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Frontispiece: A group of migrants entered the U.S. from Mexico through a hole in the border fence near Sasabe, Arizona in July 2023, and turned themselves in to a waiting CBP agent.
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Sabotaging the Rule of Law: The Coordinated Assault on U.S. Immigration Enforcement by the Anti-Borders Movement

Mateo Forero and Pawel Styrna

Abstract

This article examines the growing, increasingly violent resistance by pro-mass-migration radical forces to U.S. immigration enforcement following the return to meaningful enforcement under the Trump administration in 2025. It situates contemporary opposition to ICE within the broader context of the Biden-era border and illegal migration crisis and traces the progression from sanctuary policies and political non-cooperation to organized protests, violent riots, criminal resistance, and terrorist attacks directed at federal immigration law enforcement personnel. Drawing on developments in Los Angeles, Chicago, Portland, and Minneapolis, the article examines the interaction between anti-enforcement activists, sanctuary jurisdictions, political actors, criminal networks, and foreign interests in obstructing federal immigration policy. It argues that sustained resistance to the enforcement of immigration law raises broader questions concerning federal authority, public order, and the principle of equality before the law. It also undermines national cohesion and destabilizes the country from within. The article also considers the implications of these developments for the rule of law and draws comparative lessons for European and other Western societies confronting similar tensions between immigration enforcement and organized political resistance and even violent sabotage by extremist anti-borders forces.

Keywords: Immigration and Customs Enforcement (ICE), Donald Trump, deportations, Los Angeles anti-ICE riots, sanctuary policies, radical terrorism, political violence.

Introduction

Immigration policy forms an integral piece of the Western rule-of-law framework. The consistent enforcement of immigration law defines national boundaries and determines who may enter and remain. Unfortunately, the anti-borders movement has a long and disturbing history of treating immigration laws as irrelevant inconveniences, and of characterizing those who wish to enforce those laws as racist and immoral. Even worse, this ideological demonization of immigration enforcement leads to refusals to cooperate with federal immigration law, as exemplified by sanctuary policies at the state and local levels in many, largely left-leaning parts of the United States – and even extends to violence or terrorism in attempts to hinder enforcement. Adhering to their simplistic black-and-white worldview, anti-borders radicals often feel morally obligated and justified to thwart enforcement at any cost. Ironically, in casting immigration enforcement officers as "authoritarian," the anti-ICE radicals show uncanny similarities with violent, paramilitary street-fighting organizations associated with revolutionary movements in history, such as Fascist Black Shirts, Nazi Brown Shirts, and Bolshevik Red Guards.

It is within this political context that the United States returned to intensified enforcement of its immigration laws following President Donald Trump's arrival to the White House in January 2025. That return came in the wake of former President Joe Biden's self-inflicted border and mass illegal migration crisis – a crisis in so many ways comparable to Europe's disastrous 2015 migration crisis initiated by German Chancellor Angela Merkel's welcome to hundreds of thousands of illegal aliens. While President Trump's policies represented merely a return to enforcing existing law (after four years of it being largely violated and ignored), pro-mass-migration voices on both sides of the Atlantic have misrepresented them as a sudden paroxysm of aggression against both "immigrants" and American citizen defenders of illegal aliens. Such misleading perspectives ignore both the historical context of a return to immigration enforcement, and the unprecedented flurry of sabotage, obstruction, and violence coming from anti-borders radicals who hope to blunt enforcement operations and make federal agents appear ruthless and authoritarian.

The coordinated campaign of obstruction and intimidation from anti-borders activists, certain politicians, and criminal elements reached a fever pitch within the past year, and quickly bore bitter fruit. Data from the U.S. Department of Homeland Security (DHS) document a dramatic escalation: assaults on ICE

officers rose by more than 1,300 percent, vehicular attacks surged by 3,200 percent, and death threats exploded by 8,000 percent between January 20 and December 31, 2025, relative to the prior year.[1] Regardless of whether these incidents involved criminal aliens resisting removal or radical agitators, they point to a deeply disturbing trend which must be taken into account when assessing the actions of enforcement officers within the current political climate.

This coordinated resistance should be condemned as both dangerous and unacceptable in a rule-of-law society for several reasons. First, as economist Thomas Sowell has noted, "[i]mmigration laws are the only laws that are discussed in terms of how to help people who break them."[2] Approaching immigration rules and regulations as some species of law that is acceptable to violate undermines the principle that no one is above the law. Secondly, coordinated resistance to the enforcement of immigration law shields and emboldens criminal illegal aliens at the expense of community safety (including in immigrant neighborhoods).[3] Third, this resistance imposes costs on taxpayers by forcing immigration enforcement agencies to expend more resources than would have been needed had the rule of law and common sense prevailed.[4] Finally, organized violence fuels the formation of a radical anti-American insurgency – one that could easily spill outside the realm of immigration and impact other aspects of our social and economic life.

This article offers much-needed context demonstrating both the conditions that made Trump's return to enforcement necessary, and the manifold ways in which local sanctuary politicians, illegal alien criminals, and anti-enforcement extremists have attempted to impede and demonize enforcement. It analyzes the progression from sanctuary policies to large-scale riots in Los Angeles, Portland, and Chicago. It then examines the high-profile incidents in Minneapolis during the enhanced immigration enforcement activities of Operation Metro Surge. The article also documents the direct political obstruction, criminal resistance, and terrorist attacks that have been leveled against ICE in the past year. It clarifies that far from being

[1] U.S. Dep't of Homeland Sec., "Radical Rhetoric by Sanctuary Politicians Leads to an Unprecedented 1,300% Increase in Assaults Against ICE Officers and a 3,200% Increase in Vehicular Attacks," January 8, 2026, https://www.dhs.gov/news/2026/01/08/radical-rhetoric-sanctuary-politicians-leads-unprecedented-1300-increase-assaults.

[2] Thomas Sowell, *Social Justice Fallacies* (New York, NY: Basic Books, 2023), 54.

[3] White House, "Sanctuary Cities Undermine Law Enforcement and Endanger Our Communities," March 20, 2018, https://trumpwhitehouse.archives.gov/briefings-statements/sanctuary-cities-undermine-law-enforcement-endanger-communities/.

[4] Fed'n for Am. Immigration Reform, *The Fiscal Burden of Illegal Immigration on United States Taxpayers – 2023 Cost Study* (March 2023), https://www.fairus.org/issue/publications-resources/fiscal-burden-illegal-immigration-united-states-taxpayers-2023.

trigger-happy amateurs all too eager to resort to violence, the officers working for ICE and other immigration enforcement agencies were forced to contend with often violent obstructionists at every turn. The article then shines a light on recent work by the Federation for American Immigration Reform (FAIR) on particular aspects of these obstruction attempts and the federal government's response. It concludes by highlighting some important lessons for Europe and other Western nations regarding this topic.

The Historical Background

Critics of the Trump administration's return to immigration enforcement often neglect the chaotic mass illegal migration crisis that preceded it. Immediately upon entering office in January 2021, Democrat Joe Biden opened the floodgates to a massive and unprecedented border and illegal migration crisis by dismantling or pausing policies implemented by the first Trump administration (January 2017 – January 2021) that had helped secure the border and reduce illegal migration. As a result, nationwide encounters of illegal aliens spiked dramatically during the Biden years – from under 650,000 in 2020, to 2 million in 2021, 2.8 million in 2022, and peaking at over 3.2 million in 2023.[5] The numbers for 2024 were only slightly smaller, at just a little under 3 million encounters. Hundreds of thousands of illegal migrants headed or were sent to American communities, including major cities such as New York and Chicago, costing billions of dollars and putting incredible strain on local budgets and schools.[6] In addition, some illegal migrants committed heinous crimes, such as the brutal rape and killing of nursing student Laken Riley by a Venezuelan gang member in Georgia. The Biden border crisis and its fiscal and human costs angered American voters, who returned Donald Trump to office in November 2024 to fulfill his campaign pledge of stopping an out-of-control illegal migration crisis and restoring the rule of law.

Immediately in the wake of the presidential election, many "sanctuary" jurisdictions loudly underscored or expanded their policies prohibiting communication or cooperation with federal immigration officials. One example of the jurisdictions fortifying their illegal sanctuary policies in response to Trump's election victory was the City of Los Angeles moving to adopt formal sanctuary ordinances that

[5] U.S. Customs and Border Protection, "Nationwide Encounters," https://www.cbp.gov/newsroom/stats/nationwide-encounters.

[6] Fed'n for Am. Immigration Reform, "Border Crisis Is Killing American Cities and Suburbs," February 11, 2024, https://www.fairus.org/legislation/executive/border-crisis-killing-american-cities-and-suburbs.

shield illegal aliens from removal proceedings.[7] Despite the fact that these policies are unconstitutional and in conflict with federal law, the number of sanctuary jurisdictions has skyrocketed from fewer than a dozen in the 1990s, to 564 in 2018, and at least 1,003 as of May 2025.[8] This includes 17 out of 50 states and even the nation's capital city, Washington, D.C. Much of this growth, particularly after 2016, stemmed from a desire by left-leaning jurisdictions to virtue-signal by defying Trump and his immigration enforcement agenda, regardless of the social or fiscal consequences. These policies not only exacerbate the costs to the federal government of immigration enforcement, but also often result in dangerous illegal alien criminals being released into the community rather than handed over to ICE.

From Sanctuary Policies to Coordinated Riots

What began as virtue-signaling policy statements, however, soon escalated into widespread disorder. A key reason is that no matter how strongly sanctuary jurisdictions emphasized their anti-enforcement and pro-illegal-alien policies, they failed to deter the federal government from energetically carrying out its duty of interior enforcement. Thus, like other extremist movements throughout history, anti-borders radicals became even further radicalized and willing to engage in violence when politically frustrated. At a tactical and "hearts and minds" level, they also felt that they could turn the side of popular sympathy against enforcement if ICE operations could be made to appear aggressive, overly escalatory, and chaotic (particularly since much of the mainstream media could be counted on to amplify only a part of the story and push a misleading and dishonest anti-ICE narrative).

The June 2025 anti-ICE riots in Los Angeles were the first clear escalation – and they set the tone for other flashpoints of chaos that would soon erupt. The disturbance started when ICE worksite enforcement operations in California resulted in over 118 arrests for suspected immigration violations.[9] What began as protests against these inspections quickly devolved into widespread violence.[10] Over the following

[7] Ibid.

[8] Fed'n for Am. Immigration Reform, "Sanctuary Jurisdictions Across the U.S.," May 2025, https://www.fairus.org/issue/sanctuary-jurisdictions-across-us.

[9] Fed'n for Am. Immigration Reform, "The Los Angeles Anti-ICE Riots Were a Coordinated Campaign of Disruption," September 5, 2025, https://www.fairus.org/press-release/los-angeles-anti-ice-riots-were-coordinated-campaign-disruption.

[10] U.S. Dep't of Homeland Sec., "DHS Releases Statement on Violent Rioters Assaulting ICE Officers in Los Angeles, CA and Calls on Democrat Politicians to Tone Down Dangerous Rhetoric About ICE," June 7, 2025, https://www.dhs.gov/news/2025/06/07/dhs-releases-statement-violent-rioters-assaulting-ice-officers-los-angeles-ca-and.

days, the would-be demonstrators clashed with ICE personnel with intensifying hostility. They threw rocks, bottles, fireworks, and improvised explosives at officers, set vehicles ablaze and looted countless businesses, and blockaded freeways and federal facilities like the Metropolitan Detention Center. Property damage and response costs exceeded $32 million.[11] Although Los Angeles has a long history of civil unrest and violent riots, the 2025 anti-ICE riots were the biggest outbreak since the 1992 Rodney King riots and the 2020 George Floyd riots, both of which were anti-police.

California officials, including Governor Gavin Newsom and Los Angeles Mayor Karen Bass, condemned the immigration enforcement operations, and redoubled their refusal to cooperate with ICE and U.S. Customs and Border Protection (CBP).[12] Given California's leftist politics and staunch sanctuary stance, this lack of assistance was not surprising. The defiance nevertheless exacerbated the chaos, allowing rioters to interfere with operations without meaningful local law enforcement intervention. President Trump responded by federalizing the California National Guard and deploying troops to quell the violence.[13] Authorities restored order by mid-June, but the incident highlighted how local sanctuary policies and defiant politicians emboldened violent resistance by demonizing immigration enforcement and remaining passive. They preferred to prolong chaos and disorder rather than deviate from their ideologically rigid sanctuary stance.

It bears emphasizing, as FAIR's investigative report on *The June 2025 LA Anti-ICE Riots* did, that this unrest was not spontaneous, but was rather a premeditated and coordinated campaign of disruption. Evidence from public records and news reports demonstrates that domestic anti-borders groups and foreign actors played pivotal roles in financing and organizing the riots.

Disruption by Domestic Anti-Borders Groups

Several domestic actors were active amid the unrest in LA, including anti-borders organizations like the Coalition for Humane Immigrant Rights of Los

[11] Nick Butler, "Los Angeles Taxpayers to Foot Millions for 'Peaceful' Anti-ICE Protests," Fox News, June 21, 2025, https://www.foxnews.com/us/los-angeles-taxpayers-foot-millions-peaceful-anti-ice-protests.

[12] Kaylah Jackson, "Gavin Newsom Criticizes Trump's Protest Tactics and May Inflation Concerns: Morning Rundown," NBC News, June 11, 2025, https://www.nbcnews.com/news/us-news/gavin-newsom-criticizes-trumps-protest-tactics-may-inflation-concerns-rcna212246.

[13] Helen Jeong, "Trump Administration to Activate 2,000 Additional Military Troops to Los Angeles," NBC Los Angeles, June 17, 2025, https://www.nbclosangeles.com/news/local/trump-administration-to-send-2000-additional-military-troops-to-los-angeles/3726777/.

Angeles (CHIRLA) and the Hispanic Federation.[14] These entities have histories of advocating for reduced immigration enforcement and amnesty policies. Other notable groups involved in the disorder included the Immigrant Youth Coalition and Unión del Barrio, which are known for mobilizing against ICE operations and promoting "no borders" ideologies through direct action.[15]

Funding flows for these organizations often stem from substantial government grants and private donations.[16] For instance, CHIRLA received nearly $34 million in state grants from California in fiscal year 2023, and was also the beneficiary of private contributions from Soros-linked entities.[17] The Hispanic Federation has similarly benefited from over $20 million in annual donations, including from corporate sponsors and progressive philanthropies, enabling large-scale advocacy efforts.[18] These funds support operational costs, with CHIRLA allocating portions to protest-related expenses, as revealed in financial disclosures amid congressional probes.[19]

In organizing the riots, many of these groups provided "know your rights" training sessions, organized direct action efforts,[20] conducted "community self-defense" tactics against ICE operations,[21] furnished legal support for arrested participants,

[14] Hispanic Fed'n, "LA Leaders Push Back on Escalating Immigration Crackdowns and Spotlight Community Resilience at Launch of Hispanic Federation's California Office," press release, June 11, 2025, https://www.hispanicfederation.org/news/la-leaders-push-back-on-escalating-immigration-crackdowns-and-spotlight-community-resilience-at-launch-of-hispanic-federations-california-office/.

[15] Rachel Uranga, "Death Threats, Vandalism, Investigations: L.A. Immigrant Rights Groups in the Fight of Their Lives," *Los Angeles Times*, June 12, 2025, https://www.latimes.com/california/story/2025-06-12/la-immigrant-rights-advocates.

[16] Kenneth Schrupp, "California Funds $73.6M to Anti-Deportation Groups, Sparking GOP Audit Demand," The Center Square, June 12, 2025, https://wcti12.com/news/nation-world/california-funds-736m-to-anti-deportation-groups-sparking-gop-audit-demand-human-rights-immigration-raids-protests-los-angeles-trump-administration.

[17] H. Comm. on the Judiciary, "House Judiciary Committee Opens Probe into Taxpayer-Funded Group's Potential Ties to LA Anti-ICE Riots," June 24, 2025, https://judiciary.house.gov/media/in-the-news/house-judiciary-committee-opens-probe-taxpayer-funded-groups-potential-ties-la.

[18] ProPublica, "Hispanic Federation Inc (EIN 13-3573852)," Nonprofit Explorer, December 2024 filing, https://projects.propublica.org/nonprofits/organizations/133573852.

[19] Frank Stoltze, "GOP Senator Accuses LA Immigrant Rights Groups of Aiding 'Unlawful' Acts During Ongoing ICE Protests," LAist, June 11, 2025, https://laist.com/news/republican-senator-accuses-la-immigrant-rights-group-of-aiding-unlawful-acts-during-ongoing-ice-protests.

20 SEIU 721, "SEIU 721 Joins Allies to Launch the 'Summer of Resistance,'" press release, June 13, 2025, https://www.seiu721.org/2025/06/seiu-721-joins-allies-to-launch-the-summer-of-resistance.php.

[21] Suyapa Portillo Villeda, "The Battle for Immigrant Los Angeles," Migrant Roots Media, June 13, 2025, https://www.migrantrootsmedia.org/articles/2025/6/13/the-battle-for-immigrant-los-angeles.

and distributed bail funds to release detainees quickly, facilitating sustained unrest.[22] For example, CHIRLA organized manifestations and supplied resources like transportation and supplies,[23] while the Hispanic Federation coordinated with partners to defend protesters publicly and legally.[24] These activities not only amplified participation by agitators, but also shielded organizers from immediate consequences.

Intervention by Foreign Actors and Agendas

Parallel to the domestic agitators, there was also evidence of foreign involvement in the LA unrest. This included foreign funding channeled through proxies and influence operations designed to exacerbate domestic divisions on immigration – especially from Chinese Communist Party (CCP)-affiliated groups that were possibly used for protest amplification.[25] For example, Neville Singham (a U.S. billionaire in China with CCP ties) funded groups like the Party for Socialism and Liberation, which was involved in the LA unrest.[26] Reports describe a "dark money network" sending millions to far-left entities advancing CCP propaganda and sowing discord on issues like immigration.[27] Foreign meddling with U.S. immigration enforcement was also evident from the Mexican government – which provided consular support to detained nationals and publicly condemned ICE operations (via Mexican president Claudia Sheinbaum), while allegedly facilitating activist networks through diplomatic channels.[28]

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[22] NBCLA, "Hispanic Federation Launches LA Office to Support Immigrant Rights Groups," YouTube, June 12, 2025, https://www.youtube.com/watch?v=B0_VAO2xIKw.

[23] CHIRLA, "Happening NOW! Immigrant communities & allies gather this evening for an Interfaith Prayer Vigil to call for an end to immigration raids...," Instagram Reel, June 11, 2025, https://www.instagram.com/reel/DKvh9fHojsY/.

[24] UnidosUS, "National Latino and Civil Rights Groups Denounce Federal Overreach in Los Angeles Raids," press release, June 11, 2025, https://unidosus.org/press-releases/national-latino-and-civil-rights-groups-denounce-federal-overreach-in-los-angeles-raids/.

[25] Julia Bonavita, "Feds Probing Protest Funding as Officials Drop Hammer on Violent LA Rioters," Fox News, June 17, 2025, https://www.foxnews.com/us/feds-probing-protest-funding-officials-drop-hammer-violent-la-rioters.

[26] Ashes, "Understanding the Financial Backing of LA's 2025 Anti-ICE Riots," Ashes on Air, June 11, 2025, https://ashesonair.org/2025/06/11/understanding-the-financial-backing-of-las-2025-anti-ice-riots/.

[27] H. Comm. on Oversight & Gov't Reform, "Letter to AG Bondi re: Neville Singham," June 13, 2025, https://oversight.house.gov/wp-content/uploads/2025/06/Letter-to-AG-Bondi-re-Neville-Singham-061325-1.pdf.

[28] Julieta Aragón, "35 mexicanos detenidos por redadas en Los Ángeles; 'no son criminales', dice Sheinbaum," Zeta Tijuana, June 8, 2025, https://zetatijuana.com/2025/06/35-mexicanos-detenidos-por-redadas-en-los-angeles-no-son-criminales-dice-sheinbaum/.

Sources also indicate that Mexican cartels benefit from and indirectly support conditions that maintain open migration routes in the United States, as these enable their smuggling operations. These foreign criminal actors benefit from disrupting immigration enforcement efforts and weakening border security – which facilitates human trafficking, drug flows, and economic leverage.[29] Meanwhile, foreign elements also gain from sustained remittances and reduced deportations, while adversaries like China exploit chaos to divert U.S. resources from geopolitical priorities.[30] This disruption undermines U.S. national security by allowing foreign influence to erode domestic stability and policy coherence on immigration.

The Nationwide Metastasis of Anti-Borders Chaos

The orchestrated disturbances in Los Angeles were so dramatic that unrest soon spread in a coordinated fashion to other cities across the United States.[31] For example, Chicago and its suburbs became a focal point for violent opposition to federal immigration enforcement – particularly around the Broadview ICE Processing Center (a key facility for booking and deporting illegal aliens).[32] As DHS expanded its operations in Illinois to target criminal aliens and fraud networks, protests escalated into riots. Agitators blocked access to the ICE Processing Center, assaulted federal agents, and interfered with law enforcement operations. From October 3 to November 18, 2025, crowds repeatedly clashed with law enforcement, using tactics such as barricades, projectiles, and physical confrontations, all of which resulted in injuries to officers and disruptions to immigration enforcement activities.[33]

[29] Wade Miller, "Policy Brief: Nongovernment Organizations' Complicity in Human Trafficking and the Southern Border Invasion," America Renewing, March 17, 2025, https://americarenewing.com/issues/policy-brief-nongovernment-organizations-complicity-in-human-trafficking-and-the-southern-border-invasion/.

[30] Matthew Tragesser, "Threat From China Is Growing at Our Southern Border," The Heritage Found., April 15, 2024, https://www.heritage.org/border-security/commentary/threat-china-growing-our-southern-border.

