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Artificial Turn

Migrations and Asylum at the Encounter with Safe Countries of Origin in The Ontologies of Borders and the Epistemologies of Control

Abstract

This article explores the *Artificial Turn* in European migration governance, where artificial intelligence, digital infrastructures, and dual-use technologies redefine the legal and epistemic boundaries of asylum and border control. Drawing on the aftermath of the 2015 migration crisis and the 2024 New Pact on Migration and Asylum, it examines how algorithmic systems and data extraction practices - particularly those targeting migrants' biometric and digital data - reshape notions of "safe countries of origin" and transform the relationship between protection and surveillance. Through a pilot comparative study involving GPT-5 and Chat-DeepSeek-R1, this paper illustrates how AI systems reproduce inconsistencies and normative ambiguities when classifying countries as "safe" thereby challenging human rights standards and the principle of non-refoulement. The analysis reveals how dual-use technologies blur the boundary between humanitarianism and security, accelerating the automation of credibility and identity assessments while eroding procedural safeguards. The paper calls for a human-rights-based approach to AI deployment at borders—grounded in transparency, judicial oversight, and interpretative accountability—to ensure that the governance of migration in the digital age and datafication process remains faithful to the rule of law and human dignity.

Keywords: Artificial Intelligence; Migration Governance; Safe Countries of Origin; Dual-Use Technologies; Human Rights; Non-Refoulement; Data Extraction; Digital Borders; Surveillance Infrastructures, GPT-5; Chat-DeepSeek-R1.

*Breathe in, breathe out
 Let the human in
 Human, Of Monsters and Men*

1. The Artificial turn in the semantics of non-exceptional exceptions in data and migration governance

The *Artificial Turn* marks a paradigmatic shift in the governance of migration and asylum, where digital infrastructures, algorithmic systems, and dual-use technologies and software architectures no longer serve as mere instruments of administration of migration flows but become epistemic devices shaping the very ontology of borders and a new perimeter of asylum reconnaissance. Within this transformation, the distinction between protection and control collapses into new techno-legal

rationalities that translate human mobility into data¹, probability, and procedural automation. If, in the *Cultural Turn*, social sciences interrogated meaning and representation, the *Artificial Turn* compels us to confront the modes of existence of artificial agents (algorithmic operations, data models, and computational ontologies that produce and sustain the categories through which law perceives and orders reality²). In computer science, *ontologies* are formal representations of knowledge³: structured systems that define entities, their relations, and the rules governing their interaction. When transposed into legal and administrative domains, however, such ontologies become prescriptive architectures, determining who is visible, credible, or what is to be considered “safe.” The ontology of borders thus converges with an epistemology of control, where the governance of migration is increasingly enacted through encoded hierarchies of risk, safety, and exceptionality. This article explores how these “artificial ontologies” reshape the interpretation of “safe countries of origin”, transforming asylum procedures into laboratories of algorithmic normativity, and revealing the profound implications of digital reasoning for human rights and the rule of law in Europe.

Since the first “crisis”⁴, dating back in 2015, the EU has developed strategies that intersect control techniques between the language of rights and that of computer science. I refer to different instruments, new “technologies” and strategies: defining new migrant detention facilities at the EU level, strengthening external borders with a dedicated agency (FRONTEX⁵), and implementing a new *hotspot* approach together with new agreements with third countries of origin and transit of (most)⁶ migrants and asylum seekers. The Commission, using typical computer science language, created *hubs* and *hotspots* to enforce administrative European detention infrastructures together with new tools⁷. These

¹ On this process of progressive datafication in what I define an *Artificial Turn* I make reference to Ahrweiler (2025). Recently different scholars reflected on the second nature (so to say) of the artificial and the consequences such shift produces on human intelligence and the effects on law and society: Avitabile, (2025). In the same journal, some recent contributions interrogated the chance to identify new forms of subjective agents, *inter alia*, Zingaro (2025). On the limits of these new agents and generative artificial intelligence systems intersecting copyright law see: Zani (2025). I also refer here to my previous work on *Data Turn*, where I discussed on similar premises a preliminary reflection on the datafication of refugee status determination processes through safe countries of origin and new technologies (including AI). Starting from a comparison with the first major EU migration “crisis” of 2015 and the Juncker Commission’s *Hotspot/Hub* approach, I focused on sensitive data treatment (according to GPDR provisions) and living law through some national and European caselaw on the matter, without due attention to pilot experiments that will be herewith deepened and proposed. See Buffa (2025). In the same issue see also Valdivia et al (2022). Similar perspective has been examined commenting the growing use of algorithmic and biometric technologies in border control as part of a larger trend in global security governance (especially through ETIAS European Travel Information and Authorization System): Thommandru et al (2025). Please see also Brouwer, (2022: 485-507) and Eklund, (2023: 249-274).

² To this extent, the expression seems to be close to Baudelaire’s perspective on artificiality as a dilation of the perception of one’s own capabilities, of the extension of oneself, of the imagination and of its (“generative”) creative power and the influences that these possibilities have on reality.

³ For a first definition see Smith, (2003: 155-166).

⁴ A debate concerning the so called “crisis” and the use of such term crisis to describe migration flows to Europe is well known. Please see <https://voxeurop.eu/en/2015-migration-crisis-10-yearsmyths-new-realities/>

⁵ This agency has been active since 2005, Campesi (2021).

⁶ Considering that many safe countries of origin appear to be the countries from which most migrants and asylum seekers heading to Europe come.

⁷ Together with hotspots and hubs the so-called crisis was tackled also through large scale IT systems, transforming asylum tools into Immigration databases (such as Eurodac).

facilities have been defined to guarantee the full identification of every migrant arriving in Europe⁸, and full operability of the Dublin Regulation as a first distinction between possible asylum seekers and irregular migrants to be quickly repatriated. At the same time, the aim was, eventually, to encourage *relocation* from territories of first arrival, like Italy, Greece, Spain (including Canaries) and the islands of Malta and Cyprus, to other Member States, revealing that solidarity was lacking between Member States too⁹. Despite the constant decrease of arrivals in the EU¹⁰, a new crisis was announced in 2024 in an unending rhetoric of emergency, certainly not new in Europe, leading to the adoption of a new EU migration and asylum pact¹¹. We know that this agreement is (much) more than a pact: it is formed by a set of sources of EU secondary legislation, including many regulations which, as such, will be directly applicable and with direct effect in the Member States (but will be fully implemented from 2026 onwards) overruling the concept of “safe third country”. The new pact, to overcome the obstacles deriving from territorial or vulnerable exceptions, provides new percentage thresholds of recognition of some form of protection by Member States¹². Below these thresholds the country will have to be considered safe, allowing the application of faster procedures for identification, asylum, repatriation. Together with different instruments and dual-use new technologies, the set of measures adopted in Europe draws on what we could call an “Artificial Turn” as discussed above. In this shift people are treated as data to be processed and artificially interpreted and evaluated in faster procedures, justified by their origin. Through the *Cultural Turn*, social sciences moved their interest towards meaning, symbolism, and the social construction of epistemologies, opening to a certain degree of cultural relativism. The *Artificial Turn* seems to be closer to a new *epistemological* perspective. Thanks to this last movement and change of perspective anthropology, for instance, has placed emphasis not only on the way people represent the world, but on what kind of world humans consider to exist; on ‘other ontologies’, on the (possible) plurality of worlds (and, in some way, on what I would define as a para-cosmical dimension, that is, other representations of reality that, yet, are able to order it). The *Artificial Turn* could be seen as subsequent and/or intersecting: not only a plurality of worlds, but a multiplication of artificial agents, of non-(completely) human agents that operate with decision-making, learning, and agency capabilities; the incorporation of algorithms into the structure of the social reality

