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The Promise of Enforcement: The Role of the EU Agency for Asylum in the Implementation of the New Pact on Migration and Asylum

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Abstract:

The New Pact on Migration and Asylum introduced operational reforms, notably transforming the European Asylum Support Office (EASO) into the European Union Agency for Asylum (EUAA). This revamped agency aims to enhance the implementation of EU asylum rules by promoting normative convergence and deploying asylum support teams during periods of pressure on national systems. A key innovation in this regard is the new monitoring mechanism, set to accompany the Regulation on Asylum and Migration Management in 2026.

This contribution explores the extent to which the EUAA can ensure compliance under such pressure. While the mechanism provides crucial technical support, it raises concerns about the protection of fundamental rights, especially for vulnerable individuals subject to accelerated procedures. The analysis questions the accountability of EUAA teams integrated into national systems and underscores the need for an institutional design that balances procedural efficiency with rights safeguards. The paper ultimately calls for enforcement that respects both EU law standards and individual safeguards. It also sheds more light on a significantly less investigated EU migration agency, which is called to play a major role in the coming years.

I. Introduction

The legislative reform pursued by the New Pact on Migration and Asylum¹ also concerned operational and administrative aspects meant to improve the implementation of the relevant European rules. This focus

¹ European Commission, Communication on a 'New Pact on Migration and Asylum', COM(2020) 609 final, 202 September 2020. Following their adoption by the European Parliament and Council, the new rules introduced by the Pact entered into force on 11 June 2024 and into full application in June 2026. For an overview of the new rules, see especially S Peers, 'The new EU asylum law: taking rights half-seriously' (2024) 43 Yearbook of European Law 113–183, or S Peers, 'The New Asylum Pact: Brave New World or Dystopian Hellscape?' (2024) 26 European Journal of Migration and Law 381–420.

especially materialised in the transformation of the European Asylum Support Office (EASO)² into the European Union Agency for Asylum (EUAA) through Regulation (EU) 2021/2303.³

This transformation essentially responds to a twofold need, namely, providing guidance on the implementation of the relevant EU rules and ensuring operational support in case of disproportionate pressure on the asylum system of a Member State. To this aim, specific asylum support teams could be deployed in the Member States concerned. Such teams consist of experts from the Agency's own staff, the host Member States, expert personnel seconded by other Member States to the Agency or other experts not employed by the Agency with demonstrated relevant knowledge and experience in line with operational needs.⁴

Unlike the EASO Regulation, which limited the deployment of asylum support teams only when a Member State was subject to particular pressure, the EUAA Regulation establishes a stronger link between operational assistance and the enforcement of Union law. It authorises the deployment of such teams also for the purpose of supporting and ensuring the effective implementation of obligations incumbent upon Member States under the Common European Asylum System (CEAS).⁵ Additionally, subject to the consent of the Member State concerned, in situations of disproportionate pressure on national reception systems, EUAA can deploy the asylum support teams on its own initiative.⁶

This evolution reflects a shift from an emergency-based intervention model towards a more sophisticated framework of shared administration, 'whereby agencies need to co-operate with the Commission and the Member States to deliver policy results'.⁷ In other words, while EASO was essentially created as a producer of expertise,⁸ the institutional and operational design of EUAA constitutes an example of the 'verticalisation of enforcement', a trend according to which the EU directly contributes to the enforcement of relevant EU policies and rules through its institutions and bodies.⁹ This trend is especially illustrated by the EUAA monitoring mechanism for the operational and technical application of the CEAS, as established in Articles 14 and 15 of the EUAA Regulation. The EUAA monitoring mechanism, whose entry into force and application was made conditional on the entry into force of the Regulation on Asylum and Migration Management,¹⁰ aims to prevent or identify possible shortcomings in the asylum and reception systems of EU Member States.¹¹

Admittedly, this new enforcement dimension of EU asylum law may contribute to addressing the implementation deficit, which has been a distinct feature of the CEAS, as acknowledged by the European Commission¹² and scholars.¹³ In an attempt to explain how the operational mandate and, more specifically, the monitoring mechanism of the EUAA can ensure the implementation of the new CEAS legislative toolbox, this chapter draws from law and governance studies to illustrate the operational mandate of the Agency. Additionally, as the EUAA's mission aims to ensure 'the efficient and uniform application of Union law on asylum in the Member States in a manner that fully respects fundamental rights'¹⁴, a twofold question is worth

² Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office.

³ Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010, Art 1. For a concise overview, see E Tsourdi, 'European Union Agency on Asylum: An Agency 'Reborn?'' (2022) 98 EU Law Live 2-11.

⁴ Regulation (EU) 2021/2303, Recital 25.

⁵ Regulation (EU) 2021/2303, Art 16 (1) a.

⁶ Ibid, Art 16 (1) d.

⁷ M Chamon, *EU Agencies: Legal and Political Limits to the Transformation of the EU Administration* (Oxford University Press 2016) 44.

⁸ See extensively F Comte, 'A New Agency is Born in the European Union: The European Asylum Support Office' (2010) 12 European Journal of Migration and Law 373-405.

⁹ M Scholten, 'Mind the trend! Enforcement of EU law has been moving to "Brussels"' (2017) 24(9) Journal of European Public Policy 1348 – 1366. For more specific references in the field of asylum, see S Nicolosi, 'The Common European Asylum System' in M Scholten (ed), *The Research Handbook on EU Law Enforcement* (Cheltenham, Edward Elgar) 492, 497 ff.

¹⁰ Regulation (EU) 2024/1351 of the European Parliament and of the Council of 14 May 2024 on asylum and migration management, amending Regulations (EU) 2021/1147 and (EU) 2021/1060 and repealing Regulation (EU) No 604/2013.

¹¹ Regulation (EU) 2021/2303, Art 14 (1).

¹² European Commission, Communication from the Commission to the European Parliament and the Council 'Towards a Reform of the Common European Asylum System and Enhancing Legal Avenues to Europe' COM(2016) 197 final, 6 April 2016, 2.

¹³ See Nicolosi (n 9) 499; E Tsourdi, 'Asylum in the EU: One of the Many Faces of Rule of Law Backsliding?' (2021) 17 European Constitutional Law Review 471-497; D Thym, 'Pitfalls of the Law, Politics and Administrative Practices in the Reform of the Common European Asylum System' EU Immigration and Asylum Law and Policy Blog (9 February 2017) <<https://eumigrationlawblog.eu/pitfalls-of-the-law-politics-and-administrative-practices-in-the-reform-of-the-common-european-asylum-system/>>.

¹⁴ Regulation (EU) 2021/2303, Art 1 (2).

addressing. On the one hand, a key issue is to understand the coordination between the EU Agency and the national administrations as regards the division of tasks and responsibilities. On the other hand, and more importantly, it is essential to investigate to what extent the operational activities of the Agency may impact fundamental rights and what remedies are in place, in case of possible fundamental rights violations occurring during operational assistance by asylum support teams.

To address these questions, a concise overview of the EUAA's mandate will be provided in Section 2; based on the analysis of the operational plans, Section 3 will address the Agency's operational dimension and the coordination with the national administrations and the risks and problems associated with fundamental rights in the deployment of the asylum support teams; Section 4 will explain how the monitoring mechanism can ensure convergence in enforcement; and Section 5 will offer some concluding remarks.

II. The Mandate of the EU Agency for Asylum

With the entry into force of its Regulation, as of 19 January 2022, the EUAA has replaced and succeeded EASO. The Agency's Regulation was therefore the first instrument under the new Pact to be adopted and applied, following a compromise whereby the five Mediterranean States (Cyprus, Greece, Italy, Malta, and Spain) agreed to separate the EUAA negotiations from the 'package approach', meant for the simultaneous adoption of all CEAS legislative instruments as part of an overall compromise agreement.¹⁵ This was made subject to the condition, codified in Article 73 of the Regulation, that the application of Articles 13, 14, and 22 on the monitoring mechanism and the concept of disproportionate pressure, would be deferred until the Regulation on Asylum and Migration Management, together with other related instruments, had taken effect.¹⁶

Article 2 of the EUAA Regulation lists several tasks that are not completely different from EASO's mission, although more emphasis is given to practical cooperation through the restructured operational dimension of the Agency. This expanded operational dimension, which brings new resources to the Agency, can contribute to improved enforcement of relevant EU rules. This is reflected in the new powers outlined in Chapter 6 of the Regulation, which details operational and technical assistance. Pursuant to Article 16 (2), the operational and technical assistance could be manifold, envisaging various actions that may be categorised into three functional groups (see Table 1).

