

The next big European project? The migration and asylum crisis: a vital challenge for the EU

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The summer of 2015 may well be remembered as a turning point in the history of both migration to Europe and European integration. There was a further rise in mixed inflows of migrants and refugees, with a diversification of the routes employed – in particular, a surge in transits across the Eastern Mediterranean and the Western Balkans. Secondly, the already dynamic map of political reactions and policy responses entered a phase of hectic and deep change, due primarily to a major shift in the position of Germany.

The German U-turn

Only a few months earlier, when the June 2015 European Council failed to deal with the escalating asylum crisis amid unusually explicit and bitter rifts among its leaders, Berlin was still acting as key defender of the status quo embodied in the ‘Dublin rules’ that countries on the EU periphery (Italy most of all) were denouncing as unsustainably unbalanced. Already on that occasion, however, a new awareness was emerging, as could be seen in a strikingly candid declaration made by Chancellor Merkel, who described the migration issue as the ‘biggest challenge’ that Europe had faced during her time in office.¹

Germany’s strategic *revirement* ripened over the summer. By the end of August, it had been made public, and implementation had started. The first concrete consequence was the decision taken on 21 August by the German Federal Office for Migration and Refugees (BAMF)², de facto suspending the already extremely difficult application of the Dublin regulation for Syrian nationals. This was done by temporarily refusing to test whether Syrian war refugees had first entered the EU through the territory of another member state and should thus be returned there, as in principle required under Dublin rules. Such a major spontaneous and unilateral assumption of

responsibility was immediately accompanied by strong demands that all other member states should follow suit, each taking its part in sharing what was underscored as being a common responsibility.

Leading by example

Berlin quickly managed to get the hitherto hesitant French government over to its side. On 3 September Merkel and Hollande announced they would table a joint proposal for binding reception quotas.³ The German–French duo thus engineered a major shift, thus taking sides with Italy (which had been advocating such new approach for years) and the European Commission, which in its first proposal for a new European Agenda on Migration had included a mandatory relocation mechanism founded on a ‘redistribution key based on criteria such as GDP, size of population, unemployment rate and past numbers of asylum seekers and of resettled refugees’.⁴

The impact on the media and public opinion, not only in Europe, has been powerful, affecting in particular the image of the Bundesrepublik and of its Chancellor: only a few weeks after being blamed for heartlessly proclaiming the necessity of admission restrictions before a weeping Palestinian refugee girl,⁵ Merkel was hailed as a saviour by refugees marching through Hungary towards the (temporarily) open borders with Austria and Germany.⁶

3 http://www.lemonde.fr/europe/article/2015/09/03/hollande-et-merkel-se-mettent-d-accord-sur-des-quotas-contrainnants-d-accueil-des-migrants_4745055_3214.html

4 http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/index_en.htm

5 <http://www.theguardian.com/world/2015/jul/16/angela-merkel-comforts-teenage-palestinian-asylum-seeker-germany>

6 https://www.google.it/search?q=budapest+march+refugees&es_sm=93&biw=1366&bih=667&noj=1&source=lnms&tbn=isch&sa=X&ved=0CAgQAUoAmoVChMIkdjivZHixwIVR10aCh1X1AoN#imgrc=iEXFlpv2_8so7M%3A

1 http://www.europarl.europa.eu/EPRS/EPRS_BRIE_558757_outcome_june_european_council.pdf

2 <http://www.euractiv.com/sections/global-europe/germany-suspends-dublin-agreement-syrian-refugees-317065>

What prompted such a spectacular turnabout? Personal and ethical factors may have played a role. And the message, implicit in the German move, that ethics, beyond legal obligations, can play a role in this policy field is in itself important.

