

MIGRATION CRISIS. SECURING EXTERNAL BORDERS OF
THE EU AND INTERNATIONAL PROTECTION
FOR ASYLUM SEEKERS

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Abstract

It is well known that EU Member States are still making a desperate appeal for the rapid identification of concrete measures to secure external borders through more effective control of the flow of illegal immigrants that have invaded entire regions in the EU last year. Although the EU is known to have high standards on asylum, there have been lately several recommendations of important European political leaders to accelerate procedures to the detriment of objective assessment, which have been applied so far, and the expulsion of the rejected cases with the direct consequence of limiting waves of immigrants. International protection of asylum seekers is a major concern for humanity, and questions such as how much of it is solidarity and how much is protection of European citizens, and where the observance of rights and freedoms stops still occur. This study proposes a critical analysis of these issues while also highlighting the most important European public policies analyzed from the perspective of compliance with public international law.

Keywords: crisis, illegal immigration, solidarity, solutions, security

Introduction

According to UNHCR statistics, at international level, the total number of refugees has increased significantly in the last 10 years, but steadily in the past four years, as also results from Fig. 1.

If in 2011 there were about 10.4 million refugees, in 2012 the number increased slightly to 10.5 million, to 11.7 million in 2013 and at the end of 2014 it reached 14.4 million. By mid-2015 the number of refugees reached 15.1 million, the highest level recorded in the last 20 years, the refugee population growing by 4.7 million people, about 45%, over the last 4 years. Nevertheless, figures have no counterpart

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in reality once started the wave of illegal migrants that struck in the second half of 2015 the southern external border.

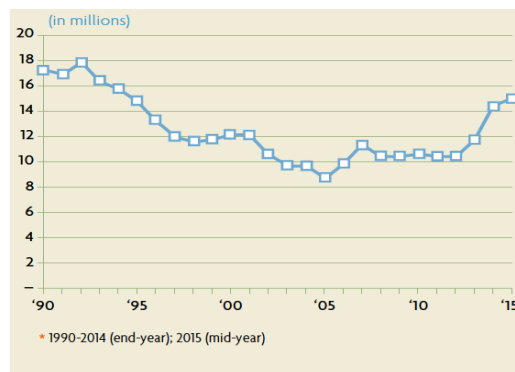


Fig. 1. Refugee population, under UNHCR's mandate in the 1990-2015 period

Armed conflicts known to contribute to this trend are those under way in countries such as Afghanistan, Burundi, the Democratic Republic of Congo, Mali, Somalia, South Sudan, and more recently Ukraine. However, the main contributor is Syria, with 4.2 million by mid-2015, and the trend shows that more and more citizens of this country torn by internal conflicts invade whole territories, especially in neighboring countries: Turkey (1.8 million), Lebanon (1.2 million), Jordan (628,800), Iraq (251,300) and Egypt (131,900).

According to data provided by UNHCR (see Fig. 2), based on the same statistics cited above, sub-Saharan Africa is host to the largest number of refugees. (4.1 million), followed by Asia and the Pacific (3.8 million), Europe (3.5 million), and the Middle East and North Africa (3 million). The Americas hosted 753,000 refugees in mid-2015.

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UNHCR regions	Start-2015			Mid-2015			Change (total)	
	Refugees	People in refugee like situations	Total refugees	Refugees	People in refugee like situations	Total refugees	Absolute	%
- Central Africa and Great Lakes	625,000	37,600	662,600	865,100	13,700	878,800	216,200	32.6%
- East and Horn of Africa	2,568,000	33,400	2,601,400	2,713,700	33,600	2,747,300	145,900	5.6%
- Southern Africa	174,700	-	174,700	179,800	-	179,800	5,100	2.9%
- West Africa	252,000	-	252,000	258,900	-	258,900	6,900	2.7%
Total Africa*	3,619,700	71,000	3,690,700	4,017,500	47,300	4,064,800	374,100	10.1%
Americas	509,300	259,700	769,000	501,000	251,900	752,900	-16,100	-2.1%
Asia and Pacific	3,568,500	280,100	3,848,600	3,506,600	278,400	3,785,000	-63,600	-1.7%
Europe	3,095,000	18,200	3,113,200	3,475,300	14,300	3,489,600	376,400	12.1%
Middle East and North Africa	2,898,500	65,400	2,963,900	2,941,100	64,200	3,005,300	41,400	1.4%
Total	13,691,000	694,400	14,385,400	14,441,500	656,100	15,097,600	712,200	5.0%

Fig. 2. Refugee populations by UNHCR regions

From the analysis of statistical data provided by the UNHCR, at mid-2015 the refugees were living in 169 countries and territories. With 1.84 million refugees in its territory, Turkey is the country that hosts the largest number of registered refugees with 1.81 million Syrians, representing 98% of all registered refugees in this country (Fig. 3).

