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Refugees in the European Union:
From Emergency Alarmism to Common Management

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Refugees in the European Union: From Emergency Alarmism to Common Management

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Abstract

The refugee's flows have alighted the European political debate boosting nationalistic forces in almost all countries. The aim of this paper is to show that the actual number of asylum seekers does not really allow to talk about a "refugee crises". It argues, however, that the current European Union institutions and procedures are highly insufficient to manage successfully refugee's inflows and asylum requests. A European foreign policy could have helped to prevent refugees' inflows from war-thorn areas such as Afghanistan, Iraq, Eritrea, Libya and Syria. Once the problem is there, the procedures centred on the Dublin Convention are inadequate and the paper provides a few radical suggestions that are made for an EU-centred refugees and asylum seekers management and policy.

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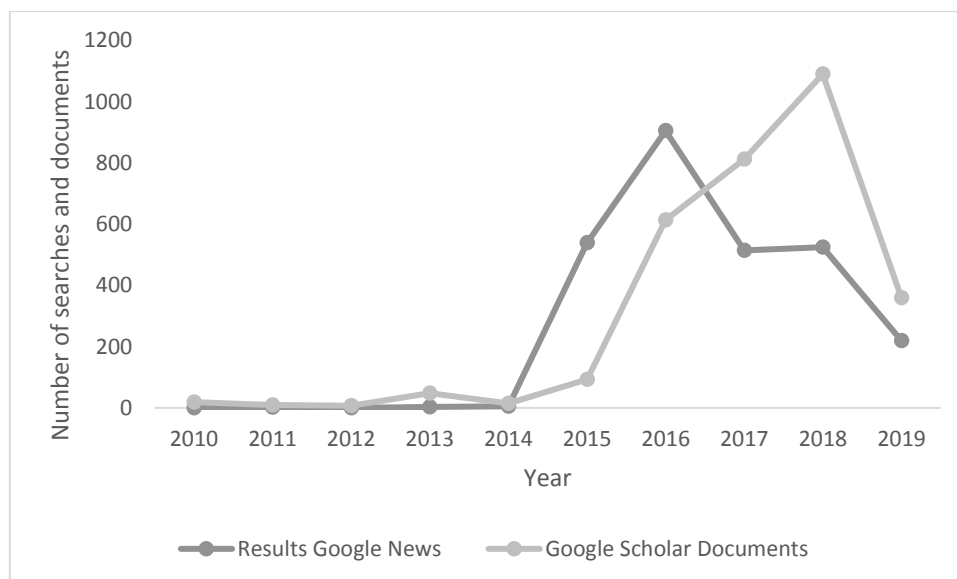
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Is there a European refugee crisis?

The European Union is at a crossroad, facing what Caporaso (2018) called the Europe's Triple Crisis. Brexit, economic policies choices and the inability to successfully manage the snowballing inflows of refugees have substantially increased the share of euro-sceptics and put at risk the long-term project of European integration. The issue of migration and, specifically, of refugees and asylum seekers has probably been the most relevant issue that has alienated so many people from the EU as institution.

In the European political debate, the inflows of refugees and asylum seekers have been described catastrophically, as if there was an endless number of individuals trying to enter with every means into Europe. Figure 1 shows data on both the number of journalistic and scientific articles returned by the query: 'European Refugee Crisis', which we take as an indicator of how the refugee issue has been offered to the public. The trend shows that until 2014 the topic received almost no attention, while from 2015 the interest increased significantly, declining again from 2017 for journalistic articles and from 2019 for scientific articles⁴.

Figure 1: Journalistic and Scientific Articles Related to the 'European Refugee Crisis' Research Query



Source: Elaboration based on data from Google News and Google Scholar search engines. The figures for 2019 refer to the period between 01/01/2019 and 23/05/2019.

⁴ The time lag between journalistic and scientific articles is probably due to the long peer review process undertaken by the latter.

Since 2015, the situation begun to be narrated as a crisis by media⁵, politicians and academics for three main reasons:

- i. the increase in the arrival of asylum seekers;
- ii. the inadequacy demonstrated by the Common European Asylum System (CEAS) in responding to the growing number of persons seeking international protection; and
- iii. the attempt by several political parties and leaders to gain electoral consensus by riding the issue of refugee inflows.

While the CEAS has proven unable to cope with the increase of inflows (Bojadžijev and Mezzadra, 2015; Vitiello, 2016; Cellini, 2017; Bauböck, 2018a), we argue in the next section that the number of asylum seekers' arrivals (and of persons granted protection) do not represent nor have represented in the past a critical amount, especially when considered from a global comparative perspective. For this reason, describing the European refugee situation in terms of crisis is wrong. The narration of a 'European refugee crisis', in fact, is not only a semantic issue since it is used to push European institutions to implement emergency policies, when it would have been wiser to introduce measures aimed at tackling the problem in a structural long-term perspective.

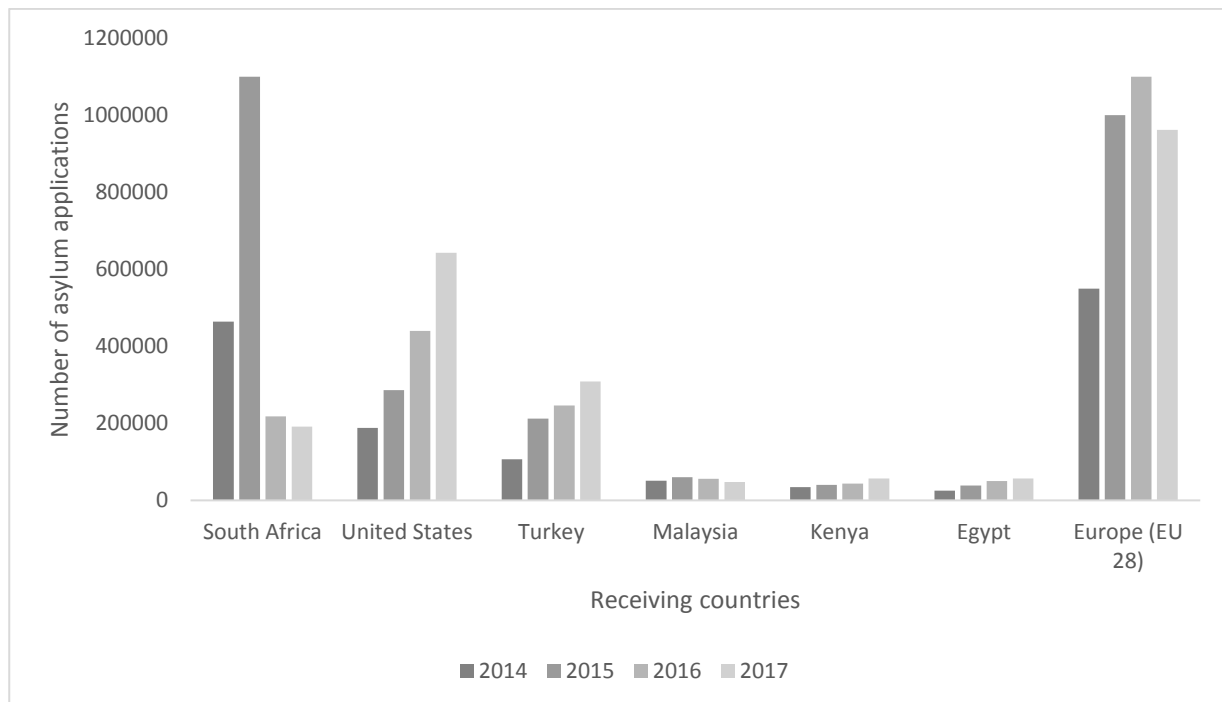
The present paper is structured as follows: the first section analyses some data to show how, if considered in a comparative perspective, neither the inflows nor the total stock of refugees hosted in Europe justify the alarmism used by several politicians and media. The second section examines the European legislation on asylum, critically analysing the Dublin system, the emergency measures and the EU foreign policy adopted from 2015 onward. The third describes the ineffectiveness of the emergency policies adopted by the EU, highlighting the risks they pose for the EU and for asylum seekers and refugees. Section four presents some concrete proposals to overcome the emergency logic addressing the refugee issue from a long-term structural perspective.

