Climate migrants and integration: the challenges for the host communities. Comparing the European and the Australian cases•

di Maria Dicosola

Abstract: Migranti climatici e integrazione: le sfide per le comunità di accoglienza. Una comparazione fra Europa ed Australia – The essay critically assesses legal responses to climate-induced migration, highlighting the fragmentation of protection and inclusion measures. In the EU, protection is generally fragmented, relying on temporary or conditional statuses that fail to facilitate long-term integration. In stark contrast, the selective Australia-Tuvalu bilateral model grants a privileged status and specific entitlements. However, this approach raises ethical and political questions regarding the instrumentalization of protection and the discriminatory exclusion of other vulnerable groups from a comprehensive pathway. The resulting patchwork demands a cohesive, rights-based EU paradigm with a stable, convertible legal status and guaranteed access to comprehensive integration.

Keywords: Climate migrants; Protection mechanisms; Inclusion policies; Legal fragmentation; Status

1. Introduction

Climate migration is a well-established phenomenon, which requires normative measures aimed, on the one hand, at the recognition of a legal status for persons migrating from their homelands due to climate change, and, on the other hand, at their inclusion within host communities[1]. The

• This article has been realized within the activities of the Jean Monnet Module "CLIMOVE-U – *Climate Migration Governance: Legal Protections for Environmental Displaced Persons in the European Union*", funded by the Erasmus+ Programme of the European Union (Project n. 101238566. Call: ERASMUS-JMO-2025-HEI-TCH-RSCH; Topic: ERASMUS-JMO-2025-MODULE). *Funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the European Education and Culture Executive Agency (EACEA). Neither the European Union nor the granting authority can be held responsible for them.*

[1] Providing policies concerning the geographical settlement and relocation of migrants; strategies for fostering social cohesion with host communities; labour market access as well as educational and vocational training; the provision of mental health and psychosocial support; and the impact of the political leadership's framing of

DPCE online
ISSN: 2037-6677

primary aim of this essay is to conduct a critical legal assessment of the varied national and regional responses to this challenge, focusing specifically on the interplay between the recognized protection status and the implemented inclusion policies, from which it emerges that the legal frameworks designed to manage the challenge of integration of climate-induced migrants in the host communities remain limited. Indeed, the gaps[2] and lack of coherence[3] characterizing the international and regional legal solutions introduced with the aim of recognizing and protecting international climate migrants' rights[4] are mirrored by fragmentary state-level initiatives at the constitutional level.

Based on the methodology of comparative law, this essay examines the distinct ways in which the protection and inclusion of climate migrants materializes across constitutional systems. Specifically, this research contrasts the Australian selective mechanism, founded on a bilateral agreement, with generalized forms of protection recognized in EU Member States. This latter category encompasses, on the one hand, special protection schemes – such as the *permesso per calamità* (calamity permit) introduced in Italy in 2018, or the temporary protection for health reasons recognized in French case law. On the other hand, it includes forms of humanitarian-based protection – as seen in the Italian system until 2018, in Sweden until 2021, and in Finland and Germany – or, following EU law, mechanisms based on subsidiary protection, as utilized in Austria.

Notwithstanding the broad protections afforded to climate-induced migrants, the Australian legal framework exhibits inherently discriminatory features, stemming from its absolute reliance on the sovereign will of the state to conclude bilateral arrangements with designated countries.

Unlike the Australian case, in European countries, climate migrants are usually afforded generalized forms of protection, regardless of their country of origin. Albeit more closely aligned with the principle of non-discrimination, the aforementioned legal framework is nonetheless

immigration: see M.C. Waters, *Preparing for climate migration and integration: a policy and research agenda*, in 51(1) *J. Ethnic Migration Stud.* 4 (2025).

[2] On climate migration in international and regional law, see B. Mayer, F. Crépeau (Eds.), *Research Handbook on Climate Change, Migration and the Law*, Cheltenham (UK) – Northampton (MA) 2017. On the gaps in international law, see S. Behrman, A. Kent, *Overcoming the Legal Impasse? Setting the Scene*, in S. Behrman, A. Kent (Eds.), *'Climate Regugees'. Beyond the Legal Impasse?*, London – New York, 2018, 3 ff. According to K.M. Wyman, in order to fill the "rights" and "funding" gaps in climate migration law, the adoption of a multilateral legal instrument is required: K.M. Wyman, *Responses to Climate Migration*, in 37 *Harv. Envtl. L. Rev.* 167 (2013).

[3] See X. Jiang, Z. Huang, X. Zhao, *Climate Related Migration Practices from the Cancun Adaptation Framework to the Australia-Tuvalu Falepili Union Treaty: Implications for the International Legal Regime*, in 34(1) *RECIEL* 210 (2025).

[4] On this issue, among the Italian scholarship, see: S. Borràs Pentinat, *Le migrazioni climatiche*, in G. Contaldi, A. Cossiri, C. Feliziani, F. Gambino, F. Marongiu Buonaiuti (Eds.), *Studi in tema di cambiamento climatico e giustizia climatica*, Napoli, 2025, 41; M. Di Filippo, *Garanzia di non-refoulement per i migranti ambientali e riconoscimento della protezione complementare: un contributo al dibattito*, in F. Amato, V. Carofalo, A. Del Guercio, A. Fazzini, V. Grado, E. Imparato, A. Liguori (Eds.), *Climate Change, Human Rights and International Migration*, Napoli, 2025, 169.

characterized by applicative constraints and a marked lack of uniformity among the different European Member States.

The fragmented nature of these protection mechanisms is matched by a significant fragmentation in the inclusion policies for climate immigrants upon their arrival in the host country. Indeed, among the systems analyzed in this study, specific inclusion measures targeting climate-induced immigrants are established only in Australia, where protection is granted via bilateral agreements. In all other instances, inclusion policies are merely contingent upon the type of protection status recognized.

Consequently, the general difficulties in implementing migrant inclusion measures – a challenge common to all host countries – are compounded by both the absence of policies tailored to the specific vulnerabilities of climate migrants and the fragmented nature of the regulatory framework. This latter issue is particularly salient within the European Union context. It demands careful consideration, given the close nexus between integration, the uniformity of measures required to ensure it, and the principle of European solidarity.