[31] Fed'n for Am. Immigration Reform, "FAIR Exposes Violent Anti-Borders Resistance That Justifies Decisive Federal Action," February 16, 2026, https://www.fairus.org/press-release/fair-exposes-violent-anti-borders-resistance-justifies-decisive-federal-action.

[32] Natasha Korecki, "How Immigration Enforcement Turned Sleepy Broadview into a Chaotic, Militarized Town," NBC News, October 13, 2025, https://www.nbcnews.com/news/us-news/broadview-illinois-ice-protests-chicago-immigration-rcna236519.

[33] Stephanie Wade et al., "Village of Broadview, IL Protest: 21 Arrested Outside ICE Facility as Protesters Clash with Police; 4 Officers Injured," ABC7 Chicago, November 15, 2025, https://abc7chicago.com/post/village-broadview-il-protest-several-detained-outside-ice-facility-protesters-push-designated-area-live/18154986/.

Chicago's longstanding sanctuary policies, which bar city employees from cooperating with ICE, amplified the unrest. Mayor Brandon Johnson publicly condemned the enhanced federal operations and urged residents to stand against law enforcement personnel.[34] Similar rhetoric from Illinois Governor J.B. Pritzker and local officials in Cook County (a major county in Illinois which includes Chicago and some of its adjacent suburbs) further inflamed tensions, creating an environment where protesters felt emboldened to obstruct federal law enforcement without fear.[35] The violence led to numerous arrests, delays in processing high-priority deportations, and economic impacts from property damage.

In Portland, Oregon, unrest also intensified in the fall of 2025 as federal immigration enforcement operations targeted alien smuggling networks and criminal elements in the region. Demonstrations outside an important ICE facility escalated into nightly riots featuring arson, laser attacks on officers, and attempts to breach secured areas.[36] A particularly violent episode occurred on October 22, 2025, when rioters firebombed a federal vehicle, injuring two agents. The unrest, which spanned from early October through mid-November, disrupted ICE deportations and endangered personnel, with reports of improvised explosives and physical assaults.[37]

Oregon's sanctuary laws, which prohibit state and local resources from being used for federal immigration enforcement, significantly exacerbated the chaos. Governor Tina Kotek and Portland Mayor Ted Wheeler denounced the federal actions and refused to provide state police support, creating a permissive environment for agitators.[38] This official rhetoric emboldened organized groups, often linked to anarchist networks, and led to weeks of sustained violence. Federal authorities

[34] Fran Spielman, "Mayor Johnson Signs Executive Order Declaring City-Owned Properties 'ICE-Free Zones,'" *Chi. Sun-Times*, October 6, 2025, https://chicago.suntimes.com/immigration/2025/10/06/mayor-brandon-johnson-executive-order-city-owned-properties-ice-free-zones.

[35] U.S. Dep't of Homeland Sec., "DHS Debunks Governor Pritzker's Harmful Lies About Operation Midway Blitz in Chicago," October 6, 2025, https://www.dhs.gov/news/2025/10/06/dhs-debunks-governor-pritzkers-harmful-lies-about-operation-midway-blitz-chicago.

[36] Joni Auden Land and Alejandro Figueroa, "Federal Officers Fire Tear Gas, Make Multiple Arrests During Protest Outside Portland ICE Facility," OPB, October 4, 2025, https://www.opb.org/article/2025/10/04/portland-ice-facility-protest/.

[37] Sara Roth and Kristyna Wentz-Graff, "Portland Protests Enter a New (Inflated) Era," OPB, October 17, 2025, https://www.opb.org/article/2025/10/17/portland-ice-immigration-customs-enforcement-oregon-protest-inflatable-national-guard/. Note: the ICE facility in question was located within the Lindquist Building.

[38] Gov. Tina Kotek, "31 Oregon Mayors Call for ICE to Halt Immigration Enforcement Actions Immediately," OPB, February 5, 2026, https://www.opb.org/article/2026/02/05/gov-tina-kotek-31-oregon-mayors-call-for-ice-to-halt-immigration-enforcement-actions-immediately/.

eventually declared unlawful assemblies and deployed reinforcements under existing powers, resulting in over 150 arrests.[39] Nonetheless, the incidents cemented Portland's reputation as a focal point for resistance to national immigration priorities.

Chaos in Minneapolis amid Operation Metro Surge

In December 2025, the Trump Administration launched Operation Metro Surge and deployed a contingent of ICE and CBP agents to the Twin Cities (Minneapolis and Saint Paul).[40] At first, the operation received little media attention and federal agents were met with minimal resistance. However, Minnesota was thrust into the national media when massive public benefits fraud was uncovered, particularly in the Somali community. These schemes involved child daycare programs that were siphoning half of $18 billion in taxpayer funds that were allocated for those services.[41]

Shortly after the new year, the Trump Administration responded to the news out of Minnesota by deploying an additional 2,000 ICE agents to the state. With these agents deployed, Operation Metro Surge officially became the largest DHS enforcement operation ever.[42] As a result, the media dedicated significant attention to covering the events in Minneapolis, and people congregated to protest federal immigration enforcement in the city. Others gathered with the intention of interfering with officers' ability to enforce the law.

It did not take long for tragedy to ensue. In the morning of January 7, 2026, ICE officers operating in Minneapolis had gotten their vehicle stuck in the snow. While attempting to remove the vehicle, several people began gathering around. Among them was Renee Good, a 37-year-old anti-borders activist known for her

[39] Troy Brynelson and Alex Zielinski, "Those Arrested at Portland ICE Protests Recount Disparate, Confusing Treatment by Federal Officers," OPB, December 3, 2025, https://www.opb.org/article/2025/12/03/protestors-arrested-at-portland-ice-facility-wait-months-without-charges/.
[40] U.S. Dep't of Homeland Sec., "ICE Arrests 'Worst of the Worst' Criminal Illegal Aliens During Operation Metro Surge," December 4, 2025, https://www.dhs.gov/news/2025/12/04/ice-arrests-worst-worst-criminal-illegal-aliens-during-operation-metro-surge.
[41] Hannah Fingerhut and Giovanna Dell'Orto, "Half of $18B in Federal Funds for Minnesota-Run Programs May Have Been Defrauded, Official Says," Associated Press, December 18, 2025, https://apnews.com/article/minnesota-fraud-charges-fbad68312012dc02a4060852474f72ee.
[42] "2,000 Federal Agents Sent to Minneapolis Area to Carry Out 'Largest Immigration Operation Ever,' ICE Says," PBS NewsHour, January 6, 2026, https://www.pbs.org/newshour/politics/2000-federal-agents-sent-to-minneapolis-area-to-carry-out-largest-immigration-operation-ever-ice-says.

involvement in "ICE watch" groups.[43] Good, who had a history of participating in organized efforts to monitor and disrupt federal operations, parked her SUV diagonally on the street to block the road. Attempting to clear the obstruction, federal officers approached the vehicle.[44] Good began to reverse her SUV while an officer attempted to open the driver door to remove Good. Suddenly, Good shifted her car into drive and lurched forward toward a second officer. As she sped forward, Ross reached for and drew his sidearm in self-defense, firing three shots through the windshield.[45] Good died from her injuries.

The death of Renee Good immediately stoked the already-inflamed tensions and engulfed the city in chaos. In response to these events, Minnesota officials encouraged residents to obstruct and interfere with ICE operations. Governor Walz encouraged citizens to use their phones to record federal officers conducting immigration enforcement operations in the state.[46] Walz stated that these videos would be used to "establish a record for future prosecutions" of federal officers. Walz also referred to Operation Metro Surge as a "federal occupation of Minnesota" and a "campaign of organized brutality against the people of our state." Further, Walz stated that "Minnesota's justice system will have the last word" on whether federal officials would be prosecuted for their actions while in the line of duty.

Tragically, amid these tensions, another fatality occurred. Around 9 a.m. on January 24, 2026, a group of activists, including Alex Pretti (a 37-year-old ICU nurse and vocal anti-borders advocate), confronted federal agents by a doughnut shop during an arrest attempt.[47] Pretti had prior encounters with ICE, including a January 13, 2026 incident captured on video where he harassed officers and

[43] "New Documents Shed Light on Renee Good's Ties to ICE Monitoring Efforts in Minneapolis," CNN, January 13, 2026, https://www.cnn.com/2026/01/13/us/renee-good-minneapolis-ice-monitoring-school-invs.

[44] "Video Analysis of ICE Shooting Sheds Light on Contested Moments," *N.Y. Times*, January 15, 2026, https://www.nytimes.com/2026/01/15/video/ice-shooting-renee-good-minneapolis-videos.html.

[45] David J. Harris Jr (@DavidJHarrisJr), "NEW: POV footage shows the Minneapolis ICE agent standing directly IN FRONT of the vehicle as Renee Good accelerated toward him. The left's lies are falling apart. The agent fired in self-defense." X, January 9, 2026, https://x.com/DavidJHarrisJr/status/2009686110763704429.

[46] Governor Tim Walz, "Governor Walz Statement on Third Shooting Involving Federal Agents in Minnesota," January 24, 2026, https://mn.gov/governor/newsroom/press-releases/?id=1055-720841.

[47] Gaby Vinick et al., "A Minute-by-Minute Timeline of the Fatal Shooting of Alex Pretti Involving Federal Agents," ABC News, January 26, 2026, https://abcnews.com/Politics/minute-minute-timeline-fatal-shooting-alex-pretti-federal/story?id=129547199.

kicked the taillight of a federal vehicle.[48] Outside the doughnut shop, Pretti approached closely, recorded the scene, and interfered by standing in agents' faces. As the altercation continued and intensified, one of the officers used pepper spray against Pretti.[49] Subsequently, three officers brought Pretti to the ground and held him down. During the struggle, an agent removed a gun that Pretti was carrying. Almost immediately, shots were fired – initially appearing accidental, but followed by additional rounds from two federal officers. Pretti succumbed to his injuries, marking the second U.S. citizen death linked to the unrest.

In both the Renee Good and Alex Pretti cases, investigations are still ongoing into the exact circumstances of both shootings. Nevertheless, based the available evidence and public reporting on these incidents, it appears that both anti-borders activists may still be alive today had they not made the unfortunate decisions to obstruct immigration enforcement operations.

Countering Political Obstruction, Criminal Resistance, and Terrorism

As the events in Los Angeles, Chicago, Portland, and Minneapolis show, elected officials have compounded the problem through both inflammatory rhetoric and, in some cases, direct physical interference with federal agents. A prominent example involved Kat Abughazaleh, (a former Media Matters journalist and progressive Democratic congressional candidate in Illinois), who was federally charged with conspiring to impede federal operations and assaulting an ICE officer during protests at the Broadview facility in Chicago.[50] Ilhan Omar, who represents the Minneapolis area in Congress, was likewise accused of inciting violence by attacking ICE and stressing that "we are going to make sure that these people pay for what they have done to us."[51] New York representative Dan Goldman, for his

[48] Anton Daniels, "New Footage of Alex Pretti Assaulting ICE Officers and Kicking Out Tail Lights of Government Vehicles," YouTube, January 29, 2026, https://www.youtube.com/watch?v=O-_ndG5UUpM.

[49] "Videos and Witness Accounts Detail Fatal Shooting of Alex Pretti in Minneapolis," CNN, January 25, 2026, https://www.cnn.com/2026/01/25/us/alex-pretti-shooting-minneapolis-videos-witnesses-invs.

[50] "Former Media Matters Journalist, Progressive Congressional Candidate Charged for Allegedly Assaulting an ICE Officer," Breitbart, October 30, 2025, https://www.breitbart.com/politics/2025/10/30/former-media-matters-journalist-progressive-congressional-candidate-charged-for-allegedly-assaulting-an-ice-officer/.

[51] "Omar Ripped for 'Inciting Violence' After Minneapolis ICE Shooting: 'Make Sure These People Pay,'" Fox News, January 13, 2026, https://www.foxnews.com/politics/omar-ripped-inciting-violence-after-mn-ice-shooting-make-sure-people-pay.

part, downplayed the threat to law enforcement by tweeting that "[e]ven if the officer were run over, it's not domestic terrorism," adding that the administration was allegedly "inciting untrained thugs to murder Americans."[52]

Illegal alien criminals have likewise shown a brazen willingness to injure or kill officers to evade removal. In June 2025, Gabriel Hurtado-Cariaco, a Venezuelan national and suspected Tren de Aragua gang member, was charged with the attempted murder of a federal officer after violently attacking agents during an arrest in Nebraska.[53] Multiple other incidents involved criminal aliens ramming law enforcement vehicles during ICE operations, including a high-profile case in California that forced an agent to fire in self-defense.[54] Although there is a long history of illegal alien criminals attempting to injure or even kill immigration and other law enforcement agents, the hyper-intense anti-enforcement rhetoric and climate from anti-borders radicals generated a uniquely dangerous and permissive atmosphere emboldening criminals to violently resist. For instance, the vice mayor of the Los Angeles suburb of Cudahy dared criminal gangs in the area to fight officers working for ICE, which she dubbed "the biggest gang there is."[55] Such words no doubt made violent illegal alien criminals feel vindicated in their brutal and lawless actions. They also cut deep to the philosophical core of the radical anti-borders ideology, which views gang members and violent criminals as greatly preferable to immigration enforcement agents.

Terrorist-style threats and attacks have also targeted ICE directly. In September 2025, a sniper attacked the ICE field office in Dallas from a nearby rooftop, killing one detainee and critically wounding two others.[56] As so often happens during periods of revolutionary unrest, groups that the revolutionaries purport to help also become victims of the revolution. The shooter left anti-ICE messages inscribed on ammunition and notes declaring his intent to "cause terror" against immigration

[52] Jack Posobiec (@JackPosobiec), "The masks are all coming off. Look at what this Democrat congressman just said about our ICE officers." X, January 7, 2026, https://x.com/JackPosobiec/status/2009030123530399926.

[53] U.S. Dep't of Justice, "Venezuelan National and Suspected Tren de Aragua Member Charged with Attempted Murder of Federal Officer," June 20, 2025, https://www.justice.gov/opa/pr/venezuelan-national-and-suspected-tren-de-aragua-member-charged-attempted-murder-federal.

[54] "Federal Agent Opened Fire in California after Suspect 'Rammed Law Enforcement': DHS," Fox News, January 21, 2026, https://www.foxnews.com/us/dhs-alleges-criminal-illegal-alien-rammed-law-enforcement-california-operation-agent-fired-weapon.

[55] Fed'n for Am. Immigration Reform, "Open-Borders Radical Politician Promotes Violence by Daring Gangs to Fight ICE," June 30, 2025, https://www.fairus.org/blog/2025/06/30/open-borders-radical-politician-promotes-violence-daring-gangs-fight-ice.

[56] Fed'n for Am. Immigration Reform, "After Dallas Attack, Trump Administration Demands End to Anti-ICE Rhetoric," October 1, 2025, https://www.fairus.org/news/executive/after-dallas-attack-trump-administration-demands-end-anti-ice-rhetoric.

enforcement. These acts of violence have been accompanied by deliberate hoaxes, such as the case of a Mexican national who staged her own kidnapping by ICE agents in an attempt to slander immigration enforcement and solicit donations.[57] Protesters in Minneapolis, meanwhile, were quoted as saying "we have to show up with guns and end this" in reference to ICE operations in the city.[58] And in New York City, chants such as "Kristi Noem will hang" and "save a life, kill an ICE" also made an appearance.[59] Such tactics reveal a broader strategy of intimidation and disinformation designed to undermine public support for the rule of law.

In FAIR's recent investigative report titled *Quelling the Insurrection against Immigration Enforcement*, we provided an in-depth legal and factual assessment of this nationwide pattern of violent resistance, sanctuary defiance, and politicized obstruction directed against national immigration priorities.[60] Specifically, the report highlighted how laws like the Insurrection Act empower federal intervention when "unlawful obstructions, combinations, or assemblages" render the ordinary enforcement of federal law impracticable, or when conspiracies are afoot to obstruct federal authority and deprive individuals of rights secured by the Constitution.[61] The report concluded that, under those authorities, the Trump administration has strong legal grounds for decisive action to fully suppress these violent challenges to the rule of law.

Conclusion: Lessons for the West

The anti-borders campaign to undermine immigration enforcement constitutes a direct assault on a foundational pillar of American civilization. By shielding criminal aliens, intimidating law enforcement, and prioritizing ideology over

[57] Fed'n for Am. Immigration Reform, "Illegal Alien Stages Kidnapping Hoax to Slander Immigration Enforcement," July 24, 2025, https://www.fairus.org/blog/2025/07/24/illegal-alien-stages-kidnapping-hoax-slander-immigration-enforcement.

[58] AWR Hawkins, "ICE Protester: We Have to 'Show Up with Guns and End This,'" Breitbart News, January 9, 2026, https://www.breitbart.com/2nd-amendment/2026/01/09/ice-protester-we-have-to-show-up-with-guns-and-end-this/.

[59] Melissa Koenig, Katrina Schollenberger, and Rachel Bowman, "Protesters Chant 'Save a Life, Kill an ICE' in NYC as 100 More Agents Descend on Minneapolis after Shooting," *The Daily Mail*, January 9, 2026, https://www.dailymail.co.uk/news/article-15445847/minneapolis-minnesota-ice-shooting-renee-nicole-good-woman-shot-killed-live-updates.html.

[60] Fed'n for Am. Immigration Reform, *Quelling the Insurrection against Immigration Enforcement*, February 16, 2026, https://www.fairus.org/sites/default/files/2026-02/Investigative-Report-on-the-Insurrection-Act.pdf.

[61] 10 U.S.C. §§ 251–255, https://www.law.cornell.edu/uscode/text/10/subtitle-A/part-I/chapter-13.

citizen safety, radicals seek to force the Trump administration to retreat on its promise to uphold the rule of law. This cannot be permitted, both as a matter of principle and pragmatism – because concessions will be interpreted by extremists as weakness and will only embolden the radicals, thereby further escalating rather than de-escalating the situation.

European observers should draw clear lessons from this recent American experience. Analogous patterns of activist obstruction, sanctuary-style non-cooperation, and politicized resistance to border enforcement are evident across the continent. Successful Western societies, if they wish to remain successful and well-functioning, require the unapologetic enforcement of immigration laws, irrespective of radical opposition. Yielding invites chaos, while upholding the rule of law preserves the ordered liberty that attracts lawful migrants worldwide. Consistent immigration enforcement, backed by necessary legal tools when local authorities falter, is indispensable to safeguarding the principles that define civilized nations.

Perhaps most importantly, both Americans and Europeans must understand that immigration enforcement, especially when criminals and radicals violently resist and obstruct, will not always look clean and pretty. Indeed, as this article has shown, extremists such as America's professional anti-ICE protesters, will do their best to make enforcement look as bad as possible. However, if citizens desire a better future for themselves and their children, they cannot allow themselves to be emotionally manipulated or morally blackmailed. Immigration enforcement is an indispensable part of law enforcement.

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The Direct Impact of Trump's Re-election on Cuban Migration Trends

by Jerez Michel Navarro and Róbert Gönczi

Abstract

This article examines the transformation of Cuban migration after Donald Trump's return to the White House in 2025, focusing on how tightening U.S. immigration policy has reshaped the geography and legal pathways of the Cuban exodus. Against the backdrop of Cuba's deepening demographic, economic, and political crisis, the study argues that restrictive U.S. measures have not ended Cuban emigration but have redirected and diversified it. The suspension of humanitarian parole programmes, increased deportations, restrictions on visa issuance, and the erosion of Cuba's long-standing exceptional position within U.S. immigration policy have substantially reduced access to the United States. Drawing on migration, asylum, residence, and population data, the article traces the resulting expansion of alternative destinations and routes across Latin America and Europe. The article pays particular attention to Mexico, Brazil, and Uruguay, which have emerged as increasingly important destinations, as well as to Spain, whose historical ties, citizenship legislation, and established Cuban diaspora make it the principal European alternative. The article demonstrates how Cuban migrants adapt to changing immigration regimes through transnational networks, alternative legal statuses, citizenship pathways, and shifting transit routes. It concludes that the post-2025 period represents not the end of Cuba's contemporary exodus, but a structural reorientation from a predominantly U.S.-centred migration system towards a more geographically diversified pattern.

Keywords: Cuban migration; United States immigration policy; Donald Trump; Latin America; Cuban diaspora

Cuba is losing people at a pace that is reshaping the country's social, political and economic foundations. Between 2021 and 2024, more than 2.3 million people

left the island, according to Cuban academic Juan Carlos Albizu-Campos.[1] This figure may represent the largest demographic exodus in Cuba's modern history, a form of collective exit often described as "voting with their feet." The authorities, however, acknowledged the departure of just over one million people.[2] Albizu-Campos argues that official statistics have systematically understated emigration, concealing the depth of a multidimensional crisis confronting a communist regime that has governed the island for 67 years. Whatever the actual figure may be, the majority of this migratory flow was headed for the United States.

However, in 2025 Donald Trump returned to the White House promising to close the border and carry out the most extensive deportation campaign in United States history. His victory also drew strong support from the Cuban American community. The Florida International University Cuba Poll found that a record 68 per cent of likely Cuban American voters in Miami-Dade intended to vote for Trump.[3] That political choice soon had consequences for the diaspora itself. Once in office, Trump began dismantling the migration channels that had made the United States the principal destination for successive generations of Cuban emigrants.

The result was not the end of the outflow, but its reorganisation. From 2025 onwards, the exodus entered a new phase of adaptation as access to the United States was restricted. Overall, departures slowed for reasons that extended beyond the measures adopted by Trump. By this stage, many Cubans with the financial resources, family networks and physical capacity to migrate had already left during the previous wave. Those who stayed behind are still looking for viable ways to leave the island. Increasingly, they redirected their journeys towards Latin America and, to a lesser extent, Europe.

