



Faculty of Humanities and Social Sciences

Master in International Security Management

Final Thesis

*Constructing Crisis: The Normalisation of Emergency
Governance in EU Regulation 2024/1359*

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Abstract

This thesis critically examines how EU Regulation 2024/1359 constructs the notion of “crisis” to securitize migration and legitimize derogations from standard asylum procedures. Drawing on critical discourse analysis and legal doctrinal analysis, and informed by legal exceptionalism, crisis and emergency governance, and securitization theory, the research conceptualizes law as not merely a legal construction but also a discursive site where meanings of crisis and necessity are produced. The analysis shows how the regulation frames migration as a security issue requiring exceptional responses, thereby facilitating procedural deviations and embedding emergency governance within EU asylum law. It argues that such discourse contributes to the normalization of exceptional measures, blurring the boundary between ordinary and emergency rule in the Common European Asylum System.

Keywords: EU asylum law, crisis governance; securitization theory; crisis discourse; legal exceptionalism; crisisification; emergency governance; state of exception; derogation; asylum procedures; discourse analysis; critical discourse analysis; migration policy; institutionalization of exception; rule of law; Common European Asylum System.

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1. Introduction

Since the so-called “refugee crisis” of 2015, ‘crisis’ as a concept and phenomenon has increasingly shaped discourse and legal development within EU asylum and migration governance. Through this narrative has emerged not only the framing of migration as constituting a state of emergency and crisis but crisis as a mode of governance in and of itself (Moreno-Lax, 2023; Rhinard, 2019). The adoption of the New Pact on Migration and Asylum in 2024 represents a step in the shift towards using crisis as a mode of governance.

Among the instruments included in the Pact, Regulation (EU) 2024/1359 (hereafter the Regulation) is paid significant importance within EU migration governance and becomes the central focus of this study. The Regulation establishes a legal framework which permits EU member states to derogate from ordinary asylum procedures during situations defined as constituting “crisis”, “force majeure”, and “instrumentalisation”. Although formally presented as temporary and exceptional, the measures outlined in the Regulation raise questions in regards to the manner in which crisis is referred to and used, how the term is legally constructed, operationalised, and whether it has become normalised within EU asylum governance.

1.1 Research Aim

This thesis aims to critically examine how the Regulation (EU) 2024/1359 constructs migration as a legally and discursively cognisable condition constituting a crisis; arguing that the Regulation does not merely respond to pre-existing emergencies but actively produces conditions rendering exceptional governance lawful and legitimate. This study will examine how the combination of securitising discourse, legally indeterminate definitions of crisis, and derogation mechanisms, simultaneously and interdependently normalise emergency governance as both a recurring and administratively manageable feature of EU asylum law and migration governance.

1.2 Research Question

To what extent does EU Regulation 2024/1359 legally and discursively construct migration as a “crisis”, thereby facilitating derogations from asylum procedures and normalizing emergency governance within EU asylum law?

Sub-questions:

1. How does the Regulation legally define and operationalise “crisis” and “instrumentalisation”?

2. Through what discursive mechanisms and linguistic techniques does the Regulation frame migration as a security and governance problem?
3. How do the Regulation's derogation mechanisms contribute to the normalisation of emergency governance within the CEAS?

1.3 Research Scope

The thesis employs a dual-method qualitative approach combining legal doctrinal analysis with critical discourse analysis modeled after Fairclough's three-dimensional framework. The choice to combine two methods was done to reflect the research aim, examining the Regulation simultaneously as both a legal and discursive instrument.

This study is primarily limited to the examination of Regulation (EU) 2024/1359 but does include reference, discussion, and examination of other legislative documents and policies both within the New Pact on Asylum and Migration as well as within the broader EU asylum and migration governance.

2. Literature Review and Previous Research

This study aims to contribute to research at the intersection of migration governance, legal exceptionalism, emergency politics, crisis discourse, and EU asylum law by examining the legal and discursive construction of migration as a "crisis" within Regulation (EU) 2024/1359. The literature review below establishes the academic foundation upon which this research builds.

The New Pact on Migration and Asylum has been extensively analysed across a range of contexts, with critics arguing it represents a continuation of the EU's migration-security continuum and that its shortcomings in safeguarding migrants rights devalue their personhood (Bellavitis and Servent, 2025; Häkli et al, 2024; Gambazza, 2024; Mouzourakis, 2021). EU migration and asylum governance is increasingly understood as having transitioned toward, or already entered, a mode of permanent crisis governance. This is referred to as the "crisification" of EU policy, in which crisis functions not as a temporary disruption but as a structuring logic of governance itself (Campesi, 2024; Scissa and Gatta, 2024; Moreno-Lax, 2023 and 2024; Sahin-Mencutek et al, 2022; Rhinard, 2019; New Keywords Collective, 2016). Across this literature, several interconnected themes emerge: the securitisation of migration through crisis narratives; the institutionalisation of

emergency governance within EU asylum law; the discursive depersonalisation of migrants; and the gradual erosion or flexibilisation of procedural safeguards in asylum processes.

In their analysis of personhood within the New Pact on Migration and Asylum, Häkli, Kudžmaitė and Kallio (2024) highlight the exclusionary nature embedded in the Pact's discourse. The study demonstrates how migrants are represented collectively and passively as “flows”, “movements”, and “applicants”, removing individuality and humanity thereby reducing people to administrative categories. Häkli et al argue that the New Pact increasingly constructs migration as a problem of spatial and temporal management rather than a matter of human rights. This depersonalisation is central to how crisis framing operates: by removing individual agency from the discursive construction of migration, the Regulation renders extraordinary measures appear administrative rather than political.

Moreno-Lax (2023, 2024) develops the concept of crisification as both a narrative strategy and a mode of legal governance, arguing that the repeated crisis framing is performative and actively produces the conditions under which exceptional measures become normalised and embedded within the EU acquis. Nicolosi (2022) similarly demonstrates through doctrinal analysis that EU asylum governance has increasingly been structured around the assumption of permanent or recurring crisis, with intentionally vague emergency definitions giving institutions broad discretionary power to activate exceptional measures.

The recent adoption of Regulation 2024/1359 means that its implications remain comparatively underexamined within existing scholarship. While scholars such as Abbassi and Triculescu (2026), Scissa and Gatta (2024), Ineli-Ciger (2024), and Nicolosi (2022) have explored the expansion and normalisation of crisis governance within the Regulation, this thesis addresses a distinct gap in the literature by examining how migrants' mobility itself is legally and discursively constructed as the “crisis”. Rather than analysing solely the growth of crisis governance mechanisms, this study investigates how migration and movement are constituted as inherently crisis-producing phenomena, and how legal form is the site through which this constitution occurs.

3. Theoretical Framework

This study's dual analytical focus, examining Regulation 2024/1359 as simultaneously a legal instrument and a discursive artefact, requires theoretical frameworks capable of operating across both contexts. Securitization theory provides the discursive lens, interrogating how speech acts and

linguistics construct migration as an existential threat; legal exceptionalism provides the legal lens, examining how emergency logic is embedded within and operates through juridical structures; and crisis and emergency governance brings both together, tracing how discursive crisis construction and legal normalization converge into a self-reinforcing mode of governance.