⁸ So, to ensure the respect of the provisions of the Dublin Regulation by the first Member State that identifies a migrant for his/her reception and for his/her eventual application for asylum. The Juncker Commission introduced the possible use of these hotspots, on a proposal that originated from the German and Austrian governments, together with the relocation of migrants from first arrival Member States to other European territories, typically, of second arrival. For further details please see: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/754569/EPRS_BRI\(2023\)754569_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/754569/EPRS_BRI(2023)754569_EN.pdf)

⁹ Considering the failure of relocation systems in Europe as recognized by European parliament, please see the following link: https://www.europarl.europa.eu/doceo/document/E-8-2017-006479_EN.html

¹⁰ Please see <https://data.unhcr.org/en/situations/mediterranean> (last access October 3rd, 2025). In 2024, about ten years after the first major European crisis, 199,200 arrivals have been recorded in the EU, where UNHCR, in 2023, through its data portal on the Mediterranean situation registered 270,000 arrivals (35% more). The first three quarters of 2025 seem to confirm the progressive and constant decrease of arrivals: 107,317 sea landings in the EU and just 49,799 in Italy, where 66,475 arrivals were registered in 2024, less than half of the previous year, 2023, with 157,000 arrivals.

¹¹ For more details on the complex set of new EU rules on the new common European Asylum and Migration system that will be fully operative in 2026, see: https://home-affairs.ec.europa.eu/policies/migration-and-asylum/pact-migration-and-asylum_en

¹² When the applicant has intentionally misled the authorities or has intentionally destroyed or disposed of an identity or travel document, or if he/she represents a danger to national security as well as when the applicant is a third-country national for which the percentage of decisions granting international protection is equal to or less than 20%.

as well as into the epistemic context. It is, in other words, much more than an industrial revolution, but above all an epistemic one, which defines new forms of agency, mediation, but also of technical normativity, as well as spaces of anomie, vulnerability and deviance: a new semantics of (human) rights.

A similar semantics of ‘non-exceptional exceptions’ returns with the Italian government’s activation of centers for administrative detention in Albania¹³ and the (legal) efforts to ensure their operativity¹⁴ based on safe countries of origin, outsourcing facilities but maintaining jurisdictional competence for the validation of detention orders, asylum claims and repatriation procedures. Recent caselaw confirmed by the Court of Cassation on the formalization of asylum application makes administrative detention outside national borders incompatible since it changes the legal status of the person deprived of liberty by administrative means: from a subject for repatriation to a subject seeking international protection¹⁵. The need to frame *non-refoulement* among international and constitutional obligations of which our country is a signatory and promoter requires the return to Italy in such cases, as observed by the Supreme Court. According to constant case law, in fact, such principle must be effective for the concrete application of the constitutional right of asylum pursuant to art. 10.3 of the Italian Constitution. The Gjader center has been transformed into a CPR (Center for Permanence and Repatriation), thus changing its legal regime in a profound way. This urgent decree allowed transfers from the same facilities on the Italian territory of migrants and asylum seekers coming from safe countries of origin according to a definition of a SCO; as we will see, preliminary reference¹⁶ before the Court of Justice of the EU has recently confirmed the need for a case by case evaluation considering both personal and territorial exceptions. Despite this decision, as I already anticipated before, such “safeness” presumption is going to be revised soon, in 2026. Accelerated border procedures¹⁷, to be defined within seven days for those claimants coming from “safe” countries, as well as the risk of being detained outside the borders of the EU in the State(s) of exception¹⁸ of Schengen and Gjader create

¹³ With an agreement signed in 2023 between Italy and Albania, ratified by the Italian Parliament on February 20th, 2024, Schengen hotspot and the Gjader detention center (later a CPR – Center for Permanence and Repatriation) like other equivalent facilities on the Italian territory) were established to identify and repatriate third country nationals from safe countries of origin, even if landed or disembarked in Italy.

¹⁴ The relationship between European and Italian law (and institutions) on how to define a third country as safe to allow faster procedures of refugee status and subsidiary protection determination process and more effective repatriation for irregular migrants has been clarified by a decision of August 1st, 2025 of the CJEU that will be subsequently further clarified.

¹⁵ For the sake of completeness, the Court of Cassation, with order no. 23105 of June 20th 2025, raised a preliminary reference to the CJEU in relation to the rejection of the Court of Appeal of Rome to validate the administrative detention of two asylum seekers in Albania, highlighting doubts of compatibility with art. 3 of the Return Directive (115/2008) and art. 9 of the Procedures Directive (32/2013). The Court affirmed the relevance of these doubts also for those subjects who have not applied for international protection on the assumption that, in any case, the Schengen hotspot and the Gjader CPR, despite legislative definitions, are not on Italian territory.

¹⁶ In joined Cases C-758/24 [Alace] and C-759/24 [Canpelli] concerning two requests for a preliminary ruling under Article 267 TFEU submitted to the Court by the Specialized Section of the Court of Rome (Italy), by orders of October 31st, 2024 and November 4th, 2024, recently decided with a decision of August 1st 2025.

¹⁷ These procedures will be accelerated also thanks to new technology devices and instruments: biometric recognition, language automated analysis for country-of-origin assessment, videotaping of the interview to allow automated credibility assessment of applicant’s declarations thanks to new software and mobile data analysis.

¹⁸ This argument refers to Giorgio Agamben’s theorization of the *state of exception*, in order to clarify the dynamics of what may be called “non-exceptional exceptions”. In the context of migration governance, digital infrastructures normalize practices of exclusion and control that were once justified as extraordinary, thereby blurring the boundary between rule and

new limits to the chance for asylum. These limits come in addition to the use of tools designed to discourage arrivals, complicate access to international protection procedures, and make the examination of applications for asylum faster (even automating some credibility assessments) also thanks to dual-use technologies. A key aspect of this *Artificial Turn*¹⁹, in fact, is the “dual use” nature of digital and biometric technologies. By *dual use*, we refer to the fact that the same tools are deployed simultaneously for humanitarian purposes and for security or control functions. Biometric registration, for instance, is framed as a means of ensuring accurate identification and facilitating access to rights or assistance, yet it also enables surveillance, tracking, and cross-border data sharing. Similarly, digital infrastructures that promise efficiency in asylum processing often serve to accelerate exclusionary mechanisms, such as expedited deportations or automated safe-country designations. Recent Italian reforms have reinforced border procedures also thanks to the control and, eventually, the seizure, of claimants’ digital devices and their data²⁰ highlighting how some technologies are no longer even imagined to protect vulnerabilities (often produced on the national reception territory, I am thinking, for example, of the separation of families at landings and disembarkation and the possibility of working for their reunification also through instruments of this type with the consent of interested migrants). Sophisticated software is now able, also through automated telephone calls, to determine languages and origins so as to assess the credibility of declarations in relation to proper country of origin. No comparable initiatives have been developed to enable migrants and asylum seekers to receive reliable information – via speech recognition in their own languages (including those less common – regarding data confidentiality, international protection, and mechanisms for referring cases of trafficking. This tension reveals well known asymmetries and how *dual use* is not simply a technical property but a site of legal and political conflict, raising questions about proportionality, fundamental rights, and the interpretative frameworks through which these technologies are legitimized. The CJEU caselaw on the

exception. The artificial turn thus sheds light on how technological systems embed these exceptional logics into routine procedures, transforming both their visibility and their contestability. The reference is also to the *States of exception* as safe countries of origin (despite the territorial, political and social group exceptions).

