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

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ABSTRACT

The flows of refugees have ignited the European political debate, thereby boosting nationalistic forces in almost all countries. The aim of this paper is to counterbalance a widespread view about their overall impact and show that the number of asylum seekers did not represent a “refugee crises”. It argues, however, that the current European Union institutions and procedures are highly insufficient to successfully manage refugee inflows and asylum requests. It is often forgotten that large number of refugees are created from conflicts initiated or not prevented by EU members themselves. Once the problem comes into existence, as the procedures based on the Dublin Convention are widely recognised as inadequate, the paper provides a few suggestions for implementing radical changes to manage refugees and asylum seekers in the EU.

KEYWORDS

Refugees; Asylum Seekers; Dublin System; European Refugees Crisis; European Asylum Policies

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Is there a European refugee crisis?

The refugee issue has placed the European Union at a crossroads. Even before the COVID-19 crisis, Brexit, economic policies choices, and the inability to successfully manage the snowballing inflows of refugees have substantially increased the share of Eurosceptics and put the European integration’s project at risk. In the European political debate, the inflows of refugees and asylum seekers have been described catastrophically, as an endless number of individuals tried to enter into Europe by leveraging every means.

It is true that there has been a real increase in the arrival of refugees, which has not been properly tackled by the existing national and European institutions, since 2015. Instead of trying to properly address and reform the existing norms and procedures, several political leaders have decided to capitalise on the inadequacy of the current procedures to promote anti-immigration policies and gain electoral consensus. This, in turn, has generated a vicious circle where the inadequacy of the current procedures led to lack of changes, which, in turn, helped to present the problem as unresolvable, thereby leading to increasing consensus for extremist political leaders and parties.

The Common European Asylum System (CEAS) has proven unable to cope

with the increase of inflows (Vitiello, 2016; Cellini, 2017a; Baubock, 2018a), and despite several attempts, proper reforms have not yet been introduced (for an overview of the political gridlock that has made change impossible, see Niemann and Zaun, 2018). But the number of arrivals of asylum seekers (and of persons to whom protection has been granted) neither represent nor have represented an unbearable amount in the past. Therefore, describing the European refugee situation in terms of a crisis is a deliberate exaggeration.

The principle of the Dublin system, according to which the responsibility to manage asylum seekers pertains to the first EU country of entry, is founded on the assumption that all EU countries follow comparable rules and procedures (Tauner, 2016) as well as common reception standards. This has never been the case and, if anything, the 2008 economic and the 2020 COVID-19 crises have rendered it even less likely to reach any convergence in standards of EU countries with respect to asylum-seekers. Countries that were most badly hit by the consequences of the economic crisis, such as Greece and Italy, cut funds to the asylum management, which, in turn, resulted in worsening reception standards.

The advent and consolidation of political parties and movements across Europe that, based on a nationalistic and xenophobic rhetoric, openly contrasted migration and asylum created an increasingly politicised and polarised landscape over an issue that critically needed effective management. In such a political and economic context, the reforms undertaken with respect to the EU asylum system, which began in 2013, have been implemented without questions being raised about the core of the existing regime (Ripoll, Servent and Trauner, 2014). Neither have attempts been made on the one side to harmonise asylum procedures within EU countries and, on the other hand, increase the support for those countries with the higher number of refugee inflows. Indeed, the harmonisation process has only led to the implementation of minimum standards within EU countries (Ripoll, Servent and Trauner, 2014), which, in turn, worsened the crisis by putting differentiated migratory pressure across the EU (Niemann and Zaun, 2018).

Chronologically, the events that lead to the so-called refugee crisis of 2016 showcase why and how the European asylum system was unable to adequately respond to the new challenge (Tauner, 2016; Zaun, 2018; Niemann and Zaun, 2018). The crisis was a consequence of the different positions of the EU member states as well as of the weakness of EU institutions. We share the view that the so-called refugee crisis was caused due to the inefficient nature of the EU asylum system and inability to reform it rather than to focusing on alleviating the actual number of refugees. However, the political debate, boosted by media channels, has presented the issue in an opposite way, trying to misconstrue facts by stating that the total number of refugee inflows was unmanageable and the EU structure was unable to cope with it. The narration of a “European refugee crisis” has been instrumental when it comes to coercing European institutions to implement emergency policies, when it would have been easier and wiser to introduce measures aimed at tackling the problem in a structural long-term perspective.

In this paper, we argue that the numbers of refugees’ inflows in the EU, even though it substantially increased after 2015, do not justify the widespread alarmistic descriptions so often used in much of the political discourse and in the media (see Triandafyllidou, 2018). We instead maintain that the inflows could potentially be managed by a more cohesive and far-sighted European policy.

The basic problem can be traced back to the EU's core contradiction. On the one hand, the EU is founded on the free movement of people across member states, and this is in line with a federalist model. On the other hand, the acceptance of refugees and the procedures to grant asylum are decided by sovereign states, which reduces the role of EU to nothing more than an inter-governmental organisation (Pollack, 2012). The two aspects do inevitably clash when, as it has happened since 2015, the refugee flows have substantially increased. In many other substantial issues, including taking a call on how to react to the COVID-19 economic crisis, member states succeeded in developing imaginative political choices that compromised the federalist propensities of some political players with the willingness of preserving the intergovernmental structure of others. Unfortunately, too little effort was devoted to reconciling the two views in the case of refugees. Can things change? This political challenge is, in turn, also associated to the intellectual arguments that have been provided.

After the COVID-19 crisis, fresh and unexpected possibilities have arisen, which could contribute to the reformation of the European asylum rules (Baczynska, 2020) and theoretical and empirical arguments are needed to support such reforms. It is certainly not the first time that attempts have been made to reform CEAS (see EASO, 2020). However, despite the disillusion of the past, any new openings need to be exploited.

