



Blog

EFFICIENCY AT WHAT COST? AI AND FAIRNESS IN EU ASYLUM DECISION- MAKING

Lasya Gudur

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About the Author

Lasya Gudur was a Research Assistant at the EUROPEUM Institute for European Policy during an internship in Prague. She is currently pursuing a dual degree in Political Science and Data Science at Washington University in St. Louis (USA), applying computational methods to questions of public policy and governance. Her work explores the intersection of artificial intelligence, migration governance, and related institutional practices.

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Efficiency at What Cost? AI and Fairness in EU Asylum Decision-Making

In 2015, the European Union faced a massive challenge. As a result of the worsening Syrian Civil War, as well as further developing conflicts in countries like Afghanistan, Iraq, and Eritrea, the refugee and migrant arrivals to the European Union reached unprecedented levels.¹ In response, EU institutions and Member States pursued several measures, including plans for relocating asylum seekers based on the capacity of Member States,² reinforcing Frontex for the purpose of external border security, increasing cooperation with third countries, and introducing new forms of migration management.³ These responses, however, caused political divisions between Member States over border control, ultimately leaving the EU without a coherent long-term solution to this crisis.

Almost a decade later, *the Pact on Migration and Asylum* was introduced and became fully operational by June 2026. The Pact primarily focuses on legislative reforms that are aimed at restructuring the asylum system across the Union.⁴ The subsequent European Asylum and Migration Management Strategy, released in January of 2026, builds off the Pact and serves as the first policy-direction document of its kind, which explains how the EU plans to operationalise, prioritise,

¹ Linda Peters, Peter-Jan Engelen, and Danny Cassimon, "Explaining Refugee Flows: Understanding the 2015 European Refugee Crisis through a Real Options Lens," *PLOS ONE* 18, no. 4 (April 20, 2023): e0284390, <https://doi.org/10.1371/journal.pone.0284390>.

² Lavenex, Sandra. "'Passing the Buck': European Union Refugee Policies towards Central and Eastern Europe." *Journal of Refugee Studies* 11.2 (1998): 126-145.

³ Cassarino, Jean-Pierre, and Luisa Marin. "The pact on migration and asylum: Turning the European territory into a non-territory?." *European Journal of Migration and Law* 24.1 (2022): 1-26.

⁴ European Commission, Directorate-General for Migration and Home Affairs, "Pact on Migration and Asylum," accessed April 2, 2026, https://home-affairs.ec.europa.eu/policies/migration-and-asylum/pact-migration-and-asylum_en.

and build on the framework of the Pact. It explicitly calls for the use of digitalisation and AI in migration and asylum, including in areas such as forecasting, case management, border procedures, and migration governance.⁵

In this context, various innovative technologies relying on AI are now being tested and used at borders, with the intention of making them a more routine part of asylum procedures.⁶ This raises important concerns about transparency and accountability as automated tools become more embedded in decisions affecting migrants and asylum seekers.

Asylum decisions are not just administrative tasks. They are high-stakes judgments that can determine whether a person receives protection or is returned to a situation where they are in danger. In the rise of digitalisation and the use of AI, we are faced with the issue of whether the use of AI in asylum procedures is ethical and whether it can truly assist Member States in adequately, accurately, and fairly processing asylum applications and individuals arriving at EU borders. In the context of asylum procedures, the use of AI refers to systems that learn patterns from historical data and apply them to new cases through automated classifications, recommendation or decision-support tools used in triaging, processing, and assessing international protection claims. Fairness, in this context, is used in its procedural dimension to refer to decision-making processes that are transparent, non-discriminatory, and responsive to the individual circumstances of each applicant.

This blog post examines two central fairness concerns raised by the use of AI in EU asylum procedures: a) the discrepancy between the reasoning used by AI and

⁵ European Commission, Directorate-General for Migration and Home Affairs, European Asylum and Migration Management Strategy (Brussels: European Commission, January 29, 2026), https://home-affairs.ec.europa.eu/document/download/ce0d294e-5dd9-4e2a-bf68-53d9d16fc95a_en?filename=European%20Asylum%20and%20Migration%20Strategy.pdf.

⁶ European Commission, *European Asylum and Migration Management Strategy*.

the individualized judgement asylum decisions require and b) the lack of transparency and explainability in automated decision-support systems. It then considers whether the EU AI Act, in its current form, is equipped to address these challenges.