3.1 Securitization Theory

The act of labeling a matter as a security issue is known as ‘securitization’ and entails the movement of a matter from the field of policy to the field of security. Ole Wæver was the pioneer of this theory, formulating it in his work of 1995, further developing it together with scholars Buzan and De Wilde at the Copenhagen School (1998). Wæver argues that security and its threats are not objective but rather the product of a practice or a specific way of framing an issue, and more specifically a speech act (Wæver, 1996, pp.106-107). A security threat is thereby socially constructed through a discourse process by a securitizing actor, with the process of securitization being considered successful when the matter is defined as a security threat and an audience has collectively agreed on both its nature and are in support of the measures required. Buzan et al proposes a spectrum of ranking security issues, from: ‘non-politicised’ where the issue has yet to reach public debate, ‘politicised’ where the issue has begun to raise concerns amongst the public and is on the agenda, and finally ‘securitized’ where the issue has been successfully framed, accepted and perceived as an existential threat (1998, pp. 23-24). Huysmans (2006) argues that EU law itself becomes a technology of insecurity, as legal instruments are not neutral regulators of the security-migration relationship but active producers of it.

3.1.1 Securitization of Migration

Jef Huysmans, a significant researcher in examining the securitization of migration, outlines the emergence of migration as a security issue (2000, 2006); in which he argues that security policies do not simply appear unprovoked but are part of a gradual, continuous process, pre-defined by previous developments (2006). Huysmans outlines the initial signs of migration’s political construction as a security issue during the 1980s with reference to discourse at the time mentioning migration’s destabilizing effects on integration and posing danger to the public order (Huysmans, 2000, p. 751). His work examines the inclusion of asylum in security agendas and crime-related policies as playing a significant role in the framing of migration as a threat.

Where the Copenhagen school locates securitization primarily in speech acts performed by political leaders, Bigo argues that this account is insufficient because it reduces a structural and institutional process to a discursive one. For Bigo, the securitization of migration operates through everyday administrative practices of what he calls the “professionals of unease”, this being border guards,

customs officers, and private surveillance corporations whose institutional interests converge around the figure of the migrant constituting a risk category (Bigo, 2002, p.65). Securitization of migration through Bigo's lens is put in practice through bureaucratic routines, risk profiling, and the creation of categories, entailing its continuous and structural nature rather than being episodic and performative. Bigo's distinction is directly relevant to this analysis of Regulation 2024/1359. If securitization can operate through administrative and legal pathways rather than solely through speech acts then a regulatory instrument, of which regulation 2024/1359 is an example, can through its definitional provisions and derogation architecture itself be a site of securitization. Bigo identifies the securitization of immigration as being linked to population profiling, risk assessment, and the creation of legal categories through which mobile populations are rendered governable as threats (Bigo, 2002, p.65). The Regulation's construction of the concepts 'crisis' and 'instrumentalisation' as legally operative independent categories can be seen as an example of the threat governance of migrant populations and mobility; an institutional practice that produces the migrant as a crisisgenerating subject.

3.2 Legal Exceptionalism

Where securitization theory illuminates how migration is discursively constructed as a threat, legal exceptionalism examines how that construction is then translated into and operationalized through the architecture of law itself. The theoretical foundation of legal exceptionalism originates in Carl Schmitt's (1985) definition of sovereignty as the capacity to decide on the state of exception, the moment at which the rule of law is suspended in the name of necessity. Agamben (2005) develops this in their sustained critique of how the exception has become not a temporary suspension of the legal order but its structural condition. Agamben argues that when the state of exception becomes the rule, the juridico-political system loses the distinction between legality and illegality entirely. The exception is not external to law but produced through it, law includes the living through its own suspension (Agamben, 2005, p.11). While Agamben's framework is essential for diagnosing the logic of exceptionalism, it must be applied critically to the EU context as the EU does not operate through Schmittian decisionism. In analysing FRONTEX, Neal (2009) demonstrates that an ongoing process of institutional and legal normalization has emerged in EU migration governance, whether through intersubjective familiarity or through practices of legal codification (Neal, 2009, p.346). It is not the norm that is suspended but rather that the norm itself is changing. This perception is central to the argument of this study, in that the Regulation does not declare a state of exception in Schmitt's sense but achieves something perhaps more consequential; embedding exceptional measures in the EU asylum acquis, rendering them structurally permanent.

Nicolosi (2022) outlines the Regulation as a *lex specialis* framework, enabling derogations from ordinary procedures (pp. 24-25). Nicolosi explains how the Regulation defines derogations, significantly extending the amount of time asylum seekers can be kept at the border during a declared ‘crisis’, normalising long-term detention and prolonging crisis instead of resolving it.

3.2.1 Law as a Discursive Site

Legal texts are not entirely neutral instruments but discursive sites where power relations are produced and naturalised; where, as Foucault (1977) demonstrates, institutional knowledge organises and classifies subjects, and where, as Derrida (1990) argues, law’s authority derives not from foundational truth but from performative force. Critical legal scholars have similarly established that legal doctrine is politically contingent rather than objective (Unger, 1983). Regulatory language does not merely describe the subjects it governs but actively constructs them.

This constructive function is empirically demonstrated in the work of Häkli et al (2024), whose critical policy and frame analysis of the New Pact reveals that migrants are systematically represented through three interlocking frames: human classification, spatial coordination, and temporal control. Descriptors such as “flows”, “movements”, “applicants”, strip individuality and reduce people to administrative categories, with categorisation of migrants based on factors creating a hierarchy of perceived deservingness (p.6). While passive constructions, such as migrants being “transferred”, “relocated”, “returned”, or “kept”, remove agency entirely in the objectification of migrants through the positioning of actors as the initiators of movement (Häkli et al, p.9). Spatially, with 40% of the Pact’s passages containing spatial notions (p.7), migration is reframed as a management problem rather than a human right’s issue. Temporally, terms such as “seamless”, “swift”, “smooth”, and “simple” present accelerated procedures such as rapid screenings and fast deportations as beneficial, disguising the compression of procedural safeguards as administrative efficiency.

3.3 Crisis and Emergency Governance

Where securitization theory reveals how crisis is discursively constructed and legal exceptionalism examines how exception becomes embedded in juridical structures, crisis and emergency governance brings these two areas together. In tracing how political crisis narratives and legal normalization operate simultaneously and mutually reinforce one another, crisis and emergency governance creates the link between the two preceding frameworks, producing a mode of governance that is all at once discursive, institutional, and juridical.

Scholarly literature has increasingly conceptualised crisis not as an abnormal or temporary disruption to governance but as a structuring logic or mode of governance in and of itself. Rhinard (2019) argues that ‘crisis’ has become a mode of political ordering within the EU, functioning less as an exceptional condition and more as a permanent feature of the institutional landscape. Building on this, Sahin-Mencutek et al (2022) demonstrate empirically, through a meta-analysis on the refugee emergency of 2015/2016 in transit points, destination countries, and neighbouring countries, that this emergency was not a temporary catalyst but the consolidation of a new form of crisis governance. A mode of governance characterised by three interacting features: a multilevel but complex actor landscape, legal fragmentation, and a renationalisation narrative. The authors claim that these features interact to normalize once-exceptional measures such as push-backs, detentions, and temporality, transforming them into governing norms. The work of Sahin-Mencutek et al (2022) represents a reconceptualisation shift of migration governance away from a linear “exception-normality” approach as it instead frames crisis as a structuring logic of governance, rather than a deviation of it.

