development, and external policy concerns. This means three things:

1- The legal clauses that are related with entry, immigration, public order, and security should be separated from the international protection laws (refugee and asylum laws)

2- The institutions that manage international protection (refugee and asylum policy) should be made autonomous by separating them from institutions that manage migration, border, and foreign policy

3- The state authorities and practitioners should clearly distinguish between refugees, asylum seekers and mig4rants when speaking about matters of international protection.

The European history of asylum administration shows that systems that bring all migration related issues under one legislation and under one administrative entity are the product of nativist, anti-immigration tendencies that aim to abolish the international law. The Global Compact on Refugees and the Global Compact on Migration, and the fact that they are separate and complementary, is a correction to the conflation of international protection with migration policy. And this example should be followed by all states.

PROTECT offers many valuable, interesting, and much more elaborate perspectives, results, and policy implications beyond what I presented above. These are to be found on PROTECT's website.

Finally, I would like to thank the European Commission (Horizon 2020) and the Canadian Government (Social Sciences and Humanities Research Council), as well as the Research Council of Norway and the University of Bergen, who contributed to the funding of our research and dissemination activities. The European Commission was the main funding agency.

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Information about PROTECT's social media channels are in the above link

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