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Managing Migration and Asylum in Europe. Three Proposals for Europe 2020

Anna Triandafyllidou[1]

POLICY BRIEF

Highlights

Asylum is a common concern for both Northern and Southern European countries, although they look at the problem from different perspectives. Southern countries are in fact exposed to pressures of irregular migration and asylum seeking because of their geographical proximity to zones of instability and conflict and have to find ways to effectively filter mixed flows, providing international protection to those who need it and managing irregular migration. On the other hand, Northern European countries are more "protected" from irregular migration because of their geographical position but have been traditionally the preferred destinations of asylum seekers and hence face mostly the problem of properly processing applications rather than that of filtering them at their borders.

There is an important gap, though, in the asylum acquis *that needs to be addressed. While rejections are valid throughout the EU, hence if a member state rejects the application of an asylum seeker s/he cannot apply in another member state, positive decisions do not provide for an EU status nor member states are obliged to recognize such decisions.*

This policy brief presents the challenge and proposes three actions to address the issue.

[1]   Professor Anna Triandafyllidou <anna.triandafyllidou@eui.eu> is Director of the Global Governance Programme research area "Cultural Pluralism".

The Challenge: Sharing the Burden Effectively in Asylum Management

Asylum applications in the EU have risen by 30% in 2013 compared to 2012, and stand at 435,000 in total in 2013. Northern European countries receive the highest number of applications (particularly Germany, Sweden, France and the UK) albeit pressures on the ground and at the EU's external borders, by mixed flows of people in need of international protection and irregular migrants, are mostly faced by Southern European countries, particularly Italy and Greece.

Four countries have taken the brunt of irregular migration arrivals and asylum seeking applications in the past 15 years: Spain, Italy, Malta and Greece. Spain was a preferred route for irregular migrants from sub-Saharan Africa in the mid-2000s, but this western Mediterranean route was partly abandoned in the late 2000s to re-emerge in the first months of 2014. Sub-Saharan African migrants and asylum seekers have bashed repeatedly the Ceuta and Melilla fences (Spanish enclaves in Moroccan territory) and several hundreds have managed to get through, even though many were pushed back. In February 2014, the Spanish border guards have fired, with rubber bullets, at migrants attempting to enter the country by sea, causing several people to drown. Violent incidents and assaults at the Ceuta and Melilla fences have continued at a surprising pace, testifying to the desperation of young sub-Saharan Africans trapped in Morocco and seeking an entry point into Europe (arrivals of irregular migrants and asylum seekers in Ceuta and Melilla have been 50% higher in the first three months of 2014 compared to the same period in 2013).

Over the last ten years, Italy has been registering high numbers of arrivals of irregular migrants and ranked 12th in terms of its share of asylum seekers among the top receiving countries worldwide in the period 2008-2012. If in 2011 arrivals were related to the Arab spring (approximately 25,000 Tunisians and 20,000 sub-Saharan Africans Libyans arrived in Lampedusa and Sicily in the first months of 2011), nowadays the dramatic increase of asylum seekers is to be attributed to the number of Syrians fleeing the war in their country. The Italian *Mare Nostrum* operation has saved approximately 40,000 people at sea
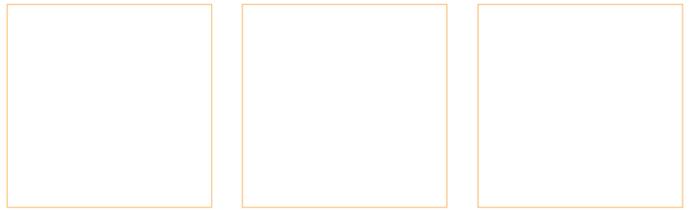
during the period October 2013-May 2014. These most recent developments are actually changing the asylum application landscape in Europe as Italy is now the 5th EU country in terms of number of applicants received in 2013 (28,000 applicants in 2013) after Germany, France, Sweden and the UK (in this order).

During the last couple of years and particularly since 2012, the number of unauthorised migrants and asylum seekers landing at Maltese shores has again soared. Malta is the Southern European country receiving the highest number of asylum seekers compared to its total population and second highest in the whole of the EU in 2012 and 2013 (5,300 per 1 million inhabitants, compared to 1,500 for Germany and 500 for the UK, per 1 million inhabitants).

Despite apprehensions of irregular migrants and asylum claimants at the Greek-Turkish land and sea borders have dropped in 2013, following a peak in the period 2007-2010, Greece remains one of the main geographical entry points into the EU for irregular migrants travelling from Africa or Asia through Turkey.