⁵ For an analysis of the way in which the crisis has been portrayed by a significant sample of European newspapers and media, see Tudisca, Pelliccia and Valente, 2019. See also Triandafyllidou, 2018.

The crisis is not only over, there has never been any crisis

To understand the magnitude of the European refugee issue it is necessary to compare it at global level. According to UNHCR (2018), during the peak of the so-called "European refugee crisis", more than three million asylum applications were submitted worldwide. In the same year, the EU received about one million requests⁶, while the first six countries by number of requests jointly received 1,737,131 requests (Figure 2). It is important to stress that the number of asylum applications do not coincide with the number of disembarkations since many asylum seekers do arrive in Europe through more conventional means such as flights.

Figure 2: Asylum Applications, Comparison Between the EU and the Six Largest Receiving Countries



Source: Data from UNHCR (2018).

The EU therefore received about one third of the total flow of asylum applications submitted globally. Table 1 shows that the ratio between refugee flows and the total population of receiving countries is similar for

⁶ The UNHCR defines asylum seekers as 'individuals who have requested international protection and whose applications for refugee status have not yet been completed, regardless of when they may have been submitted'.

the EU and other countries with massive inflows and it is substantially below countries such as Turkey and South Africa. There are certainly significant intra-European variations (reported in Table A4 in Appendix), with some countries, such as Greece and Cyprus where the ration of asylum application to total population is as high as 0.62 and 0.65, respectively, and other countries where it is close to zero. Even if the table reports a flow on the nominator (the number of asylum seekers) and a stock in the denominator (the total population), it nevertheless provides some useful comparative information. The EU ratio increased substantially in 2015 and 2016, but the decrease in 2017 indicates that the peak has apparently passed.

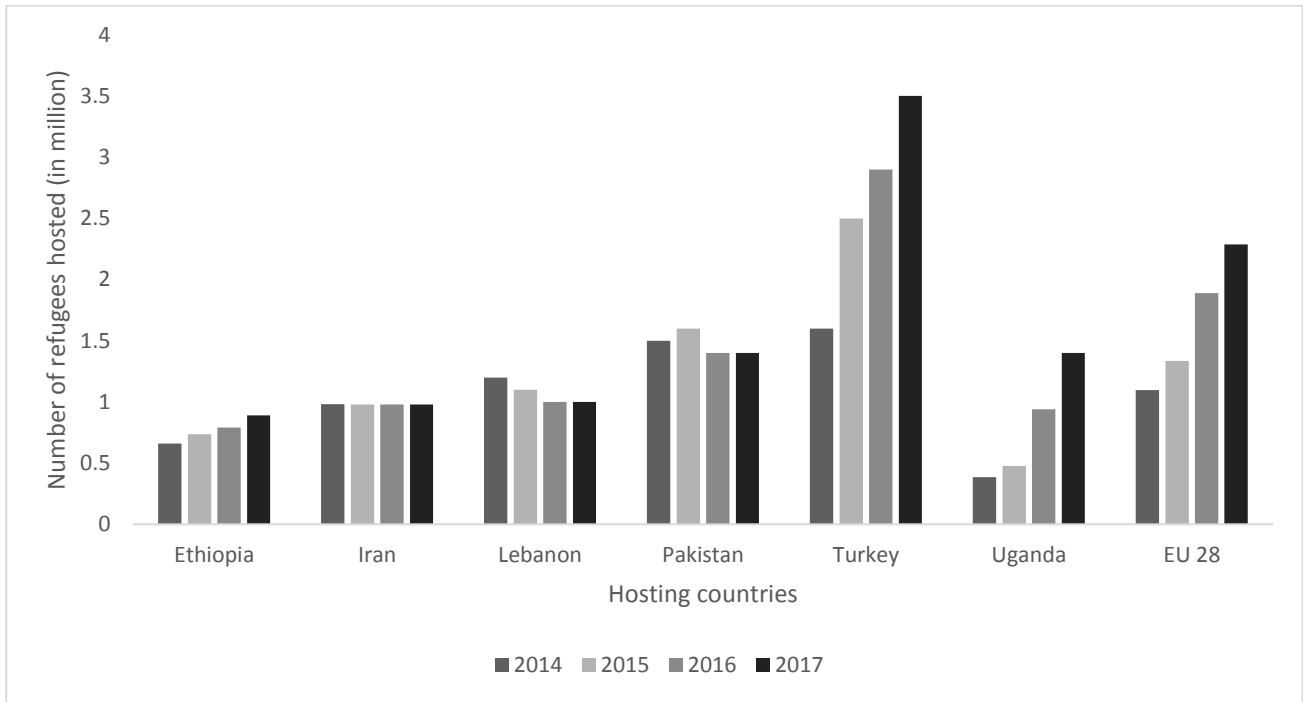
Table1: Asylum Applications as a Percentage of the Total Population of the Receiving Countries (%)

Country	2014	2015	2016	2017
South Africa	0.85	1.99	0.39	0.34
United States	0.06	0.09	0.14	0.20
Turkey	0.14	0.27	0.31	0.38
Malaysia	0.17	0.20	0.18	0.15
Kenya	0.07	0.08	0.09	0.11
Egypt	0.03	0.04	0.05	0.06
European Union (EUR 28)	0.11	0.20	0.22	0.19

Source: Elaboration on data from UNHCR (2018).

Comparing the total number of refugees hosted by the whole EU with the number of those hosted by the six main hosting countries, a similar picture appears. Figure 3 shows how, in 2015, the EU hosted fewer refugees than Turkey and Pakistan and a similar number than Lebanon and Iran.

Figure 3: Number of Refugees Hosted, Comparison Between the EU and the Six Largest Hosting Countries



Source: Data from UNHCR (2018).

Comparing the percentage of refugees hosted on the total population of the hosting countries is even more significant since each nation might be more concerned about the stock rather than by the flow. As shown by Table 2, while refugees represented 0.26 per cent of the total European population in 2015, they represented 18.8 per cent of the Lebanese population. In addition, among the largest hosting countries, the percentage of refugees hosted by the EU was the lowest in all the years considered.