A first group refers to support for asylum procedures with measures directly related to identifying, registering and processing applications for international protection.¹⁷ A second functional group, more specifically, concerns support for reception, protection, and special needs and includes measures ensuring adequate reception conditions and safeguarding vulnerable persons.¹⁸ Finally, a third functional group concerns operational and solidarity support in asylum management with activities linked to on-the-ground assistance, coordination, and resource deployment.¹⁹

Functional group	Measures
support for asylum procedures	<ul style="list-style-type: none"> ▪ assist Member States with the identification and registration of third-country nationals, as appropriate, in close cooperation with other Union bodies, offices and agencies; ▪ assist Member States with receiving and registering applications for international protection; ▪ facilitate the examination by the competent national authorities of applications for international protection or provide those authorities with the necessary assistance in the procedure for international protection; ▪ facilitate joint initiatives of Member States for the processing of applications for international protection;

¹⁵ P. De Bruycker, 'Genealogy of and futurology on the pact on migration and asylum' EU Immigration and Asylum Law and Policy Blog (6 May 2024) <<https://eumigrationlawblog.eu/genealogy-of-and-futurology-on-the-pact-on-migration-and-asylum/>>.

¹⁶ The text of the letter of 8 June 2021 signed by the representatives of the five Mediterranean States (Med 5) is available on the website of Statewatch at <<https://www.statewatch.org/media/2506/eu-euaa-five-southern-states-letter-6-21.pdf>>. See also the news on Politico of 8 June 2021 at <<https://www.politico.eu/article/mediterranean-countries-green-light-deal-eu-asylum-agency/>>.

¹⁷ See EUAA Regulation, Art 16 (2) (a) to (e) and (i).

¹⁸ Ibid, Art (16) (2) (f), (j), (k).

¹⁹ Ibid, Art 16 (2) (g), (h), (l), (m), (n).

	<ul style="list-style-type: none"> ▪ assist with the provision of information on the procedure for international protection; ▪ provide interpretation services
support for reception, protection, and special needs	<ul style="list-style-type: none"> ▪ advise on, assist with or coordinate the setting up or the provision of reception facilities by Member States, in particular emergency accommodation, transport and medical assistance; ▪ assist Member States in ensuring that all the necessary safeguards with respect to the rights of the child and child protection are in place, in particular as regards unaccompanied minors; ▪ assist Member States in identifying applicants in need of special procedural guarantees or applicants with special reception needs, or other persons in a vulnerable situation, including minors, in referring those persons to the competent national authorities for appropriate assistance on the basis of national measures and in ensuring that all the necessary safeguards for those persons are in place
operational and solidarity support in asylum management	<ul style="list-style-type: none"> ▪ provide adequate support to Member States in carrying out their tasks and obligations under Regulation (EU) No 604/2013; ▪ assist with the relocation or transfer of applicants for or beneficiaries of international protection within the Union; ▪ form part of the migration management support teams at hotspot areas referred to in Regulation (EU) 2019/1896 in close cooperation with other relevant Union bodies, offices and agencies; ▪ deploy asylum support teams; ▪ deploy technical equipment for asylum support teams, as appropriate.

Table 1 - EUAA Operational and Technical Assistance

Article 16 also defines the circumstances in which the EUAA can intervene to support a Member State in implementing CEAS, distinguishing between requested intervention and intervention by own initiative, in case of disproportionate pressure on the reception system of a Member State.²⁰ The procedure for EUAA's intervention requires a formal request by the Member States to the Agency's Executive Director, describing their needs and national measures already taken.²¹ Where assistance is initiated by the Agency itself, the concerned Member State must confirm its agreement and provide a similar needs assessment.²² The Executive Director evaluates and coordinates each request, informs the Management Board, and may dispatch experts to assess the situation on the ground. Following a thorough assessment, the Executive Director decides on the measures to be taken, such as the deployment of asylum support teams, within three working days of receiving the request or, where an on-site assessment is required, within five days.²³

