RELOCATION AND RESETTLEMENT OF REFUGEES IN THE EUROPEAN UNION - WHAT HAS HAPPENED TO SOLIDARITY

LEHTE ROOTS

INTRODUCTION

The idea of a united Europe was created by people from different disciplines – scholars, philosophers, political leaders, artists, and religious leaders. It is also similar to the decision to start a war. It usually is a decision of leaders who think that this is the only way to resolve problems. Attempts to unify Europe were made after the emergence of cruel conflicts. The Romans tried to unite the European continent by conquering states during a period known as the post-Republican period of ancient Rome. This state was composed of large territorial holdings around the Mediterranean Sea in Europe, North Africa, and West Asia ruled by emperors. Rome remained the nominal capital of both parts until 476 AD. The fall of the Western Roman Empire to Germanic kings, along with the Hellenization of the Eastern Roman Empire into the Byzantine Empire, denoted the end of Ancient Rome and the beginning of the Middle Ages. But the wars and conflicts on the European continent continued.

A vision of a peaceful and united Europe came from the survivors of war. It was like a defence against the historical cycle of violence. The dream of unity for the founding fathers of the European Union was to rebuild Europe and give hope to the people after the end of the Second World War. In 1953, at the European Roundtable on Europe's Spiritual and Cultural Unity, it was Schuman who highlighted the cultural and spiritual ethos of Europe and the need to address problems of Europe. Founders of the European Community believed in the mission to make Europe great again and to serve for the world, not just itself. The creation of supranational institutions for a united Europe was seen as an outcome and was inspired by a 'consciousness of European unity, common destiny, obstacles and tasks to be fulfilled'[1] It is probably time to reflect on whether we have achieved what they dreamed about.

The current Europe is based on solidarity. Solidarity is something that can be seen as noble, but at the same time it is abstract. It is a state of mind which is devoted to the feeling of unity, similarity, communion, and team spirit. The concept of solidarity is the core element of the project of the European Union and its integration process. It developed as a direct response to the nationalist oppositions that led to World War II. Solidarity is not simply about supranational institutions and policies to create a single common market. It is also a wish to go above the ideological, cultural, and religious traditions that have historically been used to divide or conquer Europe. This is acknowledged as the Union's spiritual and moral heritage in the preamble of its Charter of Fundamental Rights. The EU is therefore not just a collection of states: it is a state of mind.[2]

Consequently, European policies and actions should serve the principles of solidarity and fairness. The EU has common external borders and has abolished internal borders, which gives refugees and asylum seekers a possibility to asylum shop and has led to some internal undesired movements that are not under the control of the states. Therefore, in the 1990s the Dublin Convention was agreed upon to regulate the access of asylum seekers and the responses of the states in the case they find asylum seekers on their territory. With time and more European integration, the Dublin Convention and cooperation were changed to the form of a regulation, which inversely gives EU Member States less sovereignty to do things than the regulation describes because regulations in the legislative mechanism of the European Union are directly binding instruments.

Forced migration and its impact on legislative practices and the European project has been hefty. In recent years, the rise

---

[1] https://theconversation.com/solidarity-was-a-founding-principle-of-european-unity-it-must-remain-so-74580; 08.09.2020

[2] 1 Solidarity was a founding principle of European unity – it must remain so, March 24, 2017 https://theconversation.com/solidarity-was-a-founding-principle-of-european-unity-it-must-remain-so-74580

of the right and Euroscepticism is seen in virtually every EU Member State. Solidarity, the core principle of the European Union Framework, is at stake and largely misused. This article examines the development of the European approach to asylum, refugees, and reallocation, setting the stage for in-depth examinations into individual case studies. It offers an insight into the development of, current obstacles to, and struggles in the notion of solidarity and sovereignty claims within the frameworks of resettlement and relocation within the European Union.

HARMONIZATION AND ASYLUM

Traditionally, accepting an asylum claim has been the discretion of the individual state. International law, typically the 1951 UN Refugee Convention with its protocols, have been applied and individual states have designed their asylum laws in reference to international law. Some states like Germany or Italy have written the right to ask for asylum into their constitutions, so it has become a constitutional right within these states. Even recently, EU Member States were seeing asylum and migration policy as their own private, sovereign matter. The number of people, procedures, and rights given to asylum seekers was regulated by the laws of the states, not by EU law. Significant change happened after the Tampere Council meeting in 1999, where it was decided that, as the European Union has abolished its internal borders, decisions related to asylum seekers and refugees should also be taken at the regional level and not at the local level any longer. This old approach of sovereignty in asylum matters started to change with the 1993 Treaty of Maastricht. The previous intergovernmental cooperation on asylum was brought into the EU's institutional framework and in fact gave power to the EU to start to make proposals for closer cooperation. The Council as the main actor was to establish the Commission's work and inform Parliament about its asylum initiatives. At that time, the Court of Justice of the European Union (CJEU) still had no jurisdiction on asylum matters. Several years later in 1999, the Treaty of Amsterdam established the EU institutions' new powers to draw up legislation in the area of asylum, using a specific institutional mechanism: a five-year transitional period with a shared right of initiative between the Commission and the Member States. The decisions had to be made unanimously in the Council, and the Parliament had to be consulted. Some jurisdiction was given to the Court (CJEU). After the five-year period, the Council had the power to decide to apply the normal co-decision process with the qualified majority clause. European integration was progressing well and the European Union was becoming larger. In 2004 ten new states became a part of the European Union. It was a completely reasonable and rational choice for the Council to take a decision to make the co-decision procedure (now known as the ordinary legislative procedure) applied to migration and asylum matters, as it would have been very difficult to find unanimity between 25 EU Member States to make decisions in the field of migration and asylum. Ordinary legislative procedure has been applied since 2005.

The current legal basis and competence of the EU to make decisions and legislate in the field of asylum can be found in Articles 67(2), 78, and 80 of the Treaty on the Functioning of the European Union (TFEU) as well as in Article 18 of the EU Charter of Fundamental Rights that became a binding document after the changes brought by the Lisbon Treaty.

The contemporary approach to asylum in Europe is denoted by the Dublin I and II regulations. These have been strongly criticized for being unfair to EU border states. The fairness mechanism set out in the Dublin III Regulation proposal put in place further guidelines for the number of persons in need of international protection effectively resettled by Member States. For the purpose of calculating the corrective allocation mechanism, the number of resettled persons is added to the number of applications for international protection. This acknowledges the importance given to efforts to implement legal and safe pathways to Europe.[3] It is up to the Commission and the Council to specify the regions or third countries from which resettlement shall take place. Refugee resettlement is 'generally a procedure whereby asylum seekers and refugees are

---

[3] Proposal for a Regulation of the European Parliament and of the Council establishing a Union Resettlement Framework and amending Regulation (EU) No 516/2014 of the European Parliament and the Council COM/2016/0468 final - 2016/0225 (COD), pg 4

transferred from the country of first asylum to a country where their safety and security could be provided on a permanent basis'.[4]

 Resettlement means the admission to the territory of the Member States of third- country   nationals in need of international protection who have been displaced from or within their country of nationality, for the purpose of granting them international protection. The same applies to stateless persons in need of international protection displaced from or within their country of former habitual residence.[5]

Jakulevičienė and Bileišis explain that 'the process whereby refugees are transferred from one EU Member State (MS) to another is referred to as intra-EU relocation. Relocation is a solidarity mechanism used to respond to emergencies. Relocation is a particular form of resettlement, which previously was used only in exceptional circumstances'.[6] The Justice and Home Affairs Council Conclusions of 10 October 2014 acknowledged that 'while taking into account the efforts carried out by the Member States affected by migratory flows, all Member States should give their contribution to [resettlement] in a fair and balanced manner'.[7]

In its Communication on a European Agenda on Migration[8] of 13 May 2015, the Commission set out the need for a common approach to granting protection to displaced persons in need of protection through resettlement. On 8 June 2015 the Commission addressed a Recommendation on a European Resettlement Scheme[9] to the Member States, based on an equitable distribution key. It was followed by the Conclusions of the Representatives of the Governments of the Member States meeting within the Council of 20 July 2015 to resettle, through multilateral and national schemes, 22,504 persons in clear need of international protection.[10] The locations of resettlement were disseminated between Member States and Dublin Associated States according to the commitments set out in the Annex to the Conclusions.

On 15 December 2015, the Commission addressed a Recommendation for a Voluntary Humanitarian Admission Scheme with Turkey to the Member States and the Associated States recommending that participating states admit persons displaced by the conflict in Syria who require international protection. According to the EU-Turkey Statement of 18 March 2016, a Voluntary Humanitarian Admission Scheme will be put into action once irregular crossings between Turkey and the EU end or at least have been substantially and sustainably reduced. Member States can voluntarily contribute to this scheme and the EU has managed to agree upon on some schemes for further cooperation.

The EU-Turkey Statement of 18 March 2016 regulates that all new irregular migrants crossing from Turkey to the Greek islands, starting from 20 March 2016, will be sent back to Turkey. The system imposes that for every Syrian who has been sent to Turkey from the Greek islands, one Syrian will be resettled from Turkey to the Union, taking into account the United Nations Vulnerability Criteria. In May 2016, the Member States, the Dublin Associated States, and Turkey reached a common understanding on Standard Operating Procedures guiding the implementation of this resettlement scheme. On

---

[4] However, as Nakashiba claims, there is no clear definition of resettlement and it has only loose support from the legal instruments (Haruno Nakashiba, "Clarifying UNHCR Resettlement. A few considerations from a legal perspective," Research paper No. 264 (November 2013): 1).