¹⁹As already affirmed in the introduction of this article, the notion of *Artificial Turn* is used to denote a shift in legal, sociological and computer sciences studies whereby artificial intelligence technologies are not merely added to existing decision-making processes but fundamentally reshape the interpretative frameworks (and terms) through which Law operates. Unlike earlier cultural or ontological “turns,” the *Artificial Turn* foregrounds how AI systems reconfigure the authority, discretion, and justification of legal reasoning itself. We are confronted with a possible last challenge for law. See also Casadei, Pietropaoli (2024:259-274). Artificial turn conceptualization resonates with insights from critical legal theory, Science and Technology Studies, and Surveillance studies, which have long highlighted the entanglement of technological infrastructures with epistemic and normative practices. Recent studies further underscore the critical implications of these developments. Research on algorithmic profiling and facial recognition technologies in EU border control, most notably Thommandru et al. (2025) on the ETIAS decision-making process, demonstrate how automated infrastructures simultaneously promise efficiency and raise acute concerns regarding privacy, opacity, and fundamental rights protections. Their findings reinforce the urgency of situating *dual-use* technologies within robust frameworks of legal oversight and human rights, while highlighting the interpretative challenges that arise when algorithmic systems are positioned as authoritative sources of legal reasoning.

²⁰ As introduced by art. 10-ter of the Legislative Decree n. 286/1998 that has been recently modified. Accelerated procedures occur when the application is submitted directly at the border or transit zones after the claimant has been stopped for evading or attempting to evade controls or if he or she is from a safe country of origin. Also, to the person seeking international protection who has entered or has remained irregularly in Italy and has applied for asylum, without justified reason, beyond the term of ninety days from his/her entry in Italy (and, therefore, in Europe).

definition of safe country²¹ must be relocated to these intersections. This contribution, therefore, aims to explore the contours of what I call the *Artificial turn* in legal, sociological and computer sciences studies, with particular reference to the governance of migration and refugee status determination processes. The central hypothesis is that the integration of AI systems does not merely introduce new technologies, but fundamentally reshapes the interpretative frameworks through which norms, rights, and obligations are understood and applied. Against this background, the paper addresses different interrelated questions on interpretations and new epistemologies of such a *turn*: (I) how does the reliance on algorithmic infrastructures affect the interpretative authority traditionally exercised by courts, administrations, and other legal actors? (II) Is it possible to examine the state of up-to-datedness, accuracy and discretion of LLMs in a legally complex and multi-pressure environment? Finally, (III) could AI-based systems and digital infrastructures contribute to the (disruptive) categorization of countries as “safe” or “unsafe²²” and what inconsistencies emerge when compared with human rights standards? It will be therefore essential to understand the broader implications of this (eventual and ongoing) technological shift for due process, human dignity, and the principle of *non-refoulement* in the EU legal order.

2. Reframing “Safety”: Algorithmic Epistemologies and the Juridical Ontology of Origin

Artificial intelligence and digital technologies are currently being integrated into EU asylum systems with the declared aim of accelerating procedures of RSDP and standardizing decision-making. Automated tools such as speech-to-text systems, dialect and facial recognition, and the extraction and analysis of mobile phone data are increasingly being used to establish applicants’ identity and to verify their country of origin, an element that often determines the trajectory of the claim. These technologies are also connected, directly or indirectly, to the controversial practice of designating certain countries as “safe,” which allows for faster assessments but simultaneously shifts the burden of proof onto the applicant. While such innovations are presented as enhancing efficiency and consistency across Member States, they risk reinforcing structural imbalances: opaque algorithms may overlook contextual factors, reproduce biases, and undermine the guarantees of individualized assessment and the principle of non-refoulement. The use of AI in this field thus crystallizes a broader tension between the promise of technological rationalization and the fundamental requirement of fair and rights-based asylum procedures. Against this technological backdrop, the legal significance of determining whether a country of origin is “safe” becomes even more pronounced²³. The integration of AI and new

²¹ With the decision of Oct. 4th, 2024 in the C-406 of the CJEU that will be further analyzed.

²² Considering how relevant this category is as a prerequisite for application for accelerated and deteriorating treatments that have been outlined before.

²³ Two major systems are being implemented: EES (Entry/Exit System) a biometric data collection infrastructure and ETIAS (European Travel Information and Authorization System) that will require travelers, even those exempt from visa obligations, to obtain prior authorization for short-term stays. It will introduce a complex pre-screening and data retention mechanism which, despite authorization, may still result in denied entry. Despite their ‘smart’ designation, these new European borders appear increasingly closed, securitized, and exclusionary. Their operational logic is primarily devoted to surveillance and control rather than to facilitation or protection, aiming above all to reduce irregular entries and overstays. The role that countries of origin and their designation as “safe” or “unsafe” play will be relevant in determining eligibility

technologies into asylum procedures does not operate in a normative vacuum: the classification of a state as safe is a precondition that structures how evidence is assessed, how swiftly claims are processed, and where the burden of proof lies. Recent jurisprudence, particularly from the Court of Justice of the European Union and national courts, has underscored that the designation of safe countries is not a purely administrative or political act but one subject to judicial scrutiny and substantive conditions grounded in EU Law. Understanding these rulings is therefore essential for grasping how technological tools intersect with the legal architecture of international protection. The following section turns to this evolving case law, showing how courts have interpreted and, at times, contested the presumption of safety, an interpretative conflict that both frames and limits the potential role of AI in migration governance.

The decision of the CJEU of October 4th, 2024 (Case C-406/22) marked an important moment in the evolving debate on the designation of safe countries of origin. Addressing an asylum application lodged by a Moldovan citizen, the Court found the rejection as manifestly unfounded to be incorrect, as it relied on the designation of Moldova – excluding Transnistria – as a safe country. The Court emphasized that a state cannot be considered safe when any part of its territory fails to comply with the substantive requirements established in Annex I of Directive 2013/32/EU. In the wake of this judgment, the Court of Rome (Specialized Section on migration) was called to validate detentions of migrants transferred from Italy to Albania based on safe third country rules. Relying on the CJEU’s reasoning, the judges refused validation, ordering the return of migrants to Italy. They emphasized that territorial or categorical exceptions capable of exposing groups of people to persecution or serious harm undermine the presumption of safety and require ex officio judicial scrutiny.