[1] Juan Carlos Albizu-Campos Espiñeira, "Cuba: ¿Crisis demográfica o sistémica?" ["Cuba: Demographic or Systemic Crisis?"], *Centro Cristiano de Reflexión y Diálogo*, September 2025, https://horizontecubano.law.columbia.edu/sites/horizontecubano.law.columbia.edu/files/content/docs/JCAC%20Poblaci%C3%B3n%20y%20Migraci%C3%B3n%20(largo)%20(ed).pdf.

[2] Yuniel Labacena Romero, "Cuba Cerró 2024 con una Población Efectiva de 9 748 532 Habitantes" ["Cuba Ended 2024 with an Effective Population of 9,748,532 Inhabitants"], *Granma*, February 21, 2025, https://www.granma.cu/cuba/2025-02-21/cuba-cerro-2024-con-una-poblacion-efectiva-de-9-748-532-habitantes-21-02-2025-21-02-54.

[3] Madeline Baro, "FIU Cuba Poll 2024: Cuban American Voters' Support for Trump at an All-Time High," *FIU News*, October 23, 2024, https://news.fiu.edu/2024/fiu-cuba-poll-2024-cuban-american-voters-support-for-trump-at-an-all-time-high.

What Trump Changed after 2025

For decades, Washington granted Cuban nationals a form of legal exceptionalism unavailable to most other Latin American migrants. The Cuban Adjustment Act formed the foundation of this system, allowing Cubans who were admitted or paroled into the United States to apply for permanent residence after one year of physical presence and, later, for US citizenship. These privileges gradually narrowed over time. In the final days of his presidency, Barack Obama ended the "wet foot, dry foot" policy, which had allowed Cubans who reached US territory to remain. Yet Cubans continued to benefit from other legal mechanisms, while deportations remained difficult because the Cuban government frequently refused to readmit its nationals.

This exceptionalism coexisted with internal restrictions imposed by an authoritarian state that had long treated emigration as political disloyalty.[4] Cubans who left could lose their property, inheritance rights and residency status, effectively becoming foreigners in their country of birth. They also needed an exit permit from the Ministry of the Interior. For US$150, the permit remained beyond the reach of much of the population and allowed the authorities to decide who could leave the island. The 2013 migration reform abolished the exit permit, but it did not, in practice, establish freedom of movement. Cubans still had to obtain a passport, secure a visa, purchase an increasingly expensive flight and gain access to foreign currency. In 2026, Cuban passport holders could enter only 57 countries without obtaining a visa in advance, giving Cuba the second weakest passport in the Americas after Haiti. Fewer than ten of these destinations were located in the Americas. Those countries therefore became essential entry points into longer migration routes towards the United States.

By the early 2020s, US policy had introduced new administrative channels to manage the pressure created by migrant caravans at the southern border. The Biden administration introduced a separate humanitarian parole process for Cubans, Haitians, Nicaraguans and Venezuelans, allowing eligible applicants with a US-based sponsor to seek advance authorisation to travel to the United States. It also used the CBP One mobile application to schedule appointments for migrants seeking to present themselves at official ports of entry. These measures sought to replace irregular crossings with controlled admission. They also became the first targets of Donald Trump's second administration.

[4] *Diario de Cuba*, "Los Cubanos, los Emigrados que Más se Acogen a la Nacionalidad en Ecuador en 2021" ["Cubans Are the Migrants Most Likely to Obtain Ecuadorian Nationality in 2021"], December 27, 2021, https://diariodecuba.com/cuba/1640560282_36423.html.

This policy shift can be outlined in four key actions, each of which weakens Cuban exceptionalism and integrates them into the broader immigration enforcement framework. A major change was the suspension and near-termination of the CHNV humanitarian parole program, which allowed them to legally enter the U.S. with sponsor support and receive temporary work permits. Over 530,000 people, including roughly 110,900 Cubans, were affected.[5] Another significant development was expanding deportability after losing legal status – migrants with revoked parole or work authorisation became more vulnerable to detention and removal unless they had another valid immigration status. This suggests an effective "de-legalisation" of individuals who were previously able to remain in the U.S. lawfully.[6] Additional restrictions included delaying or suspending immigration applications by nationals of certain countries, such as Cuba, thereby impacting access to work permits, permanent residence, family immigration benefits, naturalisation, asylum, and withholding of removal. Although courts later ruled that these policies exceeded USCIS's authority and unfairly penalised applicants based on nationality, they caused legal uncertainty for applicants.[7] Lastly, the administration aimed to boost detention and deportation efforts through policies such as "catch-and-detain," expanded expedited removal, increased ICE operations, and significant increases in DHS and ICE funding.[8]

Deportation statistics serve as a vital empirical foundation for assessing the decline of Cuban exceptionalism, illustrating how Cuban nationals are increasingly affected by the enforcement priorities and removal strategies of current U.S. immigration policy. The data clearly demonstrate this policy evolution, with the Trump administration deporting significantly more Cuban nationals during the first seventeen months of its second term than in the entire first term. Nearly 8,000 Cuban migrants were deported after Trump's return to office, compared to 3,385 deportations from 2017 to 2021. Of these, 1,668 were sent directly to Cuba during the second term, bringing the total Cuban deportations under both Trump

[5] U.S. Citizenship and Immigration Services, "DHS Implements New Processes for Cubans, Haitians, and Nicaraguans and Eliminates Cap for Venezuelans," January 6, 2023, https://www.uscis.gov/newsroom/alerts/dhs-implements-new-processes-for-cubans-haitians-and-nicaraguans-and-eliminates-cap-for-venezuelans.

[6] U.S. Citizenship and Immigration Services, "Humanitarian or Significant Public Benefit Parole for Aliens Outside the United States," accessed July 1, 2026, https://www.uscis.gov/humanitarian/humanitarian_parole.

[7] Justice Action Center, "Svitlana Doe v. Noem (Humanitarian Parole Termination)," case page, accessed July 1, 2026, https://justiceactioncenter.org/case/svitlana-doe-v-noem/.

[8] The White House, "Protecting the American People against Invasion," presidential action, January 20, 2025, https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-american-people-against-invasion/.

administrations to 5,053.[9] Interestingly, while Cuban Americans in Florida became one of Trump's strongest electoral groups in the 2024 election, Cuban nationals themselves face increased immigration enforcement and deportation activities by the administration.[10]

Deportation doesn't always mean a direct return to Cuba. Many Cubans are sent to Mexico, where they often face poor living conditions, legal issues, and increased risks from criminal groups. Others are transferred to third countries; in 2025, at least 3,757 Cubans deported from the U.S. were moved to countries such as Mexico and Eswatini.[11] This shows the growing international scope of U.S. deportation practices. A significant event occurred on 9 February 2026, when an ICE flight deported 170 Cuban nationals with criminal records to Havana, reportedly the first large-scale acceptance of such deportees by Cuba in decades.[12] By April, this number had risen to nearly 8,000 Cuban nationals.

Once parole and irregular border entry ceased to offer a route to regularisation, the Cuban Adjustment Act remained most accessible to two groups: Cubans admitted with visas and dual nationals who entered on a second passport, most notably members of the sizeable Cuban-Spanish community. The latter route had already been severely restricted after Washington redesignated Cuba as a State Sponsor of Terrorism on 12 January 2021. Cuban dual nationals could no longer use the Visa Waiver Programme and enter with an ESTA, even when travelling on the passport of a participating country such as Spain. They instead need to apply for a formal US visa at an embassy or consulate in their country of residence. This subjected them to a slower, more discretionary process, with limited prospects for approval. The designation therefore closed one of the few remaining indirect routes to eventual regularisation.

The administration then restricted the remaining legal routes available to Cubans travelling directly from the island. A presidential proclamation issued on 4 June

[9] Joseph Contreras, "Living in Fear of a Knock at the Door: The Cubans Being Deported under Trump," *The Guardian*, June 14, 2026, https://www.theguardian.com/us-news/2026/jun/14/trump-administration-cuban-deportations.

[10] Florida International University, Steven J. Green School of International and Public Affairs, Institute for Cuban Studies, "FIU Cuba Poll," accessed July 1, 2026, https://ics.fiu.edu/research/fiu-cuba-poll/.

[11] Carla Gloria Colomé, "Trump's Plans for Cubans in the US: 'Maybe They Want to Go Back. They're Going to Have That Choice,'" *EL PAÍS English*, February 25, 2026, https://english.elpais.com/international/2026-02-25/trumps-plans-for-cubans-in-the-us-maybe-they-want-to-go-back-theyre-going-to-have-that-choice.html.

[12] Hannah Aguilar, "170 Cubans Sent Back in First Deportation Flight of the Year from the U.S.," *CubaHeadlines*, February 10, 2026, https://cubaheadlines.com/articles/320528.

2025 suspended the entry of Cuban nationals under immigrant visas and several non-immigrant categories, including B-1, B-2, F, M and J visas, subject to specific exemptions. The White House justified the measure partly by citing Cuba's limited cooperation in accepting nationals ordered to leave the United States. At the end of 2025, the administration closed another established channel by terminating the family reunification parole processes, including the remaining programme for Cubans. By this point, the government had weakened almost every major route through which Cubans could enter legally, request admission at the border or regularise their status after arrival.

The effect was immediate. According to the International Organisation for Migration's 2025 bulletin for Mexico, encounters at the southern border of the United States fell from 1,646,242 in 2024 to 179,828 in 2025, a decline of 89 per cent. Encounters involving Cuban nationals declined even more sharply, from 131,491 to 7,195.

At the same time, the administration responded to a long-standing demand within parts of the established Cuban exile community by targeting individuals linked to the regime's elite and repressive institutions. Community representatives had repeatedly called for tighter scrutiny of recent arrivals, citing cases involving relatives of senior officials, former state employees associated with the apparatus of repression and individuals who continued to defend the regime after settling in the United States. [13] [14] Over time, these concerns created a widespread perception that official indifference had allowed the Cuban state to penetrate exile spaces.

The case of Jorge Luis Vega García illustrates the underlying concern. Vega García, a former lieutenant colonel in Cuba's Ministry of the Interior, entered the United States legally through humanitarian parole in January 2024. Former political prisoners identified him as a senior official at the Agüica and Canaleta prisons and accused him of overseeing beatings, prolonged punishment and the persecution of political detainees. Their denunciations led to public pressure, an immigration investigation and his arrest in August 2025. US authorities deported him to Cuba on 6 November.

[13] *14ymedio*, "Un ex alto cargo del PCC, que llegó a EE UU con el 'parole', se autodeporta a Cuba" ["A Former Senior PCC Official Who Arrived in the United States through Parole Self-Deports to Cuba"], April 3, 2025, https://www.14ymedio.com/cuba/ex-alto-cargo-pcc-llego_1_1112706.html.

[14] *Diario de Cuba*, "Llega a Miami por Reunificación Familiar un Exmiembro del Comité Central del Partido Comunista de Cuba" ["A Former Member of the Central Committee of the Communist Party of Cuba Arrives in Miami through Family Reunification"], August 16, 2024, https://diariodecuba.com/cuba/1723799770_56622.html.

Yet the resulting policies extended far beyond people with documented links to the regime. The policy restrictions soon exposed the vulnerability of prominent figures in the new exile. In April 2025, US authorities denied permanent residence to Eliécer Márquez Duany, known as El Funky, one of the artists behind Patria y Vida. This song became an anthem of Cuba's 2021 protest movement. He was ordered to leave the United States within 33 days. Journalist and former political prisoner Lázaro Yuri Valle Roca, along with human rights activist Eralidis Frómeta, received similar notices after the administration terminated the CHNV parole programme.

Two features of the current dynamic deserve particular attention. First, the regime's willingness to accept deportees reflects a strategy of concession designed to ease wider diplomatic, economic and political pressure from Washington and, ultimately, to preserve its own survival. Second, although recent measures have substantially dismantled Cuban legal exceptionalism in the United States, the core Cuban-American electorate in Florida remains predominantly Republican and continues to support Trump's wider agenda, particularly his strategy of increasing pressure on Havana in the hope of provoking political change on the island.

The Exodus towards Latin America

Cuban migration to Latin America is not new. After the communist regime took power in 1959, Mexico and Venezuela became two of the main destinations for Cubans seeking refuge outside the island.[15] Another major movement came in 2008, when Ecuador, under President Rafael Correa, adopted a visa-free policy that included Cuban citizens.[16] An estimated 100,000 to 120,000 Cubans[17] entered the country, and many obtained residence there. Yet the later trajectory of that Cuban community in Ecuador reveals a persistent feature of Cuban migration in Latin America. When conditions allowed it, most Cubans eventually moved towards the United States, often crossing the Darién Gap and continuing northwards, making

[15] Jorge Duany, "Cuban Migration: A Postrevolution Exodus Ebbs and Flows," *Migration Information Source*, Migration Policy Institute, July 6, 2017, https://www.migrationpolicy.org/article/cuban-migration-postrevolution-exodus-ebbs-and-flows. (migrationpolicy.org)

[16] Luisa Eline Freier, Ahmed Correa Álvarez, and Valeria Arón, "El sufrimiento del migrante: la migración cubana en el sueño ecuatoriano de la libre movilidad" ["Migrant Suffering: Cuban Migration in the Ecuadorian Dream of Free Mobility"], *Apuntes: Revista de Ciencias Sociales* 46, no. 84 (April 2019): 95–125, https://www.redalyc.org/articulo.oa?id=684078237004.

[17] Diario de Cuba, "Los Cubanos, los Emigrados que Más se Acogen a la Nacionalidad en Ecuador en 2021."

Latin America the first leg of a long and dangerous journey that ended on the banks of the Rio Grande.

At present, three factors make this South-South migration a more attractive option– first, the role played by the community already established there. Over the past 25 years, thousands of doctors, professionals and technicians have worked across the region through contracts managed by the Cuban state. Many deserted those missions, settled in host countries and later brought relatives.[18] Over time, they created family and social networks that eased the arrival and integration of new Cuban migrants.

Second, the importance of 'accessibility' when citizens hold a low-ranked passport. Obtaining a visa for a Latin American country is slightly easier than securing entry to the European Union or any other developed country. Yet, it can still be bureaucratic, costly and uncertain. Visa-free access to countries such as Guyana and Nicaragua created cheaper alternative routes for leaving the island. Many of these routes became linked to smuggling networks that, for a fee, moved migrants towards their preferred destination.

Third, the most important driving force remains the diaspora itself. As the Cuban population abroad grew, especially in the United States, more families gained the resources to finance departures from the island. The deepening social, political and economic crisis in Cuba gave that support greater urgency. Relatives abroad became willing to pay the sums required by smugglers so their families and friends could leave.

Since 2025, Mexico, Brazil and Uruguay have emerged as the principal destinations for Cuban migrants. Mexico has undergone the clearest transformation: once the penultimate stage of a route that began in Nicaragua, it has become a destination in its own right. In 2025, 99,697 Cuban nationals entered Mexico by air; 2,229 obtained temporary residence, 5,469 obtained permanent residence, and 3,870 obtained a Visitor Card for Humanitarian Reasons (TVRH). That same year, the Mexican authorities registered a further 12,971 people in an irregular migration situation in the country. These figures reflect Mexico's growing role as both a settlement hub and a practical base for Cubans who use Mexican residence documents to travel, reunite with relatives and purchase goods that remain scarce or unaffordable on the island.

[18] Marcelo Silva de Sousa, "Médicos cubanos desertan y deciden quedarse en Brasil" ["Cuban Doctors Desert and Decide to Remain in Brazil"], *AP News*, November 26, 2018, https://apnews.com/article/fd029f2c953a49e3af67a3e2bc37abff.

Migration to Brazil is more recent than the Cuban movement towards Mexico and remains closely linked to the presence of Cuban doctors who worked there under the Mais Médicos programme. During Trump's first administration, Brazil also emerged as an alternative destination for Cubans unable to reach the United States, often using visa-free Guyana as a gateway into South America. The true size of the Cuban population in Brazil remains difficult to establish. Complex regularisation procedures have left a significant proportion of migrants without stable legal status, making official residence figures an incomplete measure of the community's size. Asylum applications nevertheless offer an indication of the scale of the movement. Between the beginning of the current migration crisis in 2021 and May 2026, 99,779 Cubans applied for asylum in Brazil.[19] Of these applications, 22,288 were submitted in 2024, 41,919 in 2025 and 16,982 during the first five months of 2026. Together, the applications lodged since January 2025 account for 59 per cent of all Cuban asylum claims filed in Brazil since 2021. Available reporting suggests that only a limited proportion of Cuban applicants obtain refugee status.[20] This equates to a maximum rate of just 0.009 per cent, or approximately one grant for every 10,700 applications. For many, asylum therefore functions as a temporary legal shield while they seek another route to regularisation.

Cuban migration to Uruguay initially resembled the Brazilian pattern, with the first major wave emerging during Trump's first administration and many migrants entering irregularly through land borders. For instance, in 2019 alone, 10,853 Cubans applied for asylum.[21] However, Uruguay's comparatively accessible regularisation system soon changed the nature of the movement. For 2025, official data show that 14,959 Cuban nationals had entered the country without a registered departure. Of them, 13,852 were issued a Uruguayan identity card for the first time,[22] as the law allows applicants to obtain one while a residence

[19] Observatório das Migrações Internacionais (OBMigra), *Solicitações de Refúgio: Sisconare–CG-CONARE* [*Asylum Applications: Sisconare–CGCONARE*], interactive database, accessed June 30, 2026, https://app.powerbi.com/view?r=eyJrIjoiMjZlNDFiZjgtOTJhYS00ZWNjLTg3MzMtN-TNiN2YyYTczNmM2IiwidCI6ImVjMzU5YmExLTYzMGItNGQyYi1iODMzLWM4ZTZkN DhmODA1OSJ9&pageName=2a555d64be07f5353cb1

[20] DDC, "Los cubanos presentaron casi el 60% de las solicitudes de refugio registradas en Brasil en cuatro meses" ["Cubans Submitted Nearly 60 Percent of Refugee Applications Registered in Brazil over Four Months"], *Diario de Cuba*, June 4, 2026, https://diariodecuba.com/cuba/1780573827_67283.html.

[21] Observatorio de Movilidad, Infancia y Familia (OMIF), Facultad de Ciencias Sociales, Universidad de la República, *Observatorio de Movilidad, Infancia y Familia: Registros Administrativos* [*Observatory of Mobility, Childhood and Family: Administrative Records*], interactive database, accessed June 30, 2026, https://bancodedatos-fcs.shinyapps.io/OMIF-UNICEF/.

[22] Tomer Urwicz, "La escasez y los apagones en la isla llevan a que Uruguay esté recibiendo la mayor cantidad de cubanos de la historia" ["Shortages and Power Outages on the Island Lead Uruguay

application is pending or under certain asylum-related statuses. Within this broader group, 6,219 Cubans were granted permanent residence,[23] while a further 4,617 permanent-residence applications were initiated,[24] mainly through employment-based and family reunification pathways.

The Cuban diaspora has established itself rapidly in Uruguay, attracted by the country's security, political and economic stability, and comparatively accessible routes to regularisation.[25] A study published by Uruguay's Ministry of Labour and Social Security and the Faculty of Social Sciences at the University of the Republic found that within the Cuban diaspora, 91 per cent of men and 68 per cent of women were employed.[26] This degree of labour-market participation has helped consolidate a community that is both economically active and increasingly visible in public life.

The concentration of Cubans in and around Montevideo has facilitated the development of a politically active community committed to democratic change in Cuba. This mobilisation intensified in 2019, when local activists established closer links with the Cuban diaspora in Miami and became more exposed to its media networks and political environment. As Lidier Hernández, a human rights activist and prominent member of the community, observed, these connections gave greater impetus to existing activism. For him, this process culminated in

to Receive the Largest Number of Cubans in Its History"], *El Observador*, February 7, 2026, https://www.elobservador.com.uy/nacional/la-escasez-y-los-apagones-la-isla-llevan-que-uruguay-este-recibiendo-la-mayor-cantidad-cubanos-la-historia-n6033685.

[23] Uruguay, Ministerio del Interior, *Residencias concedidas 2025* [*Residences Granted, 2025*], cuadro 9.01, "Residencias permanentes concedidas por nacionalidad" ["Permanent Residences Granted by Nationality"], published May 2026, https://www.gub.uy/ministerio-interior/sites/ministerio-interior/files/2026-05/Residencias%20concedidas%202025.pdf.

[24] Uruguay, Ministerio del Interior, *Residencias iniciadas 2025* [*Residences Initiated, 2025*], cuadro 8.13, "Residencias permanentes por arraigo laboral iniciadas por nacionalidad" ["Permanent Residences Initiated through Employment-Based Rootedness, by Nationality"], published June 2026, https://www.gub.uy/ministerio-interior/sites/ministerio-interior/files/2026-06/Residencias%20Iniciadas%202025.pdf.

[25] Alejo Savio, "Uruguay, el destino elegido por los cubanos que huyen de los apagones y la crisis alimentaria" ["Uruguay, the Destination Chosen by Cubans Fleeing Power Outages and the Food Crisis"], *Refugio Latinoamericano*, March 31, 2026, https://refugiolatinoamericano.com/informes-uruguay-el-destino-elegido-por-los-cubanos-31032026/.