[5] Proposal for a Regulation of the European Parliament and of the Council establishing a Union Resettlement Framework and amending Regulation (EU) No 516/2014 of the European Parliament and the Council COM/2016/0468 final - 2016/0225 (COD) p 10

[6] Jakulevičienė, L Bileišis, M. EU REFUGEE RESETTLEMENT: KEY CHALLENGES OF EXPANDING THE PRACTICE INTO NEW MEMBER STATES, BALTIC JOURNAL OF LAW & POLITICS, A Journal of Vytautas Magnus University, VOLUME 9, NUMBER 1 (2016), p 94-123, 94

[7] Council Conclusions on ''Taking action to better manage migratory flows", Justice and Home Affairs Council meeting, 10 October 2014.

[8] COM(2015) 240 final.

[9] COM(2015) 3560 final.

[10] Outcome of the Council Meeting, 3405th Council meeting Justice and Home Affairs Brussels, 20 July 2015, Provisional version 11097/15

6 April 2016, the Commission adopted a Communication Towards a Reform of the Common European Asylum System and enhancing Legal Avenues to Europe[11] in which it announced it would set out a proposal for a structured resettlement system framing the Union's policy on resettlement and providing a common approach to safe and legal arrival in the Union for persons in need of international protection.

On 12 April 2016, the European Parliament adopted a resolution on the Situation in the Mediterranean and the need for a holistic EU approach to Migration,[12] emphasising the necessity for a permanent resettlement programme for the whole Union, providing resettlement for a meaningful number of refugees, having regard to the overall number of refugees seeking protection in the Union. In the informal meeting of the Ministers of Internal Affairs in 2015, it was stated:

We all recognized that there are no easy solutions and that we can only manage this challenge by working together, in a spirit of solidarity and responsibility. In the meantime, we have all to uphold, apply and implement our existing rules, including the Dublin regulation and the Schengen acquis.[13]

It shows clearly that there is a common understanding of a need for cooperation and that the principles of solidarity should be taken into account. Nevertheless, from the second sentence the wish to resolve the current situation, which seems to be comfortable to a majority of states of the European Union, can be seen.

SOLIDARITY

So what has happened to the principle of solidarity and its application within the EU? Does the EU have a force and mandate to decide how many forced migrants Member States should accept? It seems that there is still no common understanding how to guarantee international protection and respect human rights for people who approach the EU and use illegal methods to cross borders, without endangering the wellbeing of the state itself or the people living there.[14]

Reflecting upon the fact that the EU has not been able to definitively deal with the 2015 refugee crisis has led the Union into a solidarity crisis in general. The numbers of asylum seekers within the EU doubled in 2015, and the EU received close to 1.3 million asylum applications. [15] The top three nationalities of all the asylum applicants in 2015 were Syrians (29%), Afghans (21%), and Iraqis (10%)[16]

Even though almost 30% of 1.3 million seems a very high number at first, overall, the situation of Syrians is much worse. It is estimated that approximately 9 million Syrians had to leave their country of origin since the civil war started in March 2011. According to the United Nations High Commissioner for Refugees, over 3 million have taken refuge in neighbouring countries like Turkey, Lebanon, Jordan and Iraq; however, most of them are still displaced within Syria itself.[17] The main entry points for irregular migrants to Europe are Greece and Italy. In 2015 Greece received 853,650 arrivals by sea and only

[11] COM(2016) 197 final

[12] 2015/2095(INI)

[13] Informal meeting, 2015

[14] Roots, L. Burden Sharing and Dublin Rules – Challenges of Relocation of Asylum Seekers, Athens Journal of Law - Volume 3, Issue 1, p 7

[15] Asylum Statistics. Eurostat. http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylu m_statistics#Asylum_applicants. (10.11.2016).

[16] Asylum Statistics. Eurostat. http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylu m_statistics#Asylum_applicants. (10.11.2016).

[17] Syrian Refugees. Migration Policy Centre of the European University Institute. http://syrianre fugees.eu/?page_id=10 (20.04.2016)

3,713 by land. Italy received 153,842 arrivals by sea and 0 by land. However, the highest number of arrivals by land was received by Bulgaria, almost 32,000 people. Spain, Cyprus and Malta were also frequently used as entry points.[18]

Bagdonas states that the common asylum system has not functioned because of internal inconsistencies in the system itself, the incomplete nature of the Union's integration, and because of the different interests of Member States.[19] Nevertheless, common agreements have been made at the Council meetings. On 20 July 2015, Representatives of the Governments of the Member States meeting within the Council adopted Conclusions[20] to resettle 22,504 persons in clear need of protection through multilateral and national schemes, together with the Associated States, based on the Commission's Recommendation on a European Resettlement Scheme[21] to resettle 20,000 people. The Commission reports regularly about the implementation of these Conclusions, notably through its Relocation and Resettlement Reports. [22]

According to the TEU, the European Union is based on solidarity. In the Preamble of the Treaty, we find the aims of the EU: DESIRING to deepen the solidarity between their peoples while respecting their history, their culture and their traditions,/..../ RESOLVED to facilitate the free movement of persons, while ensuring the safety and security of their peoples, by establishing an area of freedom, security and justice, in accordance with the provisions of this Treaty and of the Treaty on the Functioning of the European Union, RESOLVED to continue the process of creating an ever closer Union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen in accordance with the principle of subsidiarity, IN VIEW of further steps to be taken in order to advance European integration, HAVE DECIDED to establish a European Union and to this end have designated as their Plenipotentiaries: WHO, having exchanged their full powers, found in good and due form, have agreed as follows. [23]

What is solidarity and how does it affect the principle of sovereignty when asylum seekers and refugees are involved? Article 2 of the Treaty states 'The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.' Furthermore, in Article 3 §3 the treaty states that the EU shall promote economic, social and territorial cohesion and solidarity among the Member States. Additionally, in Article 3 §5 it states that 'It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.' So solidarity as a principle should not be applied only within the EU; the EU as a world player should contribute to world development, keeping the idea of solidarity in mind.

In the field of external relations which is regulated by Article 21, we can also find a connection to solidarity in the words, 'The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.'[24] We can find the word solidarity in many other articles of the Treaties as it is one of the founding principles of the European Union. The same solidarity

---

[18] Syrian Refugees. Migration Policy Centre of the European University Institute. http://syrianre fugees.eu/?page_id=10 (20.04.2016)

[19] Bagdonas (2015) p 7.

[20] 11097/15.

[21] Com(2015) 3560 final.

[22] Communication from the Commission to the European Parliament, The European Council and the Council, Fifth report on relocation and resettlement, Brussels, 13.7.2016 COM(2016) 480 final

[23] Preamble of the TEU

[24] Art 21 of the TEU

principle should apply to all internal and external European Union activities and actions. Respecting the solidarity principle can only make Europe stronger and help the countries in need in real time. Specifically, Title VII related to solidarity in the Treaty can be found and analysed in the context of migration management. Article 222 §1 states

The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or manmade disaster. The Union shall mobilize all the instruments at its disposal, including the military resources made available by the Member States, to: (a) – prevent the terrorist threat in the territory of the Member States;– protect democratic institutions and the civilian population from any terrorist attack;– assist a Member State in its territory, at the request of its political authorities, in the event of a terrorist attack; (b) assist a Member State in its territory, at the request of its political authorities, in the event of a natural or man-made disaster.

CRITIQUING SOLIDARITY

Additionally, referring to Sangiovanni's basic definition of solidarity,[25] Member States do not share the same goal or even the same assessment of the adversities that are necessary to overcome. Depending on their specific situation as recipients of asylum-seekers and their stance on the refugee controversy, EU Member States can be grouped on a continuum in terms of their asylum policies and their degree of restrictiveness, according to Bendel.[26] These groups do or do not show solidarity among themselves or between each other. The first group covers the Mediterranean states at the EU's external borders, such as Italy, Greece, Cyprus, Spain, and Malta, which are mainly interested in border security, extraterritorial asylum procedures, and relocation of refugees. The second group supports the internal integration of refugees along with the limited entry of refugees. To avoid intra-EU disputes on how to deal with refugees, this group aims at a two-speed Europe[27] in which countries that are willing to do so will receive refugees while others do not. France, Germany, Portugal, Luxembourg, Finland, and Sweden belong to this group. These countries are interested in a coordinated EU foreign policy regarding immigration and asylum.[28] As these two groups called for an EU-wide distribution key for Member States to receive refugees, it seems that they support mechanisms of supranational solidarity. However, right-wing political forces want the focus to be on active repatriation and integration rather than EU-wide dissemination. The third group demands a more restrictive asylum and integration policy at the EU level and includes countries such as Austria, Belgium, the Netherlands, and Denmark. In these countries, governments and government coalitions include right-wing, conservative, and/or populist parties. They focus on border security and reduce integration measures to avoid pull-effects that might trigger further refugee migration. The fourth group is the most restrictive regarding asylum policies as it rejects immigration and integration of refugees; it includes countries such as the Czech Republic, Poland, Hungary, and Slovakia. They refuse to receive refugees, foster border controls, and deny integration measures to avoid pull-effects to attract additional immigration. These countries used to have low immigration rates and have little experience with refugee reception. Additionally, populist voices play a substantial role in these countries. United under the designation of the Visegrad countries, they built an alliance against refugee reception and relocation.[29] We interpret this alliance as a mechanism of intergovernmental solidarity between Member States for border security.

