

THE COMMON EUROPEAN MIGRATION POLICY AND THE EU RESPONSE TO THE REFUGEE CRISIS

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Since the late 1990s, the European Union has attempted to develop a comprehensive common asylum and migration policy; one that encompasses internal and external dimensions, addressing sociopolitical conditions in countries of origin and transit as well as destination. A key pillar of this approach has been an emphasis on the management of migration flows and the realization of the need to curb illegal immigration, as well as the issue linkage between migration and external relations both of the European Union as an actor as well as its individual member states.

In hindsight, one is inclined to exclaim “o tempora o mores” in the dawning awareness of the naiveté of the European Union approach in treating migration as a primarily economic issue in the face of the current refugee crisis.¹ This is not to suggest that the EU is entirely devoid of policy tools to engage in crisis management; for example, the recent emergency proposal to relocate 120,000 refugees from Italy, Greece and Hungary via the European Solidarity Refugee Relocation System² is based on article 78(3) of the Treaty on the Functioning of the European Union (TFEU) which states that: “In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned.”³

This approach illustrates the realization that the European Agenda on Migration, with its four pillars of reducing the incentives for irregular migration, implementing a strong asylum policy, securing external borders and developing a new policy on legal migration, does not place adequate emphasis on both the causes and effects of the current crisis.⁴ At the

¹ A historical overview of the development of EU policies on migration – including those on the integration of Third Country Nationals – illustrates the overbearing emphasis on work conditions. See, for example, European Commission, *Handbook on Integration for Policy-Makers and Practitioners (3rd edition)*, April 2010. [online] Available at:

http://ec.europa.eu/dgs/home-affairs/e-library/docs/handbook_integration/doc1_12892_168517401_en.pdf
[Accessed 22 September 2015]

² See Commission Press Release, IP/15/5596 (9 September 2015). European Commission - PRESS RELEASES - Press release - *Refugee Crisis: European Commission takes decisive action*. [online] Available at: http://europa.eu/rapid/press-release_IP-15-5596_en.htm
[Accessed 22 September 2015].

³ Consolidated Version of the Treaty on the Functioning of the European Union art. 78(3), 2008 O.J. C 115/47.

⁴ *A European Agenda on Migration* COM(2015) 240 final (13 May 2015).

same time, the current predicament illustrates that European Union policies in its broader neighborhood lack the power to address the external dimensions of crisis before they arise: in other words, even if the policy tools currently employed prove capable in the management of the existing crisis, they inspire little confidence that they can work as crisis prevention tools in the future.

In addition, the crisis presents challenges that question in practice the logic of established European Union policies and procedures. The failure – and subsequently voluntary partial suspension – of the Dublin Regulation which calls for “Member States [to] examine the application of any third-country national who applies at the border or in their territory to any one of them for asylum” illustrates the uneven distribution of burden that the policy places on member states geographically located in proximity to conflict areas and are likely to be the entry points into the European Union.⁵ Desperate times do indeed call for desperate measures, but it should also be noted that these measures can effectively overrule existing policy approaches, leaving in their wake a policy vacuum to be tackled at a later time under different circumstances than originally anticipated.

Lastly, perhaps the most troublesome aspect of the refugee crisis in terms of European integration has been the glaring disparity in responses at the national level which threaten the most fundamental of European Union policies, such as Hungary threatening to block Croatia’s Schengen accession.⁶ Such national buck-passing, not only of consequences but also of blame, serve only to weaken the legitimacy of common policies. Beyond the policy level, such developments also affect wider perceptions of the achievements of European integration and the possibility of backtracking towards a troubled past; the symbolism of walls being erected on the continent of the Berlin Wall and the Iron Curtain is alarming beyond its political repercussions.⁷

⁵ Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, art. 3. *Official Journal of the European Union* L 50/1.

⁶ See Yahoo News, (2015). Hungary could block Croatia's Schengen accession: aide to PM. [online] Available at: <http://news.yahoo.com/hungary-could-block-croatias-schengen-accession-aide-pm-105034474.html> [Accessed 22 September 2015].

⁷ Caryl, Christian. (2015). Berlin’s New Walls. [online] *Foreign Policy*. Available at: <https://foreignpolicy.com/2015/09/15/berlins-new-walls-migrant-refugee-crisis-schengen-europe/> [Accessed 22 September 2015].