III. The EU Agency for Asylum's Operational Dimension and the Coordination with National Authorities

The legal and operational framework governing the EUAA assistance and intervention in the Member States is normally detailed in the operational plan. This is a formal document, binding on the Agency, the host Member State and the participating Member States, stemming from the agreement set out by the Executive Director and the Member State in need of assistance.²⁴ As has been emphasised,²⁵ the operational plans defines the Agency's objectives and tasks that can be logistical in nature or more substantive with involvement in asylum procedures, notably through engagement in applicant interviews, which brings the Agency closer to the core decision-making process of international protection.²⁶ Accordingly, scholars have concluded that such

²⁰ Ibid, Art 16 (1).

²¹ Ibid, Art 17 (1).

²² Ibid, Art 17 (2).

²³ Ibid, Art 17 (5).

²⁴ Ibid, Art 18 (2).

²⁵ Pirrello (n 14) 167.

²⁶ The different types of operational support interventions offered by EUAA are illustrated in the 'EUAA Asylum and Reception Operational Response Catalogue' (November 2022) available at <<https://euaa.europa.eu/euaa-asylum-and-reception-operational-response-catalogue>>

a process ‘no longer qualifies as a national procedure, but should be considered as a form of shared administration between different national authorities and EU agencies.’²⁷

The operational plans outline the conditions for deploying asylum support teams and other organisational aspects. Since 2022, EUAA has concluded operational plans with various Member States and for different forms of operational assistance.²⁸ A synoptical look at these operational plans shows that the Agency has been providing assistance to approximately 12 Member States, in which the Agency’s staff carries out various types of operations. A typology of four macro-areas of intervention in the domestic asylum procedures could be proposed, corresponding to different levels of the Agency’s operational engagement with the national asylum system (see Table 2).

Between 2022 and 2024, several operational plans explicitly referred to the ability to conduct interviews with applicants for international protection, notably in Cyprus, Greece, Latvia, Malta, and Romania. A second group of plans extended this role by authorising the Agency to issue opinions following interviews, as seen in Cyprus, Greece, and Malta. A third type of intervention focused on capacity-building activities, particularly training national authorities on interview techniques, implemented in Slovenia and Luxembourg. Finally, a more specialised form of support concerned assistance to the judiciary, as reflected in the operational plans with Italy and Cyprus.

Since 2025, the operational plans reveal that the EUAA is more prominently expected to carry out tasks that touch upon nearly all procedural stages of the national asylum decision-making process: access to the procedure, registration, first-instance examination, second-instance support, and specialised tasks related to ‘Dublin’ procedures, vulnerabilities, country of origin information (COI), and judicial support. These activities demonstrate how the Agency combines capacity-building functions with hands-on operational support that can include conducting interviews, drafting opinions or assessment reports, and providing support to courts.

Operational Plans 2025 – 2026			
high intensity ←	EUAA Involvement		→ low intensity
Involvement in interviews with the applicants	Issuing opinions and recommendations after the interviews	Assistance in interviews through the training of national authorities	Assistance provided to judges
Belgium Cyprus Greece Romania	Cyprus Greece	Belgium Italy	Cyprus Italy

Table 2 - Areas and intensity of EUAA intervention in asylum procedures

a. EUAA involvement in Interviews with the Applicants

Various operational plans foresee EUAA support in the initial stage of the asylum process, namely identification, registration and lodging applications. An important task concerns the Agency’s involvement in interviews with the applicants for international protection. The operational plan with Belgium is a case in point.²⁹ In Belgium, EUAA conducts admissibility interviews and related actions as part of the first-instance procedure, including scheduling and file preparation, and provides interpretation services to support interviews carried out by national authorities. This places EUAA personnel in direct interaction with applicants from their first procedural contact with the Belgian asylum system and places EUAA personnel at the applicant’s first substantive point of contact with the Belgian asylum system.

Cyprus similarly relies on EUAA interviewers in first-instance procedures, particularly to support the management of backlogs within the Cypriot Asylum Service. Interview responsibilities in Cyprus are coupled with EUAA support for scheduling and workflow management, revealing integration not only at the procedural

reception-operational-response-catalogue>. This constitutes a non-binding framework that serves, together with needs assessments, as a foundation to the design of operational plans.