Each group of Member States is united by a different cause, which enables them to show Member State solidarity internally. However, looking at the EU as a whole, this creates diverging or even conflicting opinions and claims for solidarity, leading to the widely adopted notion of a 'solidarity crisis' in EU asylum politics. This kind of 'flexible solidarity' can be seen as an

---

[25] Andrea Sangiovanni, Solidarity as Joint Action, Special Issue: Socio-Economic Justice: Beyond The Welfare State? Guest Editors: Christian Schemmel and Stefan Gosepath, Journal of Applied Philosophy, Volume32, Issue4, November 2015, Pages 340-359,

[26] Bendel, P. (2018). Wanderungsbewegungen nach Europa:Fester Bestandteil von Politik—überall? [Migration to Europe: An established policy field—Everywhere?]. Zeitschrift für Ausländerrecht und Ausländerpolitik, 5, 181–228.

[27] See more here https://www.rferl.org/a/eu-explainer-two-speed-multispeed-europe/28396591.html

[28] Bendel 2018

[29] Bendel, P. (2018). Wanderungsbewegungen nach Europa:Fester Bestandteil von Politik—überall? [Migration to Europe: An established policy field—Everywhere?]. Zeitschrift für Ausländerrecht und Ausländerpolitik, 5, pp 181–228.

attempt to prevent the complete collapse of the Common European Asylum System, but everybody has a different understanding of solidarity. For example, it was the Bulgarian Council Presidency[30] of the EU that tried to broaden the term to achieve a buy-in of more Member States. This was called 'flexible solidarity': anything goes, however you interpret the term. That's the beauty of constructive ambiguities. On the one hand, you achieve a multilateral buy-in and therefore it is better to use a less determined term, a broader one. On the other hand, it leads to the point that the concept of solidarity becomes empty and meaningless.[31]

The EU Treaty amendments introduced by the Lisbon Treaty have brought more focus to solidarity and burden-sharing. When we talk about solidarity, there must be some type of burden-sharing as part of solidarity with the other EU Member States in need of assistance. Article 67 section 2 1) of the Treaty on the Functioning of the European Union (TFEU) states that the Union shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration, and external border control. This should be based on solidarity between the Member States and should be fair to third-country nationals. In the TEU, a special solidarity clause cannot be found. Article 80 of the TFEU resumes calls for solidarity by sharing responsibility, including financial implications on Member States, when measures are taken in the field of border checks, asylum, and immigration. The word 'burden-sharing' is nevertheless missing from the treaty provisions.[32]

The principle and the idea of burden-sharing are not new at the European level.[33] The desire for an EU burden-sharing-form of immigration management were already made explicit in the Amsterdam Treaty after its amendment, in Article 63, which states that the Council shall adopt measures 'promoting a balance of effort between Member States in receiving and bearing the consequences of receiving refugees and displaced persons'.[34]

Ferrera has published a survey[35] in which the main question that was asked was 'what do citizens consider as 'proper to do and reasonable to expect' in terms of EU solidarity?'[36]

The survey[37] also asked some questions about possible EU policies inspired by pan-European solidarity norms to a restricted sample of six countries: Spain, France, Italy, Germany, Poland, and Sweden. According to the survey results, almost all respondents (89.1%) agreed that the EU should provide financial help during a crisis to anyone without basic means of subsistence. In this EU-6 sample, this proportion was higher than 84%. In addition, more than three respondents out of four were in favour of a specific EU-funded scheme to fight poverty. In turn, Table 3 shows that more than 77% of respondents were in favour of an increase in the EU budget to support jobless people during a crisis. The fact that more than two-thirds of Germans are ready to support a partial mutualisation of the risk of unemployment is remarkable, considering the reluctance of the German government when it comes to mutualisation policies.[38]

---

[30] https://www.eukn.eu/eu-presidencies/bulgarian-eu-presidency/, Accessed 19.12.2019

[31] Challenging the Nation-State from within: The Emergence of Transmunicipal Solidarity in the Course of the EU Refugee Controversy, Christiane Heimann , Sandra Müller, Hannes Schammann and Janina Stürner , p211- 212 Social Inclusion (ISSN: 2183–2803) 2019, Volume 7, Issue 2, Pages 208–218 DOI: 10.17645/si.v7i2.1994

[32] 32 Roots, L., Sharing Refugees after Lisbon – Solution for the Small States? Romanian Journal of International Relations and European Studies (ROJIRES), 2012, Pg 5

[33] More discussion in Schuck, P. (1997) vol 22. "Refugee Burden - Sharing: A Modest Proposal". Yale Journal of International Law, and D. Torun and E. Thielemann (2006) vol 29(2). "The Myth of Free-Riding: Refugee Protection and Implicit Burden-Sharing". West European Politics, pg. 351.

[34] Treaty of Amsterdam

[35] Ferrera, M. and Pellegata, A. (2017) 'Can Economic and Social Europe Be Reconciled? Citizen Views on Integration and Solidarity', REScEU Working Paper. Available online at: https://www.resceu.eu/events- news/news/can-economic-and-social-europe-be-reconciled-citizens%E2%80%99-view-on-integration-and- solidarity.html. (accessed: 10 July 2018).

[36] ibid

[37] Ferrera, M. and Pellegata, A. (2017) 'Can Economic and Social Europe Be Reconciled? Citizen Views on Integration and Solidarity', REScEU Working Paper. Available online at: https://www.resceu.eu/events- news/news/can-economic-and-social-europe-be-reconciled-citizens%E2%80%99-view-on-integration-and- solidarity.html. (accessed: 10 July 2018).

[38] Maurizio Ferrera and Carlo Burelli, Cross-National Solidarity and Political Sustainability in the EU after the Crisis, JCMS 2019 Volume 57. Number 1. pp. 94–110, pg 104

Finally, other documents call for solidarity and fairness in this area.[39] The physical transfer of protection seekers from one host territory to another is the most evident method of addressing disparities in the refugee burden on states. It is, however, important to mention that in the early 1990s, several EU Member states faced a mass influx of asylum seekers because of the collapse of the Communist regime in the Eastern Bloc, but it did not create the need for more burden-sharing in the area of border management or at least the EU states were not then ready to make any decision. In 2002, the Commission introduced the idea of burden-sharing in the Communication on Integrated Border Management (IBM).[40] It raised a question about how 'financial and operational burden-sharing can be organized' and whether 'the geographical situation of certain Member States warrants burden-sharing for the sound operation of fixed and mobile infrastructures for checks and surveillance from which all the Member States would benefit'.[41] The Common policy should also include burden-sharing between Member States in the run- up to a European Corps of Border Guards.

CREATING A SHARED EUROPEAN MIGRATION FRAMEWORK

Before the signing of the Maastricht Treaty, the European Community (as it was called at that time) did not have much to say on how the Member States should design their asylum or refugee policies. As the treaties were changed and the European Union created, additional information and a deeper understanding regarding migration, integration, and protection was put in place. The Commission was given more power for legislative initiatives. The incremental process and development of a CEAS began with the Treaty of Amsterdam and the Tampere conclusions of 1999.[42] To finance the program, in 2002, the EU put forth a European Union Solidarity Fund as an instrument financing operation in the field of civil protection first created in 2002. After 2002, many legislative initiatives, directives, and decisions were taken to enhance the cooperation and mutual understanding of the Common European Asylum system.

A big step forward was in 2014, when the EU adopted a decision laying down the rules and procedures for the operation of the solidarity clause. It ensures that all the parties concerned at the national and EU levels work together to respond quickly, effectively, and consistently in the event of terrorist attacks or natural or man-made disasters. Under revised rules adopted in 2014, working procedures have been simplified and eligibility criteria clarified and extended to cover drought.

THE REFUGEE CRISIS

The European Agenda on Migration was published by the European Commission on 13 May 2015.[43] It is a comprehensive version of the actions that are agreed upon by the EU Member States. According to the Agenda, there are four main components specified for the creation of an effective EU migration policy that support the goals set out by the Council. The main

---

[39] Communication from the Commission on Policy priorities in the fight against illegal immigration of third- country nationals, COM (2006) 402 final, Communication from the Commission to the Council and the European Parliament establishing a framework programme on solidarity and management of migration flows for the period 2007-2013 COM (2005) 123 final, Commission Decision 2008/22/EC of 19 December 2007 laying down rules for the implementation of Decision No 573/2007/EC of the European Parliament and of the Council establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme "Solidarity and Management of Migration Flows" as regards Member States' management and control systems, the rules for administrative and financial management and the eligibility of expenditure on projects co-financed

[40] COM (2002) 233 final, Commission Communication 'Towards Integrated Management of the External Borders of the Member States of the European Union', pg. 24, The Hague Programme, Annex to the European Council Conclusions, Brussels, 4-5 November 2004, point 1.7.1. by the Fund, OJ L 17 of 10 January 2008.

[41] COM (2002) 233 final

[42] Tampere European Council, Presidency Conclusions, 15-16 October 1999.