[26] Sabrina Ferrando, Mariana Ferrer, Gonzalo Garrido, Clara Márquez, and Victoria Prieto, *Inmigración reciente en Uruguay 2022–2024* [*Recent Immigration in Uruguay, 2022–2024*] (Montevideo: Unidad Estadística del Trabajo y la Seguridad Social, Ministerio de Trabajo y Seguridad Social, and Facultad de Ciencias Sociales, Universidad de la República, February 2026), https://www.gub.uy/ministerio-trabajo-seguridad-social/sites/ministerio-trabajo-seguridad-social/files/documentos/noticias/_%20%284%29.pdf.

the creation of Free Cubans in Uruguay (Cubanos Libres en Uruguay), founded by Elianis Rodríguez and Alicia Alonso together with other members of the community. Through the association, Cuban activists have lobbied the Uruguayan government to denounce human rights violations and repression on the island.

Two additional factors can also explain the community's political activism. First, several well-known Cuban YouTubers and online commentators who had publicly criticised the regime chose Uruguay as a temporary destination after the repression that followed the mass protests of July 2021. Figures such as Frank Junior Díaz Chávez (known as Frank el Makina) and Magdiel Jorge Castro, both of whom command large followings on social media, helped bring the political concerns of the Cuban diaspora into the public sphere. Second, the community benefited for much of this period from the political openness and institutional support it received under Luis Lacalle Pou's government, which provided a more favourable environment for civic organisation and public criticism of the Cuban regime.

Viewed together in 2025 alone, Mexico, Brazil and Uruguay accounted for at least 100,000 new Cuban migrants. Once arrivals in other expanding destinations,[27] including the Dominican Republic, Guyana and Costa Rica, are considered, a regional total of around 120,000 would be realistic. Such a figure would amount to roughly 1.6 per cent of Cuba's estimated population of 8.7 million, underscoring the scale of a movement that has continued even after access to the United States narrowed. The trend is likely to persist in 2026, although at a slower pace. Reduced air connectivity, tighter sanctions and Nicaragua's renewed visa requirement have made departure more difficult and closed routes that previously sustained the flow.

The European Route

Compared with Latin America, Europe offers a narrower and more difficult route. It attracts a smaller group of Cubans with the resources to finance travel, secure visas, draw on family networks or obtain European citizenship. These barriers help explain why the Cuban diaspora in Europe remains smaller than the Colombian, Argentine, Brazilian or Ecuadorian communities.

[27] International Organization for Migration (IOM), *Cuban Migration Dynamics in Latin America and the Caribbean: A Regional Snapshot (January 2025–February 2026)* (IOM, Latin America and the Caribbean, March 18, 2026), https://dtm.iom.int/reports/cuban-migration-dynamics-latin-america-and-caribbean-regional-snapshot-january-2025.

Spain is the centre of Cuban migration to Europe for clear historical, cultural and linguistic reasons. An estimated 250,000 Cubans live there, making it by far the largest Cuban community on the continent. Yet Cuban migration to Spain follows two distinct paths. The first remains largely invisible in migration statistics. Spain's 2007 Historical Memory Law opened a route to citizenship for certain descendants of Spaniards. Around 150,000 Cubans acquired Spanish nationality through that process. However, the law excluded some descendants, including children of Spanish women who had lost their nationality after marrying foreign nationals.

The 2022 Law of Democratic Memory expanded access through what became widely known as the Ley de Nietos. More than 600,000 Cubans[28] have submitted applications under the new framework, while more than 240,000 naturalisation cases have been approved worldwide.[29] Available data do not provide a complete figure for the number of Cubans who have acquired Spanish citizenship through this process. This creates a significant statistical blind spot. Once applicants obtain Spanish nationality, Spanish migration statistics record them as Spanish citizens rather than Cuban nationals. Yet the flow is substantial. Between 2021 and 2024, the Estadística de Migraciones y Cambios de Residencia recorded 40,370 arrivals in Spain by Spanish citizens coming from Cuba.[30] These movements took place while Cuban-born Spanish citizens could still travel to the United States and adjust their status there. The tightening of US migration policy after 2025 may increase the number who choose Spain instead.

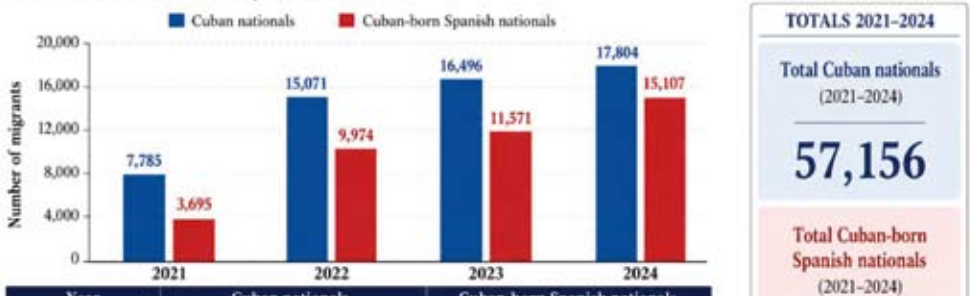
[28] *14ymedio*, "Los datos definitivos indican que más de 600.000 cubanos han solicitado la nacionalidad española" ["Final Figures Indicate That More Than 600,000 Cubans Have Applied for Spanish Nationality"], December 2, 2025, 07:34, https://www.14ymedio.com/cuba/datos-definitivos-indican-600-000_1_1121166.html.

[29] Government of Spain, "El Gobierno concede 240.000 nacionalidades a descendientes de exiliados en virtud de la Ley de Memoria Democrática" ["The Government Grants 240,000 Nationalities to Descendants of Exiles under the Democratic Memory Law"], *La Moncloa*, September 19, 2025, https://www.lamoncloa.gob.es/serviciosdeprensa/notasprensa/politica-territorial-memoria-democratica/Paginas/2025/190925-nacionalidades-ley-memoria-democratica.aspx.

[30] Data sources for Cuban migration balances, by reference year: 2021: Instituto Nacional de Estadística (INE), *Cifras de Población at 1 July 2022 and Migration Statistics: First Half of 2022*, November 18, 2022, https://www.ine.es/prensa/cp_j2022_p.pdf. 2022: Instituto Nacional de Estadística (INE), *Estadística de Migraciones y Cambios de Residencia (EMCR): Año 2022* [*Migration and Changes of Residence Statistics: Year 2022*], December 20, 2023, https://www.ine.es/prensa/emcr_2022.pdf. 2023: Instituto Nacional de Estadística (INE), *Estadística de Migraciones y Cambios de Residencia (EMCR): Año 2023* [*Migration and Changes of Residence Statistics: Year 2023*], December 12, 2024, https://www.ine.es/dyngs/Prensa/EMCR2023.htm. 2024: Instituto Nacional de Estadística (INE), *Estadística de Migraciones y Cambios de Residencia (EMCR): Año 2024* [*Migration and Changes of Residence Statistics: Year 2024*], December 11, 2025, https://www.ine.es/dyngs/Prensa/es/EMCR2024.htm.

The second group arrives with Cuban passports. Some enter as students, visitors, workers or family members and later remain through employment, family reunification, residence permits or protection claims. Between 2021 and 2024, Spain recorded a cumulative positive net migration balance of 57,156 Cuban nationals, with a median annual balance of 15,784.[31] Data for 2025 remain incomplete, but more than 5,800 Cuban nationals recorded a positive net migration balance during a single trimester of the year,[32] broadly following the trend of previous years. When combined with the first group, the final 2025 figure may exceed 30,000 Cuban-born arrivals. Full-year data will determine the scale of this movement, but the available figures already point to Spain's growing role within the post-2025 Cuban exodus.

Graph 1.
Cuban Migration Balances and Cuban-born Spanish Nationals Migrating to Spain, 2021–2024
Cuban nationals and Cuban-born Spanish nationals



Year	Cuban nationals	Cuban-born Spanish nationals
2021	7,785	3,695
2022	15,071	9,974
2023	16,496	11,571
2024	17,804	15,107
Total	57,156	40,347

TOTALS 2021–2024

Total Cuban nationals (2021–2024)
57,156

Total Cuban-born Spanish nationals (2021–2024)
40,347

Source: Author's calculations based on Instituto Nacional de Estadística (INE), *Saldos migratorios: Resultados nacionales. Saldo migratorio exterior e interior*, "Saldos por año, sexo, nacionalidad y tipo de saldo"; and INE data on Cuban-born Spanish nationals migrating to Spain, 2021–2024.

Cuban communities in other European countries have also grown, although their scale remains modest. After Spain, Italy, France, and Germany host the largest Cuban populations, with roughly 60,000 to 30,000 people. Since 2021, these

[31] Instituto Nacional de Estadística (INE), *Saldos migratorios: Resultados nacionales. Saldo migratorio exterior e interior* [*Migration Balances: National Results. External and Internal Migration Balance*], "Saldos por año, sexo, nacionalidad y tipo de saldo" ["Balances by Year, Sex, Nationality, and Type of Balance"], interactive statistical table, accessed July 1, 2026, https://www.ine.es/jaxiT3/Datos.htm?t=69758.

[32] Instituto Nacional de Estadística (INE), *Estadística Continua de Población: Migraciones. Resultados nacionales* [*Continuous Population Statistics: Migration. National Results*], "Inmigración procedente del extranjero, por trimestre y nacionalidad (10 principales países)" ["Immigration from Abroad, by Quarter and Nationality (Ten Main Countries)"], interactive statistical table, accessed July 1, 2026, https://www.ine.es/jaxiT3/Datos.htm?t=59011.

communities have expanded by around 1,000 to 2,000 people each year. Their growth confirms a wider diversification of Cuban migration across Europe, but it remains too limited to alter Spain's overwhelming position as the principal European destination.

A more precarious route has emerged for Cubans without Spanish citizenship or a Schengen visa. Russia, Belarus and, until recently, Serbia offered easier access than the EU itself. Migrants could enter these countries legally before attempting to continue through the European Union's eastern border or the Western Balkans.

This created a mixed migration strategy: legal entry into a transit country followed by irregular onward movement. The Western Balkan corridor became especially relevant in 2022 and 2023, as reflected in Cuban asylum claims in Slovenia, Croatia, Greece and Italy. The Baltic route appears more limited, as Poland, Lithuania and Latvia registered only small numbers of Cuban applicants.

These asylum figures capture only those who reached the authorities and lodged a claim. They cannot measure all Cubans who used these routes, crossed undetected, continued towards Spain, or regularised through other means. They nevertheless show how Cuban migration adapted to restrictive visa systems and shifting border controls.

Europe has therefore become part of the post-2025 Cuban migration landscape, but on a far smaller scale than Latin America. It remains a selective destination shaped by ancestry, documentation, financial resources and access to transnational networks.

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How to Explain the Decline in Asylum Grant Rates in the United States? Elections (and Election Campaigns) Have Consequences

George Fishman

Abstract

This article examines the sharp decline in asylum grant rates by U.S. immigration judges from 51 percent in February 2024 to 19 percent in August 2025. It evaluates explanations attributing the decline to late Biden administration measures, including the Circumvention of Lawful Pathways rule and the Securing the Border proclamation, and to changes under the second Trump administration, including immigration judge departures and dismissals. The article argues that these factors do not fully explain the timing or scale of the decline because many cases decided during this period originated years earlier. It instead emphasizes two additional explanations: the influence of attorneys general through binding interpretations of asylum law and the possibility that electoral pressures during the 2024 presidential campaign encouraged stricter immigration enforcement. Drawing on asylum court statistics, administrative decisions, polling, government reports, and commentary, the article compares grant-rate changes across presidential administrations and around major policy interventions. It concludes that both governing philosophies and election campaigns can shape asylum adjudication outcomes, while acknowledging that several causal relationships remain inferential rather than definitively established within the United States immigration system.

Keywords: asylum grant rates; U.S. immigration courts; asylum adjudication; immigration policy; electoral pressures

Introduction

In the United States, immigration judges' (IJ) asylum grant rates have been plummeting since the spring of 2024. In the year and a half from February 2024

to August 2025, the grant rate (asylum grants divided by total decisions on the merits – grants and denials) fell from 51% to 19%, the lowest rate since since 1996's 17%.[1] In June, Austin Kocher, Research Assistant Professor at Syracuse University's S.I. Newhouse School of Public Communications, concluded that "[t]he U.S. immigration courts have never seen such a dramatic reversal of asylum case outcomes over such a short period of time – ever."[2]

What can account for this plunge? Well, obviously, Donald Trump took over the presidency in late January 2025. Mr. Kocher wrote despondently that the immigration courts "have become little more than an Asylum Denial Machine designed to feed into the Trump administration's mass deportation program".[3] However, he readily acknowledged that "as the data shows, while Trump may take the blame or the credit ... he did not act alone",[4] explaining:

> The surge in denials ... did not start with the Trump administration. It started with Biden. Let me say that again in case you are tempted to misrepresent reality: do not attribute the surge in asylum denials solely to the Trump administration; Biden is equally to blame (or praise, if you view this as a good thing).[5]

In this article, I will evaluate commentators' proffered explanations for the historic plunge in grant rates and propose alternatives with potentially greater explanatory power. And while my analysis does not apply directly to the asylum processes in other Western nations, it does likely address common factors affecting asylum grant rates in democracies overburdened by aliens abusing the asylum process.

[1] The data on IJ asylum grant rates is derived from data made available by the Transactional Records Access Clearinghouse (TRAC) for fiscal years beginning in 2001. See Transactional Records Access Clearinghouse, "Asylum Decisions," accessed December 8, 2025, https://tracreports.org/phptools/immigration/asylum/; and U.S. Department of Justice, Executive Office for Immigration Review, *Statistical Yearbook: 2000*, O2, table 15, https://www.justice.gov/sites/default/files/eoir/legacy/2001/05/09/SYB2000Final.pdf. TRAC describes itself as "a data gathering, data research, and data distribution organization that was founded in 1989 at Syracuse University," providing "comprehensive information about staffing, spending, and enforcement activities of the federal government" based on the "systematic and informed use of the Freedom of Information Act." See Transactional Records Access Clearinghouse, "About Us," accessed December 8, 2025, https://tracreports.org/about/. TRAC, but not EOIR, provides monthly figures.

[2] Austin Kocher, "The Asylum Denial Machine," June 19, 2025, https://austinkocher.substack.com/p/the-asylum-denial-machine.

[3] Kocher, "Asylum Denial Machine."

[4] Kocher, "Asylum Denial Machine."

[5] Kocher, "Asylum Denial Machine."

First, let me briefly explain IJs' role in the asylum process. In general, U.S. Citizenship and Immigration Services (USCIS) within the Department of Homeland Security (DHS) "shall have initial jurisdiction over ... [a]n asylum application filed by an alien physically present in the United States or seeking admission at a port of-entry".[6] However, "[IJs] shall have exclusive jurisdiction over asylum applications filed by an alien who has been served a ... Notice to Appear [NTA]"[7] for removal proceedings. Under § 240 of the Immigration and Nationality Act (INA), removal proceedings "for deciding the inadmissibility or deportability of an alien" are conducted by IJs.[8] Aliens who have been admitted to the U.S. are subject to removal as deportable aliens, while aliens who are physically present in the U.S. but who have not been admitted are subject to removal as inadmissible aliens (as if they were outside the U.S. seeking to be admitted).

The immigration courts are located within the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), which also houses the Board of Immigration Appeals (BIA). EOIR regulations provide that "[IJs] are attorneys whom the Attorney General [AG] appoints as administrative judges ... to conduct specified classes of proceedings, including hearings under section 240 ... [They] shall act as the [AG]'s delegates in the cases that come before them."[9] Further, "[i]n deciding the individual cases before them ... [IJs] shall exercise their independent judgment and discretion and may take any action consistent with their authorities under the [INA] and regulations that is necessary or appropriate for the disposition or alternative resolution of such cases."[10] IJs "shall be governed by the provisions and limitations prescribed by the [INA], by the decisions of the [BIA], and by the [AG] (through review of a decision of the [BIA], by written order, or by [the AG's] determination and ruling pursuant to [the AG's powers pursuant to] section 103 of the [INA])."[11]

[6] 8 C.F.R. §§ 208.2(a)(1)(i), 1208.2(a)(1)(i), https://www.govinfo.gov/content/pkg/CFR-2025-title8-vol1/pdf/CFR-2025-title8-vol1-sec208-2.pdf and https://www.govinfo.gov/content/pkg/CFR-2025-title8-vol1/pdf/CFR-2025-title8-vol1-sec1208-2.pdf.
[7] 8 C.F.R. §§ 208.2(b), 1208.2(b).
[8] Immigration and Nationality Act § 240(a)(1), (3), 8 U.S.C. § 1229a(a)(1), (3), https://www.govinfo.gov/content/pkg/USCODE-2024-title8/pdf/USCODE-2024-title8-chap12-subchapII-partIV-sec1229a.pdf
[9] 8 C.F.R. § 1003.10(a), https://www.govinfo.gov/content/pkg/CFR-2025-title8-vol1/pdf/CFR-2025-title8-vol1-part1003-subpartB.pdf.
[10] 8 C.F.R. § 1003.10(b).
[11] 8 C.F.R. § 1003.10(d).

Aliens in removal proceedings may apply for applicable relief or protection from removal,[12] most often asylum.[13] If an alien placed in expedited removal proceedings claims a fear of return and an asylum "officer determines ... that [the] alien has a credible fear of persecution ... the alien shall be detained for further consideration of the application for asylum."[14] The application will then be adjudicated by an IJ in a § 240 removal proceeding.[15] Aliens claiming asylum in removal proceedings are making "defensive" applications.

Aliens not in removal proceedings can apply for asylum through "affirmative" applications adjudicated by DHS asylum officers. If an asylum officer declines to grant asylum and the alien "appears to be inadmissible or deportable ... the asylum officer shall refer the application to an [IJ], together with the appropriate charging document, for adjudication in removal proceedings".[16]

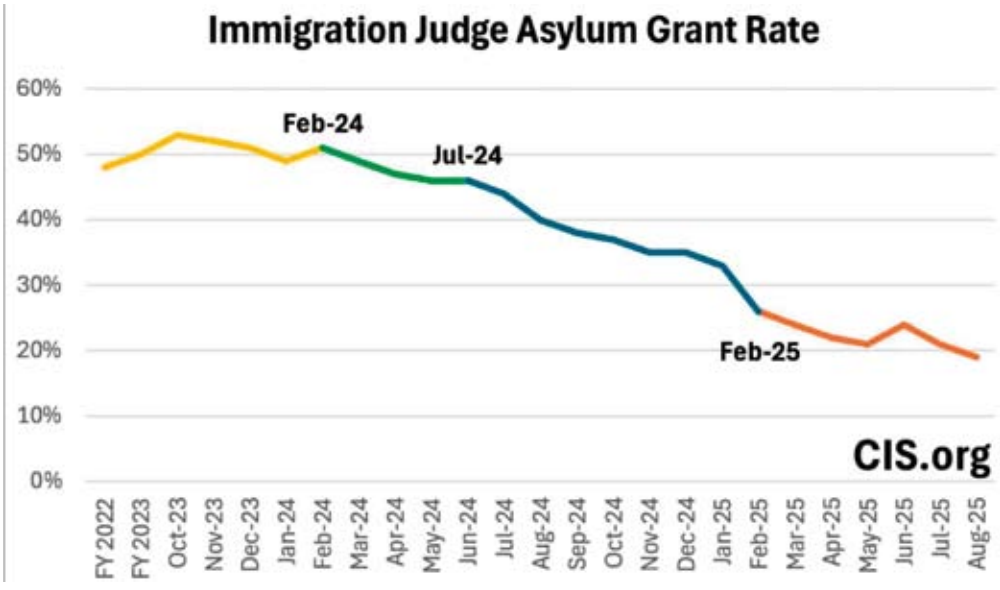
Finally, the decisions of IJs "are subject to review by the [BIA]."[17]

The Plunge

As Professor Kocher noted, the asylum grant rate started falling well before President Trump's second inauguration. It began its plunge in the spring of 2004, during the Biden administration's final year. As seen in the following graph, the overall grant rate was 48% in fiscal year 2022 (Oct. 2021–Sept. 2022) and 50% in fiscal year 2023. It stayed at that level through February 2024's 51%. And then something happened. The grant rate began a sustained and steady decline until it hit 35% in December 2024 and 33% in January 2025 (three quarters of which occurred during the Biden adminstration). The grant rate fell further under the Trump administration, dropping to 19% in August 2025. The data represented in the graph can be found in the Appendix.

[12] Immigration and Nationality Act § 240(c)(4)(A), 8 U.S.C. § 1229a(c)(4)(A).
[13] Immigration and Nationality Act § 208, 8 U.S.C. § 1158, https://www.govinfo.gov/content/pkg/USCODE-2024-title8/pdf/USCODE-2024-title8-chap12-subchapII-partI-sec1158.pdf.
[14] Immigration and Nationality Act § 235(b)(1)(B)(ii), 8 U.S.C. § 1225(b)(1)(B)(ii), https://www.govinfo.gov/content/pkg/USCODE-2024-title8/pdf/USCODE-2024-title8-chap12-subchapII-partIV-sec1225.pdf.
[15] 8 C.F.R. § 1240.17(a), https://www.govinfo.gov/content/pkg/CFR-2025-title8-vol1/pdf/CFR-2025-title8-vol1-sec1240-17.pdf.
[16] 8 C.F.R. § 208.14(c)(1), https://www.govinfo.gov/content/pkg/CFR-2025-title8-vol1/pdf/CFR-2025-title8-vol1-sec208-14.pdf.
[17] 8 C.F.R. § 1003.10(c).