2. Towards climate migrants' protection mechanisms

Australia offers a unique example of a selective climate migrant protection mechanism, available to specific categories of immigrants based on bilateral agreements. Specifically, in 2023, pursuant to the Australia-Tuvalu Falepili Union[5], a bilateral agreement concluded between the Australian and Tuvaluan Governments, Australia introduced a special visa category for citizens of the latter country compelled to emigrate as a consequence of climate change.

Tuvalu is a small Pacific Island State, comprising nine atolls, situated in one of the regions most vulnerable to climate change[6], as well as to socio-economic and development challenges. Its landmass of merely 26 square kilometers, according to recent studies, risks complete submersion within 25 years due to sea-level rise induced by climate change, thus exposing Tuvalu to an existential environmental threat. The concept of securing a migration pathway to Australia for Tuvaluan citizens is rooted in the "Migration with Dignity" vision, which was formulated at the sixth Asian and Pacific Population Conference in 2013[7]. This vision is conceptualized as an opportunity in scenarios where climate change inflicts severe environmental damage and jeopardizes the population's survival.

The treaty, grounded in the Tuvaluan concept of *Falepili* – which embodies traditional values of good neighbourliness, care, and mutual respect – operates within the framework of a climate cooperation plan. This plan provides for the adoption of adaptation initiatives to ensure, where

[5] Available online on the Government of Australia website: https://www.dfat.gov.au/geo/tuvalu/australia-tuvalu-falepili-union.
[6] The small Pacific islands, such as the Marshall Islands, Kiribati, Tuvalu, Tonga, Micronesia, and the Cook Islands, are classified among the areas most susceptible to climate change. See IPCC 2014 Report, 936.
[7] ESCAP (2013) Report of the Sixth Asian and Pacific Population Conference. United Nations Economic and Social Commission for Asia and the Pacific, Bangkok, 16-20 September 2013.

DPCE online
ISSN: 2037-6677

possible, that Tuvaluans can continue to live in their homeland (Art. 2). Within this context, the treaty proposes a special mobility pathway, permitting Tuvaluan citizens to move to and reside in Australia, granting them access to education, employment, healthcare, and welfare systems.

To this end, a new special visa was established under the agreement, allocated to 280 Tuvaluan citizens annually. This visa is incorporated into the Pacific Engagement Visa (PEV) category (Section 192). This constitutes a permanent visa that confers upon selected Tuvaluan citizens the privileged status of "lawful non-citizen", providing for a set of rights in sharp contrast with those afforded to "unlawful non-citizens", who are subject to mandatory detention and even offshore processing[8]. It effectively introduces a new category within Australia's existing selective migration policy. However, this policy, while providing legal instruments aimed at recognizing the status of climate migrants, ultimately serves specific geopolitical objectives. This is evidenced by the strengthening of commercial and political ties with particular Pacific nations, consequently drawing them away from the sphere of influence of rival powers. This strategic duality is underscored by the controversial Article 4(4) of the Treaty, which stipulates that, in return for climate migration cooperation, «Tuvalu shall mutually agree with Australia any partnership, arrangement or engagement with any other State or entity on security and defence-related matters»[9].

As mentioned, unlike the Australian case, in European countries, climate migrants are usually afforded generalized forms of protection, regardless of their country of origin.

The recognition of humanitarian protection, first introduced in Sweden and Finland, falls within this perspective[10]. In Sweden, this form of protection was introduced on an experimental basis in Ch. 4, Sec. 2a of the Aliens Act, which defined a «person otherwise in need of protection» as someone outside their country unable to return due to an environmental disaster. However, this provision was first suspended following the 2015 migration crisis and subsequently repealed in 2021, after being sparely referred to by the Courts[11]. Section 52 of the Finnish Aliens Act provided for residence permits on humanitarian grounds in cases involving impediments to return, extending also to disaster displacement. In line with Sweden, this provision was also repealed[12] following a gradual, restrictive reform process. This process ultimately culminated in the abolition of the

[8] According to policies based on a discourse of "absolute sovereignty": see in this sense E. Lester, *Making Migration Law. The Foreigner, Sovereignty, and the Case of Australia*, Cambridge, 2018.

[9] See L. Gamboa, D. Roh, *Australia-Tuvalu Falepili Union: The First Bilateral Climate Mobility Treaty*, in *Carnegie Endowment for International Peace*, 9-9-2025, https://carnegieendowment.org/research/2025/09/australia-tuvalu-falepili-union-the-first-bilateral-climate-mobility-treaty?lang=en.

[10] On the types of residence permits for climate-related reasons and their limited effective recognition in specific cases, see M. Scott, C. Lahnalahti, *Climate-related mobility into the Nordic region: Law, policy and (limited) practice*, in M. Cullen, M. Scott (Eds.), *Nordic Approaches to Climate-Related Human Mobility*, London, 2024, 48.

[11] As pointed out by M. Scott, R. Garner, *Nordic Norms, Natural Disasters, and International Protection. Swedish and Finnish Practice in European Perspective*, in 91 *Nordic J. Int'l L.* 101 (2022).

[12] With the Act amending the Aliens Act n. 332/2016.

humanitarian protection category[13], which had formed the basis for the initial permit. Similarly, in Austria, the case law of the Court of Appeal, based on principles established by the Constitutional Court and the Supreme Administrative Court, recognizes subsidiary protection in cases of environmental events such as food crises, floods, locust invasions, and earthquakes[14].

In the French case and under current Italian legislation, climate migrants are granted temporary protection. Specifically, in France, the Bordeaux Court of Appeal[15] authorized the renewal of a temporary residence permit for medical reasons (*titre de séjour pour raisons de santé*), typically granted for a one-year period, for a Bangladeshi citizen. The residence permit for medical reasons is conferred upon individuals afflicted with pathologies of exceptional severity for which appropriate medical treatment is not accessible in their country of origin. The Bordeaux Court of Appeal, employing a broad interpretation of the concept of "inaccessibility of treatment", granted this residence permit to an immigrant from Bangladesh suffering from a severe respiratory condition, for which he was receiving effective treatment in France. In the Court's judgment, although the same treatment was technically available in Bangladesh, removal to the latter country – which suffers from extremely high levels of atmospheric pollution – would render the treatment ineffective and aggravate the applicant's condition[16].