[43] European Agenda on Migration. (2015). European Commission. (Official action plan).

proposals were on how to achieve a strong common asylum system. The fourth and final pillar of the agenda sets the goal to reinforce internal solidarity and responsibility by initiating an emergency response system. The redistribution criteria imposed on the individual EU member state consists of GDP, population count, unemployment rate, and past number of asylum seekers and resettled refugees. In addition, the Commission emphasised it is the EU's duty not only to take responsibility for the people already on [European] soil but to help others in need as well.[44]

The relocation and resettlement schemes were created to resettle 40,000 refugees throughout Europe. Relocation means moving a refugee from one Member State to another, but resettlement means moving a refugee from a third country to a Member State, thus fulfilling the international expectation to help with the global migration crisis. The total number of relocated people was estimated to be 20,000, as was the number of resettled people.[45] During the years 2016-2019 according to UNHCR statistics, 69,197 refugees were resettled to European Union countries.[46]

The distribution key itself is interesting because it does take the previous experience of the country into account. As a result, the distribution key does not eliminate the essential inequality amongst the Member States, because the ones that have more experience (i.e. have been willing to accept more refugees in the past) are still those who carry the most weight in dealing with this problem. In 2014 Germany was the recipient of the largest number of asylum applications, followed by France, Sweden, Italy, and the United Kingdom.[47] In 2016 the number of new asylum seekers from Syria in Germany was 266,250.[48] The highest recipients of asylum applications per population were Hungary then Sweden.

In comparison to the Agenda, the EU proposed its first measure package, which is another step toward concrete actions. There were a few major specifications in the new document: the relocation scheme would focus on Syrian and Eritrean nationals having arrived in either Italy or Greece after 15 April 2015 or that arrived after the mechanism was launched and the number of recipients doubled and rose to 40,000 people. To help with the financial burden of accepting people, it was also proposed that the Member States receive 6,000 EUR for each person relocated on their territory.[49]

The first official agreement between states was made in the Justice and Home Affairs Council meeting on 20 July, where the ministers agreed on the contribution by each Member State to the relocation and resettlement program. The agreement was made on the relocation scheme for 32,256 persons to continue the discussions of the remaining people. An agreement on the resettlement scheme was also made and the number of people rose to 22,504 people.[50] Almost four months after the Commission's first package of proposals, a second package, issued on 9 September 2015 was delivered to the Member States. The second package included an emergency relocation proposal for 120,000 people from frontline countries; a permanent relocation mechanism for all Member States; a common European list of safe countries of origin; a more effective return policy; measures to address the external dimension of the refugee crisis; and a trust fund for Africa.[51] In comparison to the first package, the main differences were the additional 120,000 people that needed to be relocated and the fact that Hungary was added to the list of frontline countries. The relocation scheme was created to relocate 15,600 people from Italy, 50,400 from Greece, and 5,400 from Hungary. The distribution key remained the same. But due to the increase in people, the Member States were promised an additional 780 million EUR for participating in the program. In addition, the nationalities that would be relocated were not only Syrian and Eritrean; Iraqis were also added to the list. The concept of a permanent relocation mechanism for all Member States was also specified in the second package of proposals: the Commission proposed

44   Ibid p 4

45   Ibid p 19

46   http://popstats.unhcr.org/en/resettlement accessed 11 January 2020

47   UNHCR sub regional operations profile 2015 Northern, Western, Central and Southern Europe.

48   http://popstats.unhcr.org/en/asylum_seekers accessed 11 January 2020

49   European Commission makes progress on Agenda on Migration.

50   Justice and Home Affairs Council 20/07/2015.

51   Refugee Crisis: European Commission takes decisive action.

a structured solidarity mechanism which could be triggered any time to help any EU Member State experiencing a crisis situation and extreme pressure on its asylum system. The same objective and verifiable distribution criteria would apply as in the emergency relocation proposals.[52] Two weeks after the Commission's second proposal package, another Justice and Home Affairs Council gathered on 22 September 2015. They reached an agreement on 66,000 people from Italy and Greece, but left Hungary out because Hungary voted against the relocation scheme in general.[53] Surprisingly no alterations were made compared to the Commission's second action plan proposals.

Each country developed its own strategy for the resettlement of refugees. For example, in order to facilitate resettlement, France provided close to 1,400 asylum visas for Syrians, which enabled them to travel to France to apply for asylum.[54] Ireland initiated extended family reunification for people affected by the Syrian conflict to join close relatives who were lawfully residing in Ireland.[55] This led to 111 persons entering Ireland. The small scale of these operations meant that the majority of protection seekers were left with no choice but to risk their lives to access protection. A new approach was also introduced in the second package of proposals, the temporary solidarity clause. If – for justified and objective reasons such as a natural disaster – a Member State cannot temporarily participate totally or in part in a relocation decision, it will have to make a financial contribution to the EU budget in an amount of 0.002% of its GDP.[56]

The third package of proposals was launched in December 2015. It aimed at securing the external borders of the EU and managing the flows of migration more efficiently. The Commission proposed the establishment of a European Border and Coast Guard to ensure a strong and shared management of external borders.[57] This was the first time that the EU opted to take specific actions against the problems of the Union's external borders; previously, the Union had chosen to focus more on the people that had already arrived and to the prevention of indicating a focus shift. After the third package, in February 2016 the Council adopted a recommendation on addressing serious deficiencies identified during an evaluation of Greece's application of the Schengen acquis in the area of external border management.[58] This action is again worth being noted because it is the first time, since the crisis started, that the Union publicly acknowledged the responsibility of certain border states' involvement of the escalation of this crisis, meaning that they had not been able to secure their borders and had thereby not entirely fulfilled their international obligations.

By March of 2016, the Council's Permanent Representatives Committee agreed on an emergency support mechanism in response to the difficult humanitarian situation caused by the refugee crisis, notably in Greece. This enabled the EU to help Greece and other affected Member States to address the humanitarian needs of the large numbers of arrivals. The EU's humanitarian assistance was aimed at meeting the basic needs of refugees by providing food, shelter, water, medicine, and other necessities. The Commission estimated that a total of €700 million would be needed in 2016-2018 to address the needs of refugees, of which €300 million would be required for the year 2016.[59] This measure was created to help tackle the economic inequalities that the current Dublin system deteriorates and thereby offer compensation (help) to the border states for the unequal burden-sharing of refugee flows.

Furthermore, on 23 September 2019, in the presence of Finnish Council Presidency, Germany, France, Italy, and Malta issued a joint declaration of an intention to introduce a controlled emergency procedure. Using Article 17 (2) of the Dublin Regulation in an ad hoc way is not very sustainable. There should be a common understanding of and common approach

---

[52] Refugee Crisis: European Commission takes decisive action

[53] Justice and Home Affairs Council 22/09/2015.

[54] UNHCR, Resettlement and other forms of admission for Syrian refugees.

[55] FRA, Legal entry channels to the EU for persons in need of international protection: a toolbox, 2015, at 9.

[56] Refugee Crisis: European Commission takes decisive action.

[57] A European Border and Coast Guard to protect Europe's External Borders.

[58] Schengen evaluation of Greece: Council adopts recommendation to address deficiencies in external borders.

[59] Refugee crisis: Council shows solidarity with Greece by approving emergency support.

to resolving the problems of border states. In this joint declaration, it was also highlighted that reallocation should not take more than four weeks.

On a final note, as the numbers of asylum seekers in the EU increased, putting into action the EU Temporary Protection Directive (Directive 2001/55/EC) should have been seriously considered at the EU level. This instrument, adopted in the aftermath of the Kosovo crisis, has never been applied to the most recent crisis. However, it incorporates provisions on solidarity and the balancing of efforts. The preamble of the directive states that in cases of a mass influx of displaced persons who cannot return to their country of origin, it may be necessary to set up exceptional schemes to offer them immediate temporary protection. According to the directive, temporary protection means a procedure of exceptional character to provide, in the event of a mass influx or imminent mass influx of displaced persons from third countries who are unable to return to their country of origin, immediate and temporary protection to such persons, in particular if there is also a risk that the asylum system is unable to process this influx without adverse effects for its efficient operation, in the interests of the persons concerned and other persons requesting protection.[60]

DUBLIN RULES AND RESPECT FOR HUMAN RIGHTS

The Dublin regulation – one of the fundamentals of the asylum system – is an illustration of the Union´s unfinished and shallow approach to the issue of refugees. The intent of the system that the country where the asylum applicant entered is obliged to handle the asylum claim is creating disparity among the Member States. It imposes more load and responsibility on the border states than on anyone else.[61] In the beginning, the system was created to prevent asylum shopping and to safeguard economically superior EU states from asylum seekers. Contrariwise, this preventive measure came at the expense of the border states. For instance, the Greek island of Lesbos, which has a population of 86,000 persons and has a reception capacity of 2,800 people, received over 350,000 migrants in 2015. This is clearly disproportionate. Under those circumstances, it is very challenging to ensure basic living conditions for migrants and to guarantee procedural correctness.[62] The conditions of reallocation protected in the Dublin system make it impossible for the country to be able to ensure that basic human rights are met for individuals during a mass influx of migrants. Furthermore, the state is in charge of the refugees who lodge their asylum claims to them as well as for all applicants who are physically returned from other Member States where they have applied for asylum if they entered the EU from another country. The persons are tracked by the EU's fingerprint database, which gives an alert in the case an asylum applicant has previously been entered into the system. In other words, it recognizes if an immigrant has entered the EU at another official border.[63] This is only the case when the asylum applicant has been properly registered; without it, it is almost impossible to confidently identify where the applicant did enter the EU. The responsibility to handle the claim is upon the state where the applicant is present. The Dublin regulation also makes the obligation to register the arrived asylum seekers an unattractive activity as those registered in the first country of entrance generally become a problem for that state where they were first registered. Now as the Dublin system has become a burden to Member States, even more solidarity is needed to assist border states in handling immigration pressure. We should not forget that the European Union has common external borders, but the responsibility of border checks still lays on the shoulders of the Member States.[64]

To summarize the point above and provide a clear context for how asylum seekers became a burden to the state, a court case

---

[60] Art 2 of the Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof OJ L 212, 07/08/2001

[61] European Commission, The Dublin System

[62] Bagdonas (2015)

[63] Langford (2013) at 225 Case C-643/15

[64] Slovakia v Council and Case C-647/15, Hungary v Council,

can be used as an example. The European Court of Human Rights in the case of *MSS v Belgium and Greece*[65] has discussed an important principle of respect for the human rights of asylum seekers and the ability of the state to respect them.