²⁷ Lisi and Eliantonio (n 15) 596.

²⁸ The operational plans are available for consultation on the official electronic archive of operations at <<https://euaa.europa.eu/archive-of-operations>>.

²⁹ Operational plan 2025-2026 agreed by the European Union Agency for Asylum and Belgium, available at <https://euaa.europa.eu/sites/default/files/EUAA_Operational_Plan_to_Belgium_2025-2026.pdf>.

but also at the administrative level.³⁰ Romania also assigns the Agency the task of conducting first-instance interviews to alleviate pressure on national authorities and ensure the timely processing of applications.³¹ Greece displays the broadest delegation of interview functions. Its plan empowers EUAA teams to conduct first-instance interviews both in person and remotely.³² The frequency and importance of interview tasks in Greece illustrate how EUAA deployment has become structurally embedded within national asylum processing systems.

b. EUAA's Ability to Issue Opinions or Recommendations on the Merits

The large influx of migrants, especially in 2015 exposed the limited capacity of Member States to manage arrivals and process asylum applications in a timely fashion. This led to an unprecedented level of integration between EU agencies, in particular EASO and national asylum authorities,³³ with Cyprus and Greece, where EASO personnel were allowed to examine the application and provide an opinion to the national authorities.³⁴

A second set of operational tasks performed by EUAA, therefore, includes the drafting of opinions or recommendations, including an evaluation of the credibility of the asylum seekers' story, an analysis of the situation in their country of origin and a legal assessment on the status to be given, following the interviews with the applicants. While these documents do not substitute the decision of the national authority, they significantly shape the evaluation of claims.³⁵

In this connection, the analysis of the operational plans confirms that Cyprus entrusts the EUAA with drafting recommendations after it conducts interviews. These recommendations become part of the case file and inform the decision-making process of the Cypriot Asylum Service. Romania goes further, requesting the Agency to prepare assessment reports at first instance. These reports synthesise interview findings and provide analytical observations that national examiners incorporate into their evaluations. Greece's operational plan is explicit in mandating the drafting of opinions by the EUAA after interviews. These opinions closely resemble the structured case analyses produced by national caseworkers and contribute directly to the evidentiary architecture of individual cases. In other words, this gives the Agency substantive input into how national authorities assess credibility and interpret applicants' claims.

While the EUAA Regulation stresses that the Agency should not prejudice national authorities' competence to decide on individual applications for international protection,³⁶ in practice, the Agency's involvement in issuing opinions or recommendations on the merits influences the national decision-making. This is seen as problematic, because while these opinions and recommendations are not binding, when national authorities rely on agency-produced assessments, the lack of clear institutional delineation may hinder effective judicial oversight.³⁷

c. EUAA Assistance in Interviews Through Training and Capacity Building

The third area of involvement concerns EUAA support for national interview practices through training, coaching and the development of workflows and quality tools. The fact that the Regulation makes the Agency's training material mandatory for Member State staff is likely to enhance convergence in asylum decision-making.³⁸ Unlike the previous categories, this type of involvement is indirect: the Agency does not conduct or evaluate interviews itself but shapes how national authorities perform these tasks.

³⁰ Operational plan 2025-2026 agreed by the European Union Agency for Asylum and the Republic of Cyprus, available at < https://euaa.europa.eu/sites/default/files/EUAA_Operational_Plan_to_Cyprus_2025-2026.pdf>.

³¹ Operational plan 2025-2026 Agreed by the European Union Agency for Asylum and Romania, available at <https://euaa.europa.eu/sites/default/files/EUAA_Operational_Plan_to_Romania_2025-2026.pdf>.

³² Operational plan 2025 agreed by the European Union Agency for Asylum and Greece, available at <https://euaa.europa.eu/sites/default/files/EUAA_Operational_Plan_to_Greece_2025.pdf>.

³³ See Pirrello (n 14) 169.

³⁴ European Council on Refugees and Exiles (ECRE), 'Asylum authorities. An overview of internal structures and available resources' (2019), available at <https://asylumineurope.org/wp-content/uploads/2020/11/aida_asylum_authorities_0-1.pdf>, 13.