The Italian legal framework for the protection of climate migrants is marked by frequent legislative amendments enacted through emergency-based measures. This follows a problematic paradigm that permeates the general governance of migration and asylum law in the country. Until 2018, the protection of climate migrants was provided on the basis of humanitarian protection[17]. Indeed, the broad spectrum of vulnerabilities falling within the scope of humanitarian protection led the Tribunals and the Territorial Commissions for International Protection to grant humanitarian protection in cases of famine, natural or environmental disasters, serious natural calamities, grave local situations impeding repatriation in dignity and safety, floods, inundations, and earthquakes. This approach was confirmed by the Court of Cassation's Order No. 5022/2021[18]. The Court recognised the right to protection for migrants from contexts where the right to life and to a

[13] Aliens Act, art. 89.
[14] C. Scissa, F. Biondi Dal Monte, M. Scott, M. Ammer, M. Mayrhofer, *Legal and Judicial Responses to Disaster Displacement in Italy, Austria and Sweden*, in *Völkerrechtsblog*, 19.10.2022, https://voelkerrechtsblog.org/legal-and-judicial-responses-to-disaster-displacement-in-italy-austria-and-sweden/; M. Mayrhofer, M. Ammer, *Climate mobility to Europe: The case of disaster displacement in Austrian asylum procedures*, in *Front. Clim.* 1 (2022).
[15] CAA de Bordeaux, 2ème chambre, 18/12/2020, 20BX02193, 20BX02195, *Inédit au recueil Lebon.*
[16] See C. Scissa, *Migrazioni ambientali tra immobilismo normativo e dinamismo giurisprudenziale: un'analisi di tre recenti pronunce*, in *Quest. Giust.*, 2021, 1.
[17] Pursuant to Art. 5(6) of the Consolidated Act on Immigration.
[18] Concerning a request for humanitarian protection submitted prior to 2018.

DPCE online
ISSN: 2037-6677

dignified existence was at risk due to environmental degradation, climate change, or unsustainable development in their area of origin[19].

Law Decree n. 113/2018 by abrogating the residence permit for humanitarian reasons, replaced it with a series of specific residence permits[20], including the residence permit for calamity, currently governed by Art. 20-bis of the Consolidated Act on Immigration[21].

The permit for calamity was subsequently modified and expanded by Law Decree n. 130/2020, which, in addition, broadened the grounds for the recognition of special protection, pursuant to Art. 19 of the Consolidated Act on Immigration. Accordingly, the residence permit for calamity as well as special protection in cases involving the violation of the right to private and family life became the legal basis for providing protection to climate migrants[22].

However, the "Cutro Decree"[23], having eliminated any reference to the violation of the right to private and family life from the grounds for special protection within the Consolidated Act on Immigration, abrogated the normative basis on which this line of reasoning was founded. Furthermore, the same decree also introduced restrictions on the residence permit for calamity under Art. 20-bis. According to the text currently in force, this article provides for a temporary residence permit valid for six months, renewable only once. This constitutes a form of protection of a clearly temporary and emergency nature, thus responding to the need to offer protection in specific and circumscribed cases of severe natural calamities, which struggles to encompass the broad spectrum of issues arising from the effects of climate change on territories[24]. The legal framework for the protection of climate migrants in Italy is therefore characterised by a progressively restrictive evolutionary process, consistent with the overall evolution of asylum law[25].

Finally, the case of Germany is peculiar. Indeed, the Higher Administrative Court of Baden-Wuerttemberg[26] recognized the prohibition of return – a peculiar form of national protection, granted[27] for a renewable one-year term, that corresponds neither to asylum nor to subsidiary protection – for an Afghan citizen pursuant to Sec. 60 of the German Residence Act and Art. 3 of the ECHR. According to the Court, the return,

[19] L. Galli, *La protezione dei migranti climatici in Italia: luci e ombre nelle prime pronunce dopo l'ordinanza n. 5022/2021 della Cassazione*, in *Riv. giur. ambiente*, 2022, 79.
[20] On the relationship between the residence permit for calamity and humanitarian reasons, see A. Stevanato, *I migranti ambientali nel decreto-legge n. 20 del 2023. Che cosa resta della loro protezione?*, in *Corti supr. salute*, 2023, 1.
[21] Legislative Decree No. 286/1998.
[22] Court of Cassation, Order No. 6964 of 8 March 2023.
[23] Law Decree No. 20 of 10 March 2023.
[24] For a detailed analysis of the protection measures of climate migrants in Italy, considering their effective implementation, see M. Di Filippo, *La protezione dei migranti ambientali nel dialogo tra diritto internazionale e ordinamento italiano*, in *Dir. um. dir. internaz.*, 2023, 2, 313.
[25] C. Scissa, *La protezione per calamità: una breve ricostruzione dal 1996 ad oggi*, in *Forum di Quaderni cost.*, 2021, 136.
[26] VGH Baden-Wuerttemberg, Judgment of 17 December 2020 – A 11 S 2042/20.
[27] According to Section 25, Paragraph 3 of the German Residence Act (Aufenthaltsgesetz – AufenthG).

in the context of the Covid-19 pandemic, would have exposed the migrant to inhuman and degrading living conditions, due to severe shortages of food, water, and housing in Afghanistan.

This brief survey of European jurisdictions reveals a landscape where explicit protection for climate migrants is recognized by only a handful of States. Notably, in Sweden, Finland, and Italy, former protective measures have been restricted or abolished as part of a general retrenchment of migration policies and asylum standards. Moreover, in Europe, the legal landscape is characterized by fragmentation, as demonstrated by the disparate regulations adopted across the jurisdictions examined.