The government reacted by enacting Decree-Law 158/2024, later incorporated into the “Flows Decree,” moving the safe country list into the legal sources’ hierarchy from the interministerial decrees level to the ordinary legislation level. The intent was to shield the designation from judicial challenge, under the principle that judges are bound (only) by law according to the national Constitution. This act redefines the list of safe countries of origin by law (Albania, Algeria, Bangladesh, Bosnia and Herzegovina, Cape Verde, Ivory Coast, Egypt, Gambia, Georgia, Ghana, Kosovo, North Macedonia, Morocco, Montenegro, Peru, Senegal, Serbia, Sri Lanka, Tunisia). The Italian government sought to ensure that the new provision of ordinary law would leave no room for interpretation by the competent judiciary, thereby guaranteeing the full operational capacity of administrative detention facilities in Albania and enabling faster procedures for refugee status determination and repatriation. Yet, under Article 117 of the Italian Constitution, EU law and the jurisprudence of the CJEU remain interposed parameters of constitutionality. This meant that, despite the legislative *manoeuvre*, national judges continued (as they had to) applying the EU Court’s interpretation despite the Government’s intervention. In November 2024, the Specialized Section of the Court of Rome again refused to validate detentions of migrants transferred to Albanian centers, reaffirming the primacy of EU law over administrative and legislative acts. The Ministry of the Interior appealed, and in December the Court of Cassation intervened with Order no. 34898. The Supreme Court adopted a cautious stance with its decision of December 30th: it noted that the CJEU judgment appeared to focus on territorial exceptions, rather than personal ones, but confirmed that judges must assess, case by case, every

for entry and residence authorizations. Once systems are fully operational, they will require close monitoring and critical assessment in evaluating to what extent such deterrence reflects the *symbolic effectiveness* of these measures or contribute to forms of *refoulement*.

application to determine whether the conditions for a safe designation are met in practice. In this evolving jurisprudential landscape, the issue is not merely technical but touches the very balance between law and justice. It reveals how the notion of safe countries of origin is continuously reshaped through interpretation, situated at the intersection of national legislation, EU obligations, and the foundational principle of human dignity.

In these directions, with its August 1st, 2025 ruling, the Court of Justice of the EU addressed preliminary questions referred by the Italian courts concerning the compatibility of designating a third country as a “safe country of origin” via primary legislation, the transparency of the sources used for such a designation, and the scope of judicial review. The case arose from two Bangladeshi asylum seekers whose applications, lodged via an accelerated border procedure, were rejected on the grounds that Bangladesh was designated as a safe country (C-758/24, C-759/24). The referring court doubted whether an ordinary legislative act could legitimately perform that designation, especially if the sources or reasoning underlying it remained undisclosed, and whether national judges should be allowed to rely on their own information to scrutinize the designation.

The Court, from the legal framework of Directive 2013/32/EU (Articles 36-38), related recitals and Annex I, reaffirmed that the “safe country of origin” regime constitutes a special examination process: it allows accelerated procedures and a presumption of safety, which the applicant can rebut. However, the entitlement to a judicial remedy demands that national courts conduct a full *ex nunc* review, including the power to assess whether the designation remains justified, based on all relevant facts. In particular, the Court held that even if a State designates a country by legislative act, such designation must still comply with EU law obligations: national judges must be able to verify whether the designation meets the substantive criteria of Annex I, and, if necessary, disregard or invalidate incompatible national rules. Importantly, the Court clarified that national authorities cannot constrain judicial review by hiding or refusing to disclose the sources or data informing a designation. The asylum seeker must have access to the information considered, and the judge must be able to examine the reliability, pertinence, timeliness, and completeness of such sources. Moreover, the Court confirmed that when a duly grounded designation is challenged, the judge may resort to additional or autonomous sources (such as those referred to in Article 37(3) of the Directive 2013/32/EU) to test whether the designation infringes the substantive conditions.

Thus, the August 1st, 2025 ruling reinforces several key interpretative points: a) designating a safe country by legislation is not *per se* prohibited, but cannot exempt the duty of judicial review; (b) transparency of sources and reasoned justification is essential; (c) the Court’s review must include a substantive assessment of the factual and legal justification of the designation against Annex I standards; and (d) national judges may supplement the record with external sources in exercising their remedial function. The decision thereby strengthens the protective role of interpretation and underscores how even in accelerated or presumption-based regimes the principle of judicial scrutiny and the rights of asylum seekers must not be sidelined, considering different and public sources.

If we look at a recent EU report on the use of AI in the context of asylum processes, European Parliament underlined how: “Owing to their capacity to quickly process large amounts of data, identify patterns and generate insights, AI tools promise to bring significant efficiency gains in various fields. In asylum, AI tools could reduce complexity and workload by automating certain steps and streamlining the asylum process. For example, registration chatbots could help to verify identity, triage applications, and gather and organize information to help caseworkers reach accurate and timely decisions. This

could reduce the time needed to process applications, allowing case workers to focus on higher value tasks. As stated in the 2023 EUAA strategy on digital innovation in asylum: “Case officers should benefit from the assistance of innovative tools which could eliminate burdensome tasks, thus sparing capacity for high added-value targets. A digital casework assistant could be helpful in several aspects, such as: extracting case relevant COI [country of origin] and case-law from large amount of data, supporting risk analysis, filtering open source intelligence or applicants’ mobile devices. Improved efficiency could also be achieved by developing tools to predict migration and asylum trends, such as early warning systems, forecasting, and scenario-building exercises. This could allow for better anticipation of needs, planning and resource allocation in order to deal with crises²⁴”. Referring to the range of effects and consequences on the rights of asylum seekers, we must distinguish between instruments that intervene directly in the process of movement of migrants between countries and asylum requests (for example, biometric technologies, to which migrants are subjected but largely lacking any knowledge, including correct information on their rights) on the one hand, and devices that can support the process without a direct application on the person, for example on the dynamic identification of a “safe country” on the other, but from which very significant indirect effects derive. These dynamics of indirect identification of effects seem to be of greater interest and relevant to be further investigated. Such practices expose a growing reliance on AI-driven and digitalized frameworks for determining refugee and subsidiary protection status, a transition from digital clues to formal evidence that risks constituting a new form of *data colonialism*. Such new forms of domination extend to the assessment of country-of-origin determination, especially when “safe”. Recent commentary and investigative reports have warned against the emergence of a “digital border”, closely aligned with the EU’s “New Pact on Migration and Asylum.” Europol’s capacity to collect biometric and device-based data could effectively categorize asylum seekers among irregular entrants, undermining the *non-refoulement* principle and compromising access to protection. For migrants, whose digital devices are often vital tools for survival and connection, such practices expand the reach of digital surveillance²⁵ and control. In this light, in January 2025, the European Data Protection Supervisor (EDPS) warned Frontex for unlawfully transmitting migrants’ personal data to Europol, without the data subjects being able to be aware of the transfer of these (sensitive) data and the purposes of their storage and interoperability. Also, new software for verification of asylum seekers’ credibility, and the determination of their country of origin have been implemented, raising additional concerns about algorithmic bias and the opaque use of personal data in migration control. These systems incorporate facial recognition technologies based on biometric data and algorithms designed to estimate the probability that an answer is untruthful, relying on a predefined set of non-verbal indicators. “Several EU-funded research projects have sought to develop AI-based emotion detection systems aimed at detecting deception during border checks. For example, the project entitled Automated Virtual Agent for Truth Assessment in Real-time (AVATAR) sought to create a virtual agent to automate screening, interviews and credibility assessments by detecting “potential anomalous behavior” through analysis of data streams from sensors such as cameras, microphones and eye-tracking systems. The system was tested by the EU border agency (Frontex) at a Romanian airport in 2013. Another project, Intelligent Portable Control

²⁴ European Parliament, (2025: 7). The full report is available at the following link: [https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2025\)775861](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2025)775861).

²⁵ For different perspectives on the evolution from Panopticon to Synopticon and Biometricon I refer to my previous work, Buffa (2025b). Also, even if referred to other case studies and perspectives, I found very interesting the critical revision proposed by Marchesin, (2025: 12).

