

Migration Blackmail and Instrumentalisation as Justifications for Deterrence and Exclusion: A Response to Sharp (2025)

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A detailed and thoughtfully crafted paper by Daniel Sharp (2025) opens significant space for reflection. It addresses a topic that, over the past few years, has become increasingly prominent in European political and legal debates: the (perceived) practice of third states using migration as leverage against EU Member States to extract political or economic concessions. Sharp refers to these scenarios as ‘migration blackmail,’ borrowing the term from the migration diplomacy literature.

The paper offers several examples intended to illustrate such practices. In 2010, Muammar Gaddafi threatened to permit African migrants to travel to Europe unless the EU transferred billions of euros to Libya. In 2021, Belarusian authoritarian leader Alexander Lukashenko facilitated the movement of foreign nationals towards the EU’s eastern borders in response to sanctions. Similarly, in March 2020, Recep Tayyip Erdoğan announced that Türkiye would no longer prevent migrants from travelling to Europe or accept returns under the EU-Türkiye Agreement, a move widely seen as an attempt to secure EU support for Türkiye’s military operations in northern Syria.

Does ‘migration blackmail’ create a dilemma?

The paper argues that states face a dilemma between resisting migration blackmail and protecting migrants’ rights. While resisting may require closing borders, such responses risk leaving people on the move without protection or exposing them to harm. In practice, states have often responded by sealing borders and restricting the right to seek asylum, as seen in Greece in 2020 and, more recently, in Latvia, Lithuania and Poland – EU Member States bordering Belarus.

Sharp brings together a range of elements to illustrate and test the so-called 'migration blackmail dilemma' and to explore how target states should navigate it. The paper ultimately concludes that not all cases of alleged migration blackmail give rise to such a dilemma and that closed-border responses to blackmail are generally impermissible. I concur with this assessment. I agree that situations described as migration blackmail often do not impose significant burdens on target states, and empirical evidence often contradicts crisis narratives. For instance, arrivals at the EU's border with Belarus were far lower than those along the Mediterranean route, let alone during the 2015-2016 'refugee crisis' (for more detailed statistics, see, e.g., [Ancite-Jepifánova 2025a, 15-16](#)), and remain manageable, particularly in light of EU's reception of several million people fleeing Ukraine following the Russian invasion of 2022 ([UNHCR 2026](#)). States also have alternative means to address migration pressures, including burden-sharing and financial support, while accepting protection seekers into their territory would reduce the leverage of blackmailing states. Moreover, migrants' interests in avoiding harm and accessing protection outweigh states' interests in resisting blackmail, particularly given the risks of human rights violations associated with closed-border responses. These considerations support Sharp's conclusion that prevailing European responses are unjustified and profoundly harmful to the foreign nationals involved.

Unpacking 'migration blackmail' and 'instrumentalisation': Legal ambiguity and fieldwork insights

Notwithstanding the above, my contribution seeks to shift the analytical frame by posing a more fundamental question that underpins the very possibility of the dilemma itself. While Sharp argues that states face a tension between resisting migration blackmail and protecting migrants' rights, this framing presupposes that migration blackmail is materially occurring. Yet before asking how states should respond to such practices, it is necessary to examine how receiving states construct and define concepts such as 'migration blackmail' or 'instrumentalisation,' and whether these narratives genuinely correspond to realities on the ground.

The situation at the EU-Belarus border, which Sharp identifies as an example of migration blackmail (more widely framed as migrant instrumentalisation), is particularly illustrative in this regard. It is important to stress that, in response to the EU-Belarus border crisis, for the first time in the EU's history, the notion of migrant instrumentalisation moved beyond political rhetoric into the legal domain. Alongside related concepts such as 'hybrid threats,' it has been incorporated into the domestic legislation of several EU Member States, where it has served to justify prolonged derogations from fundamental rights. Moreover, the concept has now entered EU hard law through the Crisis and Force Majeure Regulation (Regulation (EU) 2024/1359), adopted as part of the New Pact on Migration and Asylum and scheduled to apply from 1 July 2026.