But ethics aside, this U-turn has been driven primarily by political strategy. Germany has realized that, because of its economic strength and the functioning of migration networks, it is already bearing and will probably continue to bear the brunt of a migration and asylum crisis which, in the recent words of EU's Foreign Policy High Representative, is 'here to stay'.⁷ The only way to share this burden, at least in part, is to Europeanize the response in a new way: the solutions devised a quarter of a century ago in Schengen and Dublin (then too, with Germany playing a key role) have obviously become largely anachronistic and ineffective. But in order to build up the necessary consensus around a radically new migration and asylum regime, Germany will need to establish a more solid political and moral leadership at the pan-European level, after its political capital became eroded through controversial management of the Greek crisis. And suspending the Dublin rules can be seen as a first step in this direction.

Praise, accusations and backlashes

The announcement of this change of gears triggered political countermeasures and a barrage of diplomatic reactions. Instead of praising the liberal and humanitarian aspects of the turn, some of the very countries that would immediately stand to benefit from the suspension of German requests for Dublin readmissions – Hungary in particular – now blamed Germany for creating incentives for a further expansion of the refugee tide.

Such reactions are reminiscent of those that followed the Italian launch of the large-scale search and rescue operation 'Mare Nostrum' in October 2013: also on that occasion, although it involved a unilateral and ethically grounded assumption of political responsibility that was officially commended, the initiative was simultaneously and harshly accused by many of generating a 'magnet effect' for even greater refugee inflows.⁸

The German opening has indeed been followed by a further expansion in the inflows into the Federal Republic through Hungary and Austria. The pressure of this intensified wave of arrivals has been particularly concentrated in the region of Munich, where the Christian Social Union (CSU) – a sister-party to Merkel's CDU governing Bavaria – had from the outset been critical against Berlin's U-turn.

These political circumstances, combined with an ever growing strain on federal and local reception facilities, prompted German authorities on 13 September to temporarily reinstate border controls with Austria. Although the Commission, which had preventively been informed of the decision,

quickly stated that it was compatible with Schengen rules,⁹ the rest of Europe was taken by surprise. Should this be interpreted as an early repeal of the apparently strategic shift of just ten days before? Or is it just a temporary braking, necessary to adapt to a sudden and unforeseen rise in arrivals, as it was presented by the German government? Only time will provide a certain answer. What is sure in the short term, however, is that this major policy oscillation is not reinforcing the line of Germany and its allies in an already very difficult battle for reform. Furthermore, the unexpected German move could trigger a dangerous domino effect, with a number of other Schengen countries already announcing analogous measures in order to avoid becoming 'dead alleys' where people are trapped during their flight.

An East–West fracture?

To return to the mandatory relocation scheme now jointly advocated by the three largest founding members of the European Union, the negative reactions have quickly extended beyond isolated verbal onslaughts. As a matter of fact, it was soon clear that Hungarian Prime Minister Viktor Orbán, with all his rhetorical excesses, was only the vocal spearhead of a broader potential blocking minority.

The visible vanguard of such negative front has recently been embodied by the four members of the Visegrad Group (the Czech Republic, Hungary, Poland and Slovakia, also known as the V4) which – in a Joint Statement issued in Prague on 4 September 2015 – declared their engagement in 'preserving the voluntary nature of EU solidarity measures – so that each Member State may build on its experience, best practices and available resources', adding that 'any proposal leading to introduction of mandatory and permanent quota for solidarity measures would be unacceptable'.¹⁰

But the front of opponents is wider, with other EU member states less visibly sharing the V4's concerns and thus contributing to perpetuate the political impasse in the Council, as it emerged again in the informal JHA meeting on 14 September. The fact that among these less vocal opponents of mandatory relocation are also the three Baltic states (Estonia, Latvia and Lithuania) has prompted some observers to talk about an emerging "East–West divide" among EU member states around an issue of key importance to the future of European integration.¹¹

The prospect of such a geopolitical split, less than a decade after the accomplishment of the great EU Eastern Enlargement, understandably raises immense concerns. It would be disastrous if such a central issue were reduced – as unfortunately seems possible, judging from some early reactions – to a moral contrast between 'selfish' Easterners and 'generous'

7 http://eeas.europa.eu/statements-eeas/2015/150905_01_en.htm

8 <http://www.theguardian.com/politics/2014/oct/27/uk-mediterranean-migrant-rescue-plan>