Moreno-Lax (2023) develops this argument through a legal lens, identifying a “legal shapeshifting process” where crisis narratives weaken the existing legal protections through two mechanisms; “softification” and “lawification” (p.15). Softification refers to the proliferation of informal and flexible arrangements that undermine clear legal obligations, in turn making rights harder to enforce and reducing real oversight. Lawification, the act of including a matter in a legally binding framework, in the context of Moreno Lax’s research refers to the codification of previously unlawful or exceptional practices and measures into legal frameworks. The consequence being not a temporary suspension of the law but a structural reconfiguration of the legal order in which deterrence, containment, and selective exclusions become routine features of EU migration management and governance.

Nicolosi (2022) corroborates this through doctrinal analysis of EU asylum law, finding that EU asylum governance has increasingly been structured around the assumption of permanent or recurring crisis conditions. Nicolosi argues that the concept of emergency in EU asylum law is intentionally vague and politically flexible (pp. 20-22) with ambiguity providing EU institutions and member states broad discretionary power to activate exceptional measures. A flexibility of definition that, this study argues, is not incidental but constitutive of how 2024/1359 operates.

3.3.1 Crisification

Building on broader critical scholarship that theorised crisis as a structuring political category in the European context (New Keywords Collective, 2016; Rhinard, 2019), Professor Moreno-Lax (2023,

2024) through their sustained critique of how ‘crisis’ discourse operates as a structuring force, advances the concept of “crisification” as both a narrative strategy and a mode of legal governance. Moreno-Lax claims that the repeated framing of migration and asylum as constituting situations of ‘crisis’ is performative: this does not merely describe moments of extraordinary pressure but actively produces the legal and political conditions under which exceptional measures become normalised and ultimately embedded within the EU acquis. Moreno-Lax, through their critical legal analysis, illustrates the securitization-crisification nexus: securitization constructs and frames migration as an existential threat necessitating security logic, and crisification institutionalises this logic by embedding the extraordinary security measures into everyday governance practices at the EU borders. This study applies this framework to Regulation 2024/1359, arguing that the Regulation represents a consolidation of the crisification process; one in which the legal construction of ‘crisis’ is not in response to an objective emergency condition but rather produces it as a permanent and legally cognisable feature of EU asylum governance.

4. Research Methodology

This thesis employs a dual-method qualitative approach combining legal doctrinal analysis with critical discourse analysis (hereafter CDA). The choice of two distinct methods reflects the dual nature of the object of the study, as the Regulation 2024/1359 itself is simultaneously a legal instrument and discursive artefact; in acknowledging this fact I recognise that neither method alone would be sufficient to account for both dimensions.

CDA was chosen for its capacity to examine how language constructs, naturalizes, and legitimizes social and political realities. For this research specifically it examines how the concept ‘crisis’ is discursively produced within the Regulation in ways that render procedural derogations appear necessary and self-evident rather than contingent. CDA methodologies have largely been developed through examining media and political discourse, dictating the types of linguistic genres present in CDA methodological analysis. Legal texts operate according to different generic conventions than these linguistic genres. To apply CDA to a regulatory language without accounting for these differences in linguistics risks misreading, misinterpreting, or analysing only in-part the legal work. I therefore believe that CDA in its application to this Regulation requires supplementation by a method sensitive to the legal genre specifically.

Legal doctrinal analysis provides this supplementation. As a method, although examining and analysing linguistic elements, in a larger manner it examines the logic, consistency, and normative

implications of the legal rules themselves, interacting with broader laws and *acquis*. Doctrinal analysis is therefore well equipped to identify what the law permits and forecloses. The limitation of the methodology lies in its inability to account for how legal constructions present themselves as legal necessity, the domain of discourse analysis.

My method is therefore a dual integration of disciplines and methodologies, with the two methods being interlocking not parallel. Together these methods treat law not merely as a regulatory instrument but as a discursive site where emergency governance is rendered not only lawful but normatively embedded.

4.1 Legal Doctrinal Analysis

Legal doctrinal analysis is a systematic method examining the internal logic, consistency, and normative implications of legal rules within their broader normative framework (Hutchinson and Duncan, 2012). As applied in this study it operates through three stages: first, source identification and hierarchical mapping, the Regulation is read in full including its recitals against the normative baseline of the existing CEAS *acquis*, establishing what the Regulation formally modifies or derogates from and identifying its *lex specialis* status within the normative hierarchy. Second, interpretive analysis of key provisions: definitions, derogation mechanisms, and temporal architecture, are read not in isolation but in their intertextual legal context. Third, critical normative evaluation, examining not only what the law formally permits but what its architecture structurally produces: definitional indeterminacy, accountability gaps, and the tension between solidarity and rights. The findings of this third stage feed directly into the third dimension of the critical discourse analysis, similarly evaluating normative implications and the reproduction of crisis governance within its broader social and institutional context.

4.2 Critical Discourse Analysis

The critical discourse analysis employed in this study is operationalized through Fairclough's three-dimensional model, which bridges micro-level linguistic analysis with macro-level social theory by treating discourse as simultaneously a text, a discursive practice, and a social practice (Fairclough, 1993, p.72). Fairclough's central insight is that language is not merely a mode of representation but a mode of action, one through which social realities, power relations, and ideological positions are actively constructed and naturalized. This makes his framework particularly suited to the analysis of regulatory language, where the constructive work of discourse is often most effectively concealed by the appearance of technical neutrality (Fairclough, 1993, p. 64). Fairclough developed the approach drawing on Foucauldian conceptions of discourse (*ibid*,

pp.99-100), incorporating three analytical traditions he considered indispensable: close textual and linguistic analysis, macrosociological analysis of social practice in relation to social structures, and the interpretivist tradition of viewing social practice as actively produced through shared procedures (ibid, p.72).

The first dimension, textual analysis, operates at the micro level across four analytical headings: vocabulary, grammar, cohesion, and text structure, ascending in scale from individual words to large-scale organizational properties of texts (ibid, p.75). In this study, textual analysis focuses on the nominalization of ‘crisis’, the use of passive voice in obligation clauses versus active constructions in state-power clauses, and the semantic clustering of emergency vocabulary around terms such as ‘exceptional’, ‘extraordinary’, and ‘instrumentalization’.

The second dimension, discursive practice, examines the processes of text production, distribution, and consumption, which vary according to social factors (ibid, p.78). Analysis at this level examines utterances, the coherence of texts, and their intertextual analysis (ibid, p.75). This examines how the Regulation genre’s hybridity, operating simultaneously as emergency legislation and technical administrative law, performs ideological work through its discursive form.

The third dimension, social practice, situates the Regulation within broader structures of power and governance, examining how discourse establishes, sustains, and changes power relations and constructs systems of knowledge and belief (ibid, p.67). At this level analysis examines the subject positions constructed: member states as sovereigns, asylum seekers as instrumentalized threats, and how crisis is positioned as recurring rather than exceptional which normalizes what is formally presented as temporary. This dimension corresponds directly to the normalization thesis this study advances, and as noted above, produces an interlocked analysis with the doctrinal findings.