System (iBorderCtrl), aimed to develop a decision support system for border checks that included an automated deception detection tool²⁶. Far beyond dystopic perspectives, these programs have already been tested to be fully implemented in the future. Even if they do not focus on asylum they can easily be converted to multiple and different use²⁷.

In this direction, the same source confirms the use, in several Member States, of software capable of determining the credibility of the nationality or in any case of the country or area of origin starting from a linguistic analysis (i.e., LADO – Language Analysis for the Determination of Origin) which can also be arranged by voice call on a telephone device²⁸. Even when framed within a “human-in-the-loop” approach, such systems raise significant concerns. They risk disregarding the profound cultural variability of verbal and non-verbal communication and the contextual meanings of gestures, assuming, incorrectly, their universality across different origins and experiences. The epistemic and ethical fragility of these assumptions underscores the persistent tension between technological standardization and the plural, embodied realities of migration and asylum. Because of its central importance in several procedures and its integration into emerging technologies, the assessment of the countries defined as “safe” by the Italian legislator – when tested through AI, as discussed below – revealed how unstable and contested the notion of safety remains. The AI produced consistent answers for each country, underscoring that most of these contexts do not provide systematic access to international protection, lack transparent asylum mechanisms, have recorded violations of *non-refoulement*, and raise serious concerns about the protection of migrants’ fundamental rights, while clearly indicating the consulted sources.

3. AI and (Un)safe Countries of Origin in EU: A Pilot Study Comparing GPT-5 and Chat-DeepSeek-R1 Models

Considering these complex premises, a field evaluation attempting a kind of ethnographical study of applied AI in this context seemed to be appropriate and necessary for the re-reading of what has been defined the *Artificial turn* applied to the context of migration and international protection²⁹. To conduct this pilot experiment, two large language models were employed – GPT-5 and Chat-DeepSeek-R1 - to solicit comparative assessments of “safe countries of origin” in the *Artificial Turn*. Prompts were designed to replicate the type of interpretative reasoning required in asylum and human rights law,

²⁶ European Parliament, (2025: 4).

²⁷ “Whereas these developments concern primarily border and migration management, they are relevant for the asylum process. For example, data collected from third-country nationals when crossing the external borders may be used later to verify/assess applicants’ protection claims. Biometric checks in Eurodac and other information systems could play a significant role in assessing the credibility of asylum applicants. In the context of streamlining the EU migration and asylum procedures, under the EU pact on migration and asylum, checks and assessments at the external borders are set to play an even greater role in the asylum process. For example, checks and data gathered during the new screening procedure could affect the way in which asylum applications are treated, including the choice of procedure and the level of procedural safeguards afforded to applicants”. *Ibidem*.

²⁸ *Ibidem*, 4-5.

²⁹ For a wider perspective on how scholars have represented the complex and sometimes conflictive and controversial relations between AI, migration and international protection please make reference to: Nalbandian, (2025); Bircan e Korkmaz, (2021); Beduschi, (2021: 576-596); Rinaldi, Teo, (2025: 61-89). On backlog degenerations in this field, and the “need” for AI, Mohamed (2022: 2013-2066).

while remaining concise enough to avoid excessive guidance (given the criteria set out in Directive 2013/32/EU and its annexes). For each model, the same prompts were formulated around specific legal standards (e.g., *non-refoulement*, protection of minorities, territorial-local exceptions, rule of law) and applied to the selected set of countries. The choice of countries was based on their salience within current debates on safe country designations, including Italian and European lists adopted by public authorities. The interrogation date of both systems was the May 18th, 2025. The Models' responses were then systematically collected and compared across three main criteria: (i) consistency with international and European legal standards, (ii) depth and coherence of reasoning, and (iii) treatment of human rights concerns. Responses were coded thematically, with attention to recurring interpretative patterns and divergences between the two models. While this coding was conducted rather than through inter-rater testing, particular care was taken to ensure transparency and replicability of the analytical steps, also thanks to the complete sharing of the results.

Looking at pilot limits, it should be stressed that this experiment is intended as an illustrative exploration rather than a fully-fledged empirical evaluation. AI-generated assessments of legal and political contexts are subject to significant limitations, including opacity in model training data, variability in outputs, and challenges of replicability. Moreover, the absence of inter-rater reliability testing and the sample of country cases further restrict the generalizability of findings. The contribution of this pilot lies therefore not in the reliability of its specific outputs, but in its highlighting of the interpretative shifts and epistemic tensions introduced by the use of AI tools in legal reasoning, as well as in the difficulty of crystallizing the security conditions of an original context, whatever it may be, also due to the continuous volatility of international geopolitics at this time, as is clear from the models of human and artificial intelligence. Finally, it anticipates a hypothesis already underlying the title of this work: the impossibility, both human and artificial, of apodictically defining contexts of origin as safe, even starting from public and reliable sources. As recent case law has also highlighted, thanks to the range of available technologies, a greater guarantee of each asylum seeker would be desirable through a careful case-by-case examination that allows, where necessary, the overcoming of presumptions aimed at procedural acceleration that clash with fundamental human rights. Future research will need to complement such illustrative exercises with more systematic methodologies, including triangulation with human expert coding and empirical validation (as well as third elements of comparison of LLM, like the European Mistral).

Queried with an assessment for each country included in the list of safe countries by the Italian government, GPT-5 has reported for each enquired location reliable and public sources: among others Directive 2013/32/EU, art. 38, UNHCR – Country Portal, Human Rights Watch – World Report 2023: Country Amnesty International – Annual Report 2023, Freedom House – Freedom in the World, UN Special Rapporteur on torture whether applicable. Below we present the details for each country:

Albania: while considering the agreement between Italy and Albania among the known information, GPT-5 considered that this country cannot be fully considered a “safe third country” according to European Union law since it has a formally active asylum system but not adequate to the pressures of outsourced management, concerns about informal returns and the protection of rights.

Finally, it highlights that the Italy-Albania agreement does not rely on the concept of a “safe third country”, but “on an extraterritorial and controversial legal mechanism”.

For Algeria, AI systems stated that this country cannot be considered as a safe third country under Directive 2013/32/EU, as there is no legal and effective asylum system. The principle of non-refoulement is frequently violated. The conditions of migrants and refugees are gravely degrading. The absence of national asylum legislation and the criminalization of irregular migration preclude any adequate guarantees.

Bangladesh is not a safe third country according to the criteria of EU Directive 2013/32, because of the lack of an asylum law and an accessible procedure, it does not guarantee the fundamental rights of asylum seekers, it violates the principle of non-refoulement on several documented occasions, its handling of refugees (e.g. Rohingya, without considering the facts of the summer of 2024) raises humanitarian and legal concerns at the international level.

Bosnia and Herzegovina has been defined as “a special case in the European context”. It is formally equipped with an asylum system but does not fully meet the criteria to be considered a “safe third country” according to Directive 2013/32/EU. It presents serious critical issues in the practice of asylum, in the conditions of reception and in respect for human rights, especially towards migrants in transit.

Furthermore, despite being one of the most democratic and stable countries in Africa, Cape Verde cannot be considered a “safe third country” under European Union law, because it does not have an accessible or functioning asylum system, does not guarantee the effective right to international protection, and the principle of non-refoulement is not structurally ensured.

Côte d’Ivoire cannot be considered a “safe third country” within the meaning of Article 38 of Directive 2013/32/EU for international protection. Despite progress in terms of political stability since the 2010–2011 crisis, systemic challenges remain in the areas of human rights, access to international protection and material security conditions.