9 http://www.euractiv.com/sections/justice-home-affairs/commission-oks-german-border-controls-urges-backing-migrant-plan?utm_source=EurActiv+Newsletter&utm_campaign=a3c461f9a1-newsletter_social_europe_jobs&utm_medium=email&utm_term=0_bab5f0ea4e-a3c461f9a1-245335561

10 <http://www.visegradgroup.eu/calendar/2015/joint-statement-of-the-150904>

11 <http://www.ft.com/cms/s/0/e2523a84-53c2-11e5-8642-453585f2cfd.html>

Westerners, echoing the equally distorted and harmful caricatured contrast between Southern ‘grasshoppers’ and Northern ‘ants’ that has poisoned the debate on the euro-crisis.

On the one hand, it is important to remind the Central and Eastern European leaderships of the massive amounts of tangible solidarity that their countries are benefitting from. This concerns not only direct forms of redistribution, like structural funds, but also indirect, highly concrete forms of solidarity, like the very costly and controversial embargo against Russia, which has disproportionately affected the trade balances of Germany and several other (mainly Western and Southern) member states.¹²

On the other hand, though, the intrinsic limits of mandatory relocation as a policy tool should be acknowledged and analysed with care, also recognising some of the reasons motivating the states which oppose it.

The limits of mandatory relocation

The first relevant argument, which is unfortunately rarely mentioned, is that any compulsory redistribution scheme may potentially conflict with the will of refugees themselves, and therefore – in my view – with the true spirit of *asylum* as a tool for protecting human dignity, and not just for ensuring survival.

Asylum-seekers’ preferences as to their destination are shaped by several factors, among which the perceived economic opportunities in the targeted destination understandably (and legitimately, I would add) play a key role. In the grotesquely simplified juxtaposition between ‘forced’ and ‘economic’ migrants, it is often forgotten (or blatantly ignored) that also refugees are economic actors, that they too need jobs in order to gain autonomy and protect their dignity. Therefore, mandatory relocation – should it extend beyond the short term and specific emergency situations – risks clashing not only with asylum principles, but also with basic economic tenets.

With some substantial differences among them, the Central and Eastern European states are globally still in the early (if not embryonic) phase of a possible (albeit not deterministically certain) transition to becoming countries of immigration.¹³ If the labour markets of the EU8 (the Central and Eastern European countries which joined the EU in 2004) and the EU2 (Bulgaria and Romania, members since 2007) have thus far been unable to attract and retain significant numbers of non-EU migrant workers, surely it is unlikely that they will from now on be able to ensure stable and satisfactory economic integration for significant contingents of refugees.

Finally, in facing the threat of an East-West divide and in crafting the future of a more effective and fair European asylum policy, one should not forget the political risks of any attempts at top-down enforcement of solidarity. Whether one likes it or not (and the present writer clearly does not

like it), in several national political arenas today, institutionalizing the role of the EU as coercive refugee-provider could play strongly into the hands of xenophobic and europhobic forces. The possibility, under certain conditions, of ‘swapping’ refugee quotas with economic sanctions, a point included in the most recent Commission proposals,¹⁴ could mitigate such a criticality by allowing an admittedly costly and case-by-case opt-out from EU-imposed relocations.

The next big European project

That a reform of EU’s asylum policies cannot be confined to more or less limited adjustments of the Dublin-based burden-sharing criteria is by now evident to all key actors. This was acknowledged in particularly explicit, demanding and forward-looking terms by Angela Merkel in her traditional mid-summer interview to the TV chain ZDF on 16 August 2015, when she stated that a joint European asylum policy would be ‘the next major European project, in which we show whether we are really able to take joint action’, adding for greater impact and clarity: ‘these issues will preoccupy us much, much more in the future than the issue of Greece and the stability of the euro’.¹⁵

But if awareness of the need for a radical overhaul is growing, the actual contours and contents of this ‘next big European project’ are still conceptually vague and politically evasive. The Commission’s European Agenda on Migration provides a valuable coordinated menu of possible measures – but it does not (nor could it) devise a political and communication strategy with a clear definition of priorities, acceptable trade-offs and compromises, key messages, etc. that could turn that menu into concrete reality.