The analysis chapter employing CDA will be organized in accordance with analytical findings rather than organised strictly in Fairclough’s three dimensions; the research is structured by the discourse, not by the methodology employed.

4.3 Research Material and Data Collection

The primary materials for this study were selected on the basis of purposive selection, chosen for their direct relevance to the research question rather than representational breadth (Bryman, 2016, p.416). The principal object of analysis is Regulation (EU) 2024/1359, read in full including its recitals, which are treated as analytically significant rather than solely contextual. Secondary primary materials include the legislative history of the Regulation, relevant European Council

conclusions, the Migration Preparedness and Crisis Blueprint, and applicable CJEU jurisprudence on asylum procedures and fundamental rights. Secondary scholarly literature informs the theoretical and doctrinal frameworks but does not constitute primary data for the discourse analysis.

The research material extracted from the Regulation has been compiled into a lexical coding table in Appendix A, mapping key terms, phrases, and linguistic features of relevance to the study, against their location in the text, their discursive function, and the analytical category to which they belong. The table was produced through close reading of the Regulation, guided by the analytical categories established in Fairclough's three-dimensional model (mostly extracted from the textual analysis dimension). Analytical categories compiled in the lexical coding table include: nominalization, passive voice, modal verb distribution, semantic clustering, and legitimation vocabulary. These categories have been developed iteratively, where an initial reading of the Regulation identified dominant linguistic features and patterns which were then coded inductively into clusters and themes. The purpose of the table is to provide a systematic record of the textual evidence underpinning the CDA chapter's analytical claims, allowing findings to be traced directly to specific provisions.

4.4 Limitations

Limitations have been identified within this study. Primarily the qualitative nature of the research limits generalizability, the findings are specific to (EU) 2024/1359 and cannot be extended to EU migration governance as a whole in a straightforward manner. The single regulatory instrument focus of the study, while allowing depth of analysis within a limited research scope, constrains the identification of broader discursive patterns across the CEAS acquis. A methodological limitation specific to the CDA component is the application of frameworks developed primarily for media and political discourse to legal regulatory text; the substantial difference in conventions is acknowledged in the methodological justification above. Finally, although the Regulation has entered into force, it does not apply until 1 July 2026 and has therefore not yet generated judicial interpretation by the CJEU at the time of this study. Doctrinal conclusions about how derogation provisions will operate in practice are necessarily anticipatory and subject to revision as case law develops.

5. Contextual and Doctrinal Background

When tracing the process that has led to the current restrictive and arguably 'successfully' securitized treatment of migration as a security threat and crisis within the EU, it is important to consider the evolution of how asylum law has been established within the EU. The evolution of EU asylum and

migration governance has not occurred through a single moment of transformation, but rather through a gradual process in which migration has increasingly become connected to concerns surrounding security, border control, irregularity, and crisis management.

To understand the increased restrictive measures to protect EU borders we turn first to the borders themselves. The first efforts to create a common system for asylum in the EU is traced back to the mid-80's with the Schengen Agreement of 1985, which formally established the European Schengen Area and abolished internal border controls between participating states to facilitate the free movement of people (European Commission). Although the Schengen agreement itself did not explicitly mention asylum seekers nor refugees, the 1990 Schengen Convention Applying the Schengen agreement contained 36 articles with regard to immigration and asylum, while only one article referred directly to free movement (Lavenex, 2001, p.858). This demonstrates that the removal of internal borders was accompanied by increasing concern over the management and control of the EU's external borders.

The Schengen Implementing Convention marked one of the first legislative steps in the evolution of the securitization of migration through its explicit establishment of links between asylum and migration governance with terrorism, border control, and transnational crime. In this manner, migration moved from being treated as solely a humanitarian or legal issue to being considered a potential security concern requiring control mechanisms between European states.

In the same week as the signing of the Schengen Implementing Convention, the Dublin convention too was signed, constituting the first binding agreement on asylum between signatory European states. The Dublin Convention outlines two main objectives: first, to prevent "refugees in orbit", whereby asylum seekers would be referred successively between states without any one state acknowledging responsibility for examining applications; and second, to prevent what is referred to as "asylum shopping", when asylum seekers are in search of countries with generous reception conditions or recognition quota (Hailbronner and Thym, 2016, p. 1024). The European Commission's own definition of the term notes it as "often used with a negative connotation" (European Commission), illustrating how migration and asylum-seeking increasingly became institutionally framed as problematic phenomena, posing potential risks towards EU member states. Consequently, asylum governance gradually shifted toward a logic centred on allocation, management, and control.

The Treaty of Maastricht (1992), establishing the European Union, further advanced cooperation in asylum matters in making asylum policy a matter of common interest requiring intergovernmental

decision-making (Hailbronner and Thym, 2016, p. 1024). This development was further consolidated through the Treaty of Amsterdam (1997), which integrated the Schengen acquis into EU law and granted the EU supranational power in matters concerning asylum (1997 O.J C340). A major turning point occurred in the year 1999 when the European Council proposed the creation of a Common European Asylum System (CEAS). Through this process, six legislative instruments were adopted to establish minimum standards for matters concerning asylum, amongst these is the Temporary Protection Directive (TPD). While the CEAS was formally presented as a harmonisation project intended to ensure common standards of protection across the EU, scholars have argued that it simultaneously contributed to strengthening migration management and control mechanisms. As Moreno-Lax observes, “This has rendered the CEAS a factor for migration management, with more of a control task than a protective function” (2024, p.2), and Nicolosi (2022) deeming it “one of the weakest offcuts of the EU law fabric” (p. 20).

Alongside the development of the CEAS, the early 2000s saw an increasing securitization of migration governance within the EU, in particular following the attacks of September 11, 2001. Huysmans (2006) describes the political discourse at the time as invoking fear in the public, entwining discourses of fear and security with asylum through the depiction that asylum procedures were manipulated by terrorists to be able to operate globally (p.81). Two weeks after the bombings in Madrid of 2004, the European Council issued the Declaration on Combating Terrorism (European Council 2004), during which the creation of a European Border Agency was called for - known as FRONTEX (EC 2007/2004). Boswell (2007) argues that instead of portraying migrants directly as terrorists, migration was instead institutionally linked to terrorism through the use of migration control and restriction in counter-terrorism policies.

The so-called “refugee crisis” 2015 represents another significant turning point in the evolution of EU asylum and migration governance. While securitizing tendencies had developed in the decades leading up to the “crisis”, the events of 2015 accelerated and intensified the view of migration as a security threat in its framing as a permanent crisis requiring exceptional measures on both the national and EU-level. The 2015 Agenda on Migration introduced a series of emergency-driven responses, including Council Decisions (EU) 2015/1523 and 2015/1601, which established mandatory temporary relocation schemes aimed at assisting Italy and Greece in managing high inflows of asylum seekers. The large-scale arrival of asylum seekers at the EU borders exposed structural weaknesses within the Dublin system, particularly the disproportionate pressure placed on the frontline member states. Simultaneously the debate surrounding responsibility-sharing among member states became increasingly contentious, as many governments adopted a NIMBY (‘not in my backyard’) approach, fuelling anti-migration discourse in domestic political debates and

electoral campaigns. The failure to reform the Dublin system has largely been attributed to these NIMBY stances, further straining asylum systems in frontline receiver member states (Bellavitis and Servent, 2025, p. 3).