Egypt cannot be considered a “safe third country”, even if (and because³⁰) it is a strategic partner of the EU, for the following reasons: there is no national asylum system, the principle of non-refoulement is regularly violated, the reception conditions are degrading and human rights are not respected, and NGO control and political repression undermine any procedural guarantee.

Gambia, despite being a partner country of the EU for cooperation with third countries, does not meet the requirements to be considered a safe third country: lack of an effective national asylum system, limited ability to ensure protection and fair procedures, reception conditions and respect for human rights are still insufficient.

³⁰ The etiological link was not generated by artificial intelligence but is suggested to the reader by the writer.

Georgia, while having a legal structure for international protection and formally adhering to the Geneva Convention, presents: an asylum system that is still fragile and insufficient in guaranteeing effective access and fair procedures, irregular application of the principle of non-refoulement, and material conditions and protection of human rights that do not guarantee safety and dignity to those seeking protection. For these reasons, it cannot be qualified as a safe third country under European Union law.

Ghana cannot be considered a “safe third country” under Directive 2013/32/EU, despite relative political stability and formal recognition of refugee rights. Structural and systemic deficiencies in the asylum system and effective protection make it inadequate to qualify as a safe country. The EU has launched programs of migration cooperation and assisted voluntary return, which are not equivalent to a security recognition for protection seekers.

Kosovo cannot be considered a “safe third country” according to the criteria of Directive 2013/32/EU, although it has some elements of institutional stability. Structural deficiencies in the asylum system, limitations in the protection of human rights and systemic vulnerabilities prevent it from being considered safe for the return of applicants for international protection. Kosovo is not recognized by all EU Member States (e.g. Spain, Slovakia, Romania, Greece and Cyprus³¹). The EU has signed a Stabilisation and Association Agreement but does not consider it a safe third country for international protection. The European Commission and the EUAA (formerly EASO) do not include Kosovo in any positive list.

North Macedonia does not meet the substantive requirements of Directive 2013/32/EU to be qualified as a *safe third country*, due to poor application of the asylum system, systemic practices of illegal refoulement, inadequate material conditions and protection of human rights, and a practically zero asylum recognition rate.

Morocco cannot be considered a “safe third country” within the meaning of Article 38 of Directive 2013/32/EU, despite the fact that it is often mentioned in international cooperation agreements on migration. Serious shortcomings in the asylum system, the lack of effective legal protection and documented violations of the principle of non-refoulement prevent its recognition as such.

Nor can Montenegro be considered a “safe third country” according to the criteria of Directive 2013/32/EU, despite the existence of a legal framework for international protection and some formal progress in the area of asylum. Structural deficiencies, the risk of refoulement and inadequate material conditions make it unsuitable to be considered safe for the return. The EU has signed several cooperation agreements with Morocco on border control and voluntary returns. Spain and France collaborate with Rabat on readmission operations, but these do not imply the recognition of Morocco as a safe country for refugees.

³¹ It is unclear whether this is a hallucination of AI or, rather, of our geopolitical times.

Peru, at present, cannot be considered a “safe third country” within the meaning of Article 38 of Directive 2013/32/EU, despite having ratified fundamental international human rights and refugee instruments. The country has serious deficiencies in the international protection system, internal security problems, and discriminatory or exclusionary practices against migrants and refugees, especially Venezuelans.

Senegal cannot be considered a “safe third country” within the meaning of Article 38 of Directive 2013/32/EU, although it is often perceived as relatively stable politically and diplomatically. The lack of a functioning national asylum system, the deficiencies in terms of effective access to protection, and the risks of refoulement and discrimination make Senegal unsuitable for the forced return of asylum seekers. Senegal has serious shortcomings in social protection mechanisms and respect for civil liberties. The EU has migration cooperation agreements with Senegal, but these do not imply any recognition of security for asylum purposes, e.g. FRONTEX missions, Italy-Senegal bilateral cooperation on assisted voluntary returns.

Serbia is formally considered a “safe third country” by some EU member states, but this assessment is strongly contested by numerous international organizations and jurists, as it does not fully meet the criteria of Article 38 of Directive 2013/32/EU, especially with regard to: effective access to international protection, protection from refoulement, and the treatment of migrants and asylum seekers at the border. Many sources (UNHCR, Human Rights Watch, Amnesty, Border Violence Monitoring Network) have been documenting: pushbacks to North Macedonia or Bulgaria, informal deliveries to Croatian or Hungarian police, who then push migrants back to third countries, and lack of effective appeals against expulsions or refoulements.

Sri Lanka cannot be considered a “safe third country” within the meaning of Article 38 of Directive 2013/32/EU, despite the formal ratification of the Geneva Convention. The main reasons are: the lack of a functioning asylum system, the documented serious violations of human rights, and the real risk of refoulement and persecution, especially for certain categories (Tamils, Muslims, political opponents, non-heterosexual people).

Finally, Tunisia cannot be considered a “safe third country” within the meaning of Article 38 of Directive 2013/32/EU. Despite being a signatory to the Geneva Convention, it does not have a functioning national asylum system, and there are serious and systemic violations of human rights, in particular against migrants, refugees and asylum seekers.

When queried for each country, the AI systems provided, upon request, the following summary scheme including: country of origin, territorial exceptions, exceptions for categories of vulnerable persons, other criteria that underpin the security perspective, and sources used for the proposed assessment.

Country of Origin	Territorial Exceptions	Exceptions for Vulnerable Categories	Other Criteria Affecting Security Assessment	Main Sources for Assessment
Albania	No major territorial exceptions known	Vulnerable groups sometimes face inadequate protection	Access to asylum limited; concerns about procedural guarantees and non-refoulement	UNHCR, EASO, Human Rights Watch, EUAA
Algeria	Some conflict-affected southern areas may pose risks	Vulnerable migrants (sub-Saharan Africans) face detention and deportation	No effective asylum system; non-refoulement often violated; systemic abuses	UNHCR, Amnesty, Human Rights Watch, IOM
Bangladesh	No significant territorial exceptions	Rohingya refugees and other minorities face serious risks	No asylum law; poor protection framework; risk of refoulement	UNHCR, Human Rights Watch, Amnesty
Bosnia and Herzegovina	No territorial exceptions, but local variations	Vulnerable persons (e.g., minors, LGBTIQI+) often unprotected	Poor asylum access; documented pushbacks; poor detention conditions	UNHCR, Amnesty, EASO, Border Violence Monitoring Network
Cape Verde	No notable territorial exceptions	Limited data on vulnerable categories; small scale migration flows	Limited asylum system, but generally stable and peaceful	UNHCR, EASO
Côte d'Ivoire (Ivory Coast)	Conflict zones in the west and north	Vulnerable persons often lack adequate protection	Post-conflict challenges; limited asylum system functioning	UNHCR, Human Rights Watch
Egypt	Sinai Peninsula is conflict-prone	Refugees, especially from Sudan and Eritrea, face discrimination	Weak asylum system; detentions and deportations reported	UNHCR, Amnesty, Human Rights Watch
Gambia	No major territorial exceptions	Vulnerable persons face stigma; limited protection	No formal asylum system; some protection gaps	UNHCR, Amnesty
Georgia	Abkhazia and South Ossetia areas excluded (de	Vulnerable persons have limited access to protection	Fragile asylum system; limited recognition rates	UNHCR, EASO, Human Rights Watch