As in previous critical phases of the process of European integration, an important guiding principle should concern the proportionality between powers and responsibilities, as well as between costs and benefits, goals and means, at national and EU level. Such proportionality should be rigorously and consistently respected and ensured in all areas of asylum and migration policies – indeed, the two cannot be kept separate any more, given the now firmly established reality of ‘mixed flows’ at the EU’s external borders.

What would these apparently banal principles imply in the medium and long term? At the first level, they would require gradually righting the fundamental imbalances embedded in the 25-year-old Schengen+Dublin regime. At a more advanced level, however, such a proportionality principle would and probably will push towards more radical changes, including substantial pooling of sovereignty – in the treatment of mixed flows at external borders (including direct competence for search-and-rescue activities), asylum procedures and the reception of asylum-seekers.

12 <http://www.rt.com/business/178888-russia-trade-ban-who-hurts/>

13 http://ec.europa.eu/eurostat/statistics-explained/index.php/Migration_and_migrant_population_statistics

14 http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/proposal_for_regulation_of_ep_and_council_establishing_a_crisis_relocation_mechanism_en.pdf

15 http://www.bundesregierung.de/Content/EN/Artikel/2015/08_en/2015-08-16-merkel-interview-zdf_en.html

Pooling migratory sovereignty

Embryonic forms of shared sovereignty on asylum and migration are emerging every day: be it with the quiet but highly significant evolution of Triton towards something similar to a multinational Mare Nostrum, or with the still somewhat confused process of establishing ‘hotspots’ – multinational and multifunctional units intended to balance solidarity with direct controls on rule compliance by border states.

A European Coast Guard and a European Asylum Authority increasingly appear to be the long-term possible and perhaps necessary result of such experiments. But such developments will be able to generate real changes only if they can be coordinated and incorporated into a clear and comprehensive system of governance. This would be a system where the loss of sovereignty suffered by EU-border member states in border management and admission policies would be tangibly and timely compensated by serious guarantees of solidarity embodied, for instance, in the creation of an EU-wide refugee status which should entail substantial freedom of movement for its holders not too long after recognition.

Furthermore, none of the above will be sufficient unless accompanied by a major upgrade of the EU’s foreign policy and external action capacities. Only with a dramatic reinforcement of common soft power, but also of joint peace-keeping and peace-enforcement capacities, will the EU be able to manage future migration and refugee crises without doing violence to its fundamental humanitarian principles – as it did in the former Yugoslavia in the 1990s and now more recently in Libya and in Syria.

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Along this enormously challenging path, the role of some old companions de route of the EU in the field of migration and

asylum might prove very important. Not least, this should apply regarding Norway, as one of Schengen’s non-EU signatories. The role of Norway will be relevant, and not only because of major and multidimensional interdependencies, enhanced by the fundamental asset for Europe as a whole represented by Nordic Council’s free movement area. In addition come the specific contributions Norway could bring to the development of a radically upgraded European migration and asylum policy. Such positive contributions could involve areas as diverse as search and rescue (building on the valuable experience made with the participation of the vessel *Siem Pilot* in the Triton Operation), border controls (increasingly important with the worrying emergence of an ‘Arctic route’ from Russia) and even the external dimension of migration and asylum policy. Here Norway, with its specific expertise on key sender-countries like Eritrea, could play an important role in understanding and tackling the root causes of forced migration in and around the Horn of Africa.

All this will necessarily make for a very long-term and very big European project. If successful, such project will allow the EU to survive without perverting itself and its ideals, but it will inevitably entail major political costs. In particular, moving towards more substantial sovereignty pooling on asylum and migration is unlikely to be acceptable to all member states – or at least not for all at the same rate. A double-pace approach, with a core set of countries triggering reinforced cooperation and encouraging others to join at a later stage, allowed Schengen to become what was until recently praised as a European ‘success story’. A quarter of a century later, a compact and resolute avant-garde might once again be needed to push integration forward, but hopefully this time on less imbalanced foundations.



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