1. How is AI Currently Being Used in EU Asylum Procedures

Discussions about the introduction of AI in EU asylum and migration management is often framed as a hypothetical future scenario. In reality, AI is increasingly being used in these contexts. For example, in the area of predictive analytics, The Early Warning and Preparedness System (EPS) was a project first introduced in 2012 and has since been expanded as part of EUAA's early-warning and preparedness work. This system uses machine-learning models to forecast future asylum applications from observed migration trends, enabling Member States to prepare for possible pressure on asylum and reception systems.⁷ AI-supported and automated systems are also increasingly relevant to support biometric recognition in border management in many Member States. An example of a technology that uses biometric recognition is the EU's Entry/Exit System (EES), which has been used in all Schengen Area countries since April 2026. The EES employs automated digital techniques for biometric checks and overstay detection.⁸

⁷ European Union Agency for Asylum, "An Innovative Framework for Analysing Asylum-Related Migration," contribution to *Harnessing Data Innovation for Migration Policy: A Handbook for Practitioners* (Luxembourg: Publications Office of the European Union, May 11, 2023), https://www.euaa.europa.eu/sites/default/files/publications/2023-05/An_innovative_framework_analysing_asylum-related_migration.pdf.

⁸ European Commission, *European Asylum and Migration Management Strategy*, COM(2026) 45 final, Communication from the Commission to the European Parliament and the Council, Brussels, 29 January 2026, 26 pp., accessed 25 February 2026, https://home-affairs.ec.europa.eu/document/download/ce0d294e-5dd9-4e2a-bf68-53d9d16fc95a_en?filename=European%20Asylum%20and%20Migration%20Strategy.pdf.

These technological developments are also visible within national asylum procedures themselves. An example of a new technology currently being used in asylum procedures is the Dialect Identification Assistance System (DIAS) employed by the Federal Office for Migration and Refugees in Germany. DIAS is an AI-based language and dialect recognition tool designed to support officials in identifying the national or regional origin of an asylum seeker through analysis of speech patterns. The system has reportedly been used since 2017 for certain Arabic dialects and was expanded in 2022 to include Dari, Farsi, and Pashtu.⁹ Experts have criticised DIAS for over relying on the assumption that language can accurately determine nationality.¹⁰ Additionally, this tool is used before the asylum interview is conducted, making it much more difficult for asylum seekers to prove their nationality claim.¹¹ This can result in DIAS's result being treated as more important in the process than the individual's own testimony, even though the system itself is controversial.¹²

AI is also being used in asylum-related document search and case matching through Casematcher, a system currently employed by the Dutch Immigration and Naturalisation Service. Casematcher works by using text analysis and relevance scoring to identify and analyse the accounts of asylum seekers who might have made similar claims. Rather than the system actually making decisions, it identifies

Mobbeel, "EU Entry/Exit Border Control System with Facial Recognition," *Mobbeel Blog*, accessed April 29, 2026, <https://www.mobbeel.com/en/blog/eu-entry-exit-border-control-system-facial-recognition/>.

⁹ Claudio Dumbrava, *Artificial Intelligence in Asylum Procedures in the EU*, European Parliamentary Research Service, PE 775.861 (July 2025), https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/775861/EPRS_BRI%282025%29775861_EN.pdf.

¹⁰ Eades, Diana, et al. "Linguistic identification in the determination of nationality: A preliminary report." *Language policy* 2.2 (2003): 179-199.

¹¹ Eades, Diana, and Jacques Arends. "Using language in the determination of national origin of asylum seekers: An introduction." *The International Journal of Speech, Language and the Law* 11.2 (2004): 179-199.

¹² Cecilia Manzotti, "A European Language Detection Software to Determine Asylum Seekers' Country of Origin: Questioning the Assumptions and Implications of the EUAA's Project," Sussex Centre for Migration Research, January 10, 2025, <https://blogs.sussex.ac.uk/sussex-centre-for-migration-research/2025/01/10/european-language-detection-software/>.

past and current claims for any similarities, helping officials to work efficiently and maintain consistency across decisions.¹³ Although caseworkers remain responsible for final decisions, Casematcher has been criticized by experts, who argue that relying only on Casematcher's results can lead officials to unfairly question an applicant's credibility, such as by treating atypical claims with greater suspicion.¹⁴

AI in asylum procedures is not just a future possibility, but is increasingly present in migration forecasting, border control systems, and tools to assist asylum decision-making, likely shaping how applications are received, categorized, and processed.¹⁵ In addition to technologies that are already fully operational, scholars continue to raise concerns about the impact that new technologies being tested at borders can have over individuals' rights.¹⁶ This makes the debate surrounding the fairness of these technologies even more urgent. Even when these technologies are framed as administrative or decision-support tools rather than formal decision-makers, they can still shape how applicants are processed throughout the asylum procedure.