Per Professor Kocher, I consider the declining grant rate to be a positive development – a "good thing". First, it reduces the number of bogus asylum claims being approved. As my colleague Mark Krikorian at the Center for Immigration Studies (CIS) wrote at the beginning of the Biden border crisis, "[a]sylum is driving the current border crisis, with illegal aliens, coached by smugglers and U.S. immigration lawyers, turning themselves in and claiming a fear of return, thus initiating the asylum process",[18] with, as he wrote in Limen, "the goal of ...not so much to **receive** asylum ... but rather merely to **apply** ... and then go about your new life secure in the knowledge your case may not be heard for years, and even if you are rejected, you are unlikely to be removed."[19]



The former Immigration and Naturalization Service (INS) reported that in fiscal year 1974, only 2,716 aliens requested, and only 294 were granted, asylum.[20] Fast forward five decades: According to EOIR, in fiscal year 2024, aliens filed 909,372 asylum applications with the immigration courts and in 2025 filed 872,066.[21]

[18] Mark Krikorian, "Time to Withdraw from the U.N. Refugee Treaty," *National Review*, July 28, 2001, https://www.nationalreview.com/2021/07/time-to-withdraw-from-the-u-n-refugee-treaty/.
[19] Mark Krikorian, "The End of Asylum," *Limen: The Journal of the International Network for Immigration Research* 7-8 (2023): 5, 11, https://migraciokutato.hu/wp-content/uploads/2024/09/Mark-Krikorian_The-End-of-Asylum.pdf (emphasis added).
[20] U.S. Immigration and Naturalization Service, *1974 Annual Report: Immigration and Naturalization Service*, 5, https://purl.stanford.edu/fp003cc2426.
[21] U.S. Department of Justice, Executive Office for Immigration Review, "Adjudication Statistics: Total Asylum Applications," accessed December 8, 2025, https://www.justice.gov/eoir/media/1344871/dl?inline.

In 1974, even with such low numbers, INS concluded that "[m]any [asylum] requests were found to be frivolous and were being used as a stratagem to remain longer in the United States or to avoid deportation."[22] The level of fraud has since ballooned along with the number of claimants.

In 2011, Sam Dolnick reported in the New York Times that "[a] shadowy industry dedicated to asylum fraud thrives in New York", with "[i]mmigrants peddl[ing] personal accounts ripped from international headlines" and "embellished stories go[ing] in and out of fashion along with the news of the day."[23] Three years later, Kirk Semple, Joseph Goldstein, and Jeffrey Singer reported in the Times that Professor Peter Kwong at the City University of New York "said it was an open secret in the Chinese community that most asylum applications were at least partly false, from fabricated narratives of persecution to counterfeit supporting documents and invented witness testimony".[24] The article stated that "[f]alse asylum petitions are among the most common forms of immigration fraud, in part because they are difficult to detect, experts said."[25]

Lowered grant rates also help to rein in an out of control asylum system that threatens American soverignty, as it does that of many Western nations. Mr. Krikorian has written that "[a]sylum … represents a profound surrender of sovereignty, a limitation on the American people's ability to decide which foreigners get to come here from abroad" and that "[a]n unprecedented migration wave … has turned the Refugee Convention … [into] a crowbar used by the post-national Left to pry open the borders of democratic societies contrary to the will of their citizens."[26] He concluded in *Limen* that "[g]iven the effectively unlimited number of people who have the means to use an asylum claim as a stratagem to move to a richer country, the 1951 refugee framework and everything flowing from it needs to be scrapped."[27]

[22] U.S. Immigration and Naturalization Service, *1974 Annual Report*, 5.
[23] Sam Dolnick, "Immigrants May Be Fed False Stories to Bolster Asylum Pleas," *New York Times*, July 11, 2011, https://www.nytimes.com/2011/07/12/nyregion/immigrants-may-be-fed-false-stories-to-bolster-asylum-pleas.html (paywall).
[24] Kirk Semple, Joseph Goldstein, and Jeffrey Singer, "Asylum Fraud in Chinatown: An Industry of Lies," *New York Times*, February 22, 2014, https://www.nytimes.com/2014/02/23/nyregion/asylum-fraud-in-chinatown-industry-of-lies.html (paywall).
[25] Semple, Goldstein, and Singer, "Asylum Fraud in Chinatown."
[26] Krikorian, "Time to Withdraw from the U.N. Refugee Treaty."
[27] Krikorian, "End of Asylum," 16.

What Has Caused the Plunge?

Contributing Factors Proposed by Commentators

Biden Administration Immigration Initiatives

Some commentators lay the blame at the feet of executive actions taken late in the Biden administration. For instance, Professor Kocher wrote that:

> The most important reason that attorneys have cited ... is the Biden administration's Circumvention of Lawful Pathways rule[28] [CLAP] in May 2023 ... and Biden's Securing the Border[Proclamation][29] issued in June 2024. These policies combined to make a lot of recently arrived asylum seekers ineligible for asylum if they did not enter through CBP One[30] at port of entry.[31]

Kocher concluded that "[t]hese policies appear to be the foundation of the rise in denials."[32] Similarly, Jason Dzubow, an immigration attorney specializing in representating asylum claimants, concluded that "many migrants are being denied asylum because they failed to use the [CBP One] app, and I expect this contributes to the higher denial rate in court."[33]

It is a highly contestable assertion that the CLAP and Securing the Border increased the odds of asylum applications being denied. For example, my colleague Elizabeth Jacobs concluded that the CLAP was "so fraught with exceptions and loopholes that the general public should expect few prospective migrants to actually be deterred."[34]

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[28] "Circumvention of Lawful Pathways," 88 Fed. Reg. 31314 (May 16, 2023), https://www.govinfo.gov/content/pkg/FR-2023-05-16/pdf/2023-10146.pdf.
[29] Proclamation No. 10773, 89 Fed. Reg. 48487 (June 7, 2024), https://www.govinfo.gov/content/pkg/FR-2024-06-07/pdf/2024-12647.pdf#page=5.
[30] See "Securing the Border," 89 Fed. Reg. 81156, 81161, 81214-21 (October 7, 2024), https://www.govinfo.gov/content/pkg/FR-2024-10-07/pdf/2024-22602.pdf.
[31] Kocher, "Asylum Denial Machine."
[32] Kocher, "Asylum Denial Machine."
[33] Jason Dzubow, "Immigration Court Data: More Asylum Decisions, More Asylum Denials," *The Asylumist*, May 21, 2025, https://www.asylumist.com/2025/05/21/immigration-court-data-more-asylum-decisions-more-asylum-denials/.
[34] Elizabeth Jacobs, "Proposed New Asylum Regulation Packed Full of Loopholes," Center for Immigration Studies, February 22, 2023, https://cis.org/Jacobs/Proposed-New-Asylum-Regulation-Packed-Full-Loopholes.

But, in any event, the great bulk of the asylum applicants denied asylum toward the end of the Biden administration were not even subject to either the CLAP or Securing the Border.[35] Why? Because IJs usually render asylum decisions years after apprehended aliens are issued NTAs in immigration court. TRAC estimated in December 2022 that "the average backlog wait times from when [a removal] case was filed in the Immigration Court to when the[] asylum hearing will be scheduled and the[] claims heard" to be "currently 1,572 days, or 4.3 years."[36] Data provided by TRAC shows that in fiscal year 2023, aliens claiming asylum in pending removal proceedings were waiting an average of 1,444 days from the filing of an NTA to their next scheduled hearing, and in fiscal year 2024 (through Dec. 2023 – the first quarter of the fiscal year) were waiting an average of 1,424 days.[37] The average wait was essentially four years – and that was just until the next scheduled hearing.

Why is the average wait so long? Data provided by TRAC indicates that in fiscal year 2022, while IJs decided 55,637 asylum cases, a backlog of 756,690 asylum cases remained; in 2023, while IJs decided 75,144 cases, a backlog of 1,009,625 cases remained; and in 2024, while IJs decided 78,383 cases, a backlog of 1,101,819 cases remained.[38] Thus, decided cases represented only seven percent of the ever growing backlog.

But TRAC cautioned that "[t]here is no simple answer to the question of how long asylum seekers have to wait before they can have their claims heard and decided."[39] Why? Because "[u]nder Biden administration initiatives, including the Dedicated Docket ... some newly arriving asylum seekers are being moved

[35] CLAP became effective on May 11, 2023. It was then vacated by the U.S. District Court for the Northern District of California on July 25, 2023, in *East Bay Sanctuary Covenant v. Biden*, 683 F. Supp. 3d 1025 (N.D. Cal. 2023) (the district court staying its order for 14 days), https://clearinghouse.net/doc/139709/. The Ninth Circuit further stayed the order on August 3 (*East Bay Sanctuary Covenant v. Biden*, No. 23-16032, slip op. at 1 (9th Cir. August 3, 2023), https://assets.law360news.com/1707000/1707605/9th.pdf) and vacated the order on April 10, 2025 (*East Bay Santuary Covenant v. Trump*, 134 F.4th 545, 547 (9th Cir. 2025)). The CLAP by its own terms expired as of May 11, 2025. Securing the Border became effective on June 5, 2024, and was later memorialized in somewhat modified form in a final rule published in October 2024. See "Securing the Border," 89 Fed. Reg. 81156, 81161, 81214-21 (October 7, 2024), https://www.govinfo.gov/content/pkg/FR-2024-10-07/pdf/2024-22602.pdf.

[36] Transactional Records Access Clearinghouse, "A Sober Assessment of the Growing U.S. Asylum Backlog," December 22, 2022, https://tracreports.org/reports/705/.

[37] Transactional Records Access Clearinghouse, "Immigration Court Asylum Backlog," accessed December 8, 2025, https://tracreports.org/phptools/immigration/asylumbl/.

[38] Transactional Records Access Clearinghouse, "Immigration Court Asylum Backlog"; Transactional Records Access Clearinghouse, "Asylum Decisions."

[39] Transactional Records Access Clearinghouse, "Sober Assessment of the Growing U.S. Asylum Backlog."

to the head of the line and their hearings expedited."[40] TRAC's 4.3 year estimate apparently did not include aliens on the dedicated docket, since between mentioning that docket and its 4.3 year estimate, TRAC stated that "[f]or most others who are not detained, especially those who entered the backlog queue a while ago, the wait can be very long."[41]

So, what is the average wait time for all asylum decisions by IJs – on the regular docket and on the dedicated docket? TRAC reported that for asylum cases decided by IJs in fiscal year 2022, the average time to completion for dedicated docket cases was 276 days versus 1,594 days for regular cases.[42] Overall, TRAC-provided data indicated that 56% of all decisions involved a period from NTA to closure of over three years, 14% more than a year and a half to less than three years, 26% more than three months to less than 18 months, and 5% up to three months.[43] Assuming these proportions held through the end of the Biden administration, at the very least, 70% of cases decided in November 2024 were not subject to the CLAP or Securing the Border.

Biden Administration Abuse of the Parole Power

Professor Kocher made a very revealing statement:

> I want to mention a further Biden-era explanation that a few trusted colleagues have shared with me in private but not necessarily felt comfortable saying out loud in certain settings. And to be clear, I have wondered – and worried – about this very thing ... Simply put: **the Biden administration's parole policy allowed a lot of weak cases into the immigration court system**.[44]

The U.S. House of Representatives impeached Alejandro Mayorkas, President Biden's Secretary of Homeland Security (SHS), in part because of his abuse of the parole power.[45] The Articles of Impeachment alleged in part that:

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[40] Transactional Records Access Clearinghouse, "Sober Assessment of the Growing U.S. Asylum Backlog."
[41] Transactional Records Access Clearinghouse, "Sober Assessment of the Growing U.S. Asylum Backlog."
[42] Transactional Records Access Clearinghouse, "Quality vs Quantity: How Does Sitting on the Dedicated Docket Impact the Judging Process?," November 16, 2022, https://tracreports.org/reports/702/.
[43] Transactional Records Access Clearinghouse, "Quality vs Quantity."
[44] Kocher, "Asylum Denial Machine" (emphasis added). Kocher also stated, "This is not the same as saying that these cases are fraudulent, nor does it imply that asylum applicants or their attorneys are acting in anything other than good faith. But it does mean that a lot of migrants were promised a bite at an apple that almost certainly was far out of reach." Kocher, "Asylum Denial Machine."
[45] Immigration and Nationality Act § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A).

> Alejandro N. Mayorkas willfully exceeded his parole authority ... that permits parole to be granted "only on a case-by-case basis", temporarily, and "for urgent humanitarian reasons or significant public benefit", in that ... [he] created, re-opened, or expanded a series of categorical parole programs never authorized by Congress for foreign nationals outside of the United States ... which enabled hundreds of thousands of inadmissible aliens to enter the United States in violation of the laws enacted by Congress.[46]

The House Committee on Homeland Security's report on the articles of impeachment concluded that "in FY 2023 alone, DHS granted parole to over 810,000 aliens through unlawful categorical parole programs."[47]

For those who are interested, I have written extensively about Executive Branch abuse of the parole power, culminating with an unprecedented level of abuse by the Biden administration.[48]

None of Biden's categorical parole programs required that beneficiaries first demonstrate that they would be eligible for asylum if they were physically present in the United States. No wonder "the Biden administration's parole policy allowed a lot of weak cases into the immigration court system". So, to the quite limited extent Biden parolees actually applied for asylum and IJs decided their cases by the end of the Biden administration, this factor would have explanatory power.

Trump Administration Firing of Immigration Judges

In November 2025, Ximena Bustillo and Anusha Mathur reported for National Public Radio that "There were 700 immigration judges at the start of the year. Over

[46] H. Res. 863, 118th Cong. (as passed by the House), https://www.congress.gov/118/bills/hres863/BILLS-118hres863rds.pdf. I served as a special counsel on the House Committee on Homeland Security Committee during the impeachment inquiry and during Committee and House consideration of the articles of impeachment.

[47] H.R. Rep. No. 118-372, 55 (2024) (footnote omitted), https://www.congress.gov/118/crpt/hrpt372/CRPT-118hrpt372-pt1.pdf.

[48] See, e.g., George Fishman, "Categorical Parole Programs Are Unlawful: Does the Trump Administration Really Believe They Are Permitted by Statute?," Center for Immigration Studies, May 15, 2025, https://cis.org/Fishman/Categorical-Parole-Programs-Are-Unlawful; George Fishman, "Trump Should Categorically Rescind All Categorical Parole Programs," Center for Immigration Studies, January 24, 2025, https://cis.org/Fishman/Trump-Should-Categorically-Rescind-All-Categorical-Parole-Programs; George Fishman, "Biden's Perversion of Parole Is a Constitutional Crisis in the Making," Center for Immigration Studies, January 6, 2023, https://cis.org/Fishman/Bidens-Perversion-Parole-Constitutional-Crisis-Making; and George Fishman, *The Pernicious Perversion of Parole*, Center for Immigration Studies, February 16, 2022, https://cis.org/sites/default/files/2022-02/fishman-parole_0.pdf.

the past 10 months, EOIR has lost more than 125 judges to firings and voluntary resignations."[49] Mr. Kocher wrote that "Many [IJs] that do not explicitly align with the Trump administration's hostility toward asylum seekers have either ... resigned ... or been summarily fired. In this way, the composition of [IJs] on the bench today differs from what it was just six months ago."[50] He stated his "understanding from reliable sources ... that [IJs] who remain on the bench do not need additional policy to be told how to decide asylum cases; [they] clearly understand their marching orders and understand the consequences of stepping out of line."[51] Kocher did acknowledge that this "don't explain the increase in denial rates during the Biden administration".[52]

However, Jason Dzubow cautioned that "[w]hether judges' desire to please the current Administration (and protect their jobs) is contributing to the higher denial rates, we really do not know".[53] And he acknowledged that "[t]o some extent, it is reasonable for judges to follow the lead of the Administration in office, as long as they continue to follow the law."[54] But Dzubow did "worry that the Administration's well-publicized efforts to fire people perceived as disloyal may push some IJs to deny more cases", adding that "[t]he IJs that I know personally are people of great integrity, and I think they are not particularly susceptible to such intimidation, but when your job and livelihood are on the line, it does create perverse incentives."[55]

Allegations of an incoming administration's replacement of IJs with ones more to its liking are hardly novel. In fact, in July 2022, Senator Charles Grassley (R-Iowa), the ranking Republican on the Senate Judiciary Committee, and Jim Jordan (R-Ohio), the ranking Republican on the House Judiciary Committee, wrote President Biden's AG Merrick Garland "about [his] decision to terminate the employment of multiple [IJs] who were hired during the Trump Administration."[56] They alleged that "According to a recent press report,[57] '[t]he Biden administration has been quietly packing the nation's immigration courts, ousting Trump-hired

[49] Ximena Bustillo and Anusha Mathur, "The DOJ Has Been Firing Judges with Immigrant Defense Backgrounds," NPR, November 6, 2025, https://www.npr.org/2025/11/06/g-s1-96437/trump-immigration-judges-fired.
[50] Kocher, "Asylum Denial Machine."
[51] Kocher, "Asylum Denial Machine."
[52] Kocher, "Asylum Denial Machine."
[53] Dzubow, "Immigration Court Data."
[54]Dzubow, "Immigration Court Data."
[55] Dzubow, "Immigration Court Data."
[56] Charles Grassley and Jim Jordan, letter to Merrick Garland, July 20, 2022, 1, https://www.grassley.senate.gov/imo/media/doc/grassley_jordan_to_justice_deptimmigrationjudges.pdf.
[57] See Stephen Dinan, "Exclusive: 'Unprecedented' Upheaval in Immigration Courts from Biden's Bid to Reshape the Agency," *Washington Times*, June 20, 2022, https://www.washingtontimes.com/news/2022/jun/20/doj-engaged-courtpacking-steroids-immigration-jud/.

judges and installing judges deemed to be friendlier to the immigrants whose cases they hear ...' [S]uch a purge is reprehensible and potentially illegal".[58]

And, in terms of hiring IJs, a well-publicized investigation by DOJ's Offices of Professional Responsibility (OPR) and the Inspector General (OIG) concluded that "the most systematic use of political or ideological affiliations in screening candidates for career positions [during the George W. Bush administration] occurred in the selection of IJs".[59]

It is remarkable how asylum grant rates ebb and flow over succeeding administrations. The average grant rate during fiscal years 1996-2000 (Clinton administration) was 27% (ranging from 17% to 36%); during fiscal years 2002–2008 (Bush administration) was 41% (38%–47%); during fiscal years 2010–2016 (Obama administration) was 53% (44%–67%); during fiscal years 2018–2020 (Trump administration) was 31% (29%–34%); during fiscal years 2022–2024 (Biden administration) was 49% (47%–50%); and from February to August 2025 (Trump administration) was 22%.

Clearly, the priorities of each administration must play some role in the shifting approval rates. But it is certainly ironic that the average asylum grant rate was dramatically higher during the Bush administration than it was during the Clinton administration. In any event, once data becomes available, it will be very illuminating to compare individual IJs asylum grant rates under President Biden and Trump for those who served under both administrations.

Alternative Contributing Factors

I will propose two additional factors that I believe to have great power in explaining the plunge in asylum grant rates.

Trump Attorney General

Could the AG's ability to change the federal government's interpretation (binding on IJs and the BIA) of the asylum statute have played a role in the rapidly declining asylum grant rates during President Trump's first term – and, conversely, in the rapidly increasing grant rates early in the Biden administration? Very likely, yes.

[58] Dinan, "'Unprecedented' Upheaval in Immigration Courts."
[59] U.S. Department of Justice, Office of Professional Responsibility and Office of the Inspector General, *An Investigation of Allegations of Politicized Hiring by Monica Goodling and Other Staff in the Office of the Attorney General* (2008), 137, https://oig.justice.gov/sites/default/files/legacy/special/s0807/final.pdf.

The INA provides that the "determination and ruling by the [AG] with respect to all questions of law [relating to the immigration and naturalization of aliens] shall be controlling" on the federal government.[60] While DOJ regulations state that the BIA is the "appellate body charged with the review" of IJ decisions and "through precedent decisions, [it] shall provide clear and uniform guidance to DHS, the [IJs], and the general public on the proper interpretation and administration of the [INA] and its implementing regulations",[61] the regulations also make clear that "**decision[s] of the [BIA] shall be final except in those cases reviewed by the [AG]** in accordance with"[62] the following: The BIA "shall refer to the [AG] for review of its decision all cases that … [t]he [AG] directs the [BIA] to refer to him", "[t]he Chairman or a majority of the [BIA] believes should be referred to the [AG] for review", or the SHS "refers to the [AG] for review.[63]

As Emma Carroll has explained, while "[t]he [AG] … created the BIA … to render final decisions in immigration adjudications … such decisions have always been subject to the [AG]'s review."[64] Further, Carroll noted that the AG "may review any type of case, with any type of disposition, at any time, and for seemingly any purpose."[65] Of course, the AG's decisions on review may themselves be overturned by a federal court or by a future AG.

On June 11, 2018, President Trump's AG Jeff Sessions overturned a BIA decision on review in *Matter of A-B-,*[66] in the course of which he made important clarifications to the meaning of key provisions of the INA's asylum statute. In a typical reaction from the immigrant advocacy community, the Immigrant Legal Resource Center proclaimed that AG Sessions' decision "highlights the Trump administration's broad and unrelenting attacks on due process for asylum seekers."[67]

[60] Immigration and Nationality Act § 103(a)(1), 8 U.S.C. § 1103(a)(1), https://www.govinfo.gov/content/pkg/USCODE-2024-title8/pdf/USCODE-2024-title8-chap12-subchapI-sec1103.pdf.
[61] 8 C.F.R. § 1003.1(d)(1), https://www.govinfo.gov/content/pkg/CFR-2025-title8-vol1/pdf/CFR-2025-title8-vol1-sec1003-1.pdf.
[62] 8 C.F.R. § 1003.1(d)(7)(i) (emphasis added).
[63] 8 C.F.R. § 1003.1(h).
[64] Emma Carroll, "One Step Forward, Two Steps Back: How Attorney General Review Undermines Our Immigration Adjudication System," *University of Colorado Law Review* 93 (Winter 2022): 189, 199, https://scholar.law.colorado.edu/cgi/viewcontent.cgi?params=/context/lawreview/article/1029/&path_info=07_93UColoLRev189_2022_.pdf (footnotes omitted).
[65] Carroll, "One Step Forward, Two Steps Back," 201.
[66] *Matter of A-B-*, 27 I&N Dec. 316 (Att'y Gen. 2018), https://www.justice.gov/eoir/page/file/1070866/dl?inline=.
[67] Immigrant Legal Resource Center, "Matter of A-B- Considerations," September 27, 2018, https://www.ilrc.org/resources/matter-b-considerations.