In this event, an Afghan national who had entered the EU in 2008 through Greece was registered and fingerprinted. After that, he was issued an order to leave the country. Nevertheless, he travelled further through France to Belgium, where he launched his asylum application. He was at first accommodated in a reception centre in Belgium. At the same time, the Belgian authorities demanded Greece take the applicant back to Greece. The applicant was relocated back to Greece, as the Dublin rules were applied. He tried to leave Greece again with a false ID card and was again confined. After another attempt to leave Greece, the Greek authorities tried to expel the applicant to Turkey.[66] The applicant sued Greece in the European Court of Human Rights (ECHR). The claim was grounded on Article 3 of the Convention (prohibition of torture) due to the conditions of his detention, and on Article 13 (the right to an effective remedy) because of the insufficiencies in the asylum procedure conducted in Greece. He appealed against Belgium based on the same articles since Belgium had exposed him to the risks posed to his rights under Article 3 and 13 of the Convention by transferring him back to Greece. The Court ruled that Greece breached Article 3 for having knowingly let the applicant live on the streets of Athens. The Court also found a breach of Article 13. As to the activities of the Belgian authorities, the Court found that in light of all the information available to Belgium on the appalling detention conditions asylum seekers are subjected to in Greece, and on the negligible rate of successful asylum claims in Greece (around 0.1% at first instance compared to 36% in Germany, for example), the Belgian authorities did in effect breach Article 3 of the Convention by exposing the applicant to such conditions when they had a legal possibility under the Dublin Regulation to refrain from transferring him. A breach of Article 13 was also found on the part of the Belgian authorities, as the applicant was unsuccessful in staying the decision to transfer him to Greece because of minor procedural technicalities.[67] The UNHCR similarly found that the detention conditions in Greece were dreadful.[68]

An illustration of the ambiguity in the scheme is the element that it is a significant financial load for states to handle asylum request cases and provide the minimum standards that are set out in the European directives for asylum applicants. There are great differences in the financial capacities of Member States, meaning that there are significant dissimilarities in financial instruments that a state can use for reception and integration. Ironically, the border states, who have the biggest burden to carry, are those who do not have their financial situations under control, i.e. Greece and Italy. Furthermore, it must be mentioned that the European protection model does not take the situation of the receiving country into consideration. But the protection of human rights should be prioritised above all else, and states should be able to finance this protection. The dissimilar situations of Member States, in turn, leads to another problem that creates a problem inside the EU itself. Because of the variances in the economic situations of Member States and the disparity of the national asylum regimes, one Member State can be held liable for the human rights violations of another.[69] This would, however, be unacceptable for the EU as a whole, because each Member State should be able to carry and respect all of the main principles of the EU and if not, then it is a problem of the Union's core values as a whole. But in doing so, the EU would reduce its legitimacy and undermine its international reputation.[70] However, the ECtHR has made a decision that explains this kind of responsibility. The hopes for the EU are not high only inside the Union, but on the international scene as well. As a result, it is not an option for the European Union to avoid taking action. Since the beginning of this crisis, the EU encountered a great challenge due to the inability to maintain some of the existing rules.

With Dublin III, more specific provisions on detention were introduced. Although the Dublin Regulation did not previous-

---

[65] ECrtHR - M.S.S. v Belgium and Greece [GC], Application No. 30696/09, paras 9-53

[66] ECrtHR - M.S.S. v Belgium and Greece [GC], Application No. 30696/09, paras 9-53

[67] ECrtHR - M.S.S. v Belgium and Greece [GC], Application No. 30696/09

[68] Mallia (2011) at 117-118

[69] Langford (2013) at 218

[70] Boswell (2000) at 550

ly have specific provisions on detention, some Member States have used detention in order to implement the Dublin rules. In Regulation 604/2013 (Dublin III), the sovereignty clause and the humanitarian clause are found in an article dedicated to 'discretionary clauses'. The Dublin system is continuously reliant on the clarifications of these clauses by the European Court of Human Rights and the Court of Justice of European Union. The judgments by these two courts lead to the conclusion that the protection of the principle of non-refoulement must be interpreted in the light of the prohibition of torture and inhumane or degrading treatment and the protection of the family unit. These phrases become the mechanisms ensuring that these rights are respected in the European system for assigning responsibility and for examining an asylum application. Both courts, the European Court of Human Rights and the Court of Justice of European Union, have been actively taking decisions related to the application of EU migration law and human rights law. Even though the ECrtHR is not an EU institution, Member States of the European Union are also members of the Council of Europe and have adopted the European Convention of Human Rights, which imposes on them a duty to secure the application of human rights for all persons that are under the jurisdiction of their state. The Visegrad Group countries contested the mandatory quotas in the Court of Justice of European Union.[71] This shows that the Court has an important role to play in adjusting the burden and maintaining solidarity between the Member States. To recall, in the case of *MSS v Belgium and Greece* discussed above,[72] the European Court of Human Rights issued its sentence pointing out the responsibility that can be transferred from one EU member state to another.

On 21 March 2016, the Commission tabled a proposal for a Council Decision amending Council Decision (EU) 2015/1601 establishing provisional measures in the area of international protection for the benefit of Italy and Greece.[73] This proposal qualifies the Member States to use 54,000 places initially established for relocation and to accept Syrians from Turkey through resettlement, humanitarian admission or other legal pathways. Member States would, therefore, be able to subtract the number of applicants to be relocated from the number of Syrians resettled to their territory from Turkey. These numbers were in addition to the commitments carried out under the Resettlement Conclusions of 20 July 2015.

The Regulation, presented on 4 May 2016, is a crucial part of the Common European Asylum System and is fully consistent with the first package of legislative proposals for improvement.[74] The recast EURODAC Regulation[75] and a proposal for establishing a European Union Agency for Asylum[76] as well as the second package of legislative proposals, which includes the reform of the Asylum Procedures,[77] Reception Conditions,[78] and Qualification Directives[79] are important documents for improving the system. The fairness mechanism set out in the proposal for the reform of the Dublin III Regulation influences the number of persons in need of international protection successfully resettled by Member States. To calculate the corrective allocation mechanism, the number of resettled persons will be supplemented with the number of applications for international protection. This acknowledges the importance given to efforts to implement legal and safe passageways to Europe.

To ensure compatibility with the asylum acquis, persons selected for resettlement should be granted international protection. Accordingly, the provisions on the content of international protection contained in the asylum acquis should apply once resettled persons are on the territory of the Member States. Moreover, it would be appropriate to amend the recast EURODAC Regulation to ensure that Member States may store the data of resettled persons in the EURODAC system, where

---

[71] Case C-643/15 Slovakia v Council and Case C-647/15 Hungary v Council

[72] ECrtHR - MSS v Belgium and Greece [GC], Application No.

[73] COM(2016) 171 final.

[74] COM(2016) 270 final

[75] COM(2016) 272 final

[76] COM(2016) 271 final

[77] COM(2016) xxx final.

[78] COM(2016) xxx final.

[79] COM(2016) xxx final.

they are treated as applicants for international protection even though they have not applied for international protection in Member States. This would allow Member States to track possible secondary movements of resettled persons from the Member State of resettlement to the other Member States. The Commission justifies the form of regulation to be applied for resettlement conditions in the EU in the following manner:

A Regulation is chosen so as to achieve a degree of convergence for the resettlement procedure that corresponds to the degree of convergence for the asylum procedure, for which a Regulation is also proposed. While building on the existing resettlement practices of the Member States, in particular the Standard Operating Procedures guiding the implementation of the resettlement scheme with Turkey set out in the Statement of 18 March 2016, a Regulation allows for achieving a higher degree of convergence of those resettlement practices than a Directive, which is not directly applicable and leaves the choice of form and method to Member States. This higher degree of convergence will allow more synergies in the implementation of the Union Resettlement Framework and contribute to discouraging persons eligible for resettlement from refusing resettlement to a particular Member State as well as discouraging secondary movements of persons resettled. In addition, the annual Union resettlement plans and the targeted Union resettlement schemes that are essential for the operationalization of the Union Resettlement Framework are foreseen to be adopted by the institutions of the Union, for which a Regulation is the appropriate instrument.[80]

This proposal for resettlement highlights the importance of the principles to have the right to asylum and the protection from non-refoulment in accordance with Articles 18 and 19 of the Charter of Fundamental Rights of the European Union (the 'Charter'). The need to promote and respect the rights of the child, the right to family life, and the right to protection of personal data as guaranteed, respectively, by Articles 24, 7 and 8 of the Charter has been duly taken into consideration in the design of the Union Resettlement Framework.[81]

NON-REFOULMENT, RELOCATION AND RESETTLEMENT IN PRACTICE

Regarding resettlement, more tangible policy actions were introduced in 2009 when the European Commission launched a Communication on the establishment of a joint EU resettlement program.[82] The main guiding principles envisaged were the voluntary participation of Member States; adaptability through the adoption of annual priorities; enlargement of the scope of resettlement activity in the EU and of the number of Member States involved in the process; and the participation of all relevant actors, such as the UNHCR and civil society. [83] There are two resettlement models in the EU. The first is ad hoc resettlement and the second program-based resettlement. The difference between the two is that the latter is based on a quota system, while the former is applied to respond to specific challenges and quotas do not apply. A mixed model that would include both mechanisms also exists.