¹³ European Parliamentary Research Service, *Artificial Intelligence in Asylum Procedures in the EU*, July 2025.

¹⁴ Amina Memon, Zoe Given-Wilson, Derya Ozkul, Karen McGregor Richmond, Julia Muraszekiewicz, Ella Weldon, and Cornelius Katona, "Artificial Intelligence (AI) in the Asylum System," *Medicine, Science and the Law* 64, no. 2 (2024): 87–90, <https://doi.org/10.1177/00258024241227721>.

¹⁵ Forster, M. (2022). *Refugee protection in the artificial intelligence era: a test case for rights*. Royal Institute Of Affairs. <https://doi.org/10.55317/9781784135324>

¹⁶ Yiran Yang, Frederik Zuiderveen Borgesius, Pascal Beckers, and Evelien Brouwer, "Automated Decision-Making and Artificial Intelligence at European Borders and Their Risks for Human Rights," *arXiv* (October 8, 2024), <https://doi.org/10.48550/arXiv.2410.17278>.

2. Inductive Reasoning vs. Abductive Reasoning

At first glance, the use of AI in asylum procedures seems to be a straightforward way to sort information quickly, detect patterns, and support administrations being overwhelmed with large influxes of applications. However, a key fairness concern arises from the mismatch between how AI systems reason and the type of reasoning required in asylum decision-making.¹⁷ In analysing these differences, it becomes clear that the usage of AI systems in refugee and asylum status determination risks being fundamentally unfair.¹⁸

To understand why AI in asylum procedures risk causing fairness concerns, it is important to understand the nature of refugee status determination (RSD) and the tensions the process can create with automated decision-making (ADM). RSD is the legal process conducted by Member State governments or the United Nations High Commissioner for Refugees (UNHCR) to determine if an individual seeking international protection meets the legal definition for a refugee. Unlike routine administrative procedures, RSD requires decision-makers to assess credibility, country conditions, personal circumstances and future risk under conditions of uncertainty. In order to address these issues, there has been discourse surrounding the use of ADM and predictive analytics in the RSD process. ADM refers to systems that use automated processes, including AI and machine learning, to make and support decisions.¹⁹ However, RSD is an inherently individualised process that can create large workloads and backlogs for local

¹⁷ Amoroso, Mario Pasquale. "Intelligent borders: Exploring the suitability of artificial intelligence systems in refugee status determination under international law." *Refugee Survey Quarterly* 43.4 (2024): 410-426.

¹⁸ Ibid

¹⁹ Open Government Partnership, "Digital Governance: Automated Decision-Making," *Open Gov Guide*, accessed April 13, 2026, <https://www.opengovpartnership.org/open-gov-guide/digital-governance-automated-decision-making/>.

governments. Because of the individualized nature of RSD, academics in the field suggest that although ADM can assist with streamlining the RSD process, digitalizing the process can risk unfairly impacting the lives of asylum seekers.²⁰

The fairness of an asylum procedure can be compromised by the reasoning used by ADM and predictive analytics. These systems rely partially on inductive reasoning, which varies largely from abductive reasoning used in human decision-making in legal processes.²¹ Inductive reasoning is a process by which a system observes repeated instances and identifies a pattern. This identified pattern is then used to create or infer a general rule, used to predict outcomes for new instances.²² This is precisely how machine learning works: it trains on historical data, learns correlations, and then predicts outcomes for new cases using these correlations as the basis for its predictions. Given that such systems depend on historical data, they are vulnerable when future cases differ significantly from the patterns present in the training data.

In reality, there is no logical guarantee that the patterns observed in past contexts will continue to hold true in the future, especially regarding the unpredictability of migration.²³ The main concern of fairness here is that a system that relies on pattern recognition will struggle in a process that requires contextual interpretation and an individualized assessment.²⁴ A model may effectively

²⁰ Niamh Kinchin, "The Human in the Feedback Loop: Predictive Analytics in Refugee Status Determination," *Law, Technology and Humans* 6, no. 3 (2024): 23–45, <https://www.austlii.edu.au/cgi-bin/viewdoc/au/journals/LawTechHum/2024/17.html>.

²¹ Kinchin, Niamh. "Technology, displaced?: The risks and potential of artificial intelligence for fair, effective, and efficient refugee status determination." *Law in Context* 37.3 (2021): 45-73.

²² Ibid

²³ Kinchin, "The Human in the Feedback Loop," 23–45.