Table2: Hosted Refugees as a Percentage of Total Host Country Population (%)

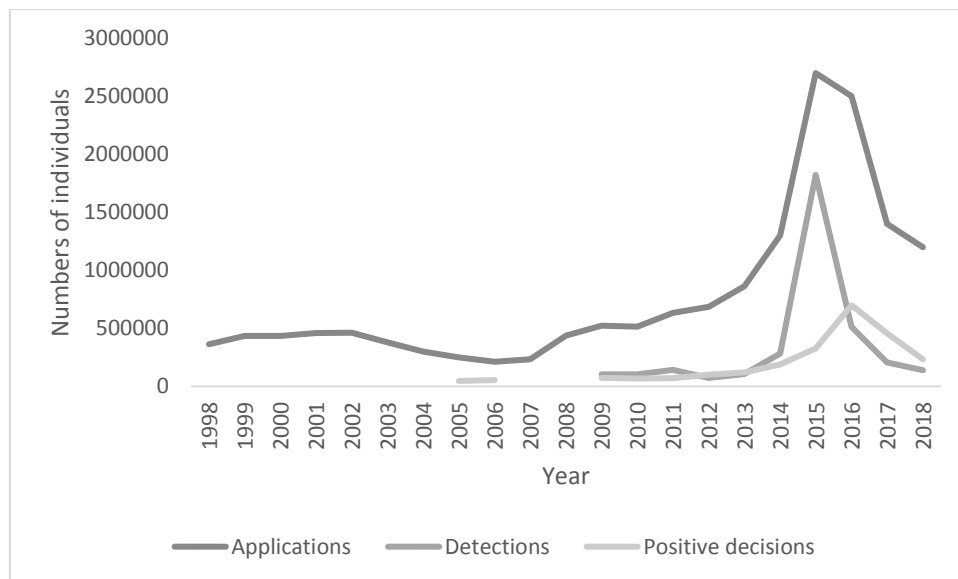
Country	2014	2015	2016	2017
Ethiopia	0.68	0.74	0.77	0.85
Iran	1.25	1.23	1.22	1.21
Lebanon	21.42	18.80	16.65	16.42
Pakistan	0.81	0.84	0.72	0.71
Turkey	2.08	3.19	3.65	4.33
Uganda	0.99	1.19	2.27	3.27
EU 28	0.22	0.26	0.37	0.45

Source: Elaboration on data from UNHCR (2018).

Data presented suggest that if there was a European crisis, it was not about the number of asylum seekers and refugees, but rather about the European management of asylum applications that has been unable to cope harmonically with the flows and to redistribute equitably the reception costs among member states.

Looking solely at the European inflows (Figure 4), in 2015 member states received 2,700,000 asylum applications⁷, although they granted international protection to only 327,955 individuals; in the same year, according to the data provided by the Frontex agency, 1,822,177 individuals attempting to enter the EU untitled were detected along the EU's external borders. However, since the beginning of 2016, asylum applications, positive decisions and detections began to decrease, and in 2018 both positive decisions and detections returned to 2013 levels, while asylum applications returned to 2014 levels.

Figure 4: Asylum Applications, Positive Decisions and Detections of Illegal Border Crossing Points in the EU



Source: Data on positive decisions and applications are from Eurostat (2018); data on detections are from Frontex (2018).

The evidence discussed in this section, therefore, show that the narrative of the European refugee inflows in terms of crisis has been greatly exaggerated, and that the flows of asylum seekers have now returned to

⁷ Eurostat defines asylum seekers as “those who have lodged an application for international protection or who have been included in such an application as family members during the reference period”.

levels that we could define as routine for the EU. There are, of course, long-term problems associated to the need to integrate socially and economically the refugees hosted, but this is a social policy problem. Why is it important to recognise that the narrative of the European refugee situation in terms of crisis is incorrect? And why is it essential not to treat the phenomenon in terms of crisis? The dominant representation has prompted both the EU and the member states to focus on implementation of emergency solutions and measures, such as relocation and resettlement schemes, and the hasty signing of agreements outsourcing the control of the EU's external borders to third countries, diverting the attention from the search for a more effective and consistent set of structural measures capable of responding adequately to the phenomenon of asylum seekers in Europe.

The emergency policies implemented by the EU

The CEAS is the set of rules concerning the management of refugees and asylum seekers, which establishes greater cooperation to ensure that asylum seekers are treated equally in an open and fair system throughout the EU. To address what was perceived and described as an incumbent disaster, since 2015 the EU has adopted several emergency measures that can be divided into two categories: those related to internal policy and those related to foreign policy and EU's relationships with third countries of transit.

Concerning internal policies, the European Commission adopted the European Agenda on Migration in May 2015, which included various strategies. Firstly, the Agenda identified a management method, called Hotspot, to support the member states affected by the increased flows of asylum seekers. The hotspot method involves training teams of specialists (made up of members of EASO, Frontex, Europol, EUROJUST and the authorities of the member states) who are called upon to quickly identify, register and take the fingerprints of incoming migrants. Secondly, the Agenda proposed the implementation of a relocation mechanism, whereby persons in clear need of international protection are identified in those member states at the forefront (Italy and Greece) and transferred to other member states where their asylum application will be processed. Finally, the Agenda provided the resettlement programme providing that for every Syrian national returned from the Greek islands another will be resettled to the EU directly from Turkey, replacing

irregular flows of migrants travelling in dangerous conditions across the Aegean Sea by an orderly and legal resettlement process. The financial burden of the Agenda was supported by the EU budget.

Concerning foreign policies, the EU concluded a series of agreements with some third countries of transit with the aim of reducing asylum seekers flows: Turkey, Libya and Morocco. The EU-Turkey agreement was signed in March 2016 with the twofold aim of eliminating irregular migration flows from Turkey to Greece and improving reception conditions for refugees in Turkey. In return, the EU has pledged to support Turkey with a three billion euro funding for 2016-17 and a further three billion euro for 2017-19, to speed up the finalisation of the visa liberalisation agreement for Turkish citizens by streamlining the necessary procedures, and to resume and speed up negotiations for Turkey's accession to the EU. Turkey, on the other hand, has agreed to accept the return of all irregular migrants who arrived in Greece after 20 March 2016, to improve reception conditions for migrants and to work with the EU to improve humanitarian conditions in Syria (health, hygiene, protection), through the implementation of programmes aimed at responding rapidly to emergencies and new movements, with continued priority in besieged, hard to reach and displacement areas (European Commission, 2016; 2018a).

The Italy-Libya agreement, concluded in 2017 and strongly supported by the EU, aims to combat illegal migration and human trafficking, and to strengthen Libyan borders' security (De Guttry et al., 2018). Inspired by the EU-Turkey agreement, it represents a poor reproduction of its predecessor (Accorinti, Pugliese and Vitiello, 2019). The agreement provides for bilateral cooperation, financial and technical enhancement of the Libyan navy and coastguard, as well as the improvement of the conditions of migrants in Libyan detention camps (Nakache and Losier, 2017). According to Merelli (2017), the financial support should amount to 240 million US dollars.