It is within this broader historical and political context that the New Pact on Migration and Asylum has emerged. Presented by the European Commission in September of 2020 and formally adopted in May of 2024, the Pact constitutes a reform of the CEAS. It represents a second attempt to ‘solve’ what has been repeatedly referred to as the “refugee crisis” through a number of legislative measures affecting asylum, migration, and external border management (Bellavitis and Servent, 2025, pp.13). Rather than signalling a departure from previous approaches, the Pact can be understood as the culmination of a drawn-out process in which crisis governance and securitization have become increasingly embedded within EU asylum and migration law.

6. Analysis Part 1: Crisis as a Legal Phenomena, the Doctrinal Architecture of Regulation 2024/1359

6.1 The Legal Genesis of Crisis

Regulation 2024/1359 does not emerge in a legal vacuum but represents the culmination of a longer trajectory in which EU asylum law has progressively institutionalized emergency governance as a structural feature rather than a temporary deviation. Scholars have argued that a Regulation of this nature has as one of its purposes the creation of an in-built crisis management tool, anticipatorily designed to avoid ad hoc solutions developed in response to emergency situations as they arise (Nicolosi, 2022; Moreno-Lax, 2023). The Commission refined its emergency-driven approach by introducing a framework that not only provides reactive mechanisms, such as those underpinning the Temporary Protection Directive and Article 78(3) TFEU emergency measures, but also incorporates a preventive dimension through the Migration Preparedness and Crisis Blueprint and Article 16’s requirement that member states adopt preventive measures as part of their national strategies. This incorporation of permanent preparedness mechanisms into ordinary migration governance illustrates crisisification in operation: emergency logic becomes normalized as it is embedded within the standard architecture of EU asylum law (Moreno-Lax, 2024). Abbassi and Triculescu (2026) capture this dynamic through the lens of synchronization, arguing that the Regulation codifies crisis response into the law through setting predefined triggers, deadlines and responsibilities; embedding exceptional governance not as a deviation but as a routinized feature of the institutional toolkit. The Regulation’s status as *lex specialis* within the CEAS acquis, applicable

without a transposition period, means these mechanisms bind uniformly across member states, amplifying their normative consequence.

6.2 Constructing the Legal Category of Crisis

The most analytically significant provision of the Regulation is Article 1(4), which establishes the legal definition of crisis across two distinct categories. The first, under Article 1(4)(a), defines crisis as mass arrivals of such scale that a member state's asylum, reception, or return system is rendered non-functional. The second, under Article 1(4)(b), defines crisis as a situation of instrumentalisation where a third country or hostile non-state actor facilitates migration with the aim of destabilising the Union or a member state. Both definitions share a critical legal characteristic: they are structurally indeterminate. The non-functionality threshold under Art.1(4)(a) is calibrated by reference to population, GDP, geographical specificities, and territory size, all relative measures that produce no objective minimum. The instrumentalisation category under Art.1(4)(b) requires proof of aim, the destabilising intent of a third-country actor, an intentionality criterion that cannot be objectively verified. Nicolosi (2022) identifies this as a deliberate feature of EU emergency governance; the concept of emergency in EU asylum law is intentionally vague and politically flexible, giving institutions broad discretionary power to activate exceptional measures (pp.20-22). Ineli-Ciger corroborates this, noting that while the Regulation provides clearer indicators than the TPD, the crisis definition remains open to interpretation and grants the Commission and Council considerable margin of appreciation. The comparison with Article 78(3) TFEU, which requires Council action on a Commission proposal and is subject to parliamentary oversight, reveals that 2024/1359 creates a lower-threshold, faster-activating, and less democratically constrained alternative. Crisis is not found in the world; it is legally constructed through definitional choice.

6.3 Tiered Sovereignty and Discretion

The governance architecture established by Articles 2 through 4 creates a tiered system of discretion in which the power to define, activate, and renew crisis measures is concentrated in the executive branch with minimal parliamentary or judicial oversight. A member state submits a reasoned request to the Commission under Article 2; the Commission adopts an implementing decision within two weeks under Article 3; the Council adopts an implementing decision within a further two weeks under Article 4. The entire activation procedure operates through implementing acts rather than legislative acts, bypassing the ordinary legislative procedure and the co-decision role of the European parliament. As Abbassi and Triculescu (2026) observe, the European Parliament remains largely sidelined in these expedited procedures, underscoring the democratic trade-offs of managing

crises through executive-driven speed. The Commission's assessment under Article 3(5) compares the situation against the preceding two months and the overall Union situation, a relative rather than absolute standard that structurally favours activation. Monitoring under Article 6 is conducted by the Commission and Council, the same institutions that authorised the measures, with no independent judicial trigger. The Charter of Fundamental Rights applies throughout, but its constraints are operationally undermined by the speed and executive character of the procedure: rights review cannot function meaningfully within a two-week activation window when the procedure is designed to move rapidly and the monitoring actors are institutionally aligned with the activating parties.

6.4 Derogation as Design

Chapter IV of the Regulation, comprising Articles 10 to 13, constitutes the operative heart of the derogation architecture. Read individually, each provision appears as a limited and temporary adjustment; read cumulatively, they produce a systematic compression of procedural asylum guarantees. Article 10 extends the registration deadline to four weeks, directly delaying access to procedure. Article 11 delivers the most consequential derogations: paragraph 1 extends the border procedure by six weeks; paragraph 3 lowers the nationality threshold for mandatory border procedure to 5%; paragraph 4 extends border procedure to applicants from countries with up to a 50% Union-wide recognition rate, meaning individuals with an equal statistical likelihood of being recognised as refugees can be processed under compressed border conditions; paragraph 6 under instrumentalisation allows border procedure for all applications. The cumulative effect is the de facto transformation of border procedure from exception to operational default under crisis conditions. Ineli-Ciger (2024) identifies the derogations concerning border procedures as particularly legally problematic, noting that extended detention of up to 18 weeks in border areas raises serious concerns regarding the right to freedom and security and the right to humane treatment. Nicolosi (2022) had anticipated this risk in the proposal stage, noting that under the proposed framework a person could be held in border detention for up to 40 weeks, normalizing long-term detention and prolonging crisis instead of resolving it (p.25). Article 12 extends Dublin transfer deadlines to one year, creating extended procedural limbo. Article 13 relieves member states of take-back obligations entirely under extraordinary mass arrivals. The normative baseline established by the Asylum Procedures Regulation (individual examination, adequate timeframes, access to legal assistance) is not formally suspended but is rendered structurally inaccessible through the compression of every procedural step that makes it possible and operational.

6.5 Solidarity-Security Nexus

The Regulation presents solidarity between member states and rights protection for asylum seekers as co-equal values (recitals 6, 7, and 8 assert their compatibility) but the operative architecture consistently resolves their tension in favour of the former. The solidarity mechanism in Articles 8 and 9 functions by redistributing responsibility away from frontline states, but the cost of this redistribution is borne not by contributing member states but by asylum seekers whose procedural rights are compressed to enable the relieved state to manage its caseload. Article 13's derogation from take-back obligations is the starkest illustration: a member state is relieved of its Dublin responsibilities not through an increase in others' processing capacity but through a transfer of legal responsibility that leaves individual applicants with no guarantee of substantive examination. The principle of non-refoulement is formally preserved in Article 11(10), but accelerated border procedures with compressed time frames and lowered examination standards create what is structurally a refoulement risk even where the formal prohibition remains. Moreno-Lax (2024) identifies this as the generalisation of derogations characteristic of the New Pact reforms, arguing that the resulting proliferation of legal fictions and rights negations is progressively normalising a situation of non-access to international protection in the EU (p.180). This is the accountability gap the doctrinal analysis identifies: the law cannot fully justify the derogations through legal principle alone, so the discursive construction of crisis as inevitable and objective compensates for what legal justification cannot sustain.