The paper is structured as follows: the next section argues, on the ground of the available statistical evidence, that, if considered in a comparative perspective, neither the inflows nor the total stock of refugees hosted in Europe justify the argument of alarmism used by several politicians and media. The following section examines the European legislation on asylum, in general, and critically analyses the Dublin system, the emergency measures and the EU foreign policy adopted from 2015 onward, in particular. Subsequently, we describe the ineffectiveness of the emergency policies adopted by the EU, highlighting the risks they pose for the EU, asylum seekers and refugees. In the subsequent section, we present some concrete proposals to overcome the emergency logic that addresses the refugee issue from a long-term structural perspective.

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

According to United Nations High Commissioner for Refugees (UNHCR, 2020), more than three million asylum applications were submitted worldwide. In the same year, the EU received about one million requests. The EU, therefore, received about one third of the total flow of asylum applications that were submitted globally. Even if the comparison between the EU as a whole and the other receiving countries does not take into account differences between the member states, other nations were affected much more than the whole EU by refugees' flows. Figure 1 shows the ratio between asylum seekers and the total population of the top six receiving nations and the EU. Even if the figure 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 figure, in fact, shows that the ratio in the EU is substantially below that of countries such as Turkey and South Africa. There are certainly significant intra-European variations (reported in Table A4 in the Appendix) with some countries, such as Greece and Cyprus, where the ratio of asylum application to total population is as high as 0.62 and 0.65, and there are other

countries where it is close to zero. Indeed, the EU ratio has substantially increased in 2015 and 2016, but the decrease in 2017 indicates that the peak has apparently passed. The COVID-19 pandemic has further reduced refugee inflows.¹

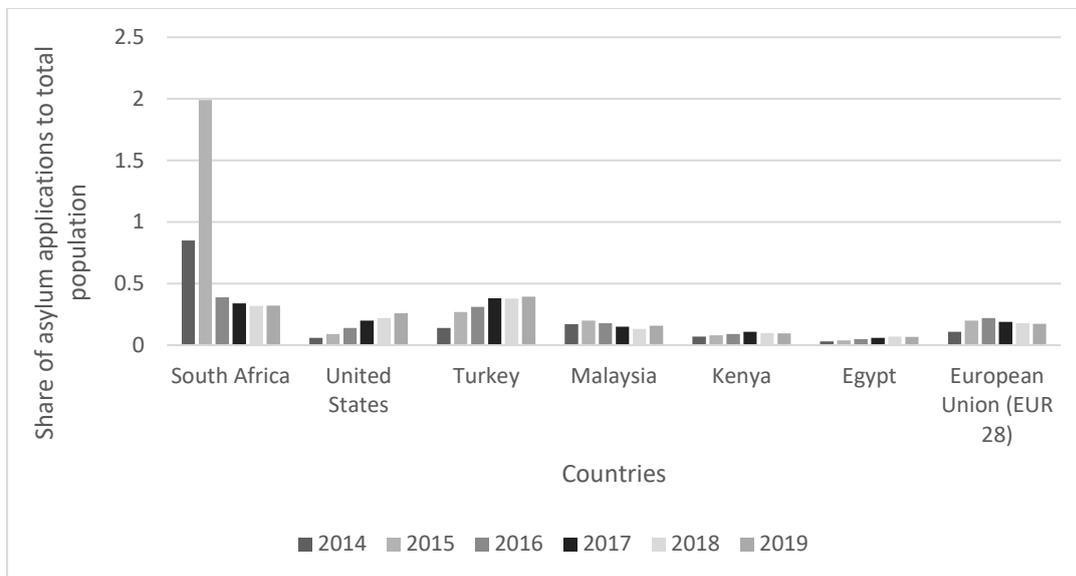


Figure 1. Asylum Applications as a Percentage of the Total Population of the Receiving Countries (%), 2014–19.
Source: UNHCR (2020)

Asylum applicants express a desire to stay in the hosting nation, and it might be a biased indicator for the nations that receive high number of refugees but that have a low interest in acquiring a legal residence status in the nation where they firstly arrive. It is, therefore, also useful to check the refugee flows. Figure 2 compares the total number of refugees hosted by the whole EU with those living in the six main hosting countries. The burden for the EU is certainly smaller than for other nations. The EU has not reached the inflows of a single country, such as Turkey, even in 2019, despite the increase.

¹ InfoMigrants, *Germany sees sharp drop in asylum requests in 2020*, 11 January 2021 and AnsaMed, *Greece posts 80% annual decrease in migrant flows*, 20 January 2021