The EU-Morocco agreement, negotiated within the framework of the EU Emergency Trust Fund for Africa, aims at combatting human trafficking, reducing the entry of irregular migrants into Europe and improving the control of Moroccan borders. It provides to Morocco a financial support of €148 million (European Commission, 2018b).

The ineffectiveness of European policies and the emergency approach, and the risks associated with outsourcing the refugee problem

The ineffectiveness of the European asylum policies and in particular of the so-called Dublin System is evident, and it has been reported both in the literature on the subject (Bojadžijev and Mezzadra, 2015; Vitiello, 2016; Cellini, 2017) and, more instrumentally, by politicians and journalists whenever an irregular landing occurred. But what are its actual limits?

First, despite the efforts made by the EU, the objective of harmonising asylum procedures, reception conditions, and the programmes implemented by the various member states for those granted refugee status, is still far from being achieved (Guild, 2016; Becker, 2019). Considerable differences remain with respect to several aspects of (see the tables in the Appendix) such as the timing required for the examination of asylum applications (Euractive, 2015), the percentage of positive decisions (Cellini, 2017), the conditions in which asylum seekers are held while waiting for the examination of their applications, as well as with respect to the integration policies implemented by the different member states (Wolffhardt, Conte and Huddleston, 2019). De facto, each country continues to maintain its own rules. This is an issue since it does not allow asylum seekers to benefit from equal conditions in all member states.

Secondly, the rule according to which the first country of arrival is responsible for examining applications has contributed to worsen the situation, creating considerable hardship for member states, asylum seekers and refugees. From the member states perspective, this rule has ended up placing a disproportionate burden on the EU's external border states, such as Greece, Cyprus, Spain, Malta and Italy. This rule has had also negative effects on asylum seekers and refugees. As also shown by Table A1 in the Appendix, Member states continue to have different rules regarding the acceptance of asylum applications: in 2015, 56.8 per cent of applications were accepted in Finland, while Hungary only accepted 12.7 per cent. These differences have protracted also in the following years; Table 3 shows the acceptance rate of EU member states in 2018.

Table 3: Acceptance Rate of Asylum Requests by EU Member States and Associated Countries (2009-18)

Country	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Austria	21.7	25.0	30.9	28.0	29.6	76.3	71.3	71.6	55.8	43.5
Belgium	20.2	21.6	25.6	22.7	29.4	39.6	53.9	60.3	52.3	50.9
Bulgaria	41.9	27.2	31.4	26.6	87.5	94.1	90.6	44.3	35.8	35.1
Croatia	n/a	n/a	n/a	14.3	13.5	10.6	21.6	35.1	31.6	31.0
Cyprus	29.3	17.4	2.7	7.9	20.6	76.2	76.8	65.8	50.8	49.1
Czechia	18.9	35.0	46.7	24.3	38.3	37.5	34.5	33.5	12.2	11.2
Denmark	48.0	41.0	36.7	36.2	40.3	68.0	81.3	68.4	34.4	50.1
Estonia	20.0	37.5	16.7	18.2	18.2	36.4	44.4	68.4	61.3	26.7
Finland	36.2	37.5	41.0	50.3	51.3	54.3	56.8	34.1	47.8	54.2
France	14.3	13.5	10.9	14.5	17.3	21.6	26.5	32.9	29.4	28.4
Germany	36.5	23.1	24.0	29.2	26.4	41.7	56.5	68.8	49.9	42.4
Greece	1.1	3.0	2.1	0.8	3.8	14.8	41.8	23.7	42.7	47.0
Hungary	21.6	25.0	17.3	31.8	7.9	9.4	12.7	8.4	30.9	38.0
Ireland	4.0	1.6	5.5	10.6	17.9	37.7	33.0	22.8	85.9	85.5
Italy	39.4	38.1	29.6	80.7	61.1	58.5	41.5	39.4	40.6	32.2
Latvia	25.0	50.0	22.2	17.2	26.3	26.3	11.8	51.9	73.6	24.0
Lithuania	27.6	7.9	8.2	14.1	31.4	37.8	47.2	69.6	77.0	50.0
Luxembourg	23.7	14.7	3.4	2.4	10.4	13.6	23.9	61.0	65.6	71.9
Malta	65.6	62.9	55.1	90.3	84.3	72.6	83.9	82.9	68.5	43.0
Netherlands	46.9	45.5	43.3	40.3	48.9	66.8	80.4	72.1	49.0	35.2
Poland	38.4	11.5	14.8	21.0	23.7	26.7	18.2	11.9	19.6	15.0
Portugal	52.6	42.3	56.5	43.5	44.3	47.8	52.7	54.2	52.4	59.8
Romania	21.3	16.5	7.0	14.2	63.8	46.7	36.4	62.2	60.3	45.9
Slovakia	57.1	30.5	53.5	43.2	36.8	60.7	61.5	84.0	66.7	56.3
Slovenia	16.7	21.7	9.5	16.7	17.9	47.4	34.6	64.2	62.5	42.6
Spain	7.8	21.9	29.2	20.2	22.6	43.8	31.5	66.9	33.9	24.4
Sweden	29.7	30.8	33.0	39.3	66.8	76.8	66.6	69.5	43.8	34.0
United Kingdom	27.0	24.3	31.5	35.7	38.1	39.2	36.6	32.1	30.8	35.0
Iceland	16.7	66.7	28.6	15.4	7.7	54.5	27.0	17.6	17.9	27.6
Liechtenstein	0.0	0.0	33.3	0.0	11.1	0.0	16.7	60.0	62.5	25.0
Norway	30.7	34.3	42.1	48.8	49.0	64.2	66.0	66.2	71.2	69.0
Switzerland	56.5	52.0	45.2	25.7	38.5	70.7	64.1	58.4	90.0	89.6
Average	28.9	28.3	27.0	27.9	33.9	46.0	47.2	52.5	50.0	42.6
Coefficient of variability	54.9	56.6	57.6	69.6	60.7	48.1	45.6	38.3	37.4	41.1

Source: Data from Eurostat (2018)

Moreover, there is a rather strong contradiction between an EU based on the free circulation of people on the one hand, and the willingness to limit the mobility of asylum seekers on the other hand. The desire to

prevent secondary movements of asylum seekers makes it difficult for them to draw on their individual resources (such as having family and social networks in a specific EU country, mastering one of the various EU languages, having better professional skills to spend in one country rather than another) contributing to make refugees outlawed by force, obliged to escape the registration of fingerprints and to try to reach the chosen countries through illegal routes, running a whole series of risks endangering their lives (IOM, 2017).

The emergency instruments implemented included: a) the resettlement, i.e. the relocation of a Syrian national from Turkey to EU territory for each Syrian national returned from Greece; b) the relocation mechanism, i.e. the transfer of asylum seekers from one European country (mainly Italy and Greece) to another; and c) the outsourcing of the EU borders' control. All three instruments had limited impact.