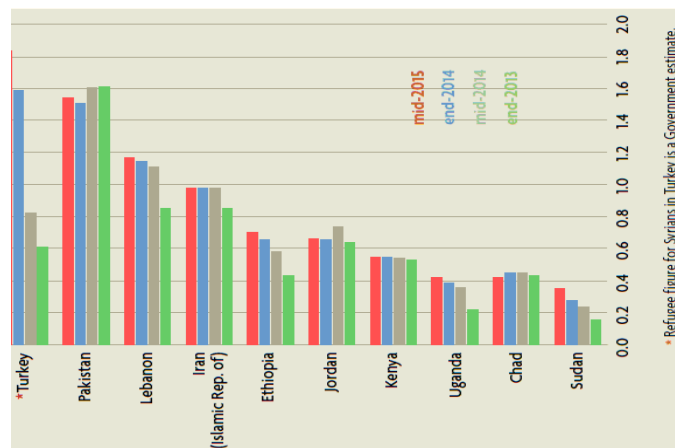


Fig. 3. Countries hosting refugees

In the first half of 2015, around one million asylum applications were processed in 155 countries and territories,

compared with 558,000 applications in the corresponding period of 2014, representing people of at least 190 nationalities.

With 159,900 applications in the first half of 2015, Germany received the largest number of asylum seekers worldwide. As an element of comparison, in 2014 it processed a total of 173,100 applications.

According to the sources cited above, Germany was followed by the Russian Federation, which registered 100,000 asylum applications, of which 720 applications for refugee status and 99.300 for temporary asylum. Surely the conflict outbreak in Ukraine has a major impact in relation to the requests in the Russian Federation. At the other end of the world, the United States was the third largest single recipient of new asylum claims during the first six months of 2015 with an estimated 78,200 asylum applications.

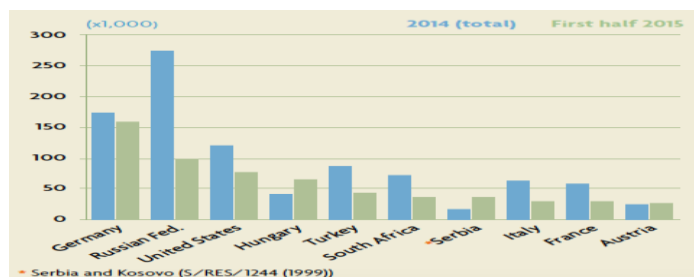
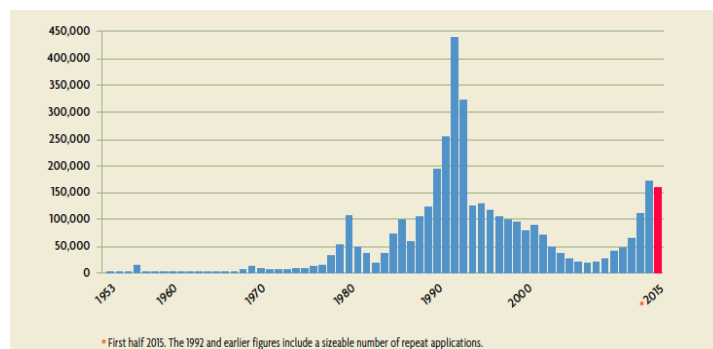


Fig. 4. a) New asylum applications registered in Germany (1953-2015);
 b) Main destination countries for new asylum-seekers (first half 2015)

I. The need for a global approach to migration

Detecting and analyzing the most important causes of illegal migration flows, at least those recorded lately, involve the keystone of urgent elaboration of coherent public policy on migration and asylum. This effort, however, requires a combined effort not only from Member States, but also from third countries, especially those of origin and transit from where the refugee population comes.