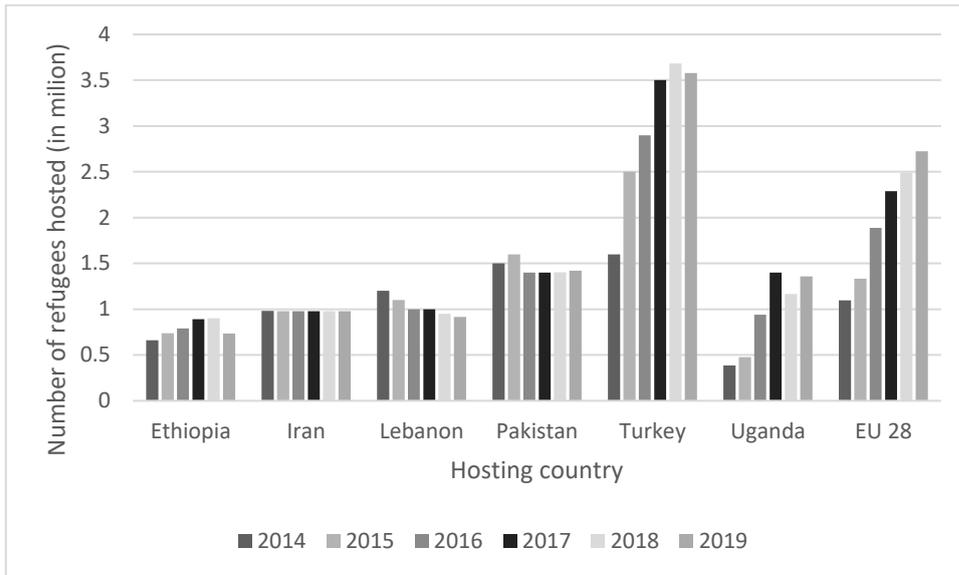


Figure 2. Number of Refugees Hosted, Comparison between the EU and the Six Largest Hosting Countries, 2014–19.
Source: UNHCR (2020)

Comparing the percentage of refugees hosted on the total population of the hosting countries is even more significant, as it indicates the burden afforded by the resident population. As shown in Figure 3, while refugees represented 0.26 per cent of the total European population in 2015, they also represented 18.8 per cent of the Lebanese population. In addition, amongst the largest hosting countries, the percentage of refugees hosted by the EU is the lowest in all the years considered in this paper.

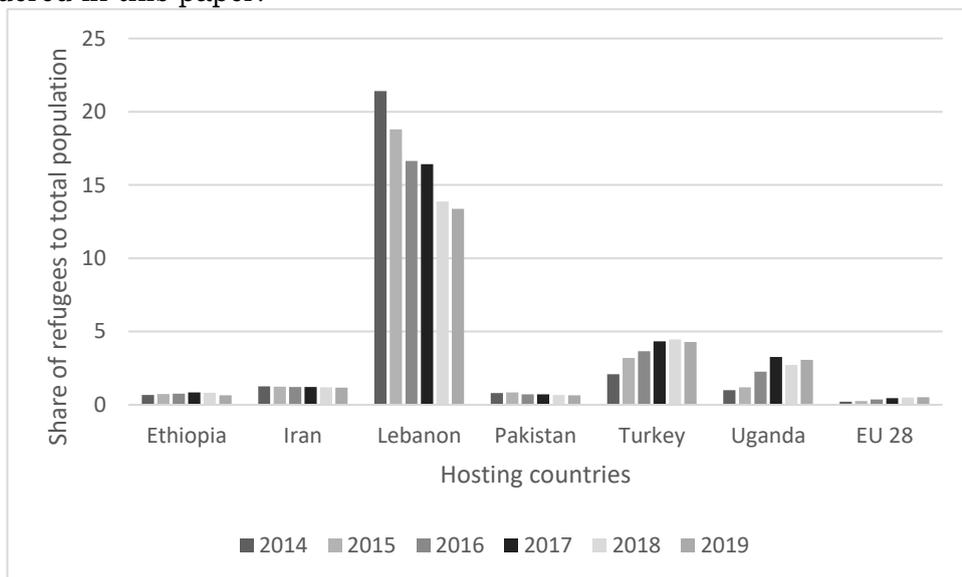


Figure 3. Hosted Refugees as a percentage of Total Host Country Population (%), 2014–19.
Source: UNHCR (2020)

The basic data provided here indicate that a European crisis was not caused by the number of asylum seekers and refugees, but rather due to the lack of a

proper European management system that might have enabled asylum applications to harmonically cope with the flows by equitably redistributing the reception costs amongst member states. Regardless of how the total numbers are considered, the peak of inflows has passed. Figure 4 reports the data concerning European refugee inflows, the number of yearly border detections of illegal border crossing and the number of positive decisions to grant international protection. The figure shows that EU member states received 2.7 million asylum applications in 2015. However, since the beginning of 2016, asylum applications, positive decisions and detections have begun to decrease, and, in 2018, both positive decisions and detections returned to 2013 levels, while asylum applications returned to 2014 levels.

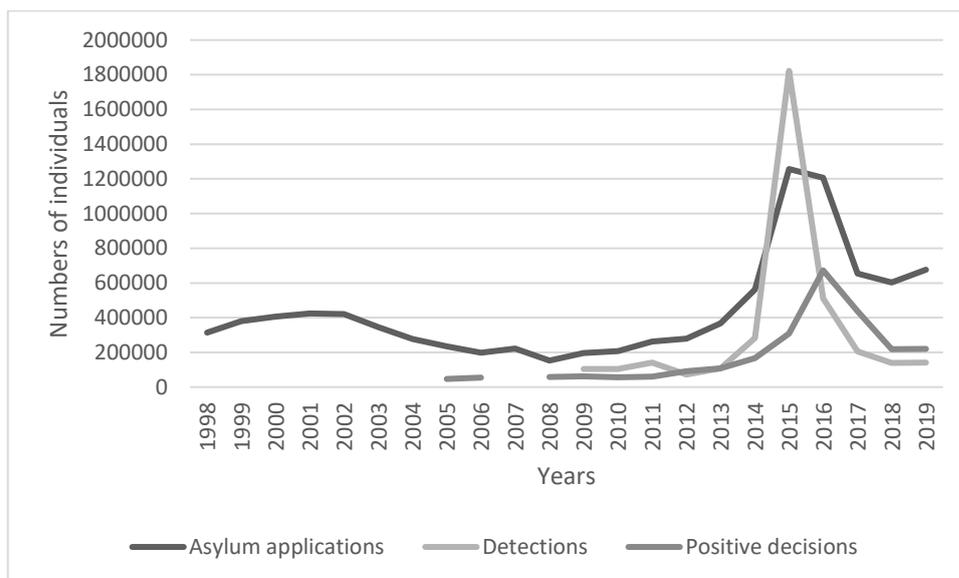


Figure 4. Asylum Applications, Positive Decisions and Detections of Illegal Border Crossing Points in the EU, 1998–2019.