On this basis, after difficult negotiations, Member States amended the European Funds in 2012 to make the program active, and the Asylum, Migration and Integration Fund was created. Its role is to improve refugee resettlement by providing specific assistance in the form of financial incentives (lump sums) for each resettled person and additional financial assistance when individuals under the common Union resettlement priorities are resettled.[84] Even though more Member States have

---

[80] Proposal for a Regulation of the European Parliament and of the Council establishing a Union Resettlement Framework and amending Regulation (EU) No 516/2014 of the European Parliament and the Council COM/2016/0468 final - 2016/0225 (COD), Pg 7

[81] Ibid Pg 8

[82] European Commission, Communication on the establishment of a Joint EU Resettlement Program, COM(2009) 447 final, 2 September 2009.

[83] European Commission, Communication on the establishment of a Joint EU Resettlement Program, COM(2009) 447 final, 2 September 2009. P 5

[84] See AMIF Regulation, Recitals 41-43 and Articles 3(2) and 7

been inspired since the launch of the program, the overall numbers of resettled refugees remain modest. The Syrian crisis encouraged the emergence of some national initiatives. It must be noted that the majority of those was for a limited number of persons. The most prominent legal channel of entry is humanitarian admission.[85] Most notably, since 2013 Germany has assured more than 20,000 places for Syrian refugees.[86] Germany has also implemented a program to admit privately sponsored Syrians to live with their relatives. This initiative is based on the presence of family members in Germany who can commit to covering the transport and living costs of their relatives for the duration of their stay; it involves an additional 10,000 persons.[87]

The stream of persons moving to the EU in 2015 via the Mediterranean Sea provoked political action. The need for burden-sharing among Member States again became an issue for discussion. The other Member States of the European Union were expected to help Italy and Greece manage the influx of people. Consequently, the pressure on the states which were not participating in resettlement schemes or those perceived as not contributing their fair share became amplified. Furthermore, there are several Member States of the EU that do not carry out resettlement activities or their experience is limited to very small numbers of refugees.[88]

Due to the need to resettle and find new legal avenues for refugees, the European Commission Recommendations for a Voluntary Humanitarian Admission Scheme and a European resettlement scheme in 2015 were introduced. Another significant improvement was the EU agreement with Turkey in March 2016. The Directorate-General for Migration and Home Affairs (DG HOME) launched a study on the feasibility and added value of sponsorship schemes as a possible pathway to safe channels for admission of persons in need of protection to the EU, including resettlement, in late 2017. The evaluation was carried out by ICF and MPI Europe over the period from December 2017 to August 2018.[89]

This feasibility study inspected how sponsorship schemes operate across the EU, how current sponsorship aligns with EU asylum and migration legal frameworks, and the potential added value and feasibility of action at the EU level in the area of private sponsorship.[90] We can learn from the study that there is a highly diverse range of approaches to private sponsorship among Member States (and internationally), both in terms of how programmes are designed and implemented as well as the goals they are intended to serve. Some programmes were created primarily to admit additional persons (e.g. the Italian, French, and Belgian Humanitarian Corridors programmes) or different groups of persons than those entering via resettlement schemes (e.g. extended family members in the German and Irish humanitarian admission programmes). The UK program was aimed at improving the integration of beneficiaries or at fostering public engagement in humanitarian protection.

Most programmes had multiple goals, but they varied in the way the goals were prioritised. Programme design and implementation was highly informed by the primary goals of the scheme but were also influenced by the legal context, infrastructure of the available services, and the civil society engagement culture. The study states that sponsorship was also defined with priorities and interests. It was often described by the stakeholders as an additional legal pathway to protection. The sponsorship programmes may or may not actually admit additional number of protection beneficiaries. While admissions through the Humanitarian Corridors programmes in Italy, France, and Belgium are additional to resettlement, the UK

---

[85] According to AMIF 'other humanitarian admission programmes' means an ad hoc process whereby a Member State admits a number of third-country nationals to stay on its territory for a temporary period of time in order to protect them from urgent humanitarian crises due to events such as political developments or conflicts; see AMIF Regulation, Article 2(b).

[86] See UNHCR, Resettlement and Other Forms of Admission for Syrian Refugees, 14 April 2015.

[87] See the website of the Germany Ministry of the Interior for more details: http://www.bmi.bund.de/DE/Themen/Migration-Integration/Asyl-Fluechtlingsschutz/Humanitaere- aufnahmeprogramme/humanitaere-aufnahmeprogramme_node.html

[88] http://www.know-reset.eu/ accessed 11.01 2020

[89] European Commission, Study on the feasibility and added value of sponsorship schemes as a possible pathway to safe channels for admission to the EU, including resettlement Final Report, 2018 EUR DR-04-18- 846-EN-N pg. 3

[90] The study drew on consultations with stakeholders across 12 Member States, Switzerland, Australia and Canada to examine experiences with sponsorship programmes that have operated to date, and stakeholders' views on EU-level action.

Community Sponsorship Programme and the planned Irish sponsorship programme are not, though they are intended to harness additional resources that communities can offer, in support of government-led resettlement efforts.[91]

So we must differentiate between the definition of sponsorship and the sponsorship programmes and humanitarian corridors programs because they tackle different problems. Sponsorship delegates some level of responsibility from governments to private actors for support, reception, integration, or identification of the beneficiaries. Programs that countries use also differ in the responsibilities that were delegated or outsourced and the extent of the obligations that the sponsor was given. Nevertheless, the state maintains under national, EU, and international law that the rights and benefits of refugees or other beneficiaries will be respected as well as that the beneficiaries are able to access mainstream reception and integration services if their sponsorship relationship fails. In addition to inspecting current approaches to sponsorship, the study measured the extent to which sponsorship activities stimulate EU migration and asylum policy goals and are in line with EU legislation as well as the probability of action at the EU level. The study found that sponsorship activities have the potential to facilitate the admission of protection beneficiaries who might not otherwise have access to resettlement or humanitarian admission, either by allowing for the admission of greater numbers of beneficiaries or of groups who might not otherwise be considered for resettlement (e.g. extended family members).[92]

Stakeholders of the study indicated that utilising the additional resources that sponsorship offers, which the government alone would not be able to access, adds value to their resettlement, humanitarian admission, and protection systems. It also creates opportunities for individuals to be personally involved and increases public engagement in the interaction with beneficiaries.

Another positive message that the study found is 'that this diversity neither presented significant challenges vis-à-vis the EU asylum acquis, nor obstructed the policy goals that the EU level has vis-à-vis private sponsorship and, more broadly, opening up legal channels to protection.'[93] In France and the United Kingdom, the government continues to provide some level of social assistance and housing benefits. The difference of these approaches might be based on the general views of the application of human rights as a right to a decent life and housing that might, for example, be followed in the French social security system but is not a core element of social security in Estonia. Very often, EU Member States face a variety of barriers to establishing resettlement programmes or other legal pathways or running well-functioning asylum systems, and the assistance of sponsors can help them to overcome these obstacles.

In Ireland, for example, the study found that the government has had significant difficulties in finding housing for refugees admitted through the country's resettlement programme, and authorities count on sponsors in supporting them to more readily connect refugees with housing, thereby gradually improving the functioning of their resettlement programme. France and Italy have similarly reported that sponsorship has helped them to overcome significant barriers in their housing markets to admitting more protection beneficiaries through legal pathways.[94] The stakeholders who were consulted pointed out that there is no pressing need for new EU legislation in the area of sponsorship. The study findings indicated that sponsorship is possible under the current EU migration and asylum legal frameworks and the diversity of approaches to sponsorship across Member States appears to be a strength rather than a weakness.[95] The study advises that in the case new legislation is to be considered, it would complement the Union Resettlement Framework and would aim to harmonize some of the private-sponsorship specific features of such schemes in the Member States that would decide to establish one (e.g. the role of the sponsor and the relationship between the sponsor and the state). Such an EU legislative instrument might be based on Article 78(2)(d) TFEU. The option for EU legislative action, however, was not perceived favourably by most stake-

---

[91] European Commission, Study on the feasibility and added value of sponsorship schemes as a possible pathway to safe channels for admission to the EU, including resettlement Final Report, 2018 EUR DR-04-18- 846-EN-N pg. 119

[92] Pg 119

[93] Ibid

[94] Ibid

[95] Ibid

holders consulted, either civil society or national authorities' representatives, and appeared to be the least feasible option for EU action. This approach is also understandable as EU Member States want to preserve some of their sovereignty in the field of integration and migration management.

In the conclusions of the study, we can find suggestions that private sponsorships can be the key elements for further safe channels to accessing protection in Europe for refugees. If refugees have close relatives or friends in their country of settlement or NGOs assisting them with settling into their new home, a significant burden is lifted from the state and better integration of newcomers in society is achieved. The study also highlights that 'any action at the EU-level to encourage or support (a greater uptake of) sponsorship, however, will need to be taken with an eye to preserving the flexibility of sponsorship as a tool and the ability of Member States to design such programmes in a way that fits their capabilities and needs.' So we should be very careful at the EU level to push policies and actions forward that are not helpful either for the refugee or to society and EU Member States.