²⁴ Álvaro Bringas Colmenarejo, *Artificial Intelligence and Big Data Analytics in Decision-Making: The Migration and Asylum Systems* (master's thesis, Charles University, 2020), <https://dspace.cuni.cz/bitstream/handle/20.500.11956/177243/120370354.pdf?sequence=1>.

predict how past cases were decided, yet it may not be able to fairly determine who should receive protection today.²⁵ This concern has also been brought up by the European Parliament Research Service (EPRS), who cite research showing that inductive reasoning is not sufficient for determining asylum needs.²⁶ They further argue that the use of AI systems can compromise the necessary logic required for the asylum determination process.²⁷

Abductive reasoning, on the other hand, relies on finding the most likely or most plausible explanation given the context of a situation. It should be applied to data with incomplete observations as it allows inferences to be made when all facts are not available.²⁸ In legal contexts, abductive reasoning is more effective because decision makers must interpret the testimony of an individual in order to assess the credibility of a case and fill any gaps in evidence. This is even more critical in RSD and asylum procedures, where applicants often have inconsistent data, show symptoms of trauma, and come from regions where persecution is documented but difficult to prove on an individual basis.²⁹ Consequently, even highly accurate automated decision-making systems cannot ethically replace the contextualized decision-making necessary in RSD.

The tension between predictive efficiency and individualized decision-making can be seen in existing cases. As mentioned above, Casematcher is a system currently

²⁵ Enas Mohamed Ali Quteishat et al., “Predictive Modelling in Legal Decision-Making: Leveraging Machine Learning for Forecasting Legal Outcomes,” *Journal of Electrical Systems* (May 27, 2024), <https://journal.esrgroups.org/jes/article/view/4006>.

²⁶ Think Tank European Parliament, *Asylum procedures at the border*, (13 November 2020), [https://www.europarl.europa.eu/thinktank/en/document/EPRS_STU\(2020\)654201](https://www.europarl.europa.eu/thinktank/en/document/EPRS_STU(2020)654201).

²⁷ European Parliament, *Artificial Intelligence in Asylum Procedures in the EU*, Briefing, July 7, 2025.

²⁸ Jessie Ball duPont Library, *Critical Thinking Skills: Abduction* (Sewanee: The University of the South, accessed April 20, 2026), https://library.sewanee.edu/critical_thinking/abduction.

²⁹ Maya Ellen Hertz, William Hamilton Byrne, and Thomas Gammeltoft-Hansen, “What ‘Real Risk’ Means For AI-Assisted Refugee Status Determination,” *Verfassungsblog*, November 28, 2025, <https://doi.org/10.17176/20251128-172222-0>, <https://verfassungsblog.de/what-real-risk-means-for-ai-assisted-refugee-status-determination/>.

being used by the Dutch Immigration and Naturalisation Service which uses text analysis and scoring to identify and analyse the accounts of asylum seekers who have made similar claims. While the main purpose of this tool is to find similar claims and reduce the processing time, overreliance on this system may risk causing decision-makers to question an applicant's credibility even if their application is well-founded.³⁰ This tool relies on inductive reasoning by analysing text to identify similarities between current and past cases. However, decisions on asylum applications depend on whether the specific facts provided by an individual, within the context of the case, offer a reasonable explanation for a well-founded fear of persecution. While similarity can be useful in providing context and consistency, it cannot replace individualized judgment.³¹ Casematcher includes procedural safeguards intended to limit overreliance on automated outputs, requiring caseworkers to assess search results and make decisions based on the policy currently in place.³² However, experts still share concerns that applicants whose experiences fall outside of familiar patterns identified by Casematcher may face disproportionate risks of negative responses from authorities.³³

Another example of inductive reasoning in asylum governance can be seen in credibility-assessment technologies such as the Automated Virtual Agent for Truth

³⁰ Kinchin, "The Human in the Feedback Loop," 23–45.

³¹ Hertz, Byrne, and Gammeltoft-Hansen, "What 'Real Risk' Means For AI-Assisted Refugee Status Determination."

³² Immigration and Naturalisation Service (IND), "Case Matcher: A Search and Find Function in Asylum Applications," *Algorithm Register of the Dutch Government*, last modified May 21, 2024, <https://algoritmes.overheid.nl/en/algoritme/oorg10222/36268942/case-matcher-a-search-and-find-function-in-asylum-applications#verantwoordGebruik>.