Source: Data on asylum application and positive decisions are retrieved from EUROSTAT (2020); data on illegal border crossing are retrieved from FRONTEX (2020).

The narrative of the European refugee has continued to be sustained even when the flow of asylum seekers stabilised to levels that we could define as routine for the EU. Unfortunately, this narrative has encouraged both the EU and its member states to implement emergency solutions, such as relocations, resettlements and outsourcing the control of the EU’s external borders to third countries that, as we will argue in the next section, have been unable to properly manage refugees’ inflows and have instead diverted the agenda from the appropriate social policies needed to host and integrate refugees.

The emergency policies implemented by the EU

To address what was perceived and described as an incumbent disaster, the EU has adopted several emergency measures that can be divided into two categories since 2015—those related to internal policy and those related to foreign policy, namely the 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. First, the Agenda identified a management method, named Hotspot, to support the member states affected by the increased flows of asylum seekers. The Hotspot method involves training teams of specialists (which comprises members of EASO, Frontex, Europol, EU-ROJUST and the authorities of the member states) who are called upon to quickly identify, register and capture the fingerprints of incoming migrants. Second, 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 are processed. Finally, the Agenda outlined the resettlement programme, which specifically noted that for every Syrian national (the nation where there was a clear emergency) who returned from the Greek islands, another will be directly resettled to the EU from Turkey, thereby 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.

With respect to foreign policies, the EU concluded a series of agreements with some third countries of transit, namely Turkey, Libya and Morocco, with the aim of reducing asylum seekers' flows. The EU–Turkey agreement was signed in March 2016 with the two-fold 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 between 2016 and 17 and a further three billion euro from 2017 to 19 to hasten the finalisation of the visa liberalisation agreement for Turkish citizens by streamlining the necessary procedures as well as resuming and speeding up negotiations for Turkey's accession to the EU. On its side, Turkey 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 ensure cooperation and collaboration with the EU to improve humanitarian conditions even within the Syrian territory (in terms of health, hygiene and protection) by implementing programmes aimed at rapidly responding to emergencies and new movements with continued priority in besieged, hard-to-reach and displacement areas (European Commission, 2016, 2018a).

The EU–Morocco agreement, which was 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 a financial support of 148 million to Morocco (European Commission, 2018b).

Finally, the Italy–Libya agreement, which was concluded in 2017 and had secured strong support from the EU, aims to combat illegal migration and human trafficking and strengthen the security of Libyan borders (De Guttry et al., 2018). Although it was inspired by the EU–Turkey agreement, it represents a poor reproduction of its predecessor (Accorinti et al., 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). The financial support is estimated to be about 240 million US dollars (Merelli, 2017). The effectiveness of this agreement has recently been scrutinised by several bodies. The Council of Europe (Ansa, 2020) – a network of non-governmental organisations (Human Rights Watch, 2020) – and previously independent film-

makers (Segre, 2017) have denounced the fact that it covers systematic human rights violations committed in the Libyan territory. We will assess these policies in the next section.

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

Subsequently, the EU has acted on this issue. However, these actions have been modest with respect to the overall commitment, and they have been dictated by the need of not changing the intergovernmental equilibrium (Zaun, 2018) in addition to being highly ineffective.

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 who have been granted refugee status is still far from being achieved (Guild, 2016; Vitiello, 2016; Cellini, 2017a; Becker, 2019). Considerable differences persist in several aspects, such as the timing required for the examination of asylum applications (Euractive, 2015), the percentage of positive decisions (Cellini, 2017a) and the conditions in which asylum seekers are held while waiting for the examination of their applications with reference to the integration policies implemented by the different member states (Wolffhardt et al., 2019). Tables A1, A2 and A3 in the Appendix illustrate these differences. Asylum seekers do not receive equal opportunities in all member states and, therefore, they choose the most beneficial nation.

Second, the rule that specifies that the first country of arrival is responsible for examining applications (which the EU inherited from the UN 1951 Refugee Convention) has worsened the situation. Consequently, this approach has created considerable hardship for member states, refugees and asylum seekers. This rule has placed a disproportionate burden on the EU's external border states, such as Greece, Cyprus, Spain, Malta and Italy, from the member states' perspective.

As shown in Table 1, member states continue to have different rules regarding the acceptance of asylum applications. In 2015, Finland accepted 56.8 per cent of applications, whereas Hungary only accepted 12.7 per cent. These differences have also been protracted in the subsequent years and the variation across countries continue to be very relevant despite the several calls for harmonisation in the procedures.

The differences in national procedures are the outcome of the strong contradiction in the EU. On the one hand, the EU is based on the free circulation of people and, on the other hand, the EU tries to limit the mobility of asylum seekers by asking them to apply in the first country of arrival. The principle of the 1951 UN Convention worked amongst states that patrol borders, but it could not work in a union based on free circulation of people. The system is, first of all, very difficult to implement, as it is almost impossible to impede a couple of million refugees from travelling across the EU while permitting travel for 450 million EU citizens. Second, the desire to prevent secondary movements of asylum seekers makes it difficult for them to draw on their individual resources (such as family and social networks in a specific EU country, mastering one of the various EU languages as well as professional skills to be used in countries that require them). This situation encourages refugees to evade the fingerprint registration process and try to reach the chosen countries through illegal routes, thereby running a whole series of risks that endanger their lives (IOM, 2017).

Ultimately, it contributes to keeping refugees outlawed by force (Innes, 2015).

Table 1. Acceptance Rate of Asylum Requests by EU Member States and Associated Countries (2015–19).