It seems that there is a need to identify any legal obstacles to sponsorship at the Member State-level as the schemes will need to be designed in a way that is sensitive to and fits within these systems. Sponsorship programs are mechanisms based on solidarity and at the same time respect the sovereignty of the states, and there is no need to regulate them at the European Union level. However, the European Union can financially support states that initiate these programs by creating a special fund to support the activities of NGOs, states, and other stakeholders.

THE 'TURKISH DEAL'

On 15 December 2015, the Commission adopted a Recommendation for a Voluntary Humanitarian Admission Scheme with Turkey[96] to create solidarity and responsibility-sharing with Turkey for the protection of persons displaced by the conflict in Syria to Turkey, many elements of which formed part of the implementation of the EU-Turkey Statement of 18 March 2016. It was agreed in the EU-Turkey Statement that, for every Syrian being returned to Turkey from the Greek islands, another Syrian will be resettled from Turkey in the EU, taking into account the UN Vulnerability Criteria.

This Action Plan of 2015 mirrors the understanding between the European Union (EU) and the Republic of Turkey to step up their cooperation in support of Syrians under temporary protection and their migration management in a coordinated effort to address the crisis created by the situation in Syria. It follows from the EU-Turkey working dinner on 17 May and the informal meeting of the EU Heads of State or Government on 23 September 2015 where EU leaders called for a reinforced dialogue with Turkey at all levels. The Action Plan identified a series of collaborative actions to be implemented as a matter of urgency by the European Union (EU) and the Republic of Turkey to supplement Turkey's efforts in managing the situation of the massive influx of persons in need of temporary protection. The Plan tries to address the current crisis in three ways: '(a) by addressing the root causes leading to the massive influx of Syrians, (b) by supporting Syrians under temporary protection and their host communities in Turkey (Part I) and (c) by strengthening cooperation to prevent irregular migration flows to the EU (Part II)'.[97] The Plan has been formed and is dependent on commitments undertaken by Turkey and the EU in the Visa Liberalisation Dialogue. It identifies the activities that are to be implemented simultaneously by Turkey and the EU.[98] The main idea was to allocate funds to Turkey and to improve the collaboration between the EU and Turkey to preclude irregular movement into the European Union.

---

[96] 93 C(2015) 9490. https://www.europarl.europa.eu/RegData/etudes/STUD/2016/556953/IPOL_STU%282016%29556953_EN.pdf

[97] See more in The situation in the Mediterranean and the need for a holistic EU approach to migration   European Parliament resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration (2015/2095(INI)) (2018/C 058/02)

[98] EU Commission, EU-Turkey joint action plan, Brussels, 15 October 2015, Fact Sheet

Nevertheless, the plan has had its critics. Idil Atak[99] claims that the EU-Turkey Action Plan doesn't add incentivise the European Union to better tackle the migration crisis. According to Atak, Turkey used refugees coming from Syria to place political pressure on the EU in the visa liberalization discussion. The EU only wishes Turkey to stop refugees and impede them from arriving to Europe. Atak points out five deficiencies of the plan. The first is that this type of shelter is temporary and it is doubtful that it can address the needs and vulnerability of refugees. Turkey itself has restricted its reception and integration capacity, and it bears little political will to maintain effective protection for refugees. Moreover, Syrian refugees do not want to live in Turkey. The EU presumes that Turkey can complete the asylum procedures that have been introduced so that the status of refugee is granted without delay. Atak's critique is that these refugees can't be offered durable solutions in Turkey because it ratified the 1951 Geneva Convention with a geographical limitation. Furthermore, it is unclear how the EU Member States will ensure the fair distribution of effort in assisting refugees. There is one point in the Action Plan which ambiguously refers to 'the EU's commitment to supporting existing Member State and EU resettlement schemes and programmes'. Atak notes that only a few countries in Europe take the majority of refugees. Since the EU unveiled its quota plan to resettle 160,000 refugees last September, the first few refugees have recently been relocated from Italy. But the process is very slow.[100] And finally, the Action Plan disregards the problem of refugees fleeing war, conflict, or ethnic and religious tensions in many other countries such as Afghanistan, Iraq, and Eritrea.[101]

All these critiques are relevant, but we should keep in mind that it is better that refugees who flee have some kind of security in the country they go to and that Europe helps to support this security. Outsourcing the European problem of refugees to Turkey might be unethical, but at that same time if the reality is that refugees find themselves first in Turkey and only then plan to go further to European Union, it is humane to give countries of first asylum some assistance. This is also part of the solidarity principle that Europe should follow, as it is stated in its founding treaties.

CONCLUSION

This assessment of the European migration crisis reveals that the main reasons for the mismanagement of immigration to the EU are the inconsistencies inside the Common Asylum System itself. The unfinished integration of the European Union, the willingness to maintain sovereignty in the field of migration quotas as stated in article 79, point 5 of the TFEU,[102] and the different interests and capacities of Member States are some examples that have led to failure. Although Article 67 §2 of TFEU regulates that the absence of internal border controls for persons should be ensured and a common policy on asylum, immigration, and external border control, **based on solidarity between the Member States,** which is fair towards third-country nationals, should be developed. Some Member States have started to forget their obligations that they took on by signing the treaty and becoming full members of the European Union. It might also be seen as ignorance of European-wide agreements while taking into account the realities of Member State capacity.

As we can read from Article 80 of the TFEU, the policies of the Union set out in Chapter V and their implementation shall be governed by the **principle of solidarity and fair sharing** of responsibility, including their financial implications, between the Member States. It is a new agreement that was introduced by the Lisbon Treaty to the TFEU. It can be claimed that Member States are not yet used to referring to the latest version of the treaties as it was agreed upon in 2009. Maybe it was too ambitious then, as in 2009 when migration numbers were still somehow under control. However, the southern border states

---

[99] Idil Atak, A look at the EU-Turkey Action Plan, https://francoiscrepeau.com/a-look-at-the-eu-turkey-action- plan/, Accessed 21.12.2019

[100] Ibid

[101] Ibid

[102] TFEU art 79 point 5, This Article shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed.

like Malta, Greece, and Italy were already struggling with irregular immigration that was above their capacity to handle. The necessity for solidarity measures normally arises from the inability of a particular Member State to fulfil obligations envisaged by CEAS instruments. Through an impartial assessment of the protection capacity of each Member State, 'inability to comply' with one's obligations would clearly be distinguished from 'unwillingness to comply'. This would, thus, address the current tensions between Member States in terms of distributing responsibilities.[103]

The role of the courts is vital in providing new guidelines for supplementary improvements in the protection of persons seeking asylum. But it is also vital in providing guidelines on how the EU should shape its policies taking into consideration human rights and its obligations that are agreed upon in the Treaties and by its members. Burden-sharing imposed by the EU on the Member States has generated conflict and raised concern about the ability of the EU to resolve the problems. Furthermore, several questions arise. How many immigrants can a European state integrate? What should be done in the case of emergency? How can solidarity be improved and how can the EU's external borders be collectively protected? Do the countries want to abolish free movement and go back to sovereign migration management schemes? An answer can be found in the sponsorship programs designed by the states themselves. Sponsorship as discussed above also has the potential to facilitate the integration of beneficiaries by appointing additional resources at the individual and community levels, particularly sponsors' time, attention, and social networks.

The results of the sponsorship study discussed above showed numerous potential benefits for allowing this diversity of sponsorship practices. First, Member States can tailor their programmes to their unique contexts. Sponsorship schemes rely heavily on having an actively engaged civil society sector or deep interest in assisting protection beneficiaries at the community level. Without willingness, sponsorship cannot succeed. Sponsorship schemes should be designed in a way that taps into the unique motivations and capabilities of potential sponsors in each Member State, requiring programme design to be highly tailored.

EU activities could further support Member States in introducing and expanding their sponsorship schemes, and ensure that these are effective and are operated in line with their policy goals and correspond with national and EU laws. The balance between state sovereignty and solidarity is not always easy to find, but it should be the aim of the European Union to facilitate the relocation and resettlement initiatives of its Member States by providing financial, moral, educational, and networking possibilities to the stakeholders dealing with the issues.

---

[103] Tsourdi, Evangelia (Lilian); DE Bruycker, Philippe, EU asylum policy: in search of solidarity and access to protection, 2015, https://cadmus.eui.eu/handle/1814/35742

44

References

Achiron, M. (2001). „The Geneva Convention has been the cornerstone of protection for 50 years, but there is a lively debate about its relevance today" in Refugees. Vol 123 pp 4-8.

Bagdonas, A. (2015). „The EU Migration Crisis and the Baltic Security" in Journal on Baltic Security. Vol 1(2) pp 7-28.

Bendel, P. (2018). Wanderungsbewegungen nach Europa:Fester Bestandteil von Politik— überall? [Migration to Europe: An established policy field—Everywhere?]. Zeitschrift für Ausländerrecht und Ausländerpolitik, 5, pp 181–228.

Boswell, C. (2000). „European values and the asylum crisis" in International Affairs. Vol. 76(3) pp 537-557.

Ferrera, M. and Pellegata, A. (2017) 'Can Economic and Social Europe Be Reconciled? Citizen Views on Integration and Solidarity', REScEU Working Paper. Available online at: https://www.resceu.eu/events-news/news/can-economic-and-social-europe-be-reconciled- citizens%E2%80%99-view-on-integration-and-solidarity.html. (accessed: 10 July 2018).