Within this framework, the likelihood of climate-induced migrants being granted protection under European case law is constrained, though not entirely precluded, at a supranational level. Indeed, whereas the scope for recognition under Union law is severely limited by the high threshold of Article 15 of the Qualification Directive, the European Court of Human Rights provides a more favorable legal avenue. Indeed, even though the European Court of Human Rights has never directly inferred a right to protection for climate migrants from the Convention, such protection may be indirectly derived from the jurisprudential interpretation of Articles 2 and 8 of the ECHR[28].

The limited and fragmentary nature of the described protection measures is reflected in the equally fragmented inclusion measures afforded to climate migrants.

3. (The lack of) Inclusion Measures for Climate Migrants

In Australia, where inclusion measures are differentiated based on the specific legal status granted to various migrant categories[29], Tuvaluan climate migrants under the Falepili Union Agreement are afforded a privileged status. The Agreement operates within this framework by stipulating that the inclusion measures applicable to permanent residents shall apply to these migrants, while also establishing several additional, specific entitlements. These measures stem from Article 3 of the Treaty ("Human Mobility With Dignity"), which commits Australia to providing a pathway to residency and access to services "upon arrival", in addition to standard integration support, such as the Adult Migrant English Program and the Settlement Engagement and Transition Support. The primary entitlement implemented under the Treaty is the right to entry and permanent residency[30], facilitated through a special visa pathway that confers Permanent Resident status immediately upon arrival. This pathway, enacted by the Migration Amendment (Australia Tuvalu Falepili Union Treaty Visa) Regulations 2024 – which amends the Migration Regulations 1994 to create the Pacific Engagement visa (subclass 192) – Treaty stream

[28] K. Neri, *Human rights and climate migrants. A comparison of the potential for legal protection in Europe and the Americas*, in 111 *Quest. Int'l L.* 7 (2025).
[29] See M. Crock, D. Ghezelbash, S. Reich, R. Stevens, *Selective Generosity: Migration Law and Policy in Australia*, in M.-C. Foblets, J.-Y. Carlier (Eds.), *Law and Migration in a Changing World*, Cham, 99.
[30] Art. 3(1)(a).

DPCE online
ISSN: 2037-6677

(Tuvalu) – guarantees the right to live, work, and study indefinitely. Furthermore, these migrants are granted immediate access to the public healthcare system (Medicare), being exempted from the standard waiting periods typically imposed on other new permanent residents. The visa also provides immediate access to family and income support, including benefits such as the Family Tax Benefit and the Child Care Subsidy. Finally, access to higher education through student loan eligibility is extended to Tuvalu citizens under the Filapili Union[31]. This measure, aimed at fostering long-term integration, effectively grants these permanent residents the same educational access rights as Australian citizens, making them eligible for government-subsidized student loans (e.g., HECS-HELP).

In contrast with Australia, EU Member States that recognise forms of protection for climate migrants do not provide for specific inclusion measures dedicated solely to this group; instead, they are incorporated into general migrant integration programmes. The specific inclusion measures concretely applicable to climate migrants, therefore, derive entirely from the legal status recognised in each of the countries to this category of migrants. This results in an extremely varied and often fragmented framework, shaped by the convergence of the distinct national integration strategies on the one hand, and the specific legal status granted to climate migrants in each country on the other.

In Sweden and Finland, climate migrants, who are afforded humanitarian protection, are included within the general integration framework provided also for this category of migrants.

In Sweden, the integration framework is characterized by its generous scope, reflecting Sweden's long-standing integration tradition, when compared with other European experiences, notwithstanding recent restrictive amendments[32]. This tradition began to take shape during the post-war era of labour migration in the 1960s, characterized by a path dependency on the Social Democratic universal welfare state model. This regime – which was situated within a broader context of particularly open migration policies – was defined by its provision of comprehensive, redistributive, and generous welfare services intended for the entire populace residing on the territory, based on a principle of universal egalitarianism[33]. It was determined that migrants must receive immediate access to welfare state membership under the same conditions as native citizens. The foundational logic held that the welfare state itself functioned as the primary integration project, extending T.H. Marshall's theory of social rights to the immigrant population as a prerequisite for their inclusion[34]. As migration patterns shifted from labour to refugee reception in the 1980s and 1990s, policy evolved. This culminated in the 2010

[31] Art. 3(1)(b).
[32] A. Wiesbrock, *The Integration of Immigrants in Sweden: a Model for the European Union?*, in 49(4) *Int'l Migration* 48 (2011).
[33] For an in-depth analysis of this issue see: A. Ahlén, J. Palme, *Migrants' Access to Social Protection in Sweden*, in J.-M. Lafleur, D. Vintila (Eds.), *Migration and Social Protection in Europe and Beyond (Volume 1)*, Cham, 2020, 421.
[34] K. Borevi, *Multiculturalism and Welfare State Integration: Swedish Model Path Dependency*, in 21(6) *Identities* 708 (2014).

Establishment Reform[35], which prioritized labour market establishment as the central objective of integration, whereas previous efforts had placed greater emphasis on social inclusion and cohesion[36].

Based on these premises, climate migrants who qualify for a residence permit, such as beneficiaries of international or subsidiary protection, are therefore channelled into the centrepiece of Swedish integration policy: the *Etableringsprogrammet* (Establishment Programme). This statutory programme is managed by the Swedish Public Employment Service (*Arbetsförmedlingen*) and targets newly arrived immigrants between the ages of 20 and 65 who have been granted residence permits as beneficiaries of international protection, subsidiary protection status, or as family members of these categories. The explicit aim is to facilitate rapid self-sufficiency, enabling migrants to learn Swedish, find a job, and become self-sufficient as quickly as possible. The programme is a full-time, 24-month commitment that mandates participation in Swedish for Immigrants (SFI) courses, a civic orientation course, and individualized job coaching, which may include internships or the validation of prior experience. Participants receive introduction benefits from the Swedish Social Insurance Agency to cover their living costs[37].