The Global Approach on migration and mobility highlighted the need for systematic monitoring based on priorities that reflect the strategic objectives of the EU, integrated into its overall foreign policy, including development cooperation. Characterized by novelty, the context highlighted the need for international protection and well-managed mobility inclusion of third-country nationals crossing the EU's external borders.

From the data made available by the EU action plan against illegal introduction of migrants (2015-2020), the framework supports the application of dialogues and bilateral political and regional action plans, the use of legal instruments, including Visa Facilitation and readmission agreements, but also of operational assistance and capacity building. In the latter case, the agencies involved in this process are Frontex and the European Asylum Support Office. Technical assistance is supported by MIEUX and TAIEX, but also by associations of migrants, international organizations, the civil society with a broad involvement from the authorities of the Member States.

The direct approach to the reasons for migration must be high on the agenda of political leaders called for the migration crisis, but also for ensuring steady peace, stability, and not least economic development.

The component of diplomacy should associate with political cooperation actions, so that the EU takes further leadership role in peacekeeping and conflict prevention. It is known that currently the Council authorized 11 civilian and 6 military missions.

For the stated purpose and considering a conference at the highest level to be necessary in order to address the issues related to the route of the Western Balkans, on 8 October 2015 the Council held a conference in Luxembourg on the Eastern Mediterranean and the Western Balkans routes.

Also, in November 2015 a conference was held in Valletta, organized by the Council on migration with the main countries of origin and transit in Africa. The summit identified an action plan within the framework of which 16 priority initiatives have already been launched, including the creation of an EU Trust Fund for emergencies and to address causes of migration and displacement of people in Africa.

II. International protection and human rights

It is argued that many states have made significant progress in recent years and this progress guarantees a better management and a better approach in the case of asylum and refugee flows. International organizations are supporting this theory, but we believe that development cooperation instruments of the European Commission launched between 2012-2015 through more than 15 new projects are insufficient even in relation to the application of the cooperation methodologies in a consistent manner. As shown in the proposal made by the Council Report 6988/14 + ADD1, it is estimated that the European Asylum Support Office could help to improve the capacity of third countries in asylum matters and reception, including in the context of mobility partnerships.

In other words, the inclusion of international protection through specific thematic priorities of the Global Approach will address issues that advise governments to strengthen the asylum system.

On the other hand, the practical controversy on examining asylum applications is still intense. The authorities of each state,

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sometimes for reasons which are contrary to the interest of the person requesting a certain status, will decide without proper assess of the international legislator will.

For example, a cause of anxiety is represented primarily by the fact that the asylum seeker does not have any document to prove the state authorities granting protection that he/she is citizen of that country. That is why he will be forced to offer to the institutions any plausible reason to support his/her request.

In such situations when he or a member of his family was sentenced *in absentia* in his country of origin or that his return would lead to persecution by the Syrian authorities, the validity of his statements will be established by checking credible reports of the international organizations that can support the claims of the petitioner.

Given that, although proof is provided through the information from the country of origin, of the treatment to which are subjected the persons concerned or others by the Syrian regime, the immigration authorities or courts wrongly noted the lack of fear in what concerns the applicant, ignoring the provisions of paragraph 43 of the Handbook on procedures and criteria for determining refugee status under the 1951 Convention and the 1967 Protocol on Refugees republishing, Geneva, UNHCR January 1992. According to these provisions, it is not necessary that these considerations be based on the personal experience of the applicant. For example, what happened to friends and relatives or other members of the same racial or social group may well show that his fear of becoming a victim of persecution, sooner or later, is "well-founded".

Thus, we believe that in the interests of collective security, exceptionally, it is necessary to create an organism, maybe within UNHCR, to guarantee compliance of the international procedures by checking all applications rejected unreasonably. Perhaps the attribute of national sovereignty to evaluate such requests could take into

account the international situation which mankind has not experienced in recent decades.

First, immigrants must be analyzed from the perspective of vulnerable groups when we talk about asylum seekers. Effective integration policies are just a dream if it still is a problem to provide medical emergency or abuses are still recorded and the fight against exploitation and exclusion of women and children is just a declarative one.

Rapporteurs of the Council consider that constant attention must be paid to the human rights of migrants, first of all of children and other vulnerable groups, and should encourage partner countries to adopt and implement reforms to ensure a set of standards on the human rights of migrants. Mention must be made of the EU Strategic Framework on Human Rights and Democracy²⁰ - the first set of principles and objectives to guide the actions promoting human rights worldwide.