The definition of migrant instrumentalisation is of key importance in this context. Under the new Regulation, for instance, a situation of instrumentalisation is defined as one in which:

‘a third country or hostile non-state actor encourages or facilitates the movement of third-country nationals or stateless persons towards the EU’s external borders or into a Member State with the aim of destabilising the Union or a Member State, where such actions are likely to threaten essential state functions, including the maintenance of public order or the safeguarding of national security.’¹

One of the central problems with this definition lies in its ambiguity, particularly regarding what it means to ‘encourage or facilitate’ the movement of third-country nationals towards the EU’s external borders. Equally problematic is the requirement to establish an ‘aim of destabilising’ the EU, which raises serious concerns from the perspective of legal certainty.

Developments at the EU-Belarus border illustrate that the situation is far more complex than the notion of instrumentalisation, as framed in official discourse, suggests. My contribution draws, among other sources, on my interdisciplinary work on the EU-Belarus border crisis, integrating legal analysis with fieldwork conducted in Latvia, Lithuania, and Poland. This includes around twenty in-depth interviews with legal practitioners and humanitarian aid volunteers, as well as over forty interviews with non-EU nationals – predominantly from the MENA region – who experienced pushbacks and other rights violations while attempting to enter the EU from Belarus (for findings, see [Ancite-Jepifánova 2024, 2025a, 2025b](#)).

My fieldwork, supported by media and policy reports, indicates that the dynamics at the Belarus-EU border have changed significantly since summer 2021. While in the initial phase of the border crisis (summer 2021 to early 2022), the Belarusian state did appear to be actively involved in *channelling* migration movements – by increasing the issuance of visas, organising direct flights to Minsk, cooperating with Middle Eastern travel agencies, and in some cases facilitating the transportation of foreign nationals to the EU border – this no longer seems to reflect current realities on the ground. Following EU pressure, already in autumn 2021 several international airlines introduced discriminatory restrictions, denying boarding to nationals of countries such as Iraq, Syria, and Yemen travelling to Minsk (see, e.g., [Roth and O’Carroll 2021](#)). This was followed by significant decline in irregular border crossings. The route nevertheless remains active and, since 2022, migration patterns have shifted: whereas in 2021 most people entered Belarus directly, the dominant route now runs via Russia, with non-EU nationals travelling there first – often using visas or visa-free regimes – before continuing overland into Belarus and towards the EU (for a discussion, see [Ancite-Jepifánova 2025b](#)).

At the same time, my research suggests that, at present, there is no clear evidence that Russia or Belarus operates a deliberate, centralised policy aimed at channelling migration towards the EU’s borders. Such claims risk oversimplifying complex migration dynamics and overlooking key factors, including decentralised low-level corruption, intermediary networks, migrants’ agency, and established regional mobility patterns. People crossing into the EU from Belarus via Russia constitute a highly heterogeneous group. Russia issues over one million visas annually and maintains comparatively permissive visa and visa-free regimes, including for nationals of refugee-producing and authoritarian states (see

¹ Regulation (EU) 2024/1359 of the European Parliament and of the Council of 14 May 2024 addressing situations of crisis and force majeure in the field of migration and asylum and amending Regulation (EU) 2021/1147 [2024] OJ L2024/1359, art 4(b).

ibid). It is therefore unsurprising that some individuals obtain Russian visas – sometimes through informal channels involving low-level corruption that predates 2022 – with the aim of onward movement to the EU via Belarus. Furthermore, with Russia being among the largest immigrant-hosting countries worldwide ([United Nations 2021](#)), many people attempting to enter the EU have resided there for extended periods, either regularly or irregularly, including after the expiry of student or visitor visas. For a significant number, onward movement to the EU was a later decision, prompted by insecure living conditions, human rights violations, or the risk of expulsion or forced conscription in the context of the war in Ukraine (see, e.g., [Walker and Ali 2024](#); for a more detailed discussion on these patterns, see [Ancite-Jepifánova 2025b](#)).

Interviews conducted as part of my research, alongside numerous media reports, indicate that most people crossing from Belarus are transported to the border by intermediaries of varied backgrounds operating as non-state actors, although some undertake the journey independently. Demonstrating direct involvement of Russian or Belarusian state authorities would require concrete evidence of coordination or complicity within specific fixer networks – an evidentiary threshold that is extremely difficult, if not impossible, to meet. At present, there is little to suggest that such a degree of state-level involvement exists.