³⁵ Ibid. See also SF Nicolosi and D Fernández-Rojo, 'Out of Control? The Case of the European Asylum Support Office' in M Scholten and A Brenninkmeijer (eds), *Controlling EU Agencies. The Rule of Law in a Multi-jurisdictional Legal Order* (Edward Elgar Publishing 2019) 177.

³⁶ EUAA Regulation, Arts 11 (3), 18 (2) (j) and 22 (4).

³⁷ Pirrello (n 14) 170 ff.

³⁸ EUAA Regulation, Art 8.

Italy provides a clear example of this form of support. Its operational plan includes extensive training targeting the Territorial Commissions for the Recognition of International Protection and the National Asylum Commission.³⁹ These activities include sessions on interview techniques, legal standards, and country of origin information. Belgium is also listed as receiving assistance in interviews through the training of national authorities.⁴⁰ In addition, several other operational plans include activities related to workflow improvement, data management, and quality assurance in ways that indirectly shape interview practice. These measures contribute to long-term procedural coherence and create conditions for more standardised decision-making across Member States, thereby facilitating the enforcement of the CEAS.

It is worth highlighting that, unlike the direct involvement in the interview process and possibly drafting relevant opinions on individual claims, training does not influence individual case files but instead contributes to the structural capacity of national systems. Therefore, through these activities, the Agency becomes a mild enforcer of shared procedural standards across the EU.

3.4. EUAA Assistance Provided to Judges and Second-Instance Authorities

The final area of EUAA involvement in national asylum procedures encompasses the support to judicial or quasi-judicial bodies responsible for appeals in asylum cases. EUAA operational plans offer various examples of this type of involvement.

Cyprus's International Protection Administrative Court (IPAC) benefits from EUAA support through case-law and country-of-origin information research, the development of repositories for legal and factual materials, and assistance with workflow and data-management systems. Such activities enhance the court's capacity to conduct timely and well-informed appeals. Ireland's International Protection Appeals Tribunal (IPAT) receives similar assistance. The EUAA supports file preparation and undertakes country of origin research to aid tribunal members. The plan emphasises that such support is provided 'in full respect of the independence' of the IPAT, highlighting a conscious effort to distinguish administrative assistance from adjudicative influence.⁴¹

Italy again presents the broadest scope of activities in this category. EUAA teams provide targeted support to selected tribunals, particularly those handling accelerated border procedures or facing exceptional backlogs. More notably, the Agency assists the Court of Cassation by helping manage international protection cases and contributing to the preparation of the Court's annual case-law review. This represents the highest level of judicial engagement within EUAA operations and signals the Agency's expanding structural role within national asylum adjudication systems.

Assistance to judges, even when carefully framed to respect judicial independence, affects the institutional environment in which asylum appeals unfold. By reinforcing appellate bodies' research and management capacities, the EUAA helps stabilise national systems under strain and indirectly contributes to the consistency of case law across Member States.

IV. Law Enforcement Convergence through the Monitoring Mechanism

The cumulative effect of the activities in which EUAA is involved is a procedural landscape in which EU-level intervention is no longer peripheral but increasingly embedded within national asylum systems. Another important area in relation to which EUAA has been tasked with significant powers concerns the intervention in situations of migratory pressure on the national asylum systems, which could allegedly impair the effective enforcement of relevant EU rules. The existing CEAS toolbox, and most notably the Procedures Directive, does not provide any legal basis for the provision of operational and technical support to Member States whose asylum and reception systems are experiencing particular pressure. To remedy such a gap, which resulted in EASO's *de facto* expansion of its operational activities through its participation in special supportive measures in Member States such as Cyprus, Greece and Italy during the migratory pressure of 2015,⁴² EUAA has been

³⁹ Operational plan 2025-2026 agreed by the European Union Agency for Asylum and Italy, Amendment 1 superseding the initial Plan of 1 January 2025, available at: <https://euaa.europa.eu/sites/default/files/IT_OP_2025_Amendment_1.pdf>.

⁴⁰ Operational plan 2025-2026 agreed by the European Union Agency for Asylum and Belgium, available at: <https://euaa.europa.eu/sites/default/files/EUAA_Operational_Plan_to_Belgium_2025-2026.pdf>.

⁴¹ Operational plan 2025-2026 agreed by the European Union Agency for Asylum and Ireland, available at <https://euaa.europa.eu/sites/default/files/OP_Ireland_2025-2026_external.pdf>.