Country of Origin	Territorial Exceptions	Exceptions for Vulnerable Categories	Other Criteria Affecting Security Assessment	Main Sources for Assessment
	facto non-government control)			
Ghana	No territorial exceptions known	Limited protection for vulnerable groups	No formal asylum system; poor procedural guarantees	UNHCR, Amnesty
Kosovo	No territorial exceptions	Vulnerable persons face discrimination, esp. minorities	Weak asylum system; limited procedural guarantees	UNHCR, Amnesty, EASO
North Macedonia	No territorial exceptions	Vulnerable persons often marginalized	Pushbacks reported; poor asylum access	UNHCR, Amnesty, Border Violence Monitoring Network
Montenegro	No territorial exceptions	Limited data on vulnerable groups	Small scale asylum system; limited capacity	UNHCR, EASO
Morocco	Some southern regions (Western Sahara)	Vulnerable groups	Access to asylum limited; pushbacks documented; mixed protection system	UNHCR, Amnesty, EASO, HRW, EUAA
Peru	Some areas in Amazon basin with limited state presence	Indigenous and vulnerable groups often underserved	Recent reforms to asylum system improving but gaps remain	UNHCR, Amnesty, Human Rights Watch
Senegal	No territorial exceptions	Limited data; vulnerable migrants face discrimination	Limited asylum infrastructure; generally stable	UNHCR, EASO
Serbia	No formal territorial exceptions	Vulnerable groups (minors, LGBTQ+) face risks and discrimination	Systematic pushbacks; poor access to asylum; non-refoulement violations	UNHCR, Amnesty, Human Rights Watch, EUAA, Border Violence Monitoring Network

Country of Origin	Territorial Exceptions	Exceptions for Vulnerable Categories	Other Criteria Affecting Security Assessment	Main Sources for Assessment
Sri Lanka	Conflict-affected north and east; Tamil-majority areas have specific risks	Tamil and Muslim minorities, LGBTQ+, political dissidents at risk	No asylum law; poor protection; risk of refoulement; human rights violations	UNHCR, Amnesty, Human Rights Watch, OHCHR
Tunisia	No formal territorial exceptions, but southern border areas unstable	African migrants and refugees face xenophobia and violence	No asylum system; pushbacks; detention and deportations frequent	UNHCR, Amnesty, Human Rights Watch, Alarm Phone

Chat-DeepSeek-R1, instead, has provided partially different evaluations, including as a source the US State Department Immigration Office, not taking into account art. 37 of Directive 2013/32 by including institutional stability among the other criteria, although not defining that criterion.

Country	STC Assessment	Territorial Exceptions	Exceptions for Vulnerable Persons	Other Criteria	Sources
Albania	Likely safe	None	Possible for LGBTQI+ individuals	EU candidate, stable democracy	EU Commission, Freedom House
Algeria	Not safe	Sahrawi regions	Women, political dissidents	Reports of torture, repression	Amnesty International, Human Rights Watch
Bangladesh	Not safe	Chittagong Hill Tracts	Rohingya refugees, minorities	Poor asylum system, political violence	US State Department, UNHCR

Country	STC Assessment	Territorial Exceptions	Exceptions for Vulnerable Persons	Other Criteria	Sources
Bosnia & Herzegovina	Likely safe	None	Roma minorities	Stable but weak asylum system	EC
Cape Verde	Likely safe	None	None	Stable democracy, low violence	Freedom House
Ivory Coast	Partially safe	Northern regions	Former conflict zones	Improving but past instability	HRW - UNHCR
Egypt	Not safe	Sinai, border areas	LGBTQ+, political activists	Systematic torture, repression	Amnesty International HRW
Gambia	Partially safe	None	Political dissidents	Recent democratic progress	Freedom House
Georgia	Likely safe	South Ossetia, Abkhazia	LGBTQ+ individuals	EU candidate, stable	EC, HRW
Ghana	Likely safe	None	LGBTQ+ (criminalization exists)	Stable democracy	Freedom House
Kosovo	Likely safe	North Mitrovica	Serb minorities	Recognized by many states	EC
North Macedonia	Likely safe	None	Roma minorities	EU candidate, stable	EC

Country	STC Assessment	Territorial Exceptions	Exceptions for Vulnerable Persons	Other Criteria	Sources
Morocco	Partially safe	Western Sahara	Sub-Saharan migrants, LGBTQ+	Refugee rights concerns	HRW
Montenegro	Likely safe	None	Roma minorities	EU candidate, stable	EC
Peru	Likely safe	None	Indigenous conflicts	Generally stable	Freedom House
Senegal	Likely safe	Casamance region	None	Stable democracy	Freedom House
Serbia	Likely safe	None	Roma, LGBTQ+	EU candidate, stable	EC
Sri Lanka	Not safe	Northern/Eastern provinces	Tamils, political dissidents	Post-war repression	HRW, UNHCR
Tunisia	Partially safe	None	LGBTQ+, political dissidents	Democratic backsliding	Freedom House

In a nutshell Chat-DeepSeek-R1 defined:

- **Likely safe:** Albania, Bosnia & Herzegovina, Cape Verde, Georgia, Ghana, Kosovo, North Macedonia, Montenegro, Peru, Senegal, Serbia.
- **Partially safe (with exceptions):** Ivory Coast, Gambia, Morocco, Tunisia.
- **Not safe or unsafe:** Algeria, Bangladesh, Egypt, Sri Lanka.

Likely – although likelihood is also an evaluation criterion for credibility - (as “reasonable degree of likelihood”) it could be problematic for safeness and possible consequences in case of different scenarios. Chat-DeepSeek-R1 seems to presuppose some reservations, in particular, with respect to the

exceptions, even of specific identified categories of persons. Consulted source, however, does not seem to include EUAA among relevant ones. We identified as possibly discriminatory the choice of not including US Immigration office from the sources in use for a certain Eurocentrism, (considering also the recurring lack of reference to UNHCR and EUAA reports).

While this article aims to contribute to the critical understanding of what we describe as the *Artificial turn* in migration governance, several limitations must be acknowledged. First, the exploratory “pilot” experiment using large language models was designed as an illustrative exercise to shed light on interpretative shifts introduced by AI. The design of prompts, the choice of countries, and the thematic were employed to provide a heuristic lens through which to interrogate the interplay between law and algorithmic reasoning. Future research should develop more robust empirical methodologies that combine doctrinal analysis with interdisciplinary approaches to AI evaluation. Second, the legal and policy analysis is geographically circumscribed to Italy and the European Union. This focus allows for a detailed examination of legal reforms and digital infrastructures that are currently reshaping migration governance within these jurisdictions. AI technologies themselves are inherently dynamic and opaque. Large language models evolve rapidly, often without clear disclosure of training data or system architectures. This raises epistemic uncertainties about the stability and transparency of their outputs, which directly affect any attempt to evaluate their interpretative potential. The legal significance of AI in migration governance can, therefore, only be tentatively sketched, pending deeper empirical and technical scrutiny. Structural limitations arise from the availability and quality of legal and policy data. Many aspects of migration governance such as detention practices, risk assessments, and the designation of “safe countries of origin” are marked by opacity, fragmentation, and political contestation³². This restricts the possibility of producing fully comprehensive or verified accounts and underscores the need for further empirical research grounded in both legal sources and fieldwork. Possible biases and hallucinations cannot be excluded, although not present at first glance. The hypothesis remains that the collection and production of information, above all, with reference to critical issues, may have influenced the number and type of sources available to the systems without allowing full and exhaustive reliability due to redundancy. Taken together, these limitations indicate that the contribution of the present work is not to deliver definitive empirical generalizations, but rather to open a conceptual and critical space for examining how AI technologies and data infrastructures reshape legal interpretation, discretion, and the governance of migration. Future research should therefore build on this groundwork by combining doctrinal analysis, technical audits, and comparative empirical inquiry to assess both the promises and the risks of the artificial turn across diverse contexts. In any case, systems suggest the profound revision margins of the SCO list in use by our national (and soon European) asylum system. The human-in-the-loop approach³³, indeed, is confirmed as necessary for the interpreters, and should be intended as another important guarantee to balance the political will of the government through a fully automated system (of safeness presumptions). Public bodies must adhere to sources that are as public and objective as possible in the