The resettlement programme, started in 2017, had rather minimal objectives, namely, to allow the safely arrival in Europe from third countries up to a total of 22,500 vulnerable refugees. 19,432 individuals have actually been resettled. The objective was achieved although the total number involved is much below what would be needed. Much worse the effectiveness of relocation, which ended in 2017 after more than two years. The set target was of 100,000 asylum seekers in total, a number insufficient to distribute equally asylum seekers across European countries. Despite the limited scope of the programme, only 34,000 people were relocated. Since less than a third of the target goal relocations have been concluded and that some countries (such as Poland and Hungary) have not participated, while other member states have participated less than the quotas allocated to them, it is clear that the relocation mechanism, which in the new programming will only be voluntary and probably even less effective, has failed.

The strategy of externalising EU border control has been more effective, albeit only in reducing arrivals (Benli 2018). As shown by the data provided by FRONTEX (2018), in fact, from 2015 to 2018 most routes have seen a significant reduction of detections in almost all the years considered. However, while detections on the central Mediterranean route have decreased considerably, those on the Western and Eastern Mediterranean routes have increased. The overall reduction of detections, as well as of asylum applications (shown in Figure 4), is largely the result of the effectiveness of the agreements signed with third Countries of transit: Turkey, Libya and more recently Morocco. Nevertheless, while the policy of externalising the control of EU's external

borders appears to be somewhat successful from in reducing arrivals, it presents serious problems that should be considered, both for the EU and for migrants.

The nature of the political regimes in Turkey, Morocco and Libya should be considered since none of them is respectful of human rights, even less of the human rights of asylum seekers. The fate of refugees who often flee from countries in the grip of civil war is, in short, put in the hands of other equally brutal regimes. This type of outsourcing poses three interlinked problems:

- i. The contradiction between outsourcing refugees to countries that do not respect human rights and the principles on which the EU is based;
- ii. The risk and in many cases the certainty that asylum seekers are put in a position where their human rights can be violated again;
- iii. The dependence that the EU creates to outsource the refugee problem to non-democratic countries.

Articles 2 and 8, Title I and Article 21, Chapter 1, Title V of the Treaty on European Union are quite clear about the fundamental and founding role that democracy and respect for human rights play not only within the EU, but also in the way in which the EU projects itself outside its borders. None of the three countries has an effective human rights protection system.

According to a recent report by Amnesty International (2018) Turkey is in a state of emergency about human rights violations, where dissent is strongly and violently repressed. With respect to the situation of migrants, the report points out that, despite some initiatives aimed at improving their situation, many of them do not have access to essential services nor to a clear procedure for determining their status. In addition, cases of forced returns of asylum seekers and refugees, including those from Syria, are continuously reported.

In Libya, Amnesty International (2018) reports an even more worrying situation. At present, the three rival governments and their respective armed militias continue to commit serious and frequent violations of international law and human rights, with substantial impunity. All parties to the conflict carry out indiscriminate attacks in densely populated areas, leading to the killing of civilians. Migrants, refugees and

asylum seekers are subject to widespread and systematic human rights abuses and violations perpetrated by officers of detention centres, the Libyan coastguard and armed groups of human traffickers.

Even in Morocco the human rights situation in general, and even more the rights of migrants, are very worrying. Amnesty International (2018) denounces that the authorities do not adequately investigate allegations of torture in detention centres. At the same time, migrants continue to face excessive use of force and detention. Finally, Moroccan security forces continue to participate to the summary expulsion of migrants and asylum seekers from the Spanish enclaves of Ceuta and Melilla.

While this contradictory situation may therefore damage the EU's overall credibility in terms of respect of its very founding principles and may therefore potentially undermine the effectiveness of its foreign policy actions aimed at disseminating democratic practices and respect for human rights, this contradiction puts asylum seekers and refugees in a very dangerous position. In addition, the outsourcing of European border control puts the EU in a potentially vulnerable position. Concluding agreements with authoritarian regimes with poor transparency, accountability and respect of the rule of law make the EU in danger of blackmails. These countries have the possibility of opening their borders any time and to artificially create new refugee inflows in case of non-acceptance of their requests.

Finally, the emergency approach and the lack of long-term structural policies expose the EU to the possibility that real or alleged crises may explode in the future whenever international conflicts, civil wars, natural disasters, or other kind of upheavals strike countries more or less close to the EU's external borders, since these are the determinants of the greatest flows of asylum seekers.

Overcoming the emergency approach by implementing structural solutions

The lack of effectiveness of the emergency policies implemented by the EU to face the refugee issue show the need to abandon the emergency approach in favour of a structural management approach capable of dealing not only with current problems but also with possible sudden new increases in flows. Table 4 reports the main differences in terms of actions and consequences of the emergency approach versus the structural management approach we here advocate.

Table 4: Approaches to Refugees Flows: Emergency Versus Management

	Actions	Consequences
Emergency approach	Containing inflows through refolement	International laws' violations Increase of irregular inflows and trafficking
	Passing the buck across countries	Tensions among member states Weakening of cohesion in the EU
	Borders' control externalization	Dependency on non-EU countries with poor human rights records
	Impeding secondary movements	Increasing illegal trafficking and decreasing refugees' integration chances
Management approach	Preventing international crisis through diplomacy, peace actions and economic aid	Reducing asylum seekers' inflows at source
	Standardization of EU regulations	Creating a shared assessment procedure for the recognition of international protection
	Cooperation among EU countries in hosting and integrating refugees	Increasing EU integration and reducing tensions among member states
	Granting free movement to refugees	Reducing intra-EU illegal trafficking and facilitating refugees' integration

Source: Authors' elaboration

Any attempt to overcome the emergency approach and to find long-term structural solutions should follow at least four trajectories:

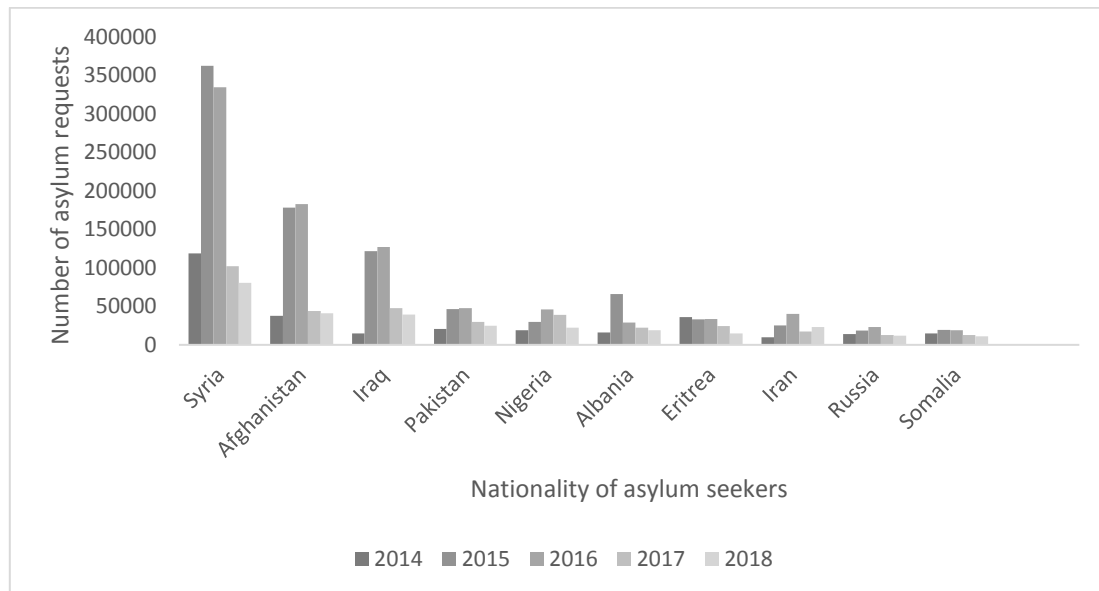
- i. Reducing departures from countries of origin;
- ii. Ensuring a fair distribution of the burden among EU member states;
- iii. Ensuring the respect for human rights for asylum seekers and refugees both within the EU and in the framework of its relations with third countries;
- iv. Improving the management of asylum seekers and refugees.