Since 2016, as a reaction to the 2015 peak in asylum applications, the categories of migrants eligible to seek residence in Sweden have been curtailed[38] – thus reducing migrants' access to welfare[39] – and the Establishment Programme was made mandatory for all migrants, with the aim to strengthen the integration duties of newly arrived migrants[40]. The effect has been a radical shift in Sweden's attitude towards the inclusion of migrants[41], including climate migrants.

[35] Lag 2010:197.
[36] On this evolution, see A. Osman, *Migrant Successfully Accessing Their Vocation in Sweden: The Significance Labour Market Initiatives to Facilitate the Integration of Migrants and Refugees*, in M. Teräs et al. (Eds.), *Migration, Education and Employment, Education, Equity, Economy*, Cham, 2024, 11.
[37] For detailed information see *Integration Policies, Practices and Experiences. Sweden Country Report*, Paper 2020/57, July 2020, in *Respond*, available online at https://respondmigration.com/wp-blog/refugee-integration-policies-practices-experiences-sweden-country-report.
[38] In 2016, the *Act on Temporary Restrictions on the Possibility of Obtaining a Residence Permit in Sweden* (Lag 2016:752) replaced permanent residence permits with temporary permits as the general rule for all beneficiaries of international protection. Furthermore, it severely curtailed the right to family reunification and introduced stricter maintenance (self-sufficiency) requirements for obtaining permanent residency. In this context, as mentioned, the rule providing for humanitarian protection for climate migrants was suspended. In addition, a radical restrictive shift in immigration policies was introduced in 2022 on the basis of the Tidö Agreement.
[39] In the context of the crisis of the Nordic welfare regimes. See in this sense M. Dahlstedt, A. Neergaard, *Crisis of Solidarity? Changing Welfare and Migration Regimes in Sweden*, in 45(1) *Critical Socio.* 121 (2019). With particular reference to the cuts on migrants' health services, see G.G. Carboni, *I sistemi di welfare alla prova delle migrazioni: il caso della Svezia*, in *Rivista AIC*, 2018, 2, 1.
[40] Act on responsibility for establishment efforts for certain newly arrived immigrants (Lac 2017:584).
[41] See in this sense C.-U. Schierup, S. Scarpa, *How the Swedish Model Was (Almost) Lost. Migration, Welfare and the Politics of Solidarity*, in A. Ålund, C.-U. Schierup, A.

DPCE online
ISSN: 2037-6677

In Finland, climate migrants are included within the general normative framework governing migrant integration. This policy, codified in the Integration Act, is a relatively recent legal construction, reflecting the nation's status as a new country of immigration. The first iteration of this law[42] was enacted in 1999, establishing a framework aimed at promoting equality and providing migrants with the skills necessary for societal participation, while notionally preserving their cultural heritage.

This legal framework has undergone significant evolution. A major reform took effect in 2011[43], followed by a critical administrative restructuring in 2012. This 2012 shift transferred primary responsibility for integration matters from the Ministry of the Interior to the Ministry of Employment and the Economy. This administrative change solidified the policy's core objective, which remains explicitly labour-market oriented[44]. Following the Swedish model, the guiding rationale is that successful labour market inclusion is the primary driver for all other facets of integration, such as social and cultural assimilation. The central instrument for the Act's implementation is the Personal Integration Plan (PIP). This constitutes an individualized agreement, often described as a contract, between the migrant and the relevant state authorities, namely the local municipality and the Employment and Economic Development Office (TE-Office). These plans, formulated after an initial needs assessment, typically stipulate measures such as Finnish or Swedish language instruction, vocational training, and job-seeking support[45].

The policy, while being progressive, was nevertheless contested[46], due to its conditional and coercive framework, which mirrored "welfare-to-work" policies, establishing a direct nexus between integration measures and social security, which were made contingent upon participation in activation measures specified in the Personal Integration Plan. Moreover, the application and eligibility criteria for the PIP reveal the policy's specific orientation and limitations. The 1999 Act explicitly linked the plan to social assistance, making participation conditional for unemployed migrants receiving benefits. While the 2010 reform theoretically expanded eligibility to all migrants, the system remains structurally focused on unemployed job seekers. Consequently, migrants who arrive for employment or secure work independently are often effectively excluded from state-sponsored

Neergaard (Eds.), *Reimagineering the Nation. Essays on Twenty First Century Sweden*, Frankfurt am Main – New York, 2017, 41.

[42] Act 493/1999.

[43] Act 1386/2010.

[44] On migrants' integration in Finland through the access to the labour market, see I. Bontenbal, N. Lillie, *Legal Issues Affecting Labour Market Integration of Migrants in Finland*, in V. Federico, S. Baglioni (Eds.), *Migrants, Refugees and Asylum Seekers' Integration in European Labour Markets. A Comparative Approach on Legal Barriers and* Enablers, Cham, 2021, 149.

[45] See K. Koskela, *Integration Policies. Finland Country Report*, INTERACT Research Report 2014/29, available online at https://cadmus.eui.eu/server/api/core/bitstreams/f442551e-11e9-5940-b5de-cac1c8f957d0/content.

[46] On the challenges affecting integration policies in Finland see in particular E. Stephen, *Migrants and Integration: Is It Towards a More Pragmatic Finland?*, in 4 *SN Soc. Sciences* 227 (2024).

integration services, including complimentary language courses. This labour-centric focus has been criticized for interpreting integration too narrowly, reducing it to language acquisition and labour participation while neglecting broader social justice and inclusion metrics.

Furthermore, the Act's application is highly decentralized, vesting primary implementation responsibility in the municipalities. This model has created significant challenges, including a fragmentation of services and documented difficulties in ensuring uniform implementation and quality of services across all municipalities, often due to limited financial resources and central control. To compensate for these gaps, the third sector – comprising NGOs and voluntary associations – plays a crucial facilitative role, frequently addressing the social and cultural integration aspects less prioritized by the official state framework.

In Italy and France, strategies for the inclusion of climate migrants are conditional upon the temporary nature of the permits granted to them. In addition, in Italy, climate migrants are subject to the general fragmentary, and often incoherent immigration framework, which is frequently designed to address contingent pressures rather than to provide structural support.