In the six-month period leading up to *Matter of A-B-* (Dec. 2017–May 2018), IJs' average asylum grant rate was 36%. In the six-month period following *Matter of A-B-* (July-Dec. 2018), the average asylum grant rate fell to 31% – a drop of five percentage points or 14%. This decline lends itself to the inference that *Matter of A-B-* had an impact on grant rates.

Such an inference would certainly be bolstered had *Matter of A-B-* been rescinded and grant rates subsequently risen. Indeed, this is exactly what happened. On June 16, 2021, President Biden's AG Merrick Garland decreed that "the decisions in *A-B-I* and *A-B-II* should be vacated in their entirety", IJs and the BIA "should no longer follow [them] when adjudicating pending or future cases" and "pending rulemaking, [IJs and the BIA] should follow pre-*A-B-I* precedent."[68] The Catholic Legal Immigration Network proclaimed that these "decisions to vacate some of the most harmful Trump-era [AG] decisions on asylum is a very welcome development for asylum representatives."[69]

In the four-month period leading up to AG Garland's decision (Feb. 2021 – President Biden's first full month in office – to May 2021), the average asylum grant rate was 36%. In the six-month period following Garland's decision (July–Dec. 2021), the average grant rate jumped to 52% – an increase of 16 percentage points or 44%.

The dramatic increase in grant rates in the months following AG Garland's decision lends additional credence to the proposition that an AG's ability to modify the government's interpretation of the INA can result in large impacts on grant rates.

On September 2, 2025, AG Pam Bondi issued *Matter of S-S-F-M-*[70], overruling AG Garland's decision and restoring *Matter of A-B-* and *Matter of A-B-[II]* in all pending or future cases. It will be interesting to see, once data becomes available, whether the average grant rate continues its decline after falling to 19% level in August.

Biden and Harris Presidential Campaign Fears

Could panic by the Biden and subsequently the Katrina Harris campaigns over the upcoming 2024 presidential election have played a role in plummeting asylum grant rates? Very likely, yes.

[68] *Matter of A-B-*, 28 I&N Dec. 307, 309 (Att'y Gen. 2021), https://www.justice.gov/eoir/page/file/1404796/dl?inline=.
[69] Catholic Legal Immigration Network, "Attorney General Garland Vacates Matter of A-B- and Matter of L-E-A-," July 28, 2021, https://www.cliniclegal.org/resources/attorney-general-garland-vacates-matter-b-and-matter-l-e.
[70] *Matter of S-S-F-M-*, 29 I&N Dec. 207 (Att'y Gen. 2025), https://immpolicytracking.org/policies/ag-bondi-issues-matter-of-s-s-f-m/#/tab-policy-documents.

Consider that polling conducted by Gallup in August 2021 indicated that 76% of Democrat respondents, 37% of independents and 9% of Republicans approved of President Biden's handling of immigration.[71] Then:

- Gallup's polling in February 2023 indicated that approval of Biden's handling of immigration had decreased by 14 percentage points among Democrats -- to 62%, six percentage points among independents – to 31%, and three percentage points among Republicans – to 6%.[72]
- Gallup's polling in February 2024 indicated that Democrats' approval had decreased by an additional seven percentage points – to 55%, independents' had decreased by an additional seven percentage points – to 24%, and Republicans' had decreased by an additional three percentage points, to 3%.[73]

Thus, from early to late in the Biden administration, Democrats' support of President Biden's handling of immigration had decreased by 21 percentage points or 28%, independents' had decreased by 13 percentage points or 35%, and Republicans' had decreased by six percentage points or 67%.[74]

Consider that Todd Bensman, my former colleague at CIS who is now serving in the Trump administration, reported in February 2024 that "Just a month ago, thousands of economic migrants a day crossing illegally ... over the Rio Grande into Eagle Pass, Texas, submerged U.S. Border Patrol and Texas State military forces, mesmerized the international media, and – significantly – pounded Joe Biden's re-election poll numbers."[75]

[71] Jeffrey Jones, "Mostly Pre-Afghanistan Turmoil, Biden Job Approval 49%," Gallup, August 20, 2021, https://news.gallup.com/poll/354017/mostly-pre-afghanistan-turmoil-biden-job-approval.aspx (see "complete question responses and trends").

[72] Megan Brenan, "Biden Job Approval at 42%; Below 40% on Four Issues," Gallup, February 28, 2023, https://news.gallup.com/poll/471206/biden-job-approval-below-four-issues.aspx (see "complete question responses and trends").

[73] Megan Brenan, "Biden's Job Approval Edges Down to 38%," Gallup, February 23, 2024, https://news.gallup.com/poll/610988/biden-job-approval-edges-down.aspx (see "complete question responses and trends").

[74] See also George Fishman, "Under Biden, Democrats Shifted on Immigration," Center for Immigration Studies, April 16, 2025, https://cis.org/Report/Under-Biden-Democrats-Shifted-Immigration.

[75] Todd Bensman, "Inside 'Zone 47': Biden's Ruthless Mexico Immigration Crackdown Is Working, but Media Won't Tie Him to It," Center for Immigration Studies, February 13, 2024, https://cis.org/Bensman/Inside-Zone-47-Bidens-Ruthless-Mexico-Immigration-Crackdown-Working-Media-Wont-Tie-Him-It.

Consider that on July 16, 2024, Melanie Mason concluded in Politico that "[a] migrant surge under Biden ... has stirred a visceral public response beyond the border states, including in heavily Democratic cities"[76], that, on the next day, Christine Paz concluded in Vox that "[n]onwhite voters and especially Latino voters are more likely than in the past to want less immigration, and anti-immigrant sentiment is rising across all partisan groups, including among Democrats",[77] and that on election day, Miriam Jordan reported for the New York Times that:

> The surge in migration across the southern border, which reached record levels during the Biden administration, has reverberated across the country and hardened many Americans' views on immigration.
>
> While Republican voters have shown the biggest shift, Democrats and independents have also moved to the right, according to polls conducted in recent months.[78]
>
> Republicans, Democrats and independents interviewed by The Times blamed the Biden administration for failing to acknowledge the chaos at the border and promptly take aggressive steps to address it.[79]

I could see these polling results, and the public's souring attitude towards immigration, causing consternation in the Biden campaign. Could such consternation have precipitated damage control by the Biden administration in the form of ramped up immigration enforcement and lower asylum grant rates?

Well, it certainly did precipitate ramped up immigration enforcement ... in Mexico. Mr. Bensman reported that:

> President Biden, facing devastating poll numbers from the fall months' escalating border catastrophe, somehow maneuvered Mexico President Manuel Lopez-Obrador into doing the dirty work necessary on his side to quickly calm the most camera-visible chaos on the American side.

[76] Melanie Mason, "How Trump and Republicans 'Won the War' on Immigration," *Politico*, July 16, 2024, https://www.politico.com/news/2024/07/16/trump-republicans-immigration-00168838.
[77] Christine Pax, "The Clever Politics of Republicans' Anti-Immigrant Pitch," *Vox*, July 17, 2024, https://www.vox.com/2024-elections/361155/rnc-2024-republican-immigration-border-biden-policy-invasion-legal-gop.
[78] Miriam Jordan, "Voters Were Fed Up Over Immigration. They Voted for Trump," *New York Times*, November 6, 2024, https://www.nytimes.com/2024/11/06/us/trump-immigration-border.html (paywall).
[79] Jordan, "Voters Were Fed Up Over Immigration."

> After Biden and his chief lieutenants returned from mysterious diplomatic missions to Mexico City in late December with a still-secret deal in hand, Mexico's central government mounted one of the most epic domestic anti-illegal-immigration operations in recent memory.[80]

Mr. Bensman concluded that "[s]ome of the operations done at Biden's behest have proven ruthless", explaining:

Conclusion

As President Barack Obama once told House Majority Leader Eric Cantor (R-Va.), "Elections have consequences ... and I won"![81] I would add that "Election campaigns also have consequences." Among those consequences seem to be changes in IJs' asylum grant rates – whether because of an administration's philosophy as to immigration or because of a campaign's electoral panic.

Appendix

Immigration Judge Asylum Grant Rate

Administration	Fiscal Year	Month	Asylum Grants	Asylum Denials	Asylum Grant Rate
Clinton	FY1996		5,131	25,181	17%
Clinton	FY1997		6,586	21,729	23%
Clinton	FY1998		7,309	20,217	27%
Clinton	FY1999		8,351	18,137	32%
Clinton	FY2000		9,170	16,016	36%
Clinton	**FY1996–2000**		**36,547**	**101,280**	**27%**
Clinton-Bush	FY2001		10,007	14,633	41%
Bush	FY2002		10,979	17,969	38%
Bush	FY2003		13,379	21,868	38%
Bush	FY2004		13,025	20,257	39%
Bush	FY2005		11,711	18,537	39%
Bush	FY2006		13,302	15,958	45%
Bush	FY2007		12,856	14,397	47%

[80] Bensman, "Inside 'Zone 47.'"

[81] See Mackenzie Weinger, "Woodward Book Dishes on Debt War," *Politico*, September 5, 2012, https://www.politico.com/story/2012/09/woodward-book-dishes-on-debt-war-080809.

Bush	FY2008		10,885	12,717	46%
Bush	**FY2002–2008**		**86,137**	**121,703**	**41%**
Bush-Obama	FY2009		10,268	10,719	49%
Obama	FY2010		9,875	9,050	52%
Obama	FY2011		11,495	9,959	54%
Obama	FY2012		11,607	5,808	67%
Obama	FY2013		11,055	9,437	54%
Obama	FY2014		9,691	9,716	50%
Obama	FY2015		9,042	9,215	50%
Obama	FY2016		9,723	12,184	44%
Obama	**FY2010--2016**		**72,488**	**65,369**	**53%**
Obama-Trump	FY2017		11,605	18,215	39%
Trump		Dec. 2017	892	1,617	36%
Trump		Jan. 2018	1,143	1,930	37%
Trump		Feb. 2018	1,147	2,157	35%
Trump		Mar. 2018	1,337	2,510	35%
Trump		Apr. 2018	1,498	2,542	37%
Trump		May 2018	1,446	2,751	34%
Trump		June 2018	1,011	2,173	32%
Trump		July 2018	1,074	2,439	31%
Trump		Aug. 2018	1,231	2,704	31%
Trump		Sept. 2018	1,157	2,573	31%
Trump	FY2018		14,248	27,462	34%
Trump		Oct. 2018	1,715	3,863	31%
Trump		Nov. 2018	1,576	3,276	32%
Trump		Dec. 2018	1,175	2,551	32%
Trump	FY2019		20,879	46,755	31%
Trump		**Dec. 2017–May 2018**	**7,463**	**13,507**	**36%**
Trump		**July 2018–Dec. 2018**	**7,928**	**17,406**	**31%**
Trump	FY2020		17,530	42,595	29%
Trump	**FY2018–2020**		**52,657**	**116,812**	**31%**
Biden		Feb. 2021	479	999	32%
Biden		Mar. 2021	869	1,355	39%
Biden		Apr. 2021	815	1,393	37%
Biden		May 2021	726	1,339	35%
Biden		June 2021	674	1,002	40%
Biden		July 2021	1,081	952	53%
Biden		Aug. 2021	1,284	1,207	52%
Biden		Sept. 2021	1,351	1,313	51%
Trump-Biden	FY2021		9,993	15,166	40%
Biden		Oct. 2021	1,432	1,527	48%
Biden		Nov. 2021	1,568	1,347	54%
Biden		Dec. 2021	1,561	1,333	54%
Biden	FY2022		25,865	27,533	48%
Biden		**Feb. 2021–May 2021**	**2,889**	**5,086**	**36%**
Biden		**July 2021–Dec. 2021**	**8,227**	**7,519**	**52%**
Biden	FY2023		36,149	35,989	50%

Biden		Oct. 2023	3,197	2,820	53%
Biden		Nov. 2023	3,096	2,841	52%
Biden		Dec. 2023	2,663	2,582	51%
Biden		Jan. 2024	3,012	3,088	49%
Biden		Feb. 2024	3,140	3,058	51%
Biden		Mar. 2024	3,228	3,297	49%
Biden		Apr. 2024	3,224	3,625	47%
Biden		May 2024	3,275	3,858	46%
Biden		June 2024	2,749	3,240	46%
Biden		July 2024	2,934	3,661	44%
Biden		Aug. 2024	2,624	4,016	40%
Biden		Sept. 2024	2,319	3,865	38%
Biden		Oct. 2024	2,741	4,577	37%
Biden	FY2024		35,461	39,951	47%
Biden	**FY2022–2024**		**97,475**	**103,473**	**49%**
Biden		Oct. 2024	2,741	4,577	37%
Biden		Nov. 2024	2,213	4,168	35%
Biden		Dec. 2024	2,062	3,762	35%
Biden-Trump		Jan. 2025	2,612	5,412	33%
Trump		Feb. 2025	2,520	7,342	26%
Trump		Mar. 2025	2,724	8,751	24%
Trump		Apr. 2025	2,600	9,435	22%
Trump		May 2025	2,556	9,511	21%
Trump		June 2025	2,455	7,890	24%
Trump		July 2025	2,023	7,743	21%
Trump		Aug. 2025	1,777	7,440	19%
Trump	**Feb.–Aug. 2025**	**Feb.–Aug. 2025**	**16,655**	**58,112**	**22%**

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The European Reform of Returns: A Turning Point in EU Migration Policy?

Simon Villega

Abstract

This article examines the European Union's proposed reform of its return policy, focusing on the legal and political implications of the European Parliament's March 2026 decision to strengthen the enforcement of return procedures. Against the backdrop of persistently low return rates, with only approximately one-quarter of return decisions resulting in actual departures, the article evaluates the limitations of the 2008 Return Directive and the 2024 Pact on Migration and Asylum. It analyzes the principal innovations of the proposed regulation, including the mutual recognition of return decisions, extended administrative detention, restrictions on the suspensive effect of appeals, the establishment of return hubs in third countries, and increased conditionality in migration cooperation. Particular attention is devoted to the political realignment within the European Parliament, where cooperation between the European People's Party and right-wing political groups enabled a departure from traditional centrist compromises. Drawing on EU legislation, judicial decisions, migration statistics, institutional reports, and parliamentary developments, the article assesses the tension between enforcement efficiency and fundamental rights protections. It argues that although the reform represents a significant shift toward a more coercive and centralized European return system, its effectiveness remains constrained by structural obstacles, particularly insufficient cooperation from countries of origin, administrative limitations, and binding human rights obligations. The article concludes that legislative tightening alone cannot guarantee higher return rates and that the reform's ultimate significance extends to the changing political dynamics of European migration governance.

Keywords: EU return policy; Return Directive; irregular migration; migration governance; return enforcement; European Parliament

Introduction

Over the past ten years, France has issued more than one million orders to leave its territory that have not been enforced.[1] At European Union level, only 25% of return[2] decisions result in an actual departure. This ratio, which has remained stable for a decade, is not the symptom of a recent failure: it has become firmly entrenched despite successive reforms, repeated action plans, and a common legal framework adopted as early as 2008. Its persistence eventually made the status quo politically untenable and paved the way for a reform whose ambition, instruments, and conditions of adoption warrant rigorous examination.

The response provided by the vote of 9 March 2026 in the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) is unequivocal: by 41 votes to 32, with one abstention, the committee adopted its negotiating position on the European Commission's proposal for a regulation intended to replace the Return Directive with a directly applicable instrument. The text contains substantial provisions: an extension of the maximum period of detention, mutual recognition of return decisions among European countries, removal of the automatic suspensive effect of appeals, and migration conditionality in relations with third countries. This vote was made possible only by a deliberate political rupture: the EPP negotiator, François-Xavier Bellamy, replaced the search for a compromise with the Socialists with an alliance with sovereignist and nationalist groups, producing an unprecedented majority for a text of such importance in this field since the Parliament was founded.[3]

These two dimensions, one legal and the other political, are inseparable in understanding the reform's true significance. This paper examines them in turn. It first reviews the structural data on the ineffectiveness of returns and the limitations of the Pact on Migration and Asylum adopted in 2024 (I). It then analyses the

[1] Charles Rodwell, Rapport d'information sur les coûts et moyens budgétaires nécessaires pour mener une politique de lutte efficace contre l'immigration irrégulière et sur les mesures qui permettraient d'atténuer le coût de cette politique, no. 3178 (Assemblée nationale, September 16, 2026), https://www.assemblee-nationale.fr/dyn/opendata/RINFANR5L17B3178.html.

[2] Costica Dumbrava and Anja Radjenovic, Common Approach on Return Policy, EPRS Briefing PE 757.604 (European Parliamentary Research Service, October 25, 2024), https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/757604/EPRS_BRI(2024)757604_EN.pdf.

[3] Simon Barbarit, "Immigration : le Parlement européen adopte le règlement qui autorise les «centres de retour» en dehors de l'Union," Public Sénat, June 17, 2026, https://www.publicsenat.fr/actualites/politique/immigration-le-parlement-europeen-adopte-le-reglement-qui-autorise-les-centres-de-retour-en-dehors-de-lunion.

content of the text adopted by the LIBE Committee and the legal tensions it raises in light of the case-law of the Court of Justice (II). Finally, it considers the political dynamics that produced this vote and the structural obstacles that will determine whether implementation can be effective (III).

1 – The Ineffectiveness of Returns and the Unfulfilled Promises of the Pact on Migration and Asylum

1. The Evidence of Ineffectiveness: A Structural, Though Heterogeneous, Phenomenon

The enforcement rate of return decisions is the central indicator in the debate on European removal policy. Every year, hundreds of thousands of third-country nationals are ordered to leave the territory of the Union; only 25% of these orders result in an actual departure. This ratio has remained stable for a decade. In its Special Report No 24/2019, the European Court of Auditors documented the gaps between the objectives set and the results achieved, identifying diplomatic, operational, and legal causes.

The European average conceals considerable differences between countries. In France, the enforcement rate stands at 9.6%, less than half the Union average.[4] In 2024, 112,000 third-country nationals were returned outside the Union out of 465,000 decisions issued, a ratio of one in four. Nevertheless, the number of people actually returned increased by 21% compared with the previous year.[5]

Several methodological caveats are required when interpreting this overall indicator. The denominator includes heterogeneous situations: people who left the territory voluntarily without informing the authorities, people whose legal situation changed after the decision was adopted, and nationals of countries with which no readmission agreement is in force. Moreover, in the fourth quarter of 2024,

[4] Eurostat, "Third-Country Nationals Ordered to Leave—Annual Data (Rounded)" (migr_eiord), and "Third-Country Nationals Returned Following an Order to Leave—Annual Data (Rounded)" (migr_eirtn), accessed October 2, 2026, https://ec.europa.eu/eurostat/databrowser/view/migr_eiord/default/table and https://ec.europa.eu/eurostat/databrowser/view/migr_eirtn/default/table.
[5] Eurostat, "Third-Country Nationals Ordered to Leave" and "Third-Country Nationals Returned Following an Order to Leave."

58.5% of completed returns were voluntary and 41.5% were forced, illustrating the diversity of situations aggregated under a single indicator.

The nationalities most widely represented among the people concerned were Moroccan, Algerian, Turkish, Syrian, and Afghan. National enforcement practices vary considerably; these differences reflect distinct national diplomatic, administrative, and social realities.[6]

It should also be recalled that, by their very nature, the figures for irregular immigration are much higher, and more difficult to assess, than those for return decisions issued by the Member States.

2. The 2008 Directive and Five Years of Legislative Paralysis

Adopted in December 2008, Directive 2008/115/EC was the first attempt to establish a common legal framework for returns at European level. It introduced several foundational principles: giving priority to voluntary departure over forced removal, subjecting administrative detention to maximum time limits and procedural safeguards, and allowing Member States to impose entry bans covering the territory of the Union.

The revision of this text, launched as early as 2018, was paralysed in the European Parliament for five years. The divide was deep and structural: the rapporteur appointed during the previous parliamentary term, Dutch Green MEP Tineke Strik,[7] advocated a position diametrically opposed to that of the Commission, seeking to restrict rather than broaden the conditions for forced return. This position was irreconcilable with that of the EPP, which demanded a substantial strengthening of removal instruments. Five years of confrontation ended in complete deadlock, leaving the system to operate on the basis of an ageing directive that all parties considered inadequate but on which they were unable to agree.

It was ultimately the European Parliament's shift to the right following the June 2024 elections that made it possible to break the deadlock. The new parliamentary arithmetic made possible what the previous legislature had consistently prevented. This breakthrough nevertheless came at the cost of a major political rupture, whose chronology is revealing: even within the new parliamentary term, weeks of negotiations led by the centrist rapporteur with a view to an agreement bringing

[6] Eurostat, "Third-Country Nationals Ordered to Leave."

[7] Agence Europe, "Le PE reprend ses travaux sur la révision de la directive 'retours'," Bulletin Quotidien Europe, no. 12558, September 12, 2020, https://agenceurope.eu/fr/bulletin/article/12558/13/le-pe-reprend-ses-travaux-sur-la-revision-de-la-directive-retours.

together the Socialists and the EPP ended in failure.[8] It was the abandonment of this logic of centrist compromise that opened the way for the coalition formed on 9 March 2026.