6.6 Short Synthesis

The doctrinal analysis of Regulation (EU) 2024/1359 reveals three structural conditions that together constitute the legal architecture of normalized emergency governance. First, definitional indeterminacy: crisis is not legally defined by reference to objective thresholds but by relative assessments that grant broad executive discretion. Second, temporal permanence through formal temporariness: the 12-month maximum duration achievable through cascading administrative renewals produces standing emergency architecture beneath the language of temporary measures. Third, systematic accountability gaps: the executive character of the activation procedure, the absence of independent judicial oversight, and the monitoring role assigned to the same institutions that authorize the measures collectively ensure that the derogation regime operates without robust external constraint. What remains to be examined is how discursive construction makes this architecture appear not merely lawful but natural, necessary, and legitimate.

7. Analysis Part 2: The Discursive Construction of Crisis

7.1 Vocabulary of Unavoidability

The most fundamental discursive operation performed by the Regulation is the construction of crisis as a natural phenomenon rather than a political determination. This is achieved primarily through unavoidability rhetoric (see Appendix A, CR-2): recital 4 states that it cannot be excluded that a situation of crisis or force majeure arises due to circumstances beyond the control of the Union and its Member States, and that force majeure situations are abnormal and unforeseeable with consequences which could not have been avoided. These formulations perform a double naturalization: they position crisis as external to political agency and simultaneously invoke the legal category of force majeure - typically reserved for natural disasters - as an analogical frame for migration governance. The grammatical structure reinforces this further: “crisis arises”, “it is faced”, “it cannot be excluded”, passive and impersonal constructions (Appendix A, BN-1) that remove the political actors who define, declare, and activate it. Moreno-Lax (2024) describes this as performative crisis discourse: the framing of migration as crisis does not merely describe moments of extraordinary pressure but actively produces the legal and political conditions under which exceptional measures become normalized (p.184). The Regulation does not declare a state of exception in Schmitt’s sense; it produces crisis as an administrative object that exists independently of the declaration, which is precisely what makes its securitizing function more difficult to identify and contest.

7.2 Crisis as Temporal/Moral Frame

The temporal architecture of the Regulation’s language performs normalization through a sustained contradiction between formal temporariness and structural permanence. Article 1(3) insists that measures shall be applied only to the extent strictly required by the exigencies of the situation, in a temporary and limited manner and only in exceptional circumstances, an accumulation of limiting qualifiers that performs constraint. Yet Article 5’s renewal cascade, Article 6’s continuous monitoring, and Article 16’s requirement for national crisis preparedness strategies, collectively construct crisis as a recurring and plannable condition. The iterative temporal markers identified in the lexical coding: “further extend”, “continued monitoring”, “upcoming cycles” (Appendix A, TM4), transform the language of exception into the language of administrative rhythm. Abbassi and Triculescu (2026) capture this precisely through synchronization theory, arguing that the Regulation embeds timing arrangements that blur the line between normalcy and emergency by incorporating exceptional measures into the ordinary governance toolkit. This is Moreno-Lax’s lawification in operation: the formal codification of previously exceptional measures into a permanent legal

framework that reproduces their temporariness as formal description while their substance becomes structural. The moral framing compounds this: necessity and proportionality (Appendix A, HM-3) appear as constraints in Article 1(2) and Article 5(3), but their assessment is assigned to the Commission and Council rather than to an independent body, transforming moral-legal standards into self-assessed administrative criteria that perform constraint without operationalizing it.

7.3 Humanitarian Lexicon as Legitimizing Device

Recital 8 is the Regulation's most important legitimating device. In a single recital the text assembles the Charter of Fundamental Rights, the prohibition of torture, respect for family life, the best interests of the child, the right to asylum, and the Geneva Convention, the full architecture of international and EU human rights protection, and asserts that the Regulation is implemented in compliance with them all. This is what the coding identifies as rights lexicon performing a moral shield (Appendix A, HM-1): the recital does not modify the operative articles but provides discursive cover for them, constructing a gap between the rights register of the preamble and the derogation register of the operative text. The solidarity-as-virtue vocabulary (Appendix A, HM-2) performs a similar function: solidarity and fair sharing of responsibility appears in recitals 1, 6, and 7 as an ethical framework, transforming what is operatively a burden-distribution mechanism into a moral imperative. Häkli et al (2024) demonstrate this operation in their analysis of the New Pact, where positive-connotation terms such as "seamless", "swift", "smooth", and "simple" present rapid procedures as beneficial to migrants, disguising hasty and perfunctory asylum procedures as administrative efficiency (p.9). The Regulation's resilience and preparedness vocabulary: "enhance preparedness", "capacity support", "culture of preparedness" (Appendix A, HM-4) performs the same function, reframing the permanent emergency architecture as responsible governance and replacing humanitarian rationale with technocratic virtue.

7.4 Bureaucratized Threat: Instrumentalisation

The instrumentalisation category introduced in Article 1(4)(b) represents the most analytically significant discursive innovation in the Regulation. The provision constructs a subject position, migrants as objects of hostile state action, that is without precedent in CEAS law. The grammar is telling: a third country or a hostile non-state actor encourages or facilitates the movement of thirdcountry nationals or stateless persons - the migrant appears only as the object of the verb movement, not as a subject. Häkli et al (2024) identify an identical grammatical strategy throughout the New Pact, where passive verb constructions: migrants being "transferred", "relocated", "kept", or "returned", indicate that other actors have initiated the movement, objectifying migrants and reducing their agency (p.9). In the Regulation this depersonalisation can be seen as taken further:

migrants are not merely administratively passive but are judicially constructed as instruments of geopolitical destabilisation. The hybrid threat vocabulary: “Hybrid threats”, “destabilise”, “essential functions of a Member State”, “maintenance of law and order” (Appendix A, IN-2) directly transposes security and defence discourse into asylum law, completing the securitizationcrisification nexus that Moreno-Lax identifies. The definitional exclusions in recitals 15 and 16, stating that smuggling and humanitarian assistance are not instrumentalisation where there is no destabilising aim perform their own ideological work (Appendix A, IN-3). In defining virtue by exception, they reaffirm a generalized suspicion narrative for all migration not explicitly exempted.