III. Identifying urgent solutions for solving the crisis and border security

The current crisis highlights that the problems encountered are not only of the EU, but represent the most important challenge for the international community in the recent years²¹. Based on the principles of solidarity and responsibility assumed at international level, EU militates, through its actions, to resolve conflicts and

²⁰Council document 11855/12 of "Human Rights and Democracy: the EU Strategic Framework and Action Plan of the EU", available on <http://data.consilium.europa.eu/doc/document/ST-11855-2012-INIT/com/pdf> (accessed 15 January 2016).

²¹For details, see Communication JOIN (2015) 40 final "Identifying solutions to the refugee crisis in Europe: the role of EU external action", available on <http://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:52015JC0040&from=E> (accessed 15 January 2016).

instability and to support the population, aiming primordially at three objectives: saving lives, protecting people in difficulty, and border and mobility management.

In the same document mentioned above experts consider that any approach involves, first, the mobilization of additional financial instruments. These should not only aim at solving desperate situations but should also cover investment for narrowing the economic gap between some countries²², for the purpose to remedy imbalances such as poverty, unemployment, territorial insecurity. The approximately 97 billion allocated for the period 2014-2020 to the external sector for cooperation should be channeled in supporting mechanisms in areas that can ensure economic growth and create jobs, peace, security, human rights, and good governance.

It must be said, however, that, amid efforts visible at least assumed, strategies should be established urgently for returning migrants who irregularly entered into the territory of countries and which do not meet the minimum conditions necessary to qualify for some form of international protection. In fact, applying such a provision, the sanctioning norm should discourage irregular immigration²³.

Securing the borders is a framework goal, and combating organized crime networks responsible for placing illegal migrants and trafficking persons, unfortunately, has become crucial. The EU plays a crucial role in ensuring a balance between the rapid movement of the flows of legitimate goods and people and action taken to combat the networks of people who smuggle migrants.

²²Sarah Kenyon Lischer, *Dangerous Sanctuaries. Refugee Camps, Civil War, and the Dilemmas of Humanitarian Aid*, Cornell University Press, New York, 2015, p. 12.

²³EU Action Plan on the return - available on http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/communication_from_the_ec_to_ep_and_council_-_eu_action_plan_on_return_ro.pdf (accessed 15 January 2016).

Among those initiatives we mention the EU action plan against illegal introduction of migrants²⁴.

Conclusions

Humanity is facing the biggest refugee crisis since the end of the second great global conflagration. The crisis is much larger than it looks, the current situation must be analyzed by reference to the deepening of violence and economic and political destabilization in other parts of the world.

Violent conflicts in Syria and Iraq, poverty in some areas of Africa that hardly seem to be near the end have forced millions of people to leave their native country, seeking international protection and a decent life in any host country which has a more permissive policy to grant any form of protection, even if temporary.

Even if one of the EU strategies, in response to humanitarian urgent needs, involves increased cooperation with Turkey and other countries in the Middle East for the admission of more Syrian refugees, thus limiting the number of those who would join the EU, eventually, the solution we think should be in urgent financing of the World Food Programme, assistance to Lebanon, Jordan, Turkey and other countries to tackle the crisis, the optimization of measures for the admission and granting a form of international protection, uniform application of resettlement and relocation procedures²⁵,

²⁴COM (2015) 285 final - EU action plan against illegal introduction of migrants (2015-2020) available on http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/asylum/general/docs/eu_action_plan_against_migrant_smuggling_ro.pdf (accessed 15 January 2016).

²⁵Jean-Pierre Gauci, MariaGiulia Giuffré, Evangelia (Lilian) Tsourd, *Exploring the Boundaries of Refugee Law: Current Protection Challenges*, Ed.Brill, Leiden, 2015, p. 24.

humanitarian support and security²⁶, assistance in international cooperation to combat networks that smuggle migrant persons.

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²⁶Pierre Valois, Ana Bezirgani, Astrid de Leeuw. "A Beliefs-Based Strategy to Prepare Social Workers for Educational Practices with Asylum Seekers." 2nd Cyprus International Conference on Educational Research Procedia - Social and Behavioral Sciences 89 (2013) 163 – 170, Elsevier, 2013, p. 164.