The Italian consolidated law on immigration (*Testo Unico sull'immigrazione*) formally addressed social integration in 2009[47] with the introduction of Article 4-bis, establishing the Integration Agreement (*Accordo di integrazione*). This agreement functions as a non-negotiated pact – effectively a contract of adhesion – between the State and foreign nationals entering Italy after March 10, 2012, who are seeking a residence permit of at least one year. Under this accord, the foreign national is compelled to demonstrate their status as a "meritorious citizen". This requires passing verification tests of language proficiency and civic knowledge, and undergoing a broader evaluation of their social conduct, administered via a points-based (credits and debits) system.

The specific integration objectives, regulated by Presidential Decree n. 179/2011, are classified into four categories: (a) proficiency in the Italian language; (b) knowledge of the fundamental principles of the Italian Constitution and the functioning of public institutions; (c) understanding of civil life in Italy, with particular reference to the healthcare, education, social services, labour sectors, and fiscal obligations; and (d) ensuring the fulfillment of compulsory education for minor children. Moreover, foreign nationals are required (para. 5) to adhere to the Charter of Values of Citizenship and Integration, a document adopted in 2007, intended to articulate the fundamental principles of the Italian legal order.

The Integration Agreement, lacking support from coherent national inclusion plans[48], establishes an asymmetrical mechanism that places the onus of integration entirely on the individual migrant. This model, rooted in a "civic integration" paradigm[49], arguably pursues assimilationist

[47] Law n. 94/2009, which was part of the so called "Security Package".
[48] For a critical overview see F. Biondi Dal Monte, *Le politiche di integrazione*, in M. Giovannetti, N. Zorzella (Eds.), *Ius Migrandi. Trent'anni di politiche e legislazione sull'immigrazione in Italia*, Milano, 2020, 367.
[49] V. Carbone, E. Gargiulo, M. Russo Spena, *Tra Piani, Accordi e discorsi morali e securitari: la via italiana alla civic integration*, in M. Giovannetti, N. Zorzella (Eds.), *Ius Migrandi. Trent'anni di politiche e legislazione sull'immigrazione in Italia*, *op. cit.*, 390.

DPCE online
ISSN: 2037-6677

objectives. Such objectives stand in tension with the foundational principles of liberal-democratic constitutions, and specifically the Italian Constitution: namely, the principle of pluralism, the right to the free development of one's personality, the right to private and family life, freedom of religion and expression, the protection of ethnic and linguistic minorities, and the prohibition of discrimination[50].

With reference to migrants' access to the Italian welfare system, a central dichotomy emerges between the principles governing contributory social security (*previdenza sociale*) and those governing non-contributory social assistance (*assistenza sociale*). Access to the primary contributory social security system – which includes old-age pensions (*pensione di vecchiaia*), unemployment benefits (*NASpI*), contributory invalidity pensions, and sickness/maternity cash benefits (*congedo di maternità*) – is largely predicated on the principle of equal treatment[51]. In stark contrast, non-contributory social assistance is characterized by a persistent legal conflict between legislative exclusion and judicial inclusion.

Indeed, with the notable exception of healthcare (*Servizio Sanitario Nazionale – SSN*), which is universal and residence-based[52], the legislature has repeatedly attempted to restrict access to non-contributory benefits for Third-Country Nationals (TCNs). Initial attempts imposed strict nationality requirements, aiming to reserve benefits (e.g., *assegno sociale*) for Italian citizens. These were systematically declared unconstitutional by the Constitutional Court as violations of the principles of equality and solidarity[53]. In response, the legislature replaced overt nationality criteria with facially neutral, yet indirectly discriminatory, durational residence requirements. The most common is the requirement to hold an EU long-term residence (LTR) permit[54], mandated by Law 388/2000 for many social assistance benefits. However, these limitations have also been subject to judicial scrutiny and neutralization. The Constitutional Court has consistently invalidated the LTR requirement for benefits deemed essential to human dignity and core social rights, such as invalidity allowances[55] and family benefits[56]. Furthermore, courts have increasingly utilized EU Directive 2011/98/EU, often disapplying national laws that require LTR status by invoking the Directive's Article 12, which mandates equal treatment in social security for all TCNs holding a single work permit.

With reference to migrant inclusion through employment, the labour market fails to function as an effective mechanism for their integration.

[50] M.C. Locchi, *L'accordo di integrazione tra lo Stato e lo straniero (art. 4-bis T.U. sull'immigrazione n. 286/98) alla luce dell'analisi comparata e della critica al modello europeo di "integrazione forzata"*, in *Rivista AIC* 2012, 1, 1.
[51] A key exception involves seasonal workers, who are legally excluded from unemployment and family benefits under Art. 25 of the Consolidated Law on immigration.
[52] Art. 35 of the Consolidated Law on immigration grants legally resident foreigners full equality and, crucially, grants undocumented migrants the right to "essential medical and hospital care" (*cure essenziali*), affirmed by the Constitutional Court (Judgment n. 252/2001).
[53] E.g., Constitutional Court, Judgments n. 432/2005, 40/2011.
[54] Requiring more than five years of legal residence and minimum income.
[55] Constitutional Court, Judgment n. 306/2008.
[56] Constitutional Court, Judgment n. 40/2013.

Instead, the legal framework for labour market entry is dysfunctional and constitutes a primary barrier. Access is structured via a distinct hierarchy predicated entirely on the migrant's, refugee's, or asylum seeker's specific legal status. This fragmentation is a key determinant of an individual's capacity for integration, operating as either a definitive barrier or a potent, albeit inconsistent, enabler. The primary legal entry mechanism for non-seasonal work, the *Decreto Flussi* (flows decree), is widely regarded as a failure. The overarching three-year strategic plan has been defunct since 2006, and the annual decree is now used primarily as an *ad hoc* tool to regularize undocumented migrants already present in Italy, rather than as a mechanism for new legal entries. Concurrently, the system of legal entry quotas is inadequate to provide legal migration pathways. The administrative procedure for legally hiring a worker from abroad is long and complex. Critically, Italian law does not provide a visa for job-seeking; a migrant must typically secure a job offer before entering the country. Beneficiaries of international protection – i.e., recognized refugees – are afforded unlimited access to the national labour market, theoretically aligning their employment rights with those of Italian citizens. Conversely, asylum applicants face significant statutory impediments. Their right to work is suspended for the first 60 days post-application and remains contingent on procedural delays. Furthermore, the residence permit issued to them is non-convertible, preventing a stable transition into the labour market even if employment is found. This precarity was exacerbated by Law No. 132/2018, which statutorily excluded asylum seekers in extraordinary reception centres (CAS) from essential integration services, including language courses and vocational training. While the Constitutional Court later reversed their exclusion from the civil registry[57], their *de facto* integration capabilities remain severely undermined[58].