⁴² ECRE (n 34) 22-23.

tasked with the specific power to monitor the sustainability of the national asylum systems through a specific monitoring mechanism.

The monitoring mechanism established under the EUAA Regulation⁴³ assigns the Agency a structured role in supervising the operational and technical implementation of the CEAS within the Member States. The mechanism covers a wide range of aspects, including asylum procedures, reception conditions, the quality and timeliness of decision-making, and contingency preparedness in situations of disproportionate pressure. The mechanism introduces a systematic and ongoing EU-level assessment of national asylum systems based on objective criteria derived from CEAS legislation and codified in Management Board Decision 161/2024.⁴⁴ The mechanism thus places the EUAA as a central actor in identifying shortcomings, verifying compliance, and supporting improvement efforts across the Union.

The operational design of the mechanism reflects the composite governance structure characteristic of the EU governance of migration policies.⁴⁵ Monitoring teams are composed of EUAA staff, Commission officials, experts from Member States, and observers from the United Nations High Commissioner for Refugees (UNHCR), illustrating a multi-level administrative configuration in which national and EU actors jointly participate in information-gathering and assessment. The mechanism operates through three types of exercises: (i) country monitoring; (ii) thematic monitoring; (iii) ad hoc monitoring. Country monitoring is a complete assessment of all relevant CEAS components in a single Member State and must occur at least once every five years;⁴⁶ thematic monitoring examines a specific CEAS component across all Member States, thus facilitating cross-national comparison;⁴⁷ ad hoc monitoring is triggered when serious concerns arise, either at the Commission's request or on the initiative of the EUAA Executive Director, and is designed to respond quickly to emerging deficiencies.⁴⁸ This tripartite approach is, therefore, geared towards ensuring a sustained enforcement of the policy area and a contingency-driven intervention.

As explained in the monitoring methodology,⁴⁹ a full monitoring cycle, which would take place over a period of nine months, comprises several phases, including: initiation, information consolidation, on-site visits, the preparation of findings, and follow-up.

The initiation phase includes preparatory information requests and the designation of the monitoring team. The Agency then consolidates the Member State's self-assessment, background information, and existing data before proceeding to the on-site phase. During the visit, the team conducts interviews with relevant authorities, engages in file sampling, observes procedures, and inspects reception facilities or border offices where relevant. Following the visit, draft findings are communicated to the Member State, which may comment or correct factual inaccuracies. Final findings are then approved internally, and the EUAA Management Board may adopt formal recommendations based on the Executive Director's proposal.

The monitoring mechanism's contribution to the enforcement of EU asylum law is indirect but significant. As has been highlighted, it reflects a gradation of measures depending on the situation on the ground, ranging from Management Board recommendations to the involvement of the European Commission to the Council mandating agency deployments in the territory of a specific State.⁵⁰

While EU agencies are not enforcement bodies *stricto sensu*, as they essentially lack coercive powers, however, they frequently act as enforcement intermediaries by supplying authoritative information, expertise, and evaluative assessments that enable the Commission, courts, and Member States to identify and address non-compliance.⁵¹ EUAA fits this pattern. By establishing a systematic and structured monitoring process, it generates valuable insights into how Member States apply EU asylum rules in practice. Since the mechanism relies on objective criteria ensuing from the CEAS legislative toolbox, its findings could also be relevant both for national authorities as primary enforcement actors and the European Commission when considering

⁴³ EUAA Regulation, Arts 14 and 15, see also Art 22 with reference to situations of pressure.

⁴⁴ EUAA, Management Board Decision No 161 of 13 March 2024 establishing a common methodology for the monitoring mechanism on the operational and technical application of the Common European Asylum System, EUAA/MB/2024/070.

⁴⁵ See E Tsurdi, 'European Union Agency for Asylum' in V Chetail (ed), *Elgar Concise Encyclopedia of Migration and Asylum Law* (Edward Elgar 2025), 265 – 272.

⁴⁶ EUAA Regulation, Arts 14 and 15 (1) (a).

⁴⁷ Ibid, Art 15 (1) (b).

⁴⁸ Ibid, Art 15 (2).