³³ Amina Memon et al., "Artificial Intelligence (AI) in the Asylum System," *Medicine, Science and the Law* 64, no. 2 (2024): 87–90, published January 30, 2024, <https://doi.org/10.1177/00258024241227721>.

Electronic Immigration Network, "Home Office to Expand AI Use in Asylum Decision-Making after Promising Pilot Results," *EIN News*, April 29, 2025, <https://www.ein.org.uk/news/home-office-expand-ai-use-asylum-decision-making-after-promising-pilot-results>.

Assessment in Real-Time (AVATAR). AVATAR was an EU-funded and Frontex-linked project that is not currently in public operation. It was tested as a tool to support border process stages of screening, interviewing and credibility assessment.³⁴ In several experiments, the AVATAR reported accuracy rates of 85% or above in detecting deceptive responses, although none of these tests were used in real asylum procedures.³⁵ A main feature of the system is that it uses behavioral cues to assess indicators associated with deception.³⁶ It uses sensors and three-dimensional video cameras to assess body language and body movements, eye trackers to measure gaze patterns and pupil dilation, two-dimensional video cameras to catch movement of the face, head and posture as well as any gestures and spatial distance cues and microphones to measure the pitch and quality of voice.³⁷ By using all of these tools, the AVATAR system measures how much an individual deviates from the baseline, uses machine learning to identify deception in individuals, and processes responses to each question.³⁸

The main concern is that the system relies on pattern-recognition, or inductive reasoning, to assess credibility. However, assessing whether someone's asylum claims are credible cannot rely only on behavioral cues; it also requires understanding why certain conditions may cause applicants to act in a certain way. Trauma, fear of authorities, and cultural differences in communication all shape behavior during interviews, making it critical for asylum applicants to be given the

³⁴ Kalodanis, Konstantinos, et al. "High-risk AI systems—lie detection application." *Future Internet* 17.1 (2025): 26.

³⁵ O'Shea, James, et al. "Intelligent deception detection through machine based interviewing." *2018 International joint conference on neural networks (IJCNN)*. IEEE, 2018.

³⁶ Ibid

³⁷ Ibid

³⁸ Aaron Elkins et al., *Appraising the AVATAR for Automated Border Control: Results of a European Union Field Test of the AVATAR System for Interviewing and Passport Control*, report prepared for FRONTEX by the National Center for Border Security and Immigration, University of Arizona, October 2014, [https://www.europarl.europa.eu/RegData/questions/reponses_qe/2019/002653/P9_RE\(2019\)002653\(ANN3\)_XL.pdf](https://www.europarl.europa.eu/RegData/questions/reponses_qe/2019/002653/P9_RE(2019)002653(ANN3)_XL.pdf).

benefit of the doubt and a more individualized assessment. Thus, asylum credibility assessments must rely on an understanding of the context an individual applicant is coming from rather than from behavioral signals alone.³⁹

3. The Lack of Transparency in AI

The lack of transparency that comes with the use of these technologies in asylum procedures is another source of concern. One of the most important issues that arises with the use of AI is the “black box” problem, which refers to the difficulty humans face when trying to see how AI systems ultimately make their decisions as systems become increasingly complex and hard to interpret.⁴⁰ This concern is particularly relevant for complex machine-learning models. These systems, used increasingly in EU asylum procedures, are designed to perform tasks associated with human intelligence.⁴¹ They are trained on examples of what they are meant to recognise, and learn patterns by adjusting the internal parameters of a model, such as a neural network, for categorising new data. However, as this learning process occurs, it can become difficult to trace which inputs affected the system’s decision.⁴²

This “black box” problem raises several concerns. The first issue is the challenge it presents in correcting deep learning systems that produce incorrect or unwanted

³⁹ Agnese Palazzi, “AI and Asylum in the EU Legal Framework: A Liaison Dangéreuse?,” *Völkerrechtsblog*, February 10, 2025, doi:10.17176/20250211-000815-0, <https://voelkerrechtsblog.org/ai-and-asylum-in-the-eu-legal-framework/>.

⁴⁰ Ali, Ahmed Hussein, and Marwan Ali Shnan. "Explainable AI: Methods, challenges, and future directions." *Applied Data Science and Analysis* 2025 (2025): 1-2.

⁴¹ Parliamentary Assembly of the Council of Europe, “Migration and Asylum: Challenges, Opportunities and the Need for Collective Action,” Resolution/Report No. 34495, accessed April 27, 2026, <https://pace.coe.int/en/files/34495/html>.