7.5 Technocratic Voice of Emergency

The Regulation’s overall register is technocratic rather than declaratory, it does not proclaim emergency but administers it. This is consistent with Neal’s (2009) observation that in the EU context the new and controversial quickly becomes normal through practices of institutional and legal normalization, and that security governance increasingly operates through quiet, technical, and unspectacular practices. The legal-bureaucratic neutralizers identified in the coding: impersonal clauses (Appendix A, BN-3), quantification rationality (BN-4), coordination structures (SP-3), collectively produce a text that presents the compression of asylum rights as administrative calibration. The precision of four weeks, six weeks, one year maximum, three months extendable by three months, performs exactitude and constraint while the underlying discretion of the definitional provisions makes those timelines infinitely flexible in their activation. Abbassi and Triculescu (2026) describe this as synchronization embedded in legal form: predefined timelines and procedures create the appearance of orderly and proportionate governance while the substantive discretion concentrated in the Commission and Council remains unchecked. The EU Solidarity Coordinator, the Technical-Level EU Solidarity Forum, and the Annual Solidarity Pool perform legitimacy through organizational density, suggesting comprehensive governance infrastructure where accountability mechanisms are structurally absent.

8. Analysis Part 3: Normalization: From Narrative to Norm

8.1 Synthesis of Analyses

The preceding two analytical chapters have examined Regulation 2024/1359 from distinct but complementary lenses. The doctrinal analysis identified three structural conditions constituting the legal architecture of normalized emergency governance: definitional indeterminacy, which grants actors broad discretion in defining and determining when a crisis exists; language of temporariness,

concealing the cascading renewal architecture that allows measures to continue indefinitely; and systematic accountability gaps, in which monitoring and oversight are assigned to the same institutions that authorize the measures they assess and lacking independent oversight. This has been followed by a discursive analysis, identifying the mechanisms in the Regulation making those structural conditions appear natural, necessary, and legitimate: the naturalization in presenting crisis as objective and external to political agency; the gap between the preamble's promise of rights protection and the operative articles undermining it; and the construction of migrants not as rightsbearing individuals but as instruments of geopolitical destabilisation, depersonalised through passive grammatical reference.

Individually the analyses produce significant findings but together they reveal what neither could produce alone: the legal and discursive operations of the Regulation reinforce one another. Within the Regulation, the discourse does the legitimating work the law cannot and the law does the institutionalizing work the discourse cannot. From this derives the central argument of this chapter: the Regulation does not simply welcome and accommodate crisis governance but actively produces it as a permanent and embedded feature of the CEAS. This chapter demonstrates that this legal text is, all at once, the site of securitizing construction, legal normalization, and discursive legitimation.

8.2 The Crisis Narrative as a Technology of Governance

The concept of technology of governance refers to frameworks, practices and instruments used to shape the conduct and governance of populations. Bigo (2002) expands on this in relation to the securitization of migration, claiming modern governance relies on a “governmentality of unease” (p.63): control not through outright terror or fear but through sustaining a constant state of uncertainty and apprehension. This is a mode of governance in which the unease itself becomes an instrument of authority.

In his work, Bigo (2002) examines this phenomenon within everyday structural practices by “professional managers of unease” (p.74), the agents of actors seeking to create unease: border guards, customs officers, intelligence services, and private surveillance corporations, to name a few. Bigo argues that the securitization of migration is a political technology, used as a mode of governmentality by institutions to encourage, create, or sustain unease, providing them with the ability to affirm their role as providers of protection and security (ibid, p.65). When applying Bigo's insights to this Regulation, it can be argued that the construction of mass arrivals and instrumentalisation as an emergency or crisis within the text is a deliberate mode of governmentality. By presenting these migration movements as external to political agency rather than as conditions

produced by policy or political circumstances, the Regulation legitimises the use of derogatory measures as being necessary responses and as providing protection and security.

This normalization through the governmentality of unease ties directly into the preceding doctrinal analysis and its discussion on definitional indeterminacy. Bigo (2002) observes that “the more the threats are ill-defined, considered as invisible and diffuse, the more they appear to be ‘coming from nowhere’ and the more they catalyze various fears and generate misgivings” (p.78). Combining this observation from Bigo with the previously examined claims from Nicolosi (2022) on legal ambiguity, the Regulation’s open-textured crisis definition can be seen as a deliberate institutionalization of ambiguity, operating within securitizing governance and generating its own conditions of unease. The less precise the definitions of mass arrivals, the more expansive the threshold for invoking crisis, and the broader range of situations that can be framed within this emergency governance. The condition of crisis becomes a permanent possibility in that the definition contains no fixed numerical or temporal thresholds and in theory any significant movement of people could potentially qualify. This becomes the source of fear as no arrival is definitely ruled outside of the crisis categorisation and could trigger emergency derogation. The legal ambiguity of the Regulation produces the securitized narrative of migration and creates unease that then legitimises the legal derogations.

8.3 Normalisation Mechanisms

With the prior chapter establishing that the Regulation produces unease, this section will examine how this unease becomes structurally embedded with derogation becoming the new baseline. This process can be viewed through two interlocking mechanisms.

One of the mechanisms of normalisation can be referred to as anticipatory normalisation. The requirement of Article 16 in the Regulation that member states develop national crisis preparedness strategies within ordinary migration governance, and the Migration Preparedness and Crisis Blueprint’s inclusion in the Regulation, together collectively construct crisis as an inevitable operational condition requiring continuous preparation.

The normalization of emergency governance is both a legal and discursive practice; operating both through the formal legal architecture of derogation clauses and procedural guidelines, and simultaneously through the discursive construction of crisis as an objective, recurring, and legally cognizable condition warranting those rules. Together, these two methods have treated law not merely as a regulatory instrument, but as a discursive site where emergency governance is rendered not only lawful but normatively embedded.

9. Conclusion

This thesis has examined how Regulation (EU) 2025/1359 has legally and discursively constructed migration as constituting a crisis and the ways in which this construction facilitates derogations from ordinary asylum procedures; thereby normalising emergency governance within EU asylum law. Through a combined legal doctrinal analysis and critical discourse analysis, followed by a discussion on its normalisation implications, this study has treated the Regulation as both a juridical instrument and a discursive site where meanings of crisis, necessity, and security are constructed and institutionalised.

The findings from the doctrinal analysis demonstrate how the Regulation establishes an emergency framework characterised by a structurally flexible nature. The Regulation's broad executive discretion, legally indeterminate definitions, and derogatory mechanisms, although formally expressed as temporary and exceptional, embed emergency logic directly into the CEAS. The renewable measures, anticipatory obligations of preparedness, and accelerated procedures incorporate exceptional measures into routine administration within EU asylum governance, and blur the line between crisis vs ordinary governance in the indefinite system of cascading renewal turning derogation into norm.

The discursive analysis demonstrates that this legal architecture is then subsequently rendered both natural and legitimate through its use of language. Crisis is constructed as objective and external to political agency, removing the institutional actors who define and activate the derogation mechanisms through passive language. The preamble's use of rights, solidarity, and humanitarian protection creates a legitimating foundation that the operative articles subtly contradict. Particularly significant to this chapter's analysis is the examination of instrumentalisation in Article 1(4)(b) constituting migrants not as rights-bearing individuals but as instruments of destabilisation, a juridical tool constructing mobility itself as the source of a crisis, thereby securitizing movement and legitimating the claim for its management.

Together, these legal and discursive operations produce a process of normalisation, in which each crisis activation raises the baseline of ordinary governance, each exception becomes a new legal reference point, and emergency governance is not something that is declared but that accumulates and escalates, with each act further normalising the next.