Ferrera M. and Burelli, C. (2019) Cross-National Solidarity and Political Sustainability in the EU after the Crisis, JCMS Volume 57. Number 1. pp. 94–110

Nakashiba,H. "Clarifying UNHCR Resettlement. A few considerations from a legal perspective," Research paper No. 264 (November 2013): 1).

Heimann C., Müller S., Schammann H., and Janina Stürner J., (2019), Challenging the Nation- State from within: The Emergence of Transmunicipal Solidarity in the Course of the EU Refugee Controversy, Social Inclusion Volume 7, Issue 2

Atak I, A look at the EU-Turkey Action Plan, https://francoiscrepeau.com/a-look-at-the-eu- turkey-action-plan/, accessed 21.12.2019

Langford, L M (2013). „The Other Euro Crisis: Rights Violations Under the Common European Asylum System and the Unraveling of EU Solidarity" in Harvard Human Rights Journal. Vol. 26(1) pp 17-264.

Jakulevičienė L, Bileišis M (2016) EU REFUGEE RESETTLEMENT: KEY CHALLENGES OF EXPANDING THE PRACTICE INTO NEW MEMBER STATES, BALTIC JOURNAL OF LAW & POLITICS,

A Journal of Vytautas Magnus University, VOL 9, 1 p 94-123, 94

Mallia, P. (2011). „Case of M.S.S. v. Belgium and Greece: A Catalyst in the Re-Thinking of the Dublin II Regulation", in Refugee Survey Quarterly.Vol. 30(3): 107-128.

Roots, L. (2017) Burden Sharing and Dublin Rules - Challenges of Relocation of Asylum Seekers, Athens Journal of Law,) Volume 3, Issue 1

Roots, L. Sharing Refugees after Lisbon – Solution for the Small States?, Romanian Journal of International Relations and European Studies, (ROJIRES), Vol.1, nr. 2/2012, Roads of Migration. Roads to Migration

Sangiovanni A., (2015) Solidarity as Joint Action, Special Issue: Socio-Economic Justice: Beyond The Welfare State? Guest Editors: Christian Schemmel and Stefan Gosepath, Journal of Applied Philosophy, Volume 32, Issue 4, November 2015, pp 340-359

Schuck, P. (1997) "Refugee Burden - Sharing: A Modest Proposal". Yale Journal of International Law vol 22.

Schmid Alex P. Links between Terrorism and Migration: An Exploration, ICCT Research Paper, May 2016

Torun D. and Thielemann E. (2006) "The Myth of Free-Riding: Refugee Protection and Implicit Burden-Sharing". West European Politics vol 29(2).

Tsourdi, E.L. and DE Bruycker, P., (2015) EU asylum policy: in search of solidarity and access to protection, https://cadmus.eui.eu/handle/1814/35742, accessed 10.01.2020

Other:

A European Border and Coast Guard to protect Europe's External Borders. (2015). European Commission. (Press release of 15. December, 2015

https://ec.europa.eu/commission/presscorner/detail/en/IP_15_6327 accessed 10.01. 2020

European Agenda on Migration. (2015). European Commission. (Official action plan). http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migra tion/background-information/docs/communication_on_the_europe-an_agenda_on _migra tion_en.pdf accessed 10.01. 2020

Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions A European Agenda on Migration, COM/2015/0240 final

Council Conclusions on ''Taking action to better manage migratory flows", Justice and Home Affairs Council meeting, 10 October 2014.

Commission Recommendation (EU) 2015/914, of 8 June 2015, on a European resettlement scheme [2015] OJ L 148/32

Commission Communication 'Towards Integrated Management of the External Borders of the Member States of the European Union', pg. 24, The Hague Programme, Annex to the European Council Conclusions, Brussels, 4-5 November 2004, point 1.7.1. COM (2002) 233 final

Communication from the Commission to the European Parliament and the Council towards a reform of the Common European Asylum System and Enhancing legal avenues to Europe COM(2016) 197 final

Communication from the Commission to the Council and the European Parliament establishing a framework programme on solidarity and management of migration flows for the period 2007-2013 COM (2005) 123 final

Communication from the Commission on Policy priorities in the fight against illegal immigration of third-country nationals, COM (2006) 402 final

Commission Decision 2008/22/EC of 19 December 2007 laying down rules for the implementation of Decision No 573/2007/EC of the European Parliament and of the Council establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme "Solidarity and Management of Migration Flows" as regards Member States' management and control systems, the rules for administrative and financial management and the eligibility of expenditure on projects co-financed by the Fund, OJ L 17 of 10 January 2008.

Commission Communication 'Towards Integrated Management of the External Borders of the Member States of the European Union', pg. 24, The Hague COM (2002) 233 final

Commission Recommendation for a voluntary humanitarian admission scheme with Turkey C(2015) 9490

Communication from the Commission to the European Parliament, The European Council and the Council, Fifth report on relocation and resettlement, Brussels, 13.7.2016 COM(2016) 480 final

Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof OJ L 212, 07/08/2001

Decision (EU) 2015/2248 of the European Parliament and of the Council of 28 October 2015 on the mobilisation of the Flexibility Instrument for immediate budgetary measures under the European Agenda on Migration, [2015], OJ L 318/36

European Commission, Study on the feasibility and added value of sponsorship schemes as a possible pathway to safe channels for admission to the EU, including resettlement Final Report, 2018 EUR DR-04-18-846-EN-N

European Commission, Communication on the establishment of a Joint EU Resettlement Program, COM(2009) 447 final, 2 September 2009

EU Commission, EU-Turkey joint action plan, Brussels, 15 October 2015, Fact Sheet

Informal meeting of EU heads of state or government on migration, 23rd of September 2015 statement. http://www.consilium.europa.eu/en/press/press-releases/2015/09 /23- statement-informal-meeting

Justice and Home Affairs Council 20/07/2015. Justice and Home Affairs Council 22/09/2015

Outcome of the Council Meeting, 3405th Council meeting Justice and Home Affairs Brussels, 20 July 2015, Provisional version 11097/15

Programme, Annex to the European Council Conclusions, Brussels, 4-5 November 2004

Proposal for a Regulation of the European Parliament and of the Council establishing a Union Resettlement Framework and amending Regulation (EU) No 516/2014 of the European Parliament and the Council COM/2016/0468 final - 2016/0225 (COD)

Proposal for a Council Decision amending Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece COM(2016) 171 final

Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 COM(2016) 271 final

Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) COM(2016) 270 final

Proposal for a Regulation of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person] , for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes (recast) COM/2016/0272 final - 2016/0132 (COD)

REGULATION (EU) No 516/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16

April 2014, establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC, [2015] OJ L 150/168

Report on the situation in the Mediterranean and the need for a holistic EU approach to migration from 23.3.2016, 2015/2095(INI).

Webpages:

Asylum Statistics. Eurostat. http://ec.europa.eu/eurostat/statistics-explained/index.php/ Asylum_statistics#Asylum_applicants, accessed 10 January 2020

https://theconversation.com/solidarity-was-a-founding-principle-of-european-unity-it-must- remain-so-74580

Asylum Statistics. Eurostat. http://ec.europa.eu/eurostat/statistics- explained/index.php/Asylu m_statistics#Asylum_applicants 10 November 2016

European Commission, Refugee crisis: Council shows solidarity with Greece by approving emergency support. The Dublin System https://www.consilium.europa.eu/en/press/press- releases/2016/03/09/refugee-crisis/ accessed 10 January 2020

FRA, Legal entry channels to the EU for persons in need of international protection: a toolbox, 2015 https://fra.europa.eu/en/publication/2015/legal-entry-channels-eu-persons-

need-international-protection-toolbox accessed 10 January 2020 https://www.rferl.org/a/eu-explainer-two-speed-multi-speed-europe/28396591.html https://www.eukn.eu/eu-presidencies/bulgarian-eu-presidency accessed 19 December 2019

Refugee Crisis: European Commission takes decisive action https://ec.europa.eu/commission/presscorner/detail/en/IP_15_5596 accessed 10 January 2020

Schengen evaluation of Greece: Council adopts recommendation to address deficiencies in external borders, available https://www.consilium.europa.eu/en/press/press- releases/2016/02/12/schengen-evaluation-of-greece/ accessed 10 January 2020

Syrian Refugees. Migration Policy Centre of the European University Institute. http://syrianre fugees.eu/?page_id=10 accessed 20 April 2016

Tampere European Council, Presidency Conclusions, 15-16 October 1999. https://ec.europa.eu/anti-trafficking/eu-policy/tampere-council-conclusions-1999_en accessed 10 January 2020

UNHCR sub regional operations profile 2015 Northern, Western, Central and Southern Europe. https://greekleftreview.wordpress.com/2016/03/23/2015-unhcr-subregional- operations-profile-northern-western-central-and-southern-europe/ accessed 10 January 2020

UNHCR, Resettlement and Other Forms of Admission for Syrian Refugees, 14 April 2015. UNHCR, Resettlement statistics http://popstats.unhcr.org/en/resettlement www.visegradgorup.eu, accessed 10 January 2020

Cases

Case C-643/15 Slovakia v Council and Case C-647/15, Hungary v Council, Case C-643/15 Slovakia v Council and Case C-647/15 Hungary v Council ECrtHR – M S S v Belgium and Greece [GC], Application No. 30696/09