In this context, climate migrants are situated in a particularly precarious position. The applicability of the aforementioned welfare measures is limited by the short duration of the permit for calamity. Furthermore, and crucially, this permit is not convertible into a work permit – a status restriction that mirrors the precarity imposed on asylum applicants. This non-convertibility underscores that the provision is intended merely as an exceptional and temporary safeguard, not as a mechanism designed to facilitate the long-term societal integration of climate migrants.

In France, the primary integration measure for foreign nationals is the *Contrat d'intégration républicaine* (CIR) (Republican Integration Contract), as established in the *Code de l'entrée et du séjour des étrangers et du droit d'asile*[59]. The CIR constitutes an essential prerequisite for obtaining a multi-year residence permit and, subsequently, a resident card or citizenship. Entering into the contract entails mandatory participation in civic education

[57] Constitutional Court, Judgment n. 186/2020.
[58] W. Chiaromonte, V. Federico, *The Labour Market Needs Them, But We Don't Want Them to Stay for Good: The Conundrum of Migrants, Refugees and Asylum Seekers' Integration in Italy*, in V. Federico, S. Baglioni (Eds.), *Migrants, Refugees and Asylum Seekers' Integration in European Labour Markets. A Comparative Approach on Legal Barriers and Enablers*, Cham, 2021, 193.
[59] CESEDA, Articles L413-1 to L413-6.

DPCE online
ISSN: 2037-6677

programs, language training, and professional orientation, which are configured as an obligation incumbent upon the immigrant. The integration contract – which is mandatory for holders of residence permits for family, employment, or economic reasons, and for resident card holders – exists alongside the *Accompagnement global et individualisé des réfugiés* (AGIR) program. The latter is designated for refugees and beneficiaries of subsidiary protection, providing support in finding accommodation, intensive language training, active support in seeking employment, access to vocational training courses, and access to social rights. Notwithstanding its critical aspects – which emerge particularly from the asymmetry between the administration and the foreign national regarding the resulting obligations[60], ultimately leading it to be framed in terms of assimilation[61] – the integration contract constitutes a possible integration pathway for certain categories of immigrants in France.

From this pathway, however, climate migrants are excluded. Indeed, holders of a residence permit for medical reasons do not have access to the integration contract, nor to the AGIR program. They are, however, granted full rights to the *assurance maladie* (the national health service) and an unrestricted right to work, as well as voluntary access to certain training courses. These constitute more limited integration pathways, centered on the specific characteristics of the medical residence permit and justified by the provisional and temporary nature of this specific permit category.

In Germany, the unconventional nature of the protection afforded to climate migrants results in their precarious position within inclusion policies. In fact, the German system of integration, following reforms adopted since 2014, is centrally structured on a "dual track" approach linking employment and integration[62]. On one side, the inclusion framework provides for early labour market integration[63]. Accordingly, integration through welfare is strictly linked with the inclusion into the labour market[64]. On the other side, migrants are channelled into an Integration Course (*Integrationskurs*), managed by the Federal Office for Migration and Refugees (BAMF), combining a language component with an orientation course

[60] D. Lochak, *Devoir d'intégration et immigration*, in *RDSS. Rev. droit san. soc.* 2009, 18.
[61] E. Grosso, *Dall'assimilazione desiderata all'identità rivendicata. Ascesa e crisi del modello francese di integrazione di fronte all'inedita sfida del multiculturalismo*, in G. Cerrina Feroni, V. Federico (Eds.), *Strumenti, percorsi e strategie dell'integrazione nelle società multiculturali*, Napoli, 2018, 297.
[62] See G. Cerrina Feroni, *L'esperienza tedesca di società multiculturale: tra patriottismo costituzionale e integrazione degli stranieri nel mercato del lavoro*, in G. Cerrina Feroni, V. Federico (Eds.), *supra* at note 58, 541.
[63] Indeed, the link between labour-demand and immigration has always been strong in Germany. See in this sense G. Czepek, *Labour market integration of migrants in Germany*, in J. Heyes, L. Rychly (Eds.), *The Governance of Labour Administration. Reforms, Innovations and Challenges*, Cheltenham (UK) – Northampton (MA), 2021, 238. Those policies have been strengthened since the 2014 refugee crisis. See in this sense H. Schwenken, *Differential Inclusion: The Labour Market Integration of Asylum-Seekers and Refugees in Germany*, in B. Galgóczi (Ed.), *Betwixt and between: Integrating refugees into the EU labour market*, Brussels, 2021, 135.
[64] For a critical overview on migrants' access to welfare measures in Germany, see R. Schnabel, *Migrants' Access to Social Protection in Germany*, in M. Lafleur, D. Vintila (Eds.), *supra* at note 31, 179.

focused on Germany's legal and constitutional framework, history, culture, and core values. This course culminates in the *Leben in Deutschland* (Living in Germany) test, which is also a necessary prerequisite for naturalisation. The dual track model itself is premised on the idea that economic self-sufficiency is the main engine of integration, while integration, in turn, presupposes adequate language proficiency and the recognition of professional qualifications. Consequently, local Job Centres work in close cooperation with the BAMF to refer new arrivals to both language courses and vocational qualification measures. Full access to the orientation course is automatically granted to refugees, beneficiaries of subsidiary protection, immigrants entering for family reunification, holders of a permanent settlement permit (*Niederlassungserlaubnis*) who have not yet completed the course, and non-EU qualified workers who receive a work permit. However, certain groups do not have an automatic entitlement but may be admitted upon request: this includes holders of humanitarian permits, asylum seekers, and individuals with a *Duldung* (Tolerated Stay) – a status for those legally obligated to leave the country but whose deportation (*Abschiebung*) is temporarily suspended – particularly if they are enrolled in an apprenticeship (*Ausbildungsduldung*).