3. The Court of Justice's Case-Law Framework: Procedural Safeguards and Tensions with Administrative Efficiency

The Court of Justice of the European Union has played a central role in interpreting the 2008 Directive, gradually building a body of case-law whose procedural requirements closely circumscribe the practices of the Member States. In El Dridi (C-61/11 PPU, 28 April 2011), the First Chamber held that the Directive precluded criminal penalties of imprisonment based solely on unlawful presence in the territory, since such penalties were liable to 'jeopardise the attainment of the objective' of the text. In Kadzoev (C-357/09 PPU, 30 November 2009), the Grand Chamber clarified that detention could be maintained only if there was a reasonable prospect of removal within the statutory period, and that the maximum period of eighteen months applied immediately to ongoing situations. In Mahdi (C-146/14 PPU, 5 June 2014), the Third Chamber required decisions extending detention to be in writing, to state reasons, and to be subject to judicial review of their appropriateness. In JN (C-601/15 PPU, 15 February 2016), the Grand Chamber circumscribed detention on public-security grounds by requiring an individual and proportionate assessment.

This body of case-law constitutes a foundation of fundamental safeguards rooted in the Union's primary law, the binding nature of which applies to all Member States regardless of their national political preferences. The Court of Justice has the final say on the interpretation of Union law: its judgments bind national courts, which are required to disapply any incompatible provision of national law. In Mahdi, this mechanism led a Bulgarian court not to extend a period of detention sought by the administrative authorities because the conditions laid down by the Court had not been met. The effect of El Dridi led several Member States to amend their criminal legislation to bring it into conformity with the Directive.

This role as guardian of procedural safeguards has also made administrative practice more complex: the requirements of reason-giving, judicial review, and individual assessment established by the case-law impose delays and formalities that several governments regard as incompatible with the swift and systematic

[8] Agence Europe, "'Bellamy' Report on Recasting of 'Returns' Regulation Wins Out by a Wide Margin over Report by Malik Azmani in European Parliament Committee on Civil Liberties," *Europe Daily Bulletin*, no. 13824, March 10, 2026.

enforcement of return decisions. It is this tension between judicial safeguards and the imperative of operational effectiveness that the reform seeks to resolve. The question of how far it can do so without breaching the limits established by that same body of case-law lies at the heart of the debates surrounding the text adopted on 9 March 2026.

4. The Pact on Migration and Asylum: Systemic Ambitions, Very Mixed Results

Presented by the von der Leyen Commission in September 2020, the European Pact on Migration and Asylum was intended as a comprehensive overhaul of a migration architecture perceived as deadlocked since the 2015-2016 crisis. Its principal regulations were adopted in May 2024 after several years of negotiations. It did not end the debate over the ineffectiveness of returns, which continued to be fuelled by the figures.

The most substantial criticisms concern what the Pact failed to resolve. It did not equip the Union with instruments capable of compelling reluctant countries of origin to readmit their nationals: the absence of effective readmission agreements with certain partners remains a structural blockage that the Pact did not remove. It did not eliminate the procedural mechanisms that delay enforcement of decisions, in particular the automatic suspensive effect of appeals. Nor did it introduce the possibility of removal to third countries when the country of origin refuses readmission. The solidarity mechanism among Member States, which is largely optional in its most binding forms, likewise failed to reduce imbalances in the burden borne by countries of first entry and other Member States.

Taken together, these shortcomings strengthened the conviction among advocates of stricter rules that only a new, more binding text could break the deadlock. This is precisely the ambition of the proposed regulation adopted by the LIBE Committee on 9 March 2026, whose content and implications must now be examined.

2 – The LIBE Vote of 9 March 2026: The Architecture of a Controlled Tightening

1. The European Return Order and External Conditionality: Two Structural Innovations

The most innovative measure in the Commission's proposal is the de facto creation of a 'European return order': a removal decision adopted by the authorities of one Member State would have to be recognised and enforced by those of another, without restarting a complete administrative procedure. This mechanism is intended to prevent secondary movements by people who move from one Member State to another in order to gain additional time. It should nevertheless be noted that the Council secured an arrangement under which this mutual recognition will initially remain optional, a position endorsed by Parliament.[9]

The legal significance of this innovation is considerable. It entails an unprecedented form of pooling of public authority in the field of removal, an area that until now fell exclusively within national sovereignty. Complex questions remain: does the person concerned have access to an effective remedy in the enforcing state? May the authorities of that state verify whether the foreign decision is compatible with Union law? The case-law of the Court of Justice requires every person to be able to challenge the lawfulness of the decision before at least one judicial body, a requirement consistently established since El Dridi and Mahdi. Serious questions remain as to the mechanism's compatibility with Article 47 of the Charter of Fundamental Rights.

The text also introduces an innovation with potentially considerable implications for external relations: the Union will henceforth make the granting of visas, the conclusion of trade agreements, and development aid conditional on the level of cooperation by third countries on readmission. Its critics[10] argue that

[9] Council of the European Union, "Council and Parliament Reach Deal on Returns of Illegally Staying Third-Country Nationals," press release, June 1, 2026, https://www.consilium.europa.eu/en/press/press-releases/2026/06/01/council-and-parliament-reach-deal-on-returns-of-illegally-staying-third-country-nationals/.

[10] European Economic and Social Committee, "Opinion of the European Economic and Social Committee – Proposal for a Regulation of the European Parliament and of the Council Establishing a Common System for the Return of Third-Country Nationals Staying Illegally in the Union," EESC 2025/01284, OJ C/2026/33, January 16, 2026, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C_202600033.

this conditionality risks complicating relations with strategic partners whose cooperation is necessary on issues far broader than migration policy alone, in an already tense geopolitical context. However, the principle of automatic conditionality is intended to relieve states of a responsibility for making trade-offs that often exposes them to the risk of retaliation. This would be a mechanism operating at EU level and without a political decision.

2. The Duty to Cooperate, Removal of Suspensive Effect, and Control Measures

The adopted text strengthens the duty to cooperate imposed on people subject to a return decision. They may be required to provide the information needed to establish their identity, surrender documents proving their nationality, cooperate with the authorities of the country of origin in obtaining travel documents, and attend appointments with the competent services. This change is intended to reduce situations in which enforcement of a return decision fails for lack of information about the nationality or identity of the person concerned. Failure to comply with these duties may be taken into account in assessing the risk of absconding and may justify more restrictive measures, thereby introducing an incentive-based approach to compliance with the procedural framework.

Removing the automatic suspensive effect attached to all appeals against return decisions is one of the text's most significant innovations. The right of appeal is fully preserved, but exercising it no longer automatically suspends enforcement of the decision. This amendment directly targets one of the mechanisms identified as a source of ineffectiveness: the proliferation of appeals whose purpose was less to challenge the substance of decisions than to delay their enforcement indefinitely. By separating the exercise of the right of appeal from its automatic suspensive effect, the regulation seeks to restore a closer correspondence between decisions taken and actual departures.

The LIBE Committee also clarified the rules governing the duty to cooperate in light of the lessons drawn from the Court of Justice's case-law. In Mahdi (C-146/14 PPU), the Court noted that the absence of travel documents in that case was attributable to the refusal of the Sudanese embassy, not to the person concerned. The adopted text takes account of this reality by distinguishing situations in which the failure to cooperate is attributable to the individual from those in which it results from the refusal of the authorities of the country of origin, so that the procedural consequences fall only on the former.

3. Administrative Detention and the Treatment of Minors

The regulation substantially changes the administrative-detention regime. The maximum period, set by the 2008 Directive at six months with an exceptional extension to eighteen months, is increased to twenty-four months for people who do not cooperate with the return procedure, with an additional ground for extension in exceptional circumstances provided for by national legislation. The grounds for placement in detention are also broadened: refusal to cooperate, a risk of a threat to public order, or the need to carry out identity checks may now justify detention. Both judicial and administrative authorities are empowered to order detention.

EU asylum statistics initially include applicants on the basis of their declared age, while verification may take place only subsequently. Available national evidence indicates that a substantial proportion of applicants subjected to age assessment may ultimately be classified as adults: in Belgium, for example, 69 per cent of self-declared minors assessed in 2021 were found to be adults.[11] The question of how to treat unaccompanied minors and families, one of the principal points of deadlock during the previous parliamentary term, is settled by the adopted text. The available data illustrate the scale of the phenomenon: according to a February 2026 study by the European Parliamentary Research Service, 112,000 minors in an irregular situation were detected in the Union in 2024, the highest figure since 2016. Of the 25,200 departure orders issued to minors that same year, 8,800 were enforced. Failures are concentrated[12] among nationals of countries at war or in a state of diplomatic rupture with the Union, whereas returns to Georgia, Türkiye, or Serbia take place at markedly higher rates.

The arrangements adopted by the LIBE Committee authorise[13] the detention of families accompanied by minors, while removing a restriction contained in the Commission's initial proposal: the ban on return centres located in third countries

[11] European Union Agency for Asylum (EUAA), *Age Assessment Practices in EU+ Countries: A Baseline for Pact Implementation* (Valletta: EUAA, March 2026).

[12] Gyorgyi Macsai and Maria-Margarita Mentzelopoulou, Minors in Migration: Irregular Entry and Asylum, EPRS Briefing PE 766.235 (European Parliamentary Research Service, February 17, 2026), https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/766235/EPRS_BRI(2024)766235_EN.pdf.

[13] European Parliament, "Proposal for a Regulation of the European Parliament and of the Council Establishing a Common System for the Return of Third-Country Nationals Staying Illegally in the Union," Legislative Train Schedule, updated June 20, 2026, https://www.europarl.europa.eu/legislative-train/theme-civil-liberties-justice-and-home-affairs-libe/file-new-common-approach-on-returns.

for families with children. For unaccompanied minors, the text gives preference to alternative monitoring measures for those aged 14 to 18, while retaining detention as a measure of last resort to ensure the effective enforcement of removal decisions. These arrangements are aligned with the Court of Justice's case-law framework: Kadzoev (C-357/09 PPU) requires detention to be conditional on the existence of a reasonable prospect of removal; JN (C-601/15 PPU[14]) requires an individual and proportionate assessment when detention is ordered on public-order grounds.

4. Return Hubs and the Security Dimension

The text approves the creation of return centres in third countries, allowing the management of irregular migrants who cannot be returned to their country of origin to be externalised. These facilities, whose model draws inspiration from the Albanian centres operated on Italy's behalf (which concern the externalisation of asylum applications), are presented by their proponents as a means of preventing a third country's lack of cooperation from making expulsion entirely impossible, as is currently the case. Their critics p[15]oint to the absence of a binding legal framework for people placed there, the risk of violations of fundamental rights beyond any effective judicial control, and the potentially considerable financial and diplomatic cost of such arrangements. France has, moreover, expressed reservations about agreements of this kind being concluded directly by the Union, while not ruling out their bilateral negotiation by Member States.

The text also contains specific provisions applicable to people who pose a risk to public security, allowing entry bans to be extended and detention to be facilitated. The LIBE Committee nevertheless removed, as did the Council, the obligation to establish systematic mechanisms for detecting migrants, whose wording was legally uncertain, and reiterated the obligation to conduct an individual assessment of the risk of refoulement before any enforcement action, except in the case of foreign nationals whose asylum applications have been rejected, in accordance with the requirements of the Hirsi Jamaa judgment.

[14] Kadzoev, C-357/09 PPU, ECLI:EU:C:2009:741 (CJEU, Grand Chamber, November 30, 2009), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62009CJ0357; JN, C-601/15 PPU, ECLI:EU:C:2016:84 (CJEU, Grand Chamber, February 15, 2016), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62015CP0601.

[15] European Union Agency for Fundamental Rights, Planned Return Hubs in Third Countries: EU Fundamental Rights Law Issues (Vienna: FRA, February 6, 2025), https://fra.europa.eu/en/publication/2025/return-hubs.

The text as adopted thus reflects a negotiated balance between the Commission's initial ambitions and the adjustments introduced by the parliamentary majority. The nature of this majority, the conditions in which it was formed, and the obstacles that the regulation leaves unresolved are the subject of our final section.

3 – Political Realignment and Persistent Structural Obstacles

1. François-Xavier Bellamy, Architect of an Alternative Majority

The vote of 9 March 2026 did not arise spontaneously. Its logic took shape over weeks of negotiations and through a decisive tactical choice. The file had been entrusted to the centrist rapporteur from the Renew group, who was tasked with finding a majority in Parliament. For weeks, he favoured the option of a three-way compromise among the Socialists, Renew, and the EPP, without involving the groups on the ~~hard~~ right. To maintain an atmosphere of conciliation, he postponed decisions on the most sensitive points for as long as possible. The approach failed when the centre-left requested more time, citing the need to take soundings internally; the EPP rejected the request, having grown impatient and intending to retain 9 March as the date of the vote.[16]

The points of rupture with the Socialists were precise and structural. The possibility of removing an irregular national to a country other than the country of origin – that is, to a return centre located in a third state – was an absolute stumbling block for the centre-left. The issue is not abstract: countries such as Algeria systematically refuse to readmit their nationals, making removal decisions concerning them unenforceable under current conditions. Removal of the automatic suspensive effect of appeals was a second point of rupture: the practice of lodging successive appeals not to challenge the substance of a decision but to delay its enforcement is one of the causes of ineffectiveness most frequently cited by governments, and the Socialists opposed the change. Finally, removing the period for voluntary return before forced enforcement constituted a third, insurmountable dividing line.

It was at this point that the EPP negotiator, head of the Les Républicains delegation in Brussels, tipped the balance. After securing his group's agreement to reject the further postponement requested by the left, he circulated an alternative version

[16] Nikolaj Nielsen, "Leak: EPP Sparks Row with Rival Deportation Bill Ahead of Crucial Parliament Vote," EUobserver, March 5, 2026, https://euobserver.com/205757/leak-epp-sparks-row-with-rival-deportation-bill-ahead-of-crucial-parliament-vote/.

of the text by email to the other negotiating teams.[17] The three sovereignist and nationalist groups immediately replied that the text was acceptable to them. The precise authorship of this version became the subject of controversy: the EPP maintained that the text was its own and that the other groups had merely rallied behind it, while representatives of the sovereignist groups presented it as a joint effort.[18] In any event, coordination accelerated in the days preceding the vote, at least to ensure that a majority would exist.

This strategy formed part of a broader institutional balance of power that made it possible. The EPP grew following the June 2024 elections, as did the groups to its right, while centre-left forces declined. The replacement of the European Commissioner responsible for immigration—from a Swedish Socialist representative to an Austrian EPP member—signalled this reconfiguration at executive level. In the Council, fifteen of the twenty-seven governments are now led by parties belonging to the EPP. This context made possible what would have been inconceivable two years earlier: a parliamentary coalition excluding the Socialists on a text of such structural importance. The vote of 9 March 2026 confirms the idea that, on immigration, the European Parliament contains two possible but structurally incompatible majorities, one in the centre and the other on the right, and that it is now the latter that governs this field.

The coalition therefore represents an institutional rupture as much as a political one. It also required a reversal by the Patriots for Europe group: only a few months earlier, the proposed regulation had been described as harmful and firm opposition had been announced. The version ultimately approved by the Patriots was accepted following negotiations they considered satisfactory.

The Patriots would have preferred a directive to a regulation, since the latter applies directly without requiring national transposition, but they did not make this a red line. This adaptation to the rules of the parliamentary game demonstrates the growing tactical maturity of sovereignist groups within the European institutions.

2. A New Philosophy of Return: Breaking with the Priority Given to Voluntary Departure

The parliamentary debates reveal a profound transformation in the philosophy underpinning European return policy. The 2008 Directive was based on giving priority to voluntary departure, under which the authorities were in principle

[17] Nielsen, “Leak: EPP Sparks Row.”
[18] Nielsen, “Leak: EPP Sparks Row.”

required to allow a period of time before considering forced enforcement. In El Dridi, the Court of Justice[19] had reiterated that this sequence lay at the heart of the system. Advocates of tighter rules argue that this logic has shown its limits: a forced return without preparation often leads the person to attempt to come back as quickly as possible, making the removal temporary and illusory.

The reform shifts the system's centre of gravity towards compulsory enforcement. This change of perspective reflects the evolution of the political debate in a context in which the ability to enforce administrative decisions has become an issue of legitimacy for governments. Yet comparative studies[20] carried out in various Member States have shown that the most effective return policies are not necessarily the most coercive. Assisted voluntary-return programmes can substantially alter the incentives surrounding return. Schemes such as Germany's REAG/GARP and StarthilfePlus, Belgium's Fedasil programme and the Frontex European Reintegration Programme combine travel assistance with financial or in-kind reintegration support, including housing, medical care, vocational training, employment assistance and grants for small businesses. The attractiveness and accessibility of such programmes, together with effective consular cooperation with countries of origin and the quality of individual return counselling, may therefore be at least as important to effective return as the strength of coercive instruments.[21]

The regulation's overall architecture is based on a logic that is less coercive than incentive-based. The aim is not so much mechanically to increase the proportion of forced departures as to alter the rational calculation of the person subject to a return decision. By making forced removal constantly possible – through the extension of detention periods, removal of the automatic suspensive effect of appeals, and approval of return centres in third countries – the regulation seeks to create permanent pressure that encourages voluntary cooperation. Return centres follow the same logic: their existence is first and foremost a signal to the people concerned, informing them that refusal to cooperate may lead to transfer to a third country, rather than indefinite residence in Union territory while awaiting the expiry of a time limit. It is therefore not so much coercion itself as the credibility of coercion that lies at the heart of the system.

[19] El Dridi, C-61/11 PPU, ECLI:EU:C:2011:268 (CJEU, First Chamber, April 28, 2011), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62011CJ0061.

[20] Katharina Eisele, ed., The Return Directive 2008/115/EC: European Implementation Assessment, EPRS Study PE 642.840 (European Parliamentary Research Service, July 2020), https://www.europarl.europa.eu/RegData/etudes/STUD/2020/642840/EPRS_STU(2020)642840_EN.pdf.

[21] European Commission, *Analytical Supporting Document Accompanying the Proposal for a Regulation Establishing a Common System for the Return of Third-Country Nationals Staying Illegally in the Union*, C(2025) 2911 final (Brussels, May 16, 2025).

3. The Structural Obstacles the Reform Does Not Resolve

Whatever the quality of the legal framework adopted, several structural obstacles will continue to determine the effectiveness of returns. The European Court of Auditors documented this unambiguously in Special Report No 24/2019:[22] low return rates are explained to a large extent by the difficulty of cooperating with countries of origin, which block the process, in particular by refusing to issue travel documents. The data on minors illustrate this especially sharply: failures are concentrated precisely among nationals of countries at war or in a state of diplomatic rupture. No internal regulatory instrument can compel Syria or Afghanistan to readmit their nationals. The situation in France conveys the scale of the accumulation: over ten years, more than one million orders to leave the territory have been issued without being enforced.[23] This figure is less evidence of a failure of the legal framework than of the structural impossibility of securing the cooperation of certain countries of origin.

The Mahdi judgment[24] illustrates this paradox: Mr Mahdi had been kept in detention far beyond any reasonable justification because the Sudanese embassy refused to cooperate in obtaining travel documents. The Court concluded that this refusal could not be attributed to the person concerned and that detention could not be maintained indefinitely in such a situation. What Mahdi indirectly illustrates is the structural limit of any internal legal mechanism: no rule of European law can compel a sovereign third state to accept the return of its nationals. It is precisely to address this obstacle that the regulation introduces two instruments of a different nature: return centres in third countries, which make it possible to maintain pressure on the people concerned by constantly guaranteeing the possibility of expulsion, without depending on the cooperation of the country of origin or on the possibility of certain identification; and migration conditionality, which makes the granting of visas, trade advantages, and development aid conditional on the level of cooperation by third countries on readmission. One acts on individual behaviour, the other on the behaviour of states.

[22] European Court of Auditors, Asylum, Relocation and Return of Migrants: Time to Step Up Action to Address Disparities between Objectives and Results, Special Report No. 24/2019 (Luxembourg: European Court of Auditors, November 13, 2019), https://www.eca.europa.eu/en/publications/SR19_24.
[23] Rodwell, *Rapport d'information*, 3178.
[24] Mahdi, C-146/14 PPU, ECLI:EU:C:2014:1320 (CJEU, Third Chamber, June 5, 2014), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62014CJ0146.

The second obstacle is constitutional. In France, the legislature had attempted through domestic legislation to extend the duration of administrative detention; this provision was struck down by the Constitutional Council. If definitively adopted, the European regulation will apply directly in all Member States without national transposition and will take precedence over domestic legislation. For the text's proponents, this mechanism of the primacy of Union law is one of its essential advantages: it makes it possible to circumvent national constitutional obstacles. At the same time, it raises questions about the relationship between the regulation and the constitutional requirements of the Member States, which the trilogues will have to take into account.

The third obstacle concerns the relationship between the regulation and the case-law of the European Court of Human Rights, whose requirements bind the Member States independently of any European legislative reform. Regarding the detention of minors, the Court has established specific requirements with which the regulation will have to comply in its implementation: in Popov v. France (Nos 39472/07 and 39474/07, 19 January 2012), it held that the detention of very young children with their parents in unsuitable conditions constituted inhuman and degrading treatment contrary to Article 3 of the Convention. In Muskhadzhiyeva and Others v. Belgium (No. 41442/07, 19 January 2010), the Court had already condemned the prolonged detention of young children in an unsuitable centre. These judgments do not prohibit all detention of families, but they impose material conditions and duration limits that Member States cannot exceed without exposing themselves to adverse judgments. Regarding the right of appeal, the Court reiterated in I.M. v. France (No. 9152/09, 2 February 2012) that accelerated removal procedures violate Article 13 of the Convention when they do not give the person concerned sufficient time to exercise an effective remedy. This requirement applies directly to removal of the automatic suspensive effect: if, in practice, this results in removals being carried out before an appeal can effectively be lodged, Member States risk adverse judgments under the Convention regardless of whether the text complies with Union law.