Reducing departures from countries of origin

Large flows of asylum seekers, in most cases, are the effect of internal or international conflicts forcing individuals to leave their country of origin to escape the horrors of war. This is also confirmed for the European inflows of the recent decades: the Balkan wars of the 1990s, the wars in Iraq and Afghanistan, the Syrian and the Libyan civil wars have generated the greatest number of asylum seekers. Figure 5 confirms

these claims illustrating how, from 2014 to 2018, most of the countries who generated the greatest flows of asylum seekers were devastated by wars and civil wars, and/or countries in which basic human rights are systematically violated.

Figure 5: Asylum Applications in the EU by the 10 Largest Asylum Seekers' Nationalities (2014-18)



Source: Data from Eurostat (2018)

Indeed, war is not the only cause of the phenomenon. Serious and systematic human rights violations, epidemics and natural disasters, as well as economic and social underdevelopment, are also at the root of asylum flows. However, war is often a sudden event that in a short time creates many people in need of international protection. It is clear, therefore, that in order to prevent large flows of asylum seekers, it is first necessary to prevent the outbreak of armed conflicts. Can the EU do it?

Despite the progress made by the EU on the common security and defence policy, member states continue to enjoy a high degree of autonomy and different preferences. While respecting international law, member states have the power to intervene or promote military actions without any kind of scrutiny by EU institutions. But the EU has often to deal with the migratory consequences of such interventions *afterwards*. An example is the military intervention in Libya in 2011, authorised by the United Nations and initiated by France. The overthrow of the Gaddafi regime in the absence of a clear long-term strategy has left Libya in a highly fragmented condition, without a central government capable of controlling its entire territory. This

has resulted in a sharp increase in migration flows from Libya and the inability of the country to patrol its own inflows from other African countries. Similar situations also occur when the United States initiated military actions in Iraq and Afghanistan. In both cases, many EU countries participated in the military action promoted by the Bush Jr Presidency, without being able to achieve internal peace and stability in these countries in the subsequent 15 years, which would have been the best condition to prevent refugee flows at source.

The EU competence in such situations is severely limited by the powers conferred by the Treaties. While the EU has the possibility to undertake diplomatic actions, as well as certain types of military actions (peace-keeping, peace-building, training of armies of third States, etc.), member states retain the right to undertake autonomous actions without the interference of the EU, and consequently of the other member states. All these military interventions were decided without paying any attention to the boomerang effect they would have generated: long-term civil wars and refugee flows for at least a generation. In order to address this tension, the EU should have developed more effective coordination regarding peace-building interventions in neighbouring areas or those areas that could create indirect effects such as new refugee flows.

Obviously, this path is far from easy to follow. The main difficulty of such a proposal is that to give the EU decision-making power over the military interventions of member states would require a reform of the Treaties relating to foreign policy and common defence. However, the procedure for reforming the Treaties is extremely long and complex, especially since individual member countries have different preferences (Koenig-Archibugi, 2004). A second-best option would be to explicitly include in strategic decisions about military interventions also the risk of generating refugee flows. If this would have been done, it is likely that more efforts and resources would have been devoted to diplomacy, peacebuilding and peace enforcement rather than to military interventions.

Ensuring a fair distribution of the burden among EU member states

One of the most problematic and thorny aspects of the EU's overall and emergency strategy on the management of refugees and asylum seekers has been the lack of a fair distribution of the burdens arising from the management of international protection claims, as often denounced even before the so-called

refugee crisis (Barutciski and Suhrke, 2001; Noll, 1997; Thielemann, 2003). In the Appendix we try to document intra-EU differences.

There are at least four reasons that explain the unequal distribution of refugees across member countries (Neumayer, 2004; Thielemann, 2004, 2018; Hatton, 2015; Zaun, 2018):

- i. The role of structural factors that would naturally increase the weight for some specific states. The existence of migrant networks, geographical location, historical or linguistic links are all elements that could increase the weight for specific countries;
- ii. The role of internal migration policies within states. Countries with more open migration policies would tend to attract more migrants as well as asylum seekers.
- iii. The role played by the Dublin System with its cornerstone that the first country of arrival should deal with asylum-seekers, which by itself generate an uneven distribution of burdens among the EU member states;
- iv. The increased propensity of member countries to become free riders in moments of increased refugee flows, deliberately choosing of not acting if they are not directly involved. This avoid governments to be under pressure by their electorates and often, governments' refusal to cooperate could even lead to increase their internal consensus. In these conditions effective cooperation becomes impossible.

Although all the arguments considered seem reasonable and worthy of consideration, the fourth, proposed by Tielemann (2018), explains very well why the EU has been unable to implement effective policies. This interpretation also suggests a possible way to impede free riding practices: implementing a binding European distribution system. If we consider the fact that all the policies implemented so far to try to redistribute more fairly the burden resulting from the flows of asylum seekers have failed, there is a need to move towards a binding system to achieve of the objective in question.

Such a system should of course be based on the principles of solidarity and fairness between member countries and should ensure that each of them contributes to the management of the problem according to

its own resources and possibilities. In order to implement such a system, firstly, annual quotas of asylum applications to be processed should be established and allocated to each country. The quotas, always considering the principles of solidarity and equity, could be established based on certain objective parameters such as GDP per capita, growth rate, unemployment rate, the stock of refugees already hosted, and so on. Once the quotas have been set and made binding, the EU should establish a system that encourages member states to respect them, or rather that discourages them from not respecting them. In this regard, it could be implemented an infringement system similar to that used in the Stability and Growth Pact (SGP) in the event of non-compliance with the macroeconomic parameters. In fact, as the failure to comply with these parameters is considered a risk for the resilience of the Euro and therefore for the EU itself, the European refugee issue also seems to represent a risk for the resilience of the EU, if for no other reason than the great impetus it has given to populist, nationalist and anti-European parties (Archibugi and Benli, 2017) in all member countries. It is fundamental, however, to provide also a mechanism allowing asylum seekers to choose the country in which to be relocated (Bauböck, 2018b) so as to facilitate their integration once their requests are received.

In practice, the management of this system could be granted to the European Commission and the Council of Ministers in the Justice and Home Affairs formation, which on the one hand should be responsible for monitoring the compliance with the quotas and, on the other hand, should have the power to impose sanctions if member states do not comply with them. The procedure could be similar to that of the SGP, with three distinct phases: warning, recommendation and sanction. If a member state does not respect the quotas, the European Commission proposes, and the Council of European Ministers approves, an "early warning", followed by a real recommendation in case of non-cooperation. If, as a result of the recommendation, the State concerned does not cooperate, it may be subjected to an economic sanction.