What my research points to instead is a proliferation of smuggling networks since the onset of the border crisis in 2021 – networks that predated the crisis but have since expanded. Irregular migration via Belarus is not a new phenomenon. Since the 1990s, Belarus has served as an important transit country for people travelling to the EU via Russia, including nationals from the Caucasus and Central Asia, as well as countries such as Afghanistan, alongside Russian nationals fleeing human rights violations in regions such as Chechnya ([Yakouchyk and Schmid 2016](#)). The 2021 border crisis appears to have facilitated the expansion of these networks, driven largely by Belarus's failure to prevent irregular border crossings. In this context, it should be emphasised that this *modus operandi* of the Belarusian authorities at the border has not fundamentally changed since 2021. However, characterising failure to prevent irregular crossings alone as migrant instrumentalisation is legally problematic. Even using Sharp's terminology, in the present case the distinction between migration blackmail and simple non-cooperation becomes blurred and, from 2022 onwards, Belarus's actions may be more accurately described as non-cooperation. Importantly, international human rights law does not impose an obligation on states to prevent individuals from crossing borders irregularly. On the contrary, the 1951 Refugee Convention recognises that refugees may arrive irregularly and explicitly prohibits penalising them for such entry (Article 31).

I also seek to move away from portraying non-EU nationals as mere 'victims of instrumentalisation,' as suggested by Sharp. While EU Member States do respond to perceived blackmail at the expense of migrants, the instrumentalisation paradigm risks obscuring the diversity of profiles, motivations, and decision-making processes among those attempting to enter the EU via Belarus. It tends to depict individuals as passive subjects, whereas my research shows that many exercise considerable agency, actively navigating and seeking to overcome global mobility constraints and EU externalisation and containment policies. In numerous cases, my interviewees deliberately chose the Belarus route after unsuccessful attempts to reach the EU through other pathways. This holds true despite violent pushbacks and other types of human rights violations carried out by both

Belarusian and EU Member State authorities – practices of which prospective border-crossers are typically aware, yet still decide to attempt the journey.

‘Migration blackmail’ and ‘instrumentalisation’ as tools of deterrence and control

Against this backdrop, I would shift the analytical focus from the question of what states are morally permitted to do to how they deploy narratives of ‘migration blackmail’ or ‘instrumentalisation’ to justify excluding people on the move from fundamental rights protection. In doing so, the respective governments severely undermine the non-derogable principle of *non-refoulement* and the right to seek asylum, while contributing to the normalisation of systematic human rights violations.

What is particularly exceptional about the EU-Belarus border crisis is its temporal dimension. Rather than being treated as a short-term incident of alleged instrumentalisation, the discourse of instrumentalisation has continued to persist in official narratives since 2021, despite the changing situation on the ground and without meaningful critical examination. In the years following 2021, Latvia, Lithuania, and Poland have formalised emergency responses to perceived instrumentalisation that legitimise pushbacks and severely restrict access to asylum by embedding such measures within permanent legal frameworks, thereby perpetuating the logic of permanent crisis (for discussion, see Ancite-Jepifánova 2025a, 16–18). At the EU level, the Crisis and Force Majeure Regulation further legitimises the instrumentalisation narrative.

As I have shown above, however, ‘migrant instrumentalisation’ is, in fact, a political, ideological, and now also a legal construct that remains vague, difficult to legally prove or measure, and prone to expansive interpretation. Furthermore, measures addressing perceived instrumentalisation are blanket in nature, based on the assumption that all individuals arriving via Belarus have been ‘instrumentalised,’ irrespective of their individual circumstances, mode of entry, or any actual involvement of state authorities. Such an approach effectively deprives foreign nationals of fundamental rights protections merely because they attempted to enter the EU from a particular third country.

The vagueness of the instrumentalisation concept and the detachment of official discourses from empirical realities therefore raise broader doubts — at least in the context of the EU-Belarus border crisis from 2022 onwards — about the very existence of the alleged ‘migration blackmail dilemma.’ While the dynamics of each situation may differ, the concepts of migration blackmail or instrumentalisation may, rather than describing an objective reality at the border, reflect a politically constructed narrative of exceptionality, emergency and crisis, serving to legitimise restrictive and often unlawful measures adopted by European states, rather than a genuine dilemma in the sense initially conceptualised by Sharp.

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About the “Dilemmas” project

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