⁴⁹ See EUAA, Management Board Decision No 161 of 13 March 2024 (n 44). The common methodology is defined in Art 14 (2) of the EUAA Regulation as including 'objective criteria against which the monitoring shall be carried out, a description of the methods, processes and tools for the monitoring mechanism such as practical arrangements for on-site visits, including short-notice visits, and rules and principles for the establishment of teams of experts.'

⁵⁰ Tsurdi (n 45) 270.

⁵¹ See in this regard M Scholten, 'On EU agencies with enforcement powers' (EU law Live, 5 October 2023) at <<https://eulawlive.com/op-ed-on-eu-agencies-with-enforcement-powers-by-miroslava-scholten/>>.

whether to initiate infringement proceedings. The monitoring mechanism does not substitute for infringement proceedings, judicial review, or national accountability mechanisms, and it does not impose sanctions or compel Member States to adopt particular measures.

It is also worth mentioning that, while the recommendations adopted by the Management Board to address the shortcomings identified through the monitoring mechanism are formally non-binding, they can be considered as relevant soft law measures that could exert influence, particularly when they arise from a concerted monitoring which also includes Member States representatives. Such recommendations can serve as incentives for timely correction. At the same time, its preventive character is intended to detect and address problems before they escalate, but its effectiveness depends on Member State cooperation and willingness to engage with findings.

Despite such a major limitation, the mechanism enhances the EU's capacity to detect and address non-compliance in a domain where enforcement has historically been weak. Traditional enforcement tools are poorly suited to capturing these dynamics. Overall, the monitoring mechanism contributes to EU law enforcement by improving transparency, generating reliable comparative information, supporting coordinated corrective action, and strengthening the evidentiary base for judicial and administrative oversight. Although it does not create binding obligations or individual remedies, it reinforces the preventive and corrective dimensions of the CEAS and supports the Commission's supervisory role. As a component of the evolving governance of EU asylum policy, it represents a significant step toward more systematic and evidence-based supervision of national compliance. An underlying tension emerges from the fact that the Agency will be expected to both engage in joint implementation and, at the same time, oversee that same implementation.

V. Concluding remarks

The transformation of EASO into the EUAA has reshaped the operational and enforcement architecture of the CEAS.⁵² The establishment of the EUAA reflects a broader shift to a more structural form of shared administration.⁵³ The analysis conducted across the chapter shows that the Agency's operational mandate is no longer peripheral to national systems but increasingly embedded within them. This constitutes the landing point of a process of gradual transformation in the governance of asylum matters, following the migratory pressure of 2015.

The operational plans examined illustrate the fundamental involvement of the Agency in national procedures. EUAA personnel participate in functions that lie close to the core of asylum decision-making, including conducting interviews and drafting opinions or recommendations on the merits. Even though formal decision-making remains with Member States' authorities, one cannot deny the influence that the Agency can play in the process. Admittedly, such a degree of involvement, coupled with the Agency's training activities and support, facilitates the correct implementation and enforcement of relevant EU rules. Operational assistance can alleviate structural pressures, improve procedural organisation, and raise the quality and consistency of first- and second-instance practices. The mandatory use of the Agency's training tools, combined with EUAA's technical support functions, supports convergence in the application of EU rules.

The monitoring mechanism, which is a novel feature introduced by the EUAA Regulation, constitutes another major dimension of the enforcement machinery of the Agency. It fills an important gap in the CEAS by providing systematic and ongoing assessments of national asylum and reception systems. While not an enforcement tool in the strict legal sense, the mechanism enhances mild compliance by generating authoritative information, enabling early detection of shortcomings and facilitating coordinated corrective action. It also strengthens the knowledge base on which the competent authorities at the national level and the European Commission rely when assessing implementation gaps.

The effectiveness of such an emerging model of mild enforcement is to be tested in light of the Member States' practice. This will also be crucial to identify and address possible challenges related to the inherent hybridity, which has become a distinct feature of the CEAS.

⁵² See *amplius* Nicolosi (n 9) 492 ff.

⁵³ E Tsourdi and C Costello, 'The Evolution of EU Law on Refugees and Asylum' in P Craig, and G de Búrca (eds), *The Evolution of EU Law* (3rd edn, Oxford University Press 2021) 793 – 823.