Within this framework, which provides for a strong integration framework for every category of migrants, including asylum-seekers – even though it is not immune from contradictions[65] and weaknesses[66] – climate migrants occupy a hybrid legal status. Indeed, the residence permit under Section 25(3) of the Residence Act (National Prohibition of Deportation) grants immediate access to the most essential welfare provisions – namely, employment and healthcare – but only conditional access to the civic and linguistic integration programme. Specifically, the individual gains immediate and unrestricted access to the labour market – both dependent and self-employed work – and to job-seeking support services; furthermore, they are fully entitled to enrolment in the statutory health insurance (*Krankenkasse*) and, where necessary, to welfare benefits (*Bürgergeld*). In contrast, access to the Federal Integration Course (*Integrationskurs*) remains conditional, requiring a formal application and subject to the availability of places.

4. Final Remarks

The analysis of protection mechanisms and inclusion measures applicable to climate migrants in the Australian context and across EU Member States has evidenced the fundamental disjuncture between the necessity of recognizing climate-induced displacement and the actual implementation of

[65] It has been argued that the shift towards refugee-seekers integration into the labour market is not driven by humanitarian concerns, but by a utilitarian approach: M. Maroufi, *Precarious Integration: Labour Market Policies for Refugees or Refugee Policies for the German Labour Market?*, in 3 *Refugee L. Rev.* 15 (2017).

[66] Effective implementation of integration at local level is often unsatisfactory, as evidenced by H. Hinger, *Integration Through Disintegration? The Distinction Between Deserving and Undeserving Refugees in National and Local Integration Policies in Germany*, in S. Hinger, R. Schweitzer (Eds.), *Politics of (Dis)Integration*, Cham, 2020, 19.

DPCE online
ISSN: 2037-6677

coherent, status-securing, and inclusion-oriented legal frameworks. The overarching finding reveals a state of normative fragmentation across international, regional, and national levels, where the sporadic mechanisms for protection are largely mirrored by inadequate and disjointed inclusion policies.

Protection mechanisms underscore a critical dichotomy. On the one hand, the selective, bilateral model, exemplified by the Australia-Tuvalu Falepili Union, provides an immediate and comprehensive solution by granting Tuvaluan citizens the privileged status of Permanent Resident with bespoke, specific entitlements. This singular, privileged approach for climate migrants stands in stark contrast to Australia's established, highly restrictive, and often criticized general migration policy, usually non-compliant with fundamental human rights standards. Crucially, this juxtaposition necessitates a central critical assessment regarding whether the foundation of this protection is rooted in the imperative to guarantee the rights of vulnerable persons, or if it is primarily driven by strategic geopolitical and security objectives of the host state. The fact that climate migrants are elevated to a privileged category within a context of pervasive national hostility towards migrants raises serious ethical and political questions regarding the instrumentalisation of this new pathway.

On the other hand, generalized forms of protection within the European Union are characterized by a lack of uniformity and a gradual restrictiveness. This is evident in the historical repeal of humanitarian protection in Sweden and Finland, the reliance on existing mechanisms like subsidiary protection in Austria, and the adoption of temporary and conditional statuses in France and Italy. France's use of the *titre de séjour pour raisons de santé* and Italy's shift to the restrictive, six-month, non-renewable *permesso per calamità* highlight a regulatory landscape where protection is conceived as an exceptional, emergency safeguard rather than a mechanism for long-term integration. The atypical nature of Germany's prohibition of return, a peculiar form of national protection, further underscores this reliance on non-standard, national solutions, resulting in a complex and often precarious legal status.

This fragmentary nature of recognition is the direct precursor to the fragmentary nature of inclusion. As demonstrated, specific inclusion measures are only established in Australia, where protection is granted via bilateral agreements, affording climate migrants from Tuvalu immediate and unconditional access to health, welfare and educational subsidies. Conversely, in the EU, inclusion policies are contingent solely upon the type of legal status recognized, channelling climate migrants into general integration programmes that fail to address their specific vulnerabilities.

This status-dependent approach yields disparate and inadequate outcomes. The labour-centric models of Sweden and Finland prioritize rapid economic self-sufficiency, making social benefits and core integration measures conditional upon participation in structured programmes like the *Etableringsprogrammet* or the Personal Integration Plan (PIP), and often interpreting integration too narrowly. More critically, states employing temporary permits introduce outright structural barriers to inclusion. In Italy, the *permesso per calamità* is expressly non-convertible into a work permit, rendering labour-market integration near impossible and

fundamentally underscoring that the provision is intended merely as a temporary safeguard. Similarly, in France, holders of the medical permit are excluded from the main integration contracts, reflecting the provisional and temporary nature of their permit. Finally, even in Germany, where the unconventional protection status grants immediate access to the labour market and essential welfare, access to the central civic and linguistic integration programme remains conditional and subject to availability.

In conclusion, the primary challenge is the systemic inability of existing regulatory frameworks to move beyond an emergency-based, temporary mindset. The resulting patchwork of status-contingent inclusion exacerbates the general difficulties faced by host communities and, particularly within the EU, violates the close nexus between integration, the uniformity of necessary measures, and the principle of European solidarity. Addressing climate migration effectively demands a paradigm shift from fragmented, restrictive national provisions toward a cohesive, rights-based EU framework that is capable of providing a stable, convertible legal status and guaranteed access to comprehensive integration measures that are tailored to the unique needs of this increasingly vulnerable population.

Maria Dicosola
Università degli Studi di Bari Aldo Moro
Dipartimento di Giurisprudenza
Piazza Cesare Battisti, 1
maria.dicosola@uniba.it

DPCE online
ISSN: 2037-6677