Country	2015	2016	2017	2018	2019
Austria	71,32	71,60	55,80	43,50	57,63
Belgium	53,94	60,28	52,34	50,87	23,74
Bulgaria	90,61	44,33	35,76	35,07	18,60
Croatia	21,62	35,09	31,58	31,03	3,93
Cyprus	76,76	65,82	50,82	49,09	9,52
Czechia	34,46	33,46	12,18	11,19	7,03
Denmark	81,26	68,44	34,40	50,10	57,48
Estonia	44,44	68,42	61,29	26,67	42,86
Finland	56,76	34,07	47,77	54,17	36,71
France	26,48	32,87	29,35	28,45	18,63
Germany	56,53	68,76	49,91	42,40	42,44
Greece	41,80	23,70	42,66	47,03	22,45
Hungary	12,72	8,42	30,94	38,02	12,00
Ireland	33,00	22,77	85,88	85,53	20,40
Italy	41,51	39,39	40,64	32,21	41,98
Latvia	11,76	51,92	73,61	24,00	17,95
Lithuania	47,22	69,64	77,03	50,00	13,95
Luxembourg	23,87	60,96	65,60	71,94	29,52
Malta	83,89	82,93	68,47	43,00	9,90
Netherlands	80,38	72,07	48,98	35,20	19,18
Poland	18,23	11,90	19,62	15,00	6,50
Portugal	52,70	54,24	52,36	59,81	9,34
Romania	36,36	62,16	60,29	45,95	22,59
Slovakia	61,54	84,00	66,67	56,25	15,22
Slovenia	34,62	64,15	62,50	42,55	2,23
Spain	31,48	66,88	33,93	24,38	32,61
Sweden	66,63	69,53	43,85	33,97	23,07
United Kingdom	36,64	32,14	30,78	35,00	33,41
Iceland	27,03	17,59	17,95	27,63	36,09
Liechtenstein	16,67	60,00	62,50	25,00	30,00
Norway	65,96	66,16	71,19	69,03	77,66
Switzerland	64,10	58,39	90,05	89,56	75,69
EU28 Average	46,95	51,94	50,21	42,92	27,20
Coefficient of variability	47,12	39,60	38,44	42,14	69,45

Source: Authors' elaboration on EUROSTAT (2020).

The emergency instruments implemented included the following: a) the resettlement; b) the re-location mechanism and c) the outsourcing of the EU borders' control. All three instruments had limited impact.

The resettlement programme, which was started in 2017, had rather minimal objectives, namely to facilitate refugees' safe arrival in Europe from third countries, and its scope included a total of 22,500 vulnerable refugees. The objective was achieved and 19,432 individuals have been resettled, but the total number of involved refugees is much lower than the required value. The outcome, therefore, was much worse than the effectiveness of relocation, which ended in 2017 after more than two years. The set target comprised 100,000 asylum seekers in total – a number that is considered insufficient in terms of equal distribution of asylum seekers across European countries. Despite the limited scope of the programme, only 34,000 people were actually relocated. Thus, it can be clearly perceived that the relocation mechanism has failed – less than a third of the target goal of relocations have been concluded, some countries (such as Poland and Hungary) have not participated and other member states have participated less than the quotas allocated to them.

The strategy of externalising EU border control has been more effective, albeit only in terms of reducing the number of arrivals (Benli, 2018). As shown by the data provided by FRONTEX (2020) from 2015 to 2018, most routes have perceived a significant reduction of detections in almost all the years that have been considered. However, while detections on the central Mediterranean route have considerably decreased, those on the Western and Eastern Mediterranean routes have increased. The overall reduction of detections and asylum applications (as shown above 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 in reducing arrivals, it presents serious problems. None of the political regimes in Turkey, Morocco and Libya are respectful of human rights, even less of refugees' human rights. The fate of refugees, who often flee from countries in the grip of civil war, is, in short, placed in the hands of other equally brutal regimes. In fact, none of the three countries have an effective human rights protection system. Amnesty International (2018) shows how the three countries perpetrate serious human rights violations towards asylum seekers, refugees and migrants in general. This type of outsourcing poses the following three interlinked problems:

- The contradiction between outsourcing refugees to countries that do not respect human rights and the principles on which the EU is based;
- The risk and often the certainty that asylum seekers are placed in a position where their human rights can be violated again;
- The dependence that the EU creates towards non-democratic countries.

This contradictory situation, therefore, damages the EU's overall credibility in terms of maintaining respect towards its very founding principles. It may, therefore, potentially undermine the effectiveness of its foreign policy actions, which are aimed at disseminating democratic practices and establishing respect for human rights. The agreements with authoritarian regimes expose the EU to blackmails, as these countries might open their borders at any point in time and

artificially create new refugee inflows in case of non-acceptance of their requests. The EU has experienced it in February 2020 when Turkish President Erdogan opened the gates to Syrian refugees hosted in the country to retaliate against the EU criticism to its foreign policy (Steviss-Gridneff and Gall, 2020).

Overcoming the emergency approach by implementing structural solutions

Can the EU do any better in terms of managing the refugee flows even if the records have been so poor in the past? The fact that policy reforms, even if they are often advocated, have not been implemented clearly shows that resistance by some member states has proven stronger than the overall desire to implement a European solution. Some scholars consider it as the proof that the EU can hardly escape from its liberal intergovernmentalism to embrace a genuine federalist spirit (Zaun, 2018). In fact, a few states have acted as gatekeepers and prevented the stakeholders in the EU from reaching collective decisions (Zaun, 2020). In addition, radical changes have not been introduced because alternative policies have not been sufficiently advocated and supported (Beirens, 2020). We, therefore, aim to contribute to this debate with a “wish list” of what can be done.