Ensuring the respect for human rights for asylum seekers and refugees both within the EU and in the framework of its relations with third Countries

The EU was created to respect human rights internally and to promote them externally. However, the agreements on migration concluded with certain countries are very far from EU human rights standards. In

fact, these agreements have been concluded with countries where the respect for human rights and even more for asylum seekers is not guaranteed.

Moreover, human rights violations against asylum seekers have also been reported within EU's territory, as shown by both Amnesty International (2018) and the Office of the High Commissioner for Human Rights (OHCHR, 2017). For instance, Italy has been strongly criticised for the prolonged detention of asylum seekers in hotspots and for the lack of protection against the erroneous classification of asylum seekers as economic migrants. In addition, the UN Committee against Torture expressed strong concerns about the lack of safeguards against forced return of asylum seekers to countries where they would have been at risk of human rights abuses (OHCHR, 2017). In Hungary, several cases of excessive use of force against asylum seekers trying to enter the country have been reported. In France, violations of the right of non-refoulement have been reported for having returned Afghan citizens who were at risk of suffering human rights violations when they returned to their original country (Amnesty International, 2018).

Concerning the respect for asylum seekers' human rights in the context of the agreements signed with third countries, such as those with Libya, Turkey and Morocco, the EU could adopt at least three strategies. The first and most effective is to end these cooperation agreements when cases of violation of the human rights of asylum seekers are reported. The second is to establish permanent European offices in the territory of the third countries in question, with the task and the power of monitoring the respect of migrants' human rights. The third strategy is to locate in these countries EU facilities that could assess the claims of asylum seekers and to decide when they status of refugees, providing them safe travel to the host country or safe return to their original country (European Alternatives, 2015).

Concerning the issue of violations of the human rights of asylum seekers by EU member states, in principle the EU would have already the instruments to address them as it does for all human rights violations in its members, namely the suspension of the membership provided by Article 7 of the TEU. The European Council, through a 4/5 majority of its member countries, can declare that there are risks of serious violations of refugees and migrants' human rights, so beginning the procedure. In more than one occasions, as in the case of France in 2009, Romania in 2012, Hungary in 2016 and Poland in 2017 (Fletcher, 2017) the possibility to

activate this mechanism has been discussed. However, it has never pursued the mechanism to the next stage, which required the unanimity of member countries, and which would have allowed to apply sanctions to the violating nations. Requiring unanimity to establish the actual violation, in fact, empties this instrument of any political credibility.

Improving the management of asylum seekers and refugees

To develop an asylum system more responsible and inclusive for member states and asylum seekers and refugees requires to overcome the differences between member states on asylum policies, as well as to overcome the rule of the first country of arrival and the impediment to secondary movements once refugee status has been granted. To do so, the EU should take stronger measures.

An efficient and effective solution could be to reform the Reception Conditions, Procedures, and Qualifications Directives (Parusel, and Schneider, 2017). Based on the good practices implemented by the most virtuous states, such a reform should provide, first of all, a quick and timely examination of asylum applications, based on clear rules equally applied in each member state; secondly, it should provide for harmonisation of the rules on reception conditions for asylum seekers; and finally, it should ensure common programmes for the integration of refugees and their access to public services.

To make the transition easier and, above all, to ensure a truly homogeneous application among the member states, the directives could be transformed into regulations. Unlike the former, the latter provide for detailed rules on matters falling within their competence and can be applied directly without the need for member states to convert them into national laws, thereby preventing member states from departing from EU standards.

Finally, with respect to the possibility of granting refugees the right of free movement within the EU, which, as already mentioned would represent a huge step forward in European asylum policy, it would allow refugees a greater chance of integration and, together with the harmonisation proposed earlier, would eliminate the reasons behind the attempts of asylum seekers to escape registration on arrival in Europe. If each state were to guarantee the same procedures for examining applications and if, once refugee status

had been obtained, people could move freely within the EU, there would no longer be any reason to risk their lives by trying to escape registration and reach other countries by makeshift means or by relying on criminal networks.

To implement such a measure, the EU could take several paths. In a minimalist perspective, it could include refugees among the beneficiaries of the right of free movement provided by the Schengen Treaty, creating a special European identity document granted for humanitarian reasons, recognised and valid throughout the EU; or, in a genuine cosmopolitan perspective (Hassner, 1998; Benhabib, 2005; Archibugi, 2008), it could set up a special European citizenship institute for refugees, which would not only include the right to free movement but would also give access to other rights, such as the possibility of voting in national and local elections in the countries in which they reside, or in European elections (Cellini, 2017b). In both cases, however, this would finally lead to the creation of a European asylum system that is specifically designed to guarantee the best possible conditions for refugees to integrate within EU territory.

Conclusion: European Refugees strategy as an opportunity for European integration

The European refugee situation in recent years has been described, narrated and addressed in catastrophic terms. Consequently, both member states and the EU have preferred to focus their efforts on the implementation of emergency solutions such as relocations, resettlement and externalization of EU borders control, rather than on the development of structural policies and instruments capable of tackling the situation in a long-term perspective.

The simple data on asylum seekers and refugees flows we have reported show that the narrative of the refugee situation has been greatly exaggerated for political reasons. The problem in Europe with refugees, therefore, does not seem to stem from the exceptional nature of the inflows but rather from the inability of the CEAS to manage them in an orderly, secure and efficient manner and for the attitude of several member countries to struggle rather than collaborate among themselves.

We have described the main rules and instruments of the CEAS, as well as the emergency measures adopted by the EU both internally and externally. On the *internal policies front*, the CEAS is based on the Dublin Regulations and the Reception, Qualification and Procedures Directives. The Regulations establish which country is responsible for examining each individual asylum application, identifying it in the country where the asylum seeker first entered Europe. The Directives, on the one hand, aim to harmonise practices between member states by laying down a set of minimum common rules to all countries. Internal emergency measures such as relocation and resettlement schemes, on the other hand, were aimed at redistributing the burden of asylum flows from the most affected member states to those least affected by arrivals. On the *external policy front*, the EU has concentrated on formalising ad hoc agreements with certain third countries of transit with the aim of reducing the arrivals of asylum seekers on European territory.

Our critical analysis of European policies indicate that they have been ineffective and inefficient on both the internal and external fronts. In particular, the paper shows how internal policies have been largely insufficient and, in some cases such as the first country of arrival rule, have contributed to accentuate the problems. At the same time, policies to externalise the control of the EU's external borders, while showing some effectiveness in limiting arrivals, have led to a situation where asylum seekers, refugees and migrants in general are placed in situations of serious and systematic human rights violations.

We have suggested several long-term policies aimed at solving the problems raised by the EU's approach to asylum. The proposed policies follow four distinct but interlinked lines:

- i. Reducing departures from countries of origin;
- ii. Ensuring a fair distribution of the burden among EU member states;
- iii. Ensuring the respect for human rights for asylum seekers and refugees both within the EU and in the framework of its relations with third Countries;
- iv. Improving the management of asylum seekers and refugees.