Incentives and Disincentives for Managing Asylum Properly

The three Mediterranean routes of irregular migration (and hence also of asylum seeking) function as communicating containers: when one route is stopped, another is under pressure. When one route is abandoned it is not because irregular migration and asylum seeking pressures overall fall, but rather because the routes shift.

There are two kinds of problems that prevent the effective management of irregular migration and asylum seeking. First, irregular migration and asylum seeking pressures are so high in the southern European countries, and the human and financial resources so far dedicated to asylum so low, that it has been nearly impossible to guarantee an adequate control of the Greek, Italian and Maltese sea borders while also providing to apprehended unauthorised migrants information on their rights in a language they understand, and the option of applying for asylum. The inherent difficulty of the challenge is of an objective character: by accident of geography these countries stand at the forefront of asylum seeking and irregular migration flows from Asia and Africa.

Compared to their size and resources, and given the "first safe country" principle[2], Southern countries will always face significant difficulties in controlling the external EU borders, while guaranteeing appropriate reception and protection to asylum seekers.

Second, due to the unwillingness of Northern countries to share the pressures of arrivals, and their preference for the creation of a "safety belt" by the Southern countries at the EU's periphery has made the latter rather reluctant to put in place effective asylum processing systems. The question that was never voiced openly but that Southern European governments seem to have been implicitly asking is: "What for?", Why should they implement asylum processing properly? To have asylum seekers stay in the country and use (the meagre) welfare support? What would be the "reward" for such a policy? The European Refugee, European Border and European Return Funds seem not to have provided the necessary political incentive.

By contrast, **the mismanagement of asylum and the standard practice of detaining asylum seekers seem to pay better**: the word of mouth is spread among prospective asylum seekers (and irregular migrants) that in certain countries there is a high risk of being detained in inhumane conditions, that it takes a long time to have one's application processed, and that approval rates are very low. Discouraging arrivals through the word of mouth seems to be the implicit strategy behind the continuous mismanagement of asylum seeking by several Southern countries.

The underlying explanation for this is that, while Dublin III insists on the "first safe country" principle, the imbalance between the management of rejections - valid throughout the EU - and positive decisions – which do not provide for an EU status, nor have to be recognized by a member state that has not taken the decision – remains an important gap in the asylum *acquis*, to the detriment of people with recognized protection needs. Indeed, the fact that beneficiaries for international protection cannot easily move among member states – they are treated just like any third country national with a residence status at a specific member state – prevents asylum seekers from reuniting, for instance, with family and relatives who live in other member states, but also provides a disincentive for Southern countries to provide international protection, improve their asylum systems, and eventually comply with Dublin III requirements.

Policy Recommendations

• Joint processing of asylum seeking applications under the aegis of the European Asylum Support Office (EASO) should be implemented. Cooperation agreements with EASO should be accompanied by operation plans, as it was in the recent case of Bulgaria[3] (September 2013) to include a wide range of services at the **operational level** (such as identification and pre-registration of mixed flows, registration of asylum seekers and unaccompanied minors and vulnerable persons to the appropriate asylum procedure, supporting the asylum decision process), and at the **institutional level** (delivering core training in EASO Curriculum Modules for newly hired staff). Experts from member states with a long experience in asylum processing should be involved in EASO coopera-tion schemes to ensure a better and faster processing of asylum applications, but also build trust among member states and thus pave the way for mutual recognition of positive asylum decisions.

• A common status of EU level refugee or person bene-fiting of subsidiary protection should be created/estab-lished so that asylum seekers processed and recognised in one country may move freely within the EU and, if they wish so, relocate in another member state.

• Mutual recognition of positive decisions should be established to stimulate Southern European countries to put more effort and resources to improve their asylum systems. This could also ensure a proper implementation of Dublin III and the asylum *acquis*, hence avoiding that Northern European countries might temporarily inter-rupt Dublin III provisions, such as "Dublin returns" to a Southern member state, because of the risk of inhumane and degrading treatments and conditions that might occur in such countries.

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2   Asylum applications need to be filed and processed in the first safe country where the asylum seeker enters, notably the first EU country where the asylum seekers set his/her foot.

3 http://ec.europa.eu/bulgaria/documents/news/171013-easa.pdf

Global Governance Programme
Robert Schuman Centre
for Advanced Studies

European University Institute
Villa La Fonte
Via delle Fontanelle, 18
50014 San Domenico di Fiesole - Italy

Contact GGP Outreach Coordinator:
Eleonora.Carcascio@eui.eu

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