We introduce a distinction between emergency and management approaches, which may hopefully help to understand why the CEAS entered into a crisis and the reason behind why the EU and its member states have been unable to overcome it. Emergency approaches can be defined as the responses that political players and institutions implement once a crisis has already detonated and its effects have already unfolded across the political community of interest. They are based on the existing authorities. On the contrary, management approaches can be defined as the kind of responses that political actors and institutions put in place in order to avoid the outburst of crises by committing resources.

The two approaches have opposite temporal sequences. The emergency approach is used when the crisis is underway, whereas the management approach is used to prevent – and often just to avoid – the crisis. While it is not always possible for political players and institution to predict upcoming crises, there are cases that could have been foreseen and, through the implementation of a management approach, could have received a better response. The so-called European refugee crisis is one of these cases.

Why has the EU followed an emergency approach? The rule of the first country of arrival (the core of the Dublin system) has worked reasonably well until political authority in the neighbouring countries has dissolved. Once the crisis substantially augmented refugee flows, the nation was less involved and protected, on the one hand, by borders far away from the Mediterranean Sea and, on the other hand, by the Dublin regulations. Subsequently, affirmative policies have been ignored and postponed, even at the risk of jeopardising the overall long-term project of European integration. Thus, they had no incentive to move the EU from its intergovernmental inertia.

When the flows began to increase and the member states that were more exposed to refugee inflows began to protest for the lack of solidarity, the less exposed countries provided temporary and emergency actions rather than structural changes. But even the countries that were more exposed to inflows were mostly concerned about reducing their own burden through short-term policies instead of advocating in favour of radical reforms or changing the overall architecture of the EU asylum regulations.

Table 2 reports the main differences in terms of actions and consequences of the emergency approach versus the structural management approach. The emergency approach implies lower short-term costs and political commitment, at least in the short term. It easily obtains the consensus of individual governments, as it does not deliberately modify the inertial situation. The management approach, on the other hand, requires leadership and commitment of resources, which could both raise opposition. Therefore, its advantages are likely to be capitalised in the long term.

Table 2. Approaches to Refugees Flows: Emergency Versus Management.

	Actions	Consequences
Emergency approach	Containing inflows through refolement	Violating international laws Increasing irregular inflows and trafficking
	Passing the buck across countries	Resulting in tensions among member states Weakening of cohesion in the EU
	Externalising borders' control	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
	Standardising EU regulations	Creating a shared assessment procedure for recognising international protection
	Cooperating amongst EU countries while hosting and integrating refugees	Increasing EU integration and reducing tensions amongst member states
	Granting free movement rights to refugees	Reducing intra-EU illegal trafficking and facilitating refugees' integration

Source: Authors' elaboration.

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

- (1) Reducing departures from countries of origin;
- (2) Ensuring a fair distribution of the burden amongst EU member states;
- (3) Ensuring the respect for the human rights of asylum seekers and refugees both within the EU and in the framework of its relations with third countries;
- (4) Improving the management of asylum seekers and refugees.

1. Reducing departures from countries of origin

Large flows of asylum seekers, in most cases, are caused by internal or international conflicts that force individuals to leave their country of origin to escape the horrors of war. This has also been confirmed for the European inflows in the recent decades, namely the Balkan wars of the 1990s, the wars in Iraq and Afghanistan and the Syrian and the Libyan civil wars, that have generated the greatest number of asylum seekers. Figure 5 confirms these claims by illustrating how, from 2014 to 2018, most of the countries that generated the greatest flows of asylum seekers were devastated by wars, in general, and civil wars, in particular, and/or countries in which basic human rights are systematically violated.

Indeed, war is not the only reason behind 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 seeker flows. However, war is often a sudden event that creates many people in need of international protection within a short timeframe. Therefore, to prevent the outbreak of armed conflicts, aid will be required to prevent large flows of asylum seekers. Now the question arises – Can the EU do it?