⁴² Lou Blouin, “AI’s Mysterious ‘Black Box’ Problem, Explained,” *University of Michigan-Dearborn News*, March 6, 2023, <https://umdearborn.edu/news/ais-mysterious-black-box-problem-explained>.

outcomes. AI systems learn from historical training data. There is, however, no way for a training dataset to capture every possible case a system would encounter in the real world. Cases in real-world asylum procedures are constantly changing, shaped by new conflict, migration routes and cultural differences.⁴³ Thus, when a system encounters a case that it has no familiarity with and lacks similarity to previous cases it has faced, the risk of error, misclassification or unfair outcomes increases.⁴⁴

Individuals undergoing asylum procedures in the EU have a fundamental right to know why their application for international protection has been rejected under the Pact's Asylum Procedures Regulation (APR). This is one of the most important safeguards built into the APR, as it allows individuals whose claims for asylum have been rejected to appeal before a domestic court or tribunal. This safeguard is dependent on applicants being able to understand the reason or basis under which their application was rejected.⁴⁵ When opaque AI systems are used in making these decisions, officials and applicants can significantly struggle to explain how a conclusion was reached by the system. Hence, such systems can compromise the right to a reasoned decision and effective remedy, especially where they materially shape the outcome, but its logic is not intelligible to the applicant, the official, or the reviewing court.

Concerns of lack of transparency and explainability of AI systems in asylum procedures are not just theoretical. Comparable problems have appeared with

⁴³ Marcello Carammia, Stefano Maria Iacus, and Teddy Wilkin, "Forecasting Asylum-Related Migration Flows with Machine Learning and Data at Scale," *Scientific Reports* 12, no. 1 (2022): Article 1457, <https://pmc.ncbi.nlm.nih.gov/articles/PMC8795256/>.

⁴⁴ Pang Wei Koh et al., "WILDS: A Benchmark of In-the-Wild Distribution Shifts," *Proceedings of the 38th International Conference on Machine Learning* 139 (2021): 5637–5664, <https://arxiv.org/abs/2012.07421>.

⁴⁵ Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (Asylum Procedures Regulation), OJ L, 2024/1348, May 22, 2024, <https://eur-lex.europa.eu/eli/reg/2024/1348/oj/eng>.

other AI systems. In 2016, Microsoft released the chatbot Tay, which quickly started generating racist, misogynistic and inflammatory statements after learning from interactions with users. Although Microsoft withdrew the system within hours, the case of Tay illustrated how machine-learning systems can reproduce harmful patterns from their training environments and produce outputs that are difficult to anticipate.⁴⁶ Tay and asylum technologies are not identical systems. However, the example of Tay reveals that complex AI models often derive outputs through internal processes that are difficult to interpret, even for their developers. The risks become much more serious when similarly opaque technologies are used in asylum procedures, where errors can affect individual rights to international protection.

A further concern is that the “black box” problem can conceal algorithmic bias. AI systems are trained on historical data that oftentimes reflects inequalities, stereotypes, or discriminatory patterns that influence human decision-making.⁴⁷ Experts from organisations such as Chatham House have warned that AI systems used in asylum and broader migration governance raise interconnected concerns of opacity, unlawful discrimination and weakened access to remedies for those affected by unfair decisions.⁴⁸ In asylum procedures, this includes assumptions based on nationality, discriminatory treatment of certain groups, or institutional patterns of suspicion towards applicants from specific regions. For example, the UK Home Office experimented with an AI-powered facial age-estimation tool to check the ages of migrant children and determine whether their claims were real.

⁴⁶ Matteo Bonfanti, “Artificial Intelligence and Migration Management: Challenges to Privacy, Equality and Administrative Justice in the Context of Automated Decision-Making,” *Information & Communications Technology Law* 30, no. 2 (2021): 205–227, <https://doi.org/10.1080/13600834.2020.1850144>.

⁴⁷ Lou Blouin, “AI’s Mysterious ‘Black Box’ Problem, Explained,” *University of Michigan-Dearborn News*, March 6, 2023, <https://umdearborn.edu/news/ais-mysterious-black-box-problem-explained>.

⁴⁸ Madeleine Forster, *Refugee Protection in the Artificial Intelligence Era* (London: Chatham House, September 7, 2022), <https://www.chathamhouse.org/2022/09/refugee-protection-artificial-intelligence-era>.

However, the tool was reported to have a very high misclassification rate, specifically for migrants from countries such as Eritrea and Sudan. This has led to concerns of the tool having an unexplainable racial bias, exhibiting the potential issue of the “black box” problem in asylum procedures.⁴⁹ When these human biases are unintentionally replicated in an opaque AI-based system, not only are they reproduced, they become much harder to identify and trace. A lack of transparency not only hides the reasoning behind decisions, but it also makes it difficult to determine whether discrimination has taken place at all.