First, long-term policies should address the roots of the refugee problem. Since most asylum seekers come from countries ravaged by armed conflicts, often started by Western countries and supported by European

countries, the EU should be able to consider also the implications in terms of refugee flows over the military interventions of its member states. A special office coordinated by the High Representative of the Union and composed of foreign ministers of all member states could oversee these issues. While the decision to take or participate in military actions is currently a sovereign power of the member states, the consequences in terms of increased flows of asylum seekers and refugees have significant spill-over effects for all the EU which have, so far, totally been ignored.

Secondly, it is necessary to address the imbalance between member states generated by European legislation, which currently puts uneven pressure on different countries. To do so, it is necessary to implement a binding European system for the distribution of asylum seekers, based on the principles of solidarity and fairness, and ensuring that each member state contributes according to its own resources and possibilities. To make this system effective, however, it is necessary to create disincentives that discourages states from not complying with it.

Thirdly, the EU must monitor and promote respect for human rights both internally and in its relations with third countries of transit. As we have seen, there are reports about refugees and asylum seekers human rights violations both in countries with which the EU has specific agreements for the management of external borders and even in the member states themselves. Externally, the EU could adopt at least two strategies: i) to put an immediate end to such agreements when violations of human rights of asylum seekers are reported; and ii) to provide, within such agreements, for the establishment of Permanent European Offices with the power to monitor the respect for migrants' human rights. Internally, it is strongly needed that the European Council is more assertive when member countries commit human rights violations against refugees and migrants.

Finally, it is necessary to continue the harmonisation of asylum policies between member states, creating a European system that offers asylum seekers and refugees the same opportunities and the same rights throughout the territory of the Union. In this regard, it is necessary to reform the Reception, Procedures and Qualifications Directives, based on the best practices of the most virtuous states. Transforming directives into regulations could help the transition and make the system more effective because unlike the former,

the latter are directly applicable within the legal systems of the member states and therefore do not leave member states the option of departing too far from the common standards. In order to facilitate the integration of refugees and to prevent asylum seekers from using illegal and clandestine routes to move from one member state to another, it is necessary to grant refugees the right to free movement within the EU, eliminating the reasons behind asylum seekers' attempts to escape registration upon arrival.

These proposals may appear highly unrealistic when refugees are often used as the scapegoat to cultivate nationalistic and xenophobic moods across all Europe. Rather than to please these feelings, a genuine European policy could show that the refugees are just a minor problem faced today by the EU, a problem that a farsighted and cohesive common strategy could successfully manage. A more active policy is certainly needed not only to defend refugees' human rights, but also to prevent discrediting the overall EU values.

Appendix – Data on intra-EU Policies for Asylum Seekers

Table A1: Procedures and Benefits for Asylum Seekers Across Some EU Countries

Country	Fast track procedure	Refoulement	Time limits for lodging application	Monthly financial allowance (in euro)	Freedom of movement restrictions	Accommodation lack
Austria	yes	yes	no	40	yes	no
Belgium	yes	no	30	180	no	no
Bulgaria	no	yes	no	0	yes	no
Croatia	no	yes	15	15	yes	no
Cyprus	yes	yes	6	320	yes	yes
France	yes	yes	21	204	yes	yes
Germany	yes	yes	no	135	yes	yes
Greece	yes	yes	no	90	yes	yes
Hungary	no	yes	no	85	yes	no
Ireland	no	no	20	86.4	yes	yes
Italy	no	yes	no	75	yes	yes
Malta	no	no	no	130	no	no
Netherlands	no	no	no	255.1	yes	no
Poland	no	yes	no	12	no	no
Portugal	yes	no	182	269	no	no
Romania	no	yes	no	104	yes	no
Slovenia	yes	yes	no	18	yes	no
Spain	no	yes	no	51.6	yes	yes
Sweden	yes	no	no	204.5	no	no
United Kingdom	no	yes	no	185.1	no	no
Average				166.7		

Source: Authors' elaboration on data provided by AIDA (2018).

Note: Fast-track border procedure provides a truncated asylum procedure with fewer guarantees for those individuals whose cases can be decided quickly; Refoulement is the practice, forbidden by the Geneva Convention on Asylum, according to which a country return an individual in a country where his life or freedom would be threatened; Monthly financial allowance is the sum in euro given to asylum seekers waiting for their application's assessment.

Table A2: Access to the Labour Market and to Education for Asylum Seekers Across Some EU Countries

Country	Labour access	Labour access delay	Maximum working period	Children access to education
Austria	yes	90	180	yes
Belgium	yes	120	no	yes
Bulgaria	yes	90	no	yes
Croatia	yes	270	no	yes
Cyprus	yes	30	no	yes
France	yes	180	no	yes

Germany	yes	90	no	yes
Greece	yes	1	no	depending on location
Hungary	no	no	no	yes
Ireland	yes	270	no	yes
Italy	yes	60	no	yes
Malta	yes	270	no	yes
Netherlands	yes	180	168	yes
Poland	yes	180	no	yes
Portugal	yes	30	no	yes
Romania	yes	90	no	yes
Slovenia	yes	270	no	yes
Spain	yes	180	no	yes
Sweden	yes	1	no	yes
United Kingdom	yes	365	no	yes

Average 147.3

Source: Authors' elaboration on data provided by AIDA (2018).

Note: Labour access delay is the number of days an asylum seeker must wait before being allowed to enter the labour market; Maximum working period is the maximum number of days an asylum seeker can work while waiting for the assessment of its request.

Table A3: Detention, Residence and Citizenship for Asylum Seekers Across Some EU Countries

Country	Asylum seekers detained during a regular procedure	Maximum detention period set in the law	Average detention time	UNHCR and/or NGOs access to reception centres	Residence permits duration (years)	Minimum period for obtaining citizenship (years)
Austria	rarely	540	n/a	with limitations	3	10
Belgium	rarely	182	n/a	yes	5	5
Bulgaria	rarely	no	196	with limitations	5	3
Croatia	rarely	180	90	yes	5	8
Cyprus	rarely	540	180	yes	3	5
France	rarely	90	13	yes	10	none
Germany	never	540	n/a	with limitations	3	8
Greece	frequently	90	90	yes	3	3
Hungary	frequently	180	40	with limitations	3	3
Ireland	Never	7	n/a	with limitations	1	3
Italy	rarely	360	32.8	with limitations	5	5
Malta	rarely	270	97	with limitations	3	10
Netherlands	rarely	540	44	yes	5	5

Poland	frequently	180	97	yes	3	7
Portugal	never	60	60	yes	5	6
Romania	never	60	n/a	yes	3	4
Slovenia	rarely	120	n/a	with limitations	10	5
Spain	Never	60	4	with limitations	5	5
Sweden	rarely	360	29	yes	3	4
United Kingdom	rarely	7	n/a	with limitations	5	6
Average		245.3	74.8		4.2	5.7

Source: Authors' elaboration on data provided by AIDA (2018).

Note: minimum period for obtaining citizenship is the minimum number of years a foreign must live in the country in order to be able to obtain the country's citizenship.

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