³² To a certain extent, on closer inspection, also by a bias typical of the contexts most offended by violations of fundamental human rights. This is due both to the ongoing conflicts and the consequences they produce on the accessibility of information and to the establishment of regimes that no longer allow persecutory behavior to be intercepted, much less the elaboration of documents on the subject or their dissemination, I am referring, respectively (for current events) to Palestine and Afghanistan.

³³ Castano, Ferrara, Montanelli (2016: 229-244). See also Castano et al (2023).

definition of such places as/when safe, especially in the face of the repercussions that such definitions can have, not so much and not only on the speed of proceedings, but on the rights of the people to whom they refer³⁴. The need for a human rights based approach, capable of closely discussing the principle of technological neutrality³⁵, finds here another confirmation also with respect to the recent entry into force of the AI Act in Europe, so that who controls the past (information on countries of origin) will be aware of the effects on the future of claimants and the chance to control, with unprecedented and unexpected outcomes, their past.

4. Conclusions

*So you can survive when law is lawless (right here)
 Feeling sensations that you thought was dead
 No squealing and remember that it's all in your head
 I ain't happy, I'm feeling glad
 I got sunshine in a bag
 I'm useless but not for long
 The future is coming on*

Clint Eastwood – Gorillaz

While this analysis has primarily focused on Italy and the EU, the questions it raises resonate more broadly. The risks associated with safe country designations mediated through AI systems, as well as the extraction and circulation of migrants' digital data, are not confined to the European legal order and to the Common European Asylum System (CEAS). Similar dynamics are observable in other regions where algorithmic tools and biometric infrastructures are increasingly deployed to manage mobility and border control all over the world. These parallels suggest that the *Artificial turn* in migration governance is not solely a European phenomenon but part of a wider global trajectory in which technological infrastructures reshape the interpretation and implementation of international protection norms. A more systematic comparative analysis lies beyond the scope of this article, but situating the European case within this broader landscape underscores both the urgency and the generalizability of the concerns identified here, as well as the need for what I would call EUNOM_IA (from the Greek word *εὐνομία*, to call for a good governance of AI in the EU, where *nomos* has to keep a central role). While recent case law in Italy and Europe has narrowed the margins of administrative power to use the origin of presumed safe contexts to justify deteriorating treatments and simplified asylum procedures, other complications seem to appear in the immediate future due to the full operation, now imminent, of the Migration and Asylum Pact and its regulations. Pilot "ethnographies" of the most widely used AI systems show that such simplifications are risky, questionable and, even more, that the automation of assessments in this area is premature. Yet, the models questioned

³⁴ In this light I already tried to imagine a shift between ontologies to epistemologies of Law in my previous work, Buffa (2024).

³⁵ According to this principle derived from EU Directive n. 21/2002, national authorities of Member States should neither impose nor discriminate in favour of the use of a particular type of technology. According to some scholars, however, such principle risks to be read as an empty formula, considering the little attention it received. Kamecke, Körber, (2008).

confirmed significant difficulties in using the SCO category in international protection proceedings. Despite this, I think that a few recommendations can be proposed. European institutions and national governments should ensure a *economic* approach, so that the deployment of AI in migration management is subject to robust oversight mechanisms. In particular, the designation of “safe countries of origin” and the extraction of digital data from migrants’ devices should not rely on opaque algorithmic tools or pursue latent purposes but remain grounded in transparent procedures subject to judicial review. Independent supervisory bodies with technical expertise should be empowered to audit AI-based systems and guarantee that humanitarian objectives are not subordinated to security logics. Legislators should strengthen the normative framework governing the use of digital infrastructures at the border. This includes the need to clarify the legal limits of dual-use biometric tools, codifying principles of proportionality and necessity in data collection, and embedding the right to effective remedies in contexts where algorithmic decisions affect fundamental rights. EU legislation, such as the AI Act and reforms of the Common European Asylum System, should be interpreted and further developed in light of these safeguards. Academic and interdisciplinary inquiry is urgently needed to deepen understanding of the *Artificial turn* in migration and asylum governance: comparative studies beyond the Italian and EU contexts could illuminate how similar technologies are shaping asylum systems globally. In addition, closer collaboration between legal and computer sciences scholars, together with human rights organizations, will be essential to design methods for auditing AI systems and evaluating their (effective) compliance with international protection norms. Overall, these recommendations converge on a simple point: the integration of AI in migration governance must not only be technologically efficient but also legally accountable and normatively justifiable. Safeguarding interpretation, discretion, and fundamental rights in the age of algorithmic decision-making requires ongoing vigilance, institutional innovation, and public engagement. The affirmation of an *Artificial Turn* necessarily invites a reflection on the ontologies of borders and the epistemologies that sustain their control. If the border, as Étienne Balibar argued, is no longer a fixed line but a “mobile and diffuse apparatus³⁶” its contemporary ontology is profoundly shaped by digital infrastructures and algorithmic rationalities. Borders appear as operational assemblages, *techno-legal entities* that exist through databases, biometric repositories, and interoperable systems of surveillance. In this sense, their ontology is *hybrid and amphibious*: borders exist (also) as data and through data (to be progressively automated in their collection, readability, significance). Within this emerging order, the *epistemologies of control* define how knowledge about mobility, identity, and risk is produced, validated, and acted upon. As Michel Foucault observed, governance operates through the coupling of knowledge and power³⁷. Yet in the *Artificial Turn*, this coupling takes on new forms: algorithmic prediction replaces empirical observation, and probabilistic modeling (also through safe countries of origin presumptions) supplants the juridical logic of evidence. The ontology of borders, therefore, is also an ontology of law (and human rights): an encoded structure that produces eligibility through preventive exclusion to predefine the plausibility of protection needs. At the same time, the digital infrastructures of migration management perform an epistemic operation that seem to be intended for legal practitioners, above all, (jurisdictional) interpreters. As already noted by Jerome Frank, in 1948: “I have elsewhere suggested that judges, when applying (and therefore interpreting) statutory or other legal rules, may be compared with musical performers when playing (and therefore interpreting) musical compositions; that,

³⁶ Balibar (2002)

³⁷ Foucault, (2007).

performers, judges, like musical performers, are to some extent creative artists (...) as composers strive to penetrate unexplored fields of musical interpretation, they invariably encounter this conservative reaction against the unfamiliar³⁸. So you can survive when law is lawless³⁹ and “let the human in”, again, through new geographies⁴⁰ designed by (de)generative large language models of the *Artificial turn*.

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³⁸ Frank, (1948: 921).

³⁹ I connect this song quote to the important meaning of the concept of a-legality in Lindahl, (2013).

⁴⁰ Terranova, (2022: 385-397).

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