The “black box” problem is not limited to the internal algorithm of individual AI tools. Niovi Vavoula warns that this opacity, specifically coming with the interoperability of EU databases, makes accountability and error tracing much more difficult.⁵⁰ If AI in EU asylum governance becomes embedded within complex interoperable database systems, it may become harder to ensure accountability for mistakes or biases that the technology is responsible for.

4. The Limits of the EU AI Act in Asylum Procedures

While AI systems raise fairness concerns due to their methods of reasoning and lack of transparency, it is also necessary to consider the regulatory frameworks in place to govern their use. Unlike the above-mentioned concerns about reasoning and transparency, this issue originates with the data structures that enable the operability of AI systems. Before an algorithm can produce any outcome,

⁴⁹ Chas Newkey-Burden, “The UK’s AI Experiment on Children Seeking Asylum,” *The Week*, June 19, 2026, <https://theweek.com/tech/ai-experiment-on-asylum-seekers>.

⁵⁰ Niovi Vavoula, “Algorithmic Accountability Through the ‘Human over the Loop’ in Interoperable and EU AI-reliant Large-scale IT Systems for Migration and Security,” *European Papers* 9, no. 3 (2024): 1228–1249, https://www.europeanpapers.eu/system/files/pdf_version/EP_eJ_2024_3_SS3_2_Niovi_Vavoula_00807.pdf.

it requires access to large amounts of personal information. In an EU asylum context, this means the expansion of biometric databases, cross-system data sharing, and technologies capable of drawing inferences from sensitive personal data. Asylum procedures involve vulnerable individuals and highly personal information, which means legal safeguards are more important than ever. The key question, however, is whether the EU AI Act and other existing data-protection rules can adequately protect these individuals and ensure fairness in practice.

EU legislation has created six large-scale EU information systems that are used across Member States. The systems that are most relevant to asylum procedures are Eurodac, the Schengen Information System (SIS), and the Visa Information System (VIS). These systems increasingly interact through interoperability frameworks and support administrative checks, information exchange, and in some cases risk assessments.⁵¹ As AI tools are increasingly explored within this data-rich environment, the question becomes how effectively EU law regulates their use.

The EU AI Act is the world's first comprehensive legal framework for regulating AI. Instead of treating all AI-based systems in the same way, the Act uses a risk-based approach where systems that are considered to have high risks are subject to stricter governance, and systems considered to have unacceptable risks are prohibited. This act classifies certain intended uses of AI in migration governance and management as well as asylum procedures as high-risk, largely due to their effects on individuals' rights and opportunities. Under the Act, high-risk AI systems must meet a series of strict requirements before they can be made available and operational in the EU. Article 14 of the Act requires these systems to be designed

⁵¹ Evelien Brouwer, "AI and Migration, Asylum and Border Control Management: Impact of the AI Act," in *Le règlement européen sur l'IA et au-delà. Quel encadrement de l'IA? : European Regulation on AI and Beyond: What Regulation for AI?*, ed. Olivier Tambou and Simon Sweeney (Brussels: Bruylant, 2025), chap. 7, https://research-portal.uu.nl/ws/files/273973516/AI_and_Migration_Asylum_and_Border_Brouwer_2025.pdf.

so that they can be effectively overseen by humans during their use.⁵² However, some scholars argue that the time and resources required to introduce and maintain adequate human oversight of high-risk AI systems in a sensitive area such as asylum could potentially outweigh the time and resources required for an unautomated process.⁵³ Moreover, the Act states that individuals conducting human oversight of AI systems must be trained, qualified, and have access to the resources necessary to effectively oversee the systems. It does not, however, fully specify what these qualifications are, leaving standards ambiguous and indeterminate.⁵⁴ Additionally, AI systems are trained and evaluated on curated datasets before their deployment. This can cause their behavior to change once they are no longer relying on this curated training data but rather interacting with real-world data in operational settings.⁵⁵ This scenario brings us back to the aforementioned questions of transparency and traceability.

Another limitation of the AI Act in addressing AI in asylum procedures comes from the restricted registration regime introduced by the Act for certain high-risk AI systems.⁵⁶ While the AI Act requires high-risk AI systems to be registered in an EU database to ensure transparency, this is limited in practice. AI systems used in sensitive areas like asylum procedures, migration management or law

⁵² Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), OJ L, 2024/1689, July 12, 2024, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32024R1689>.