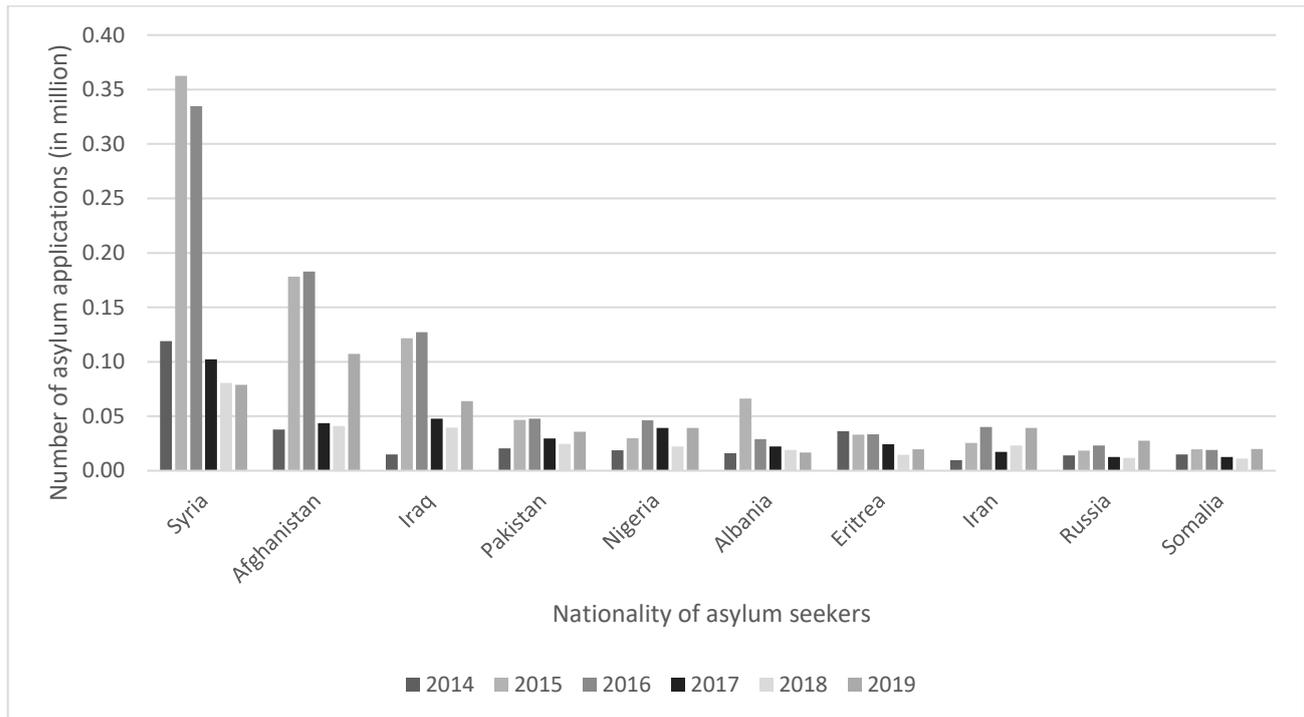


Figure 5. Asylum Applications in the EU by the 10 Largest Asylum Seekers' Nationalities (2014–19).

Source: UNHCR (2020)

On the one hand, EU member states are allowed to either intervene or promote military actions without their actions being scrutinised by the EU institutions. However, on the other hand, the subsequent migratory consequences of such interventions have an impact on the EU as a whole. An example is the military intervention in Libya in 2011, which was authorised by the United Nations and initiated by France. The overthrow of Gaddafi's regime in the absence of a long-term strategy left Libya in a highly fragmented condition, as it did not have a central government capable of controlling its territory. This, in turn, resulted in a sharp increase in migratory flows from Libya. Nobody addressed, at the time, the secondary consequence of the predictable but not predicted refugee flows. Likewise, the military interventions in Afghanistan and Iraq were decided without paying any attention to the boomerang effect they would have generated, namely long-term civil wars and refugee flows for at least a generation.

Obviously, to build an EU competence over military interventions is not easy, as individual member states have different preferences (Koenig-Archibugi, 2004), and it would require a reform of the Treaties related to foreign policy and common defence. It is relevant to stress here that a substantial number of refugees in the EU are fleeing from the wars that the EU has either started or supported. Hopefully, the tragic connection between EU wars, on the one hand, and refugee flows in the EU, on the other hand, will induce European nations to be more cautious and less prone to wars.

2. Ensuring a fair distribution of the burden amongst EU member states

One of the thorniest aspects of the EU's strategies with respect to the management of refugees and asylum seekers has been the lack of a fair distribution of the burdens, which have arisen from the management of international protection claims, as they have often been denounced long before the so-called refugee crisis erupted (Barutciski and Suhrke, 2001; Thielemann, 2003). We document intra-EU differences in the Appendix.

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

1. Structural factors increase the weight for some states. On the other hand, migrant networks, geographical location and historical or linguistic links increase for the attractiveness of certain countries;
2. Internal migration policies within states. Countries with more open migration policies attract more migrants and asylum seekers.
3. The Dublin System, which obliges the first country of arrival to deal with asylum seekers, generates an uneven distribution of burdens;
4. The increased propensity of member states to become free riders in moments of increased refugee flows, thereby deliberately choosing to not take any actions if they are not directly involved.

The fourth, as proposed by Thielemann (2018), captures the reason behind why the EU has been unable to implement effective policies quite comprehensively. This interpretation also suggests a possible way to impede free riding practices by implementing a binding European distribution system.

So far, a fairer redistribution of asylum seekers' burden has failed by posing the requirement of transitioning towards a binding system. Central and Eastern EU member countries managed to block the mandatory refugee quotas when they realised that this would have led to an increase of asylum-seekers in their countries (Zaun, 2020). Their reluctance has, however, violated the principles of solidarity and fairness between member states.

A system of annual quotas of asylum applications could become more acceptable politically if it is based on objective parameters such as GDP per capita, growth rate, unemployment rate, the stock of refugees who have already been hosted and so on. Once the quotas have been set and made binding, the EU can use its soft-power instruments to discourage undisciplined members from not complying. The infringement system implemented with the Stability and Growth Pact has been effective for macroeconomic parameters, and a similar device could perhaps also be introduced to address an issue that is much less vital, namely the redistribution of refugees.

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 states.

3. 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 agreements on migration that the EU has signed with third countries do not

adhere to the human rights standards of EU. Serious human rights violations against asylum seekers have also been reported within EU's territory, as shown by Amnesty International (2018) and the Office of the High Commissioner for Human Rights (OHCHR, 2017a; 2017b).

The EU could adopt at least three strategies to guarantee that the agreements signed with third countries, such as those with Libya, Turkey and Morocco, comply with the protection of refugees' human rights. The first and most effective approach involves terminating these cooperation agreements whenever systematic violations of human rights are reported. The second comprises the establishment of permanent European offices in the territory of the third countries in question, with the task of monitoring the respect of migrants' human rights. The third involves locating the EU facilities that could assess the claims of asylum seekers in these countries, thereby facilitating safe travel to the host country or safe return to refugees' native country (European Alternatives, 2015).

With respect to the issue of asylum seekers' human rights violations by EU member states, in principle, the EU would have already had the instruments to address them, as it does for all human rights violations observed in the case of 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 states, can declare that there are risks of serious human rights violations of refugees and migrants from the outset of the procedure. In more than one occasion, as in the case of France in 2009, Romania in 2012, Hungary in 2016 and Poland in 2017 (Fletcher, 2017), the possibility of activating this mechanism has been discussed. However, it has never been pursued to the next stage, which required the unanimity of member states, and which would have allowed the application of sanctions for the violating nations. The requirement of unanimity to establish the actual violation, in fact, empties this instrument of any political credibility.