The fourth obstacle is administrative: the services responsible for enforcing returns are chronically under-resourced in many Member States.[25] National administrations will have to absorb simultaneously a considerable volume of complex legislation, an operational challenge whose scale has not been sufficiently anticipated.

[25] European Migration Network (EMN), *Coherent Return and Reintegration Assistance* (Brussels: European Commission, September 2024).

The fifth obstacle concerns judicial appeals: removing the automatic suspensive effect will reduce certain delays, but it will not eliminate the right of appeal itself, whose fundamental character the Court has recognised since El Dridi.

Beyond these obstacles, two deeper structural weaknesses in the European legal framework will continue to weigh on the effectiveness of any return policy and will have to be addressed sooner or later.

The first is the principle of non-refoulement, enshrined in the 1951 Geneva Convention, Article 3 of the European Convention on Human Rights, and the Charter of Fundamental Rights of the European Union. This principle prohibits the removal of a person to a country where they face a risk of inhuman or degrading treatment, regardless of the lawfulness of their stay. It constitutes an absolute limit on any removal policy, which the Return Regulation cannot and does not purport to remove, but its effective implementation requires an individual assessment that accelerated procedures will make more difficult to guarantee.

The second weakness concerns the current state of the Schengen area. In practice, the free movement it organises among Member States indirectly also benefits third-country nationals who are irregularly present in Union territory: once a person has entered the Schengen area, the abolition of controls at internal borders makes locating and effectively removing that person considerably more complex. The European return order and the mutual recognition of removal decisions provide a partial response to this problem, but they do not challenge the fundamental logic of an area of free movement in which entry and control conditions remain heterogeneous among Member States. These two realities define the boundaries within which any return policy will have to operate over the long term.

4. The Issues at Stake in the Forthcoming Trilogues

The interinstitutional negotiations are opening with several major points of tension. The precise definition of the criteria for risk of absconding will probably be the most contested issue: the Council will seek broader room for manoeuvre, while Parliament will be intent on maintaining safeguards compatible with the case-law since Kadzoev. The arrangements for conditionality vis-à-vis third countries will also raise practical questions of the first order: how can the objectives of migration policy be reconciled with those of trade and development policy without one undermining the other? Finally, the trilogues will have to define precisely the

conditions under which the principle of non-refoulement, as interpreted in Hirsi Jamaa and in the case-law of the Court of Justice, will be operationalised. Any provision permitting removals without an individual risk assessment, particularly in centres located in third countries, will be exposed to foreseeable litigation.

The first test could nevertheless come even before the trilogues begin. The LIBE Committee's vote was accompanied by a mandate authorising the parliamentary delegation to enter directly into negotiations with the Council without another plenary vote. The minority groups announced their intention to challenge this mandate through a referral to plenary, which would trigger a new amendment procedure and considerably delay the timetable. If this challenge fails, and if the trilogues progress quickly, the regulation could be published and applied in all Member States as early as summer 2026. This tight timetable underscores the procedural fragility of a majority constructed outside the usual channels of negotiation.

The cohesion of the alternative coalition during the trilogues is not guaranteed. Some members of the centrist groups that supported the text in committee may prove more reluctant regarding specific provisions during negotiations with the Council. The parliamentary delegation will have to manage this tension, which could lead to changes in the text that run counter to its general direction. The architect of the vote of 9 March 2026 will then have to demonstrate that the coalition he built is sufficiently robust to pass through the subsequent stages of the legislative process.

It may, however, be assumed that the European Commission will support the text in the trilogues. If this assumption is confirmed, the interinstitutional configuration would be unprecedented: the Commission, the Council, and the parliamentary majority would be aligned around the same direction, driven by growing pressure from European public opinion in favour of a firmer migration policy. Such an alignment would represent a historic opportunity finally to equip the Union with a credible and operational return framework after years of institutional deadlock. It would bring together the political and legal conditions necessary for the regulation to be adopted quickly, transposed effectively, and applied consistently across all Member States.

Conclusion

The reform of the European return system, as it is taking shape following the LIBE Committee's vote of 9 March 2026, is ambitious in its objectives and fragile in its foundations. Ambitious, because it crosses a threshold in the Europeanisation of removal procedures by creating a mechanism for the mutual recognition of return decisions, removing the automatic suspensive effect of appeals, and substantially strengthening the obligations imposed on the people concerned. Fragile, because the obstacles that have so far limited the effectiveness of returns are primarily diplomatic, administrative, and social, and will not be overcome by the sophistication of the legal framework alone. The political diagnosis and the structural diagnosis do not coincide. That is the crux of the problem, and the reform does not entirely resolve it.

The way in which the majority of 9 March 2026 was constructed says something important about the state of the European Parliament. On migration issues, the grand-coalition majority has become structurally inoperative. The question now is no longer merely whether tougher rules substantially change the reality of returns, but also what this political realignment means for the coherence of the entire European architecture on asylum and migration. The forthcoming trilogues will constitute a decisive test. The history of previous reforms calls for caution regarding the former and vigilance regarding the latter.

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Book recommendation by Ildikó Kaposi
The Crime–Terror Nexus: Navigating Between Political Violence and Organised Crime

Edited by Viktor Marsai and Diego Muro

Routledge, 2026

The Crime–Terror Nexus: Navigating Between Political Violence and Organised Crime is a timely and intellectually ambitious edited volume that grew out of a joint project between the Migration Research Institute and the University of St. Andrews. The book revisits one of the most persistent problems in contemporary security studies: how scholars should understand the relationship between politically motivated violence and profit-driven criminality. The volume seeks to reconsider some of the basic assumptions of the literature. Its starting point is that the crime–terror nexus has changed sufficiently over the past decade to warrant a reassessment of the analytical language used to describe it. The book therefore combines conceptual debate with empirical analysis, bringing together chapters on terrorism financing, rebel governance, lone-actor terrorism, cultural imitation, illicit antiquities, transnational criminal organisations, Al-Shabaab, the Sahel and Taliban-ruled Afghanistan.

The volume avoids one of the most common weaknesses of edited collections: assembling individually interesting chapters without a sufficiently clear argument connecting them. Marsai and Muro instead establish a recognisable intellectual problem at the beginning and return to it throughout the volume. Their introductory argument centres on two propositions and an open question. First, they suggest that the contemporary crime–terror nexus should increasingly be understood not simply through movement or convergence between crime and terrorism, but through durable and divergent organisational configurations. Second, they argue that the state itself must be brought inside the analytical framework, rather than being treated merely as the authority that identifies, regulates or suppresses criminal and terrorist actors. The associated question is whether the typological frameworks that have dominated the field remain capable of capturing these developments.

This is an effective organising idea because it is revisionist without being unnecessarily iconoclastic. The editors do not claim that earlier scholarship has become irrelevant. The influential continuum and convergence approaches

associated with the crime–terror nexus remain important starting points. Rather, the book asks whether concepts constructed primarily to explain movement between criminal and terrorist activity are adequate when organisations settle into relatively stable combinations of revenue generation, political authority, violence and governance. The distinction is subtle but important. The volume argues that the analytical question increasingly becomes not simply why an organisation shifts from one point on a crime–terror spectrum to another, but why particular arrangements persist.

The introduction provides a useful intellectual history of the field. It identifies an initial phase in which crime and terrorism were generally treated as analytically distinct phenomena, followed by the post-9/11 emphasis on convergence and then a more differentiated literature examining hybrid threats, criminal backgrounds among extremists and multiple forms of interaction between terrorist and criminal organisations. The editors are particularly interested in what they regard as assumptions shared by much of this literature: that transition constitutes the principal puzzle, that the state stands outside the nexus and that typological classification represents the appropriate way to organise empirical variation. The book does not reject all three propositions equally: one of its more attractive features is that disagreement among the contributors is deliberately preserved.

The opening chapter by Clara Broekaert and Colin P. Clarke establishes this debate well. Their concern is the feasibility of constructing a durable typology when the environment being classified is itself continually changing. They trace the development of the crime–terror relationship from the Cold War through the post-Cold War period, the post-9/11 counterterrorism environment and the contemporary technological era. Their central contribution lies in demonstrating how changes in state sponsorship, globalisation, counterterrorism policy and technological accessibility alter the incentives of non-state actors. Typologies remain analytically valuable, but the categories on which they rely can become unstable when political and technological conditions change.

Technology is especially significant in this argument. Encrypted communication, social media, cryptocurrencies, commercially available drones, 3D printing and other technologies can reduce the organisational and financial barriers faced by both terrorist and criminal groups. Crucially, technological change does not necessarily strengthen cooperation between criminals and terrorists. In some circumstances it may do the opposite: actors that previously required external

partners can internalise capabilities that once had to be acquired through criminal networks. This creates an interesting challenge for conventional convergence models. If new technology simultaneously facilitates cooperation and reduces the need for it, the relationship cannot easily be represented as movement in a single direction. This is one of several places where the volume succeeds in treating the nexus as a genuinely empirical question rather than assuming in advance that crime and terrorism are necessarily becoming progressively more interconnected.

The second chapter, by Letizia Paoli and Cyrille Fijnaut, serves an important function because it does not simply reinforce the editors' revisionist position. It provides a sophisticated defence of typological analysis. The authors distinguish three principal forms of the nexus: interaction, transformation or imitation, and structural similarity, with different degrees possible within each category. Their framework is based on earlier comparative research and illustrates how a carefully constructed typology can still bring analytical order to phenomena that are otherwise easily conflated.

Placing this chapter immediately after Broekaert and Clarke is a strong editorial decision. The reader encounters two competing answers to essentially the same methodological problem. One argues that political reclassification, technological disruption and structural change increasingly undermine established categories; the other demonstrates that sufficiently nuanced typologies retain considerable explanatory value. The editors explicitly acknowledge this disagreement rather than manufacturing consensus. They note that some chapters defend the typological tradition while others argue that structural transformations have outgrown it. This makes the collection more credible: it invites the reader into an ongoing scholarly debate rather than presenting a single framework as definitively settled.

William Vlcek's chapter then approaches the nexus from the perspective of counter-terrorist financing. Instead of asking primarily how terrorist organisations obtain their resources, it examines the international architecture designed to prevent them from doing so. Its "whack-a-mole" metaphor captures the difficulty of regulating a financial environment in which each innovation creates new vulnerabilities requiring further regulatory adaptation. The modern counter-financing regime developed from anti-money-laundering mechanisms, but mobile payments, cryptocurrencies and other innovations repeatedly test its reach.

The chapter also contributes to one of the broader strengths of the volume: the book treats finance as more than a technical question. Regulation depends on states,

financial institutions and private actors, while terrorist and criminal organisations adapt to regulatory pressure. The resulting relationship is dynamic. This chapter also pairs effectively with Anna Puskás's later discussion of antiquities trafficking. Where formal financial systems can be monitored with increasing sophistication, illicit markets based on personal networks, cash transactions and difficult-to-trace cultural objects remain considerably harder to regulate. The juxtaposition allows the reader to see both the reach and the limits of contemporary counter-financing mechanisms.

The chapter by Diego Muro and Tim Wilson on ETA and the Provisional IRA broadens the book's conceptual horizon further through the literature on rebel governance. Instead of conceptualising terrorist organisations purely as producers of violence, the authors ask what happens when such organisations also perform functions conventionally associated with government. ETA and the IRA collected funds, exercised social control, operated informal systems of justice, and developed structures of authority within communities in which the formal state continued to exist.

This historical comparison is valuable because it prevents the book's argument about quasi-state organisations from becoming excessively associated with contemporary weak or failed states. The basic phenomenon is not restricted to Somalia, Afghanistan or the Sahel. ETA and the IRA demonstrate that non-state armed groups can construct parallel institutions even within comparatively strong European states. The chapter therefore creates a bridge between terrorism studies and the increasingly influential literature on insurgent governance. As the editors observe, the historical examples demonstrate that durable quasi-state structures are neither entirely new nor exclusive to environments characterised by the collapse of formal state authority.

Ovidiu Craciunas's chapter on lone-actor terrorism performs a different but equally useful function by changing the level of analysis from organisations to individuals. Based on a dataset of fifty lone-actor terrorists in North America and Western Europe, the chapter investigates the widespread proposition that criminal experience facilitates subsequent terrorist radicalisation. Roughly half of the cases involve individuals with criminal histories, but the findings caution against treating correlation as a simple causal mechanism.

The chapter finds limited evidence for the proposition that involvement in violent crime generally accelerates radicalisation, while prison radicalisation appears

less common than some policy discussions have suggested. Criminal experience nevertheless matters in particular circumstances, including among some Islamist lone actors whose backgrounds may increase receptiveness to extremist narratives. The analytical payoff is important: a nexus observable at the organisational level does not automatically reproduce itself at the individual level. This is the kind of empirical qualification that strengthens the volume. Rather than stretching the crime–terror concept until virtually any contact between criminality and extremism counts as evidence of convergence, the chapter identifies limits.

Simon Cottee's contribution, "Jihadi Mimics", moves the argument in yet another direction. It examines how jihadist aesthetics and cultural scripts can be adopted by groups that do not share jihadist ideology. Through examples involving Trinidadian street gangs and Anglo-American far-right actors, the chapter explores the circulation of imagery associated with violence, sacrifice, masculinity and militant identity.

This is one of the more distinctive contributions in the collection because it demonstrates that the crime–terror relationship need not consist of organisational cooperation, financial transactions or the movement of personnel. Cultural repertoires can travel independently. An actor may imitate the visual language or behavioural codes associated with jihadist organisations while rejecting their theology and political objectives. The chapter identifies a specific mechanism – cultural imitation – that traditional organisational models are poorly equipped to capture.

Anna Puskás's chapter on cultural heritage and terrorist financing provides a complementary examination of illicit markets. Focusing particularly on ISIL and the trafficking of artefacts and antiquities originating in conflict zones, it considers how terrorist organisations can derive resources from cultural property while simultaneously contributing to the destruction of the cultural identity of affected communities. The discussion also traces the securitisation of cultural heritage protection since the territorial expansion of Islamic State drew greater international attention to the issue.

The chapter places a specialist subject within the book's broader argument. Antiquities trafficking is not merely another item on a list of terrorist revenue sources. It illustrates the difficulty of regulating markets operating beyond conventional financial surveillance and frequently flourishing where state capacity has weakened or collapsed. The chapter consequently fits neatly alongside

Vlcek's analysis: formal counter-financing mechanisms may become increasingly sophisticated without being equally effective across every economic environment.

Jessica M. Vaughan's chapter shifts attention to the Western Hemisphere and to the legal and political consequences of increasingly blurred classifications. It discusses Hezbollah, MS-13, Tren de Aragua and Chinese money-laundering organisations alongside the expanding use of US counterterrorism authorities against actors traditionally understood primarily through organised-crime frameworks. Whatever position readers take on the policy choices examined, the case raises a valuable analytical issue for the volume: categories such as "criminal organisation" and "terrorist organisation" are not produced solely through academic observation. Governments can alter their legal meaning through designation.

This point is central to the editors' argument that the state has moved inside the nexus. If the designation of an organisation as terrorist changes the legal mechanisms available against it, its financial environment, its members' exposure to prosecution and the diplomatic consequences surrounding it, classification becomes part of the phenomenon rather than merely a scholarly description of it. Broekaert and Clarke pose this problem conceptually, Vaughan provides an applied case through which its consequences can be considered.

The final three empirical chapters are arguably the clearest demonstration of the editors' principal claim about divergence.

Omar S. Mahmood's study of Al-Shabaab shows an organisation that combines ideological warfare with highly developed revenue extraction. Commodity smuggling, checkpoints, taxation, extortion and financial activities in government-held areas sustain the group's operations. Yet the chapter resists concluding that financial success has transformed Al-Shabaab into an essentially criminal organisation. Revenue remains instrumental to a political and ideological project. The group continues to use its resources to pursue an Islamist political order and to wage war against the Somali state.

This distinction matters. Profit-generating behaviour does not necessarily imply that profit has replaced political objectives. More importantly for the book's overall thesis, Al-Shabaab has developed administrative and fiscal structures durable enough to resemble those of a competing government. It is described as an organisation with a ministry of finance and regional tax administrations, illustrating an arrangement in which state and insurgent structures compete for

authority and revenue rather than simply occupying opposite poles of a criminal-terrorist continuum.

Viktor Marsai's chapter on "caravan terrorism" in the Sahel offers a revealing contrast. Rather than reproducing the Al-Shabaab model, some Sahelian armed organisations – particularly those associated with JNIM – prioritise mobility and control over routes instead of constructing fixed bureaucratic administrations. They exploit long-established trans-Saharan networks and may resemble protection systems or rackets more than embryonic states. The concept of caravan terrorism is intended to capture precisely this preference for corridors, mobility and networked authority over institutionalised territorial governance.

The contrast between the two chapters is one of the book's most persuasive empirical elements. Both environments involve jihadist organisations operating alongside illicit economies, yet the resulting organisational forms differ markedly. One trajectory favours taxation, administration and quasi-state institutions, the other favours flexible networks and control of movement. The implication is that convergence does not produce a single organisational endpoint. Geography, social structures, ideology, available revenue streams and relationships with formal states help generate different but comparatively durable outcomes.

The Afghanistan chapter by Erzsébet Nagyné Rózsa and Virág Novák-Varró pushes the problem one stage further. The Taliban is especially difficult for conventional crime–terror theory because it has moved from insurgency to de facto government. The chapter examines its connections with organised criminal activities alongside its new position as the authority formally responsible for controlling the Afghan territory. It consequently generates an unusual inversion: an organisation historically analysed as part of the crime–terror nexus is now responsible for policing criminality and combating other armed organisations within the state it governs.

This produces what the book treats as an updated version of the "black hole" problem. The Taliban once benefited from an environment characterised by limited central state control, but after returning to power, it inherited responsibility for governing that same environment. At the same time, organisations such as Islamic State Khorasan Province continue to operate within Afghanistan. The case demonstrates especially clearly why a theory that places the state automatically outside the crime–terror nexus becomes difficult to sustain. The Taliban is

simultaneously a former insurgency, a historically sanctioned actor, a governing authority and an organisation whose past economic networks cannot simply be analytically separated from its contemporary role.

Taken together, these chapters give the volume considerable geographical and analytical range. Europe appears through ETA, the IRA and lone-actor terrorism, the Middle East through ISIL and illicit antiquities, the Americas through transnational criminal networks and legal reclassification, East Africa through Al-Shabaab, the Sahel through JNIM and caravan terrorism, and South-Central Asia through Afghanistan. But the book's real strength is that geography does not become the organising principle. Cases are selected because they illuminate different mechanisms.

Three strengths in particular make the volume worth recommending.

The first is conceptual discipline. Crime and terrorism are both categories that can be stretched too far, and the "nexus" between them can easily become so broad that almost any illicit behaviour by an armed group qualifies. The contributors repeatedly resist this temptation. The lone-actor chapter finds less overlap than one might expect, the cultural chapter distinguishes appropriation of jihadist imagery from actual jihadist affiliation, the Al-Shabaab analysis distinguishes revenue generation from transformation into a primarily profit-seeking organisation. These distinctions preserve analytical value.

The second is the volume's willingness to organise disagreement rather than suppress it. Paoli and Fijnaut's defence of typology sits alongside Broekaert and Clarke's greater scepticism. The editors themselves do not claim to have constructed a definitive replacement framework. Indeed, they explicitly present their intervention more modestly: crime–terror research increasingly needs to explain stability where earlier scholarship concentrated on transition, while incorporating the state as a constitutive actor rather than merely an external referee. The volume advances the debate without claiming prematurely to have resolved it.

Third, the collection benefits from productive movement across levels of analysis. Organisational structures dominate much crime–terror research, but this book also includes individual pathways, cultural repertoires, financial regulation, political classification and state formation. The result is not perfectly seamless, but the variation mostly works in the book's favour because it demonstrates just how many different phenomena have accumulated under the crime–terror label.

The book's greatest value may lie in providing readers already familiar with crime–terror scholarship with a reason to reconsider familiar categories. The argument that the field should pay greater attention to durability, divergence and the constitutive role of the state emerges gradually from the chapters. Al-Shabaab's fiscal governance, JNIM's preference for mobility, the Taliban's transformation into a governing authority, state reclassification of criminal organisations, cultural imitation of jihadist forms and the ambiguous relationship between criminal biographies and lone-actor radicalisation all challenge a simple narrative of progressive convergence. As the editors put it, the contemporary question is increasingly how combinations of violence, revenue, authority and classification become stable.

The Crime–Terror Nexus takes a mature body of scholarship, identifies where its established categories are under pressure and subjects those categories to a diverse set of contemporary and historical cases. At its best, the volume succeeds in shifting the reader's attention from the familiar question of whether criminals and terrorists are converging to the more demanding questions of what forms their relationships actually take, why those forms persist, how they differ across political environments, and what happens when the state itself becomes one of the actors producing the categories under examination.

The book's argument does not rest on the claim that earlier crime–terror scholarship was mistaken. More convincingly, it argues that the object of study has evolved and that the conceptual toolkit must evolve with it. For scholars and practitioners seeking an updated account of the changing boundaries among organised crime, terrorism, insurgency and state authority, this volume offers a well-structured and thought-provoking place from which to continue that discussion. While not explicitly dedicated to issues of migration, the book features migration as a sub-theme across several chapters as a stark reminder of how integral a part of the crime–terror nexus migration has become. The connection is revealed in the chapters whose subject matter includes the smuggling of humans as an addition to the criminal repertoire of the organisations explored, be they the Talib regime or caravan terrorists. These links make the volume a valuable resource for scholars and practitioners of migration studies as well.

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