⁵³ Paul Sipos, “AI in Asylum Proceedings: Threat or Gamechanger?,” *La Revue des Juristes de Sciences Po*, January 25, 2025, <https://www.revuedesjuristesdesciencespo.fr/en/post/ai-in-asylum-proceedings-threat-or-gamechanger-1>.

⁵⁴ Johann Laux, “Institutionalised Distrust and Human Oversight of Artificial Intelligence: Towards a Democratic Design of AI Governance under the European Union AI Act,” *AI & Society* (published online October 6, 2023; print 2024), <https://doi.org/10.1007/s00146-023-01777-z>.

⁵⁵ Dmytro Naumenko, “AI Training Data: Complete Guide to Collecting, Preparing, and Managing Data for High-Performance AI Models,” GroupBWT, January 6, 2026, <https://groupbwt.com/blog/data-for-ai/>.

⁵⁶ Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), art. 49, OJ L, 2024/1689, July 12, 2024, <https://artificialintelligenceact.eu/article/49/>.

enforcement are registered in a secure database that is only accessible to the European Commission and relevant authorities. While this restriction is justified for security and data protection, it limits the transparency and traceability ensured in the Act, making it difficult for researchers, affected individuals and others to understand how these systems operate, what risks they create, and whether they are being used fairly in practice.⁵⁷

These limitations point to a broader issue beyond regulation itself. While the Act seeks to mitigate risks through requirements such as human oversight and transparency mandates, these safeguards can also be constrained by the technical nature of AI systems themselves. Where decision-making relies on complex or opaque models, the above-mentioned “black box” problem limits how much an output can truly be explained. Even well-designed regulatory frameworks can struggle to ensure fairness in practice if the systems they govern do not have a sufficient level of technical transparency.⁵⁸ This suggests that ensuring fairness in asylum procedures is not just an issue of adequate regulation, but also of system design, explainability, implementation and institutional capacity.

AI can offer advantages in making asylum procedures more efficient. However, these procedures can only be fair and efficient when used in a way that ensures the safety of individuals at risk. Procedural transparency at an individual level and broader public transparency are both critical to ensure accountability and fair use of data, specifically in sensitive cases such as asylum procedures. Without that transparency at both an individual and systemic level, the increasing use of AI risks

⁵⁷ Agnese Palazzi, “AI and Asylum in the EU Legal Framework: A Liaison Dangereuse?,” *Völkerrechtsblog*, February 10, 2025, doi:10.17176/20250211-000815-0, <https://voelkerrechtsblog.org/ai-and-asylum-in-the-eu-legal-framework/>.

⁵⁸ Ben Chester Cheong, “Transparency and Accountability in AI Systems: Safeguarding Wellbeing in the Age of Algorithmic Decision-Making,” *Frontiers in Human Dynamics* 6 (2024): Article 1421273, <https://doi.org/10.3389/fhumd.2024.1421273>.

undermining accountability and the fair treatment of individuals in asylum procedures.

Conclusion

Artificial intelligence has become an important part of our society today and is likely to remain a growing part of public administration, especially in migration governance and asylum procedures. As the EU fully implements the Pact on Migration and Asylum, these developments are not just theoretical but are beginning to shape how asylum procedures operate in practice. The biggest issue, therefore, becomes not whether these technologies will be used, but whether they will be governed and regulated in a way that ensures fairness and fundamental human rights. While efficiency, speed and administrative convenience are primary and necessary goals for Member States, asylum decisions are not ordinary bureaucratic tasks. They are decisions that have critical consequences in determining whether someone, often already in a vulnerable position, receives required protection or is returned to danger, persecution, or serious harm.

Hence, the standard for using AI in asylum procedures needs to be high. Systems that rely on pattern recognition cannot replace individualized administrative and legal judgment, systems that cannot explain their conclusions cannot ensure meaningful appeals and accountability, and systems built on expansive data collection require strong safeguards against misuse and discrimination. When these protections are weak, innovative technologies risk recreating old injustices in new forms and can even worsen the biases that already exist. As AI and other automated tools become more common in asylum procedures, the legislation governing and regulating the use of these systems needs to become even more of a priority.

AI will likely continue to be a useful tool in supporting administrative function, identifying trends, and assisting officials. In asylum procedures, however, it must remain a secondary tool that supports human judgment instead of substituting it. If the goal of asylum governance is to protect those who are vulnerable, then technology used in assisting asylum procedures should not be used for efficiency alone. It should be judged by whether it is fair and just for those who most need protection.

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