The implications of these findings extend beyond the Regulation and even beyond EU migration law as the phenomenon of embedding emergency logic within ordinary legal frameworks to legitimize extraordinary conditions, represents a governance trajectory visible across contemporary governments and policy areas worldwide. Emergency becomes the structuring logic not a deviation, challenging the perspective that crisis is the exception not the rule, blurring the distinction between them. A distinction that underpins both constitutional democracy and international human rights law. The Regulation becomes applicable on the 1st of July 2026, and how its derogation provisions are interpreted by the CJEU and member states may raise some of the most significant questions within EU asylum law in the years to come. Future research must not merely examine those judicial developments but regard the regulation of crisis, both in its discursive and legal construction, as a legislative mode in itself. A mode of governance not solely confined to migration nor unique to EU governance and no longer temporary.

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11. Appendix

Appendix A: Lexical Coding of Regulation (EU) 2024/1359

1. Crisis and Exceptionalism Lexicon			
Category (Code)	Sample Phrase/Keyword	Recital/Article	Observed Discursive Function
CR-1-Exceptional Lexis	“Exceptional situations”, “extraordinary scale”, “exceptional circumstances”	(4), (31), Art.1(3)	Defines crisis as deviation from normality while establishing it as a predictable governance condition.
CR-2-Unavoidability Rhetoric	“Cannot be excluded”, “beyond control”, “unforeseeable”	(4), (20)	Presents crisis as a natural hazard, removes political agency for causes.
CR-3-Institutional Vulnerability Framing	“Renders the Member State’s system non-functional”	Art 1.(4)(a)	Constructs member states as passive victims of external pressures.
CR-4-Force Majeure	“Abnormal and unforeseeable circumstances outside its control”	(20), Art.1(5)	Fuses legal and natural disaster registers → normalizes governance through contingency.

2. Instrumentalisation and Threat Lexicon			
IN-1-Instrumentalisation Definition	“A third country or a hostile non-state actor encourages or facilitates the movement... with the aim of destabilising the Union”	(14), Art.1(4)(b)	Creates a securitised, quasimilitary frame for migration; introduces a categorical enemy.
IN-2-Hybrid threat lexicon	“Hybrid threats”, “destabilise”, “essential functions”	(17), (28)	Transposes security discourse directly into asylum law vocabulary.
IN-3-Moral exceptions	“Humanitarian assistance should not be considered as instrumentalisation”	(16)	Defines virtue by exemption → reaffirms suspicion narrative for all else.

3. Temporality and Modality			
TM-1-Temporal containment	“Temporary measures”, “limited manner”, “for a period of three months extendable by three months”	Art.1(3), Art.5(1-3)	Claims temporariness while authorising rolling extensions → permanent emergency.
TM-2-Soft Modality	“May request”, “where appropriate”, “could be necessary”	Recitals (24-27)	Indeterminate verbs grant administrative discretion.

TM-3-Hard Modality	“Shall apply”, “must ensure”, “is authorised”	Arts.2-13 passim	Mandatory phrasing embeds coercive obligations beneath neutral syntax.
TM-4-Iteration Markers	“Further extend”, “Continued monitoring”	(31), (34), Art.6	Cycles extension → turns exception into normal planning rhythm.

4. Humanitarian and Moral Legitimation Vocabulary			
HM-1-Rights Lexicon	“Full respect for fundamental rights”, “human dignity”, “best interests of the child”	(8), Arts.1(2), 11(10)	Provides moral shield; asserts legality of derogations through virtue language.
HM-2-Solidarity as virtue	“Solidarity and fair sharing of responsibility”, “balance of efforts”	(1), (7), Arts.8-9	Transforms burden management into ethical duty → depicts compliance as moral good.
HM-3-Necessity & Proportionality Morality	“Strictly necessary”, “proportionate”, “appropriate”	(34), Art.1(2), Art.5(3)	Normalises discretionary power by moralising it.
HM-4-Resilience & Preparedness	“Enhance preparedness and resilience”, “capacity support”	(5), (36), Art.16(1)	Technocratic virtue replacing humanitarian rationale.

5. Legal-Bureaucratic Neutralisers			
BN-1-Passive Voice	“It cannot be excluded that a situation of crisis arises”	(4)	Erases human causation; casts crisis as objective necessity.
BN-2-Nominalisation	“Mass arrivals”, “non-functionality”, “implementation decision”	Arts.1-6 passim	Converts processes into things → obscures agency.
BN-3-Impersonal Clauses	“Where relevant”, “in accordance with Article,...”, “without prejudice to...”	Whole text	Projects administrative rationality, depoliticises discretion.
BN-4-Quantification Rationality	“Four weeks”, “six weeks”, “one year maximum”	Arts.10-12	Transforms flexible derogations into apparently precise timelines.

6. Spatial and Security Framing			
SP-1-External Border References	“External borders”, “territory of member states”	(18), Art.1(4)	Re-territorialises asylum into border security context
SP-2-Containment Terms	“Border procedure”, “detention facilities”, “transit zone”	Arts.10-11	Legalises containment at territorial margins
SP-3-Coordination structures	“EU Solidarity Coordinator”, “Council implementing decision”	Arts.4,7	Institutionalises crisis governance as routine coordination

7. Summary of Semantic Clusters			
Cluster	Constituent Codes	Core Lexemes	Discursive Outcome
Naturalisation of Crisis	CR-1 - CR-4 + BN-1	Exceptional, unforeseen, beyond control	Depoliticises crisis; frames it as objective environment
Securitisation of Mobility	IN-1 - IN-3 + SP1, SP-2	Instrumentalisation, destabilise, border	Migrants re-cast as risk agents; migration = security field
Temporal and Administrative Normalization	TM-1 - TM4 + BN-3, BN-4	Temporary, extend, period of three months	Implements exceptionality through routine administrative cycles
Moral Insulation of Derogations	HM-1 - HM3	Solidarity, dignity, proportionate	Ethical language conceals restriction mechanisms
Technocratic crisis governance	HM-4 + SP-3 + TM- Codes	Resilience, preparedness, coordination	Depoliticises emergency → casts it as efficiency management

Appendix B: AI Declaration Annex

ANNEX: Declaration of Use of Generative AI Tools

Academic Year: 2025/2026

Master's Programme: Master in International Security Management (MISM)

Student Name: Joy Rosell Ståhlberg

I declare that generative artificial intelligence tools have been used as support tools in the preparation of this Master's Final Thesis.

YES NO

1. Ethical and Academic Use

Have you included sensitive or personal data when using AI tools? If yes, specify: No I have not

Have you used AI tools to replace your own work without critically reviewing the generated content? If yes, specify:

No I have not

Have you followed the academic recommendations and guidelines regarding the use of AI tools?

Yes I have

2. Technical Use of AI Tools

Please indicate the AI tools used (e.g., ChatGPT, Copilot, Claude, Gemini): ChatGPT and Claude

Please mark the applicable uses:

- Text generation
- Reformulation / editing
- Translation / proofreading
- Structure suggestions
- Methodological support
- Bibliographic search or citation support
- Audiovisual content generation
- Other uses (please specify)

I confirm that the final content of this thesis has been fully reviewed, corrected, and validated by me as the author. The use of AI has not replaced my own critical analysis, personal reflection, or intellectual work.

Signature:

A handwritten signature in black ink, appearing to be 'J. R. Smith', written in a cursive style.