4. Improving the management of asylum seekers and refugees

To develop an asylum system that is more responsible and inclusive for member states and refugees necessitates overcoming the differences between member states with respect to asylum policies, the rule of the first country of arrival and the impediment to secondary movements once refugee status has been granted.

An efficient and effective solution could be achieved in the form of reforming 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 a quick and timely examination of asylum applications based on clear rules that are equally applied in each member country. Second, it should harmonise the rules on reception conditions for asylum seekers; and, finally, it should establish 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 amongst the member states, the directives could be transformed into regulations, as already proposed by the European Commission in 2016. Unlike the former, the latter provides detailed rules on issues that fall within their competence and can be directly applied without the need for member states to convert them into national laws, thereby preventing the departure from EU standards on behalf of member states.

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, along 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 freely move 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.

The EU could follow several approaches to implement such a measure. In a minimalist perspective, it could include refugees in the list of beneficiaries of the right of free movement safeguarded by the Schengen Treaty, thereby creating a special European identity document granted for humanitarian reasons that is recognised and valid throughout the EU. Alternately, from a genuine cosmopolitan standpoint (Benhabib, 2004; Achibugi, 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 provide access to other rights, including selected political rights (Hassner, 1998; Cellini, 2017b). Both options would finally lead to the creation of a European asylum system that is specifically designed to safeguard the conditions for refugees to be integrated within the EU territory.

Conclusion: European refugees' strategy as an opportunity to enhance European integration

The refugee issue in the EU was described, narrated and addressed as if it were a huge catastrophe. Following short-term interests, several national political players and even member states have presented a deliberately distorted narrative. This has led to a race to the bottom in addition to contributing to the implementation of emergency solutions such as relocations, resettlement and externalisation of EU borders' control rather than the implementation of structural policies that can tackle the situation in a long-term standpoint.

We have reported data on asylum seekers and refugees flows to provide a rebuttal to the dominant narrative. At the end, the artificially constructed refugee crisis has seriously harmed the European integration project. We have, therefore, argued that the problem in Europe does not comprise a supposedly exceptional number of refugee inflows but rather the inability of the CEAS to manage them in an orderly, secure and efficient manner.

We have described the main rules and instruments of the CEAS as well as the emergency measures adopted by the EU. From the standpoint of the internal policies, the CEAS is based on the Dublin Regulations and the Reception, Qualification and Procedures Directives. The Regulations establish that the first country through which the asylum seeker enters Europe is responsible for examining the application. The Directives, on the one hand, aim to harmonise practices between member states by laying down a set of minimum common rules for all countries. Internal emergency measures such as relocation and resettlement schemes, on the other hand, 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.

European policies have been ineffective and inefficient on both the internal and external fronts. Internal policies have been largely insufficient and, in the case of the first country of arrival rule, have contributed to accentuating the problems. Policies

to externalise the control of the EU's external borders have succeeded in limiting arrivals but, at the same time, have generated serious human rights violations on behalf of the asylum seekers, refugees and migrants, which, in turn, have undermined EU's reputation as a champion of human rights.

The old emergency approach can no longer be fixed, and this hopefully will provide the incentives to replace the current Dublin Regulations with more daring norms. A reform is again under discussion, and it is not only supported by the countries that are more exposed to inflows such as Italy and Greece this time but also by Germany and France. The European Commission will hopefully release a more daring proposal shortly (Nielsen, 2020). To make it viable, the EU needs to abandon the intergovernmentalism, which has, so far, dominated its policy actions. Our proposed policies follow the following four distinct but interlinked lines:

- Reducing departures from countries of origin;
- Ensuring a fair distribution of the burden amongst EU member states;
- 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;
- Improving the management of asylum seekers and refugees.

First, it should be remembered that most asylum seekers hail from countries that have been ravaged by armed conflicts, which are often initiated by Western countries and supported by European countries. With this in mind, EU governments and institutions will hopefully bear in mind that starting a war could have secondary implications in terms of refugee flows due to the military intervention of any of its member states.

Second, it is necessary to address the imbalance across member states in terms of refugees' inflows. A binding European system for the distribution of asylum seekers, thereby ensuring that each member contributes to this benevolent initiative based on the availability of its resources and possibilities, will hopefully reduce the use of refugee flows as scapegoats for internal politics.

Third, the EU cannot ignore the human rights violations suffered by the refugees both internally and in third countries of transit. Externally, the EU has the responsibility to monitor the respect for migrants' human rights in countries with which it has signed agreements. Internally, the European Council needs to be more assertive when member states commit human rights violations against refugees and migrants.

Finally, it is necessary to continue harmonising asylum policies between member states, thereby creating a European system that offers comparable opportunities and rights throughout the territory of the Union to asylum seekers and refugees. 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 facilitate the transition and make the system more effective, as, unlike the former, the latter are directly applicable within the legal systems of the member states. Therefore, member states do not have the option of departing from the common standards to a great extent. We have argued that granting the right to free movement within the EU to refugees will facilitate their integration and prevent feeding criminal networks that flourish in the illegal routes.

The Dublin regulation is again under discussion and both the European Commission and the European Parliament have already supported its radical reform. As the emergency approach has failed, a more daring approach can actually help

manage the issue. Therefore, enabling the transition of EU towards a more integrated and cohesive policy strategy by leaving its intergovernmentalism behind will be an important step in this context. The Recovery Fund, which has been promoted as a consequence of COVID-19, has shown that these changes are possible, and proactively tackling the refugee issue could hopefully be the next step to accomplish this elusive goal.