



Emerging Directions in European Asylum and Immigration Policy

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Introduction

The contours of the new immigration policy and identifying ways to handle the inflow of refugees and asylum seekers pouring into Europe has become one of the most discussed and contested policy issues in Europe. Amidst calls for reform of the Dublin system- which provides that third country nationals have to apply for asylum in the first country in which they enter, strengthening border management, and fostering alliance with third countries; the recently concluded European Council meeting and the deliberations that have ensued thereafter can be construed as pointers towards the future of immigration policy in Europe. This paper looks at the emerging directions in European Asylum and Integration policy in the aftermath of the European Summit held on 28-29 June 2018, the conclusions arrived at and the emerging migration architecture evolving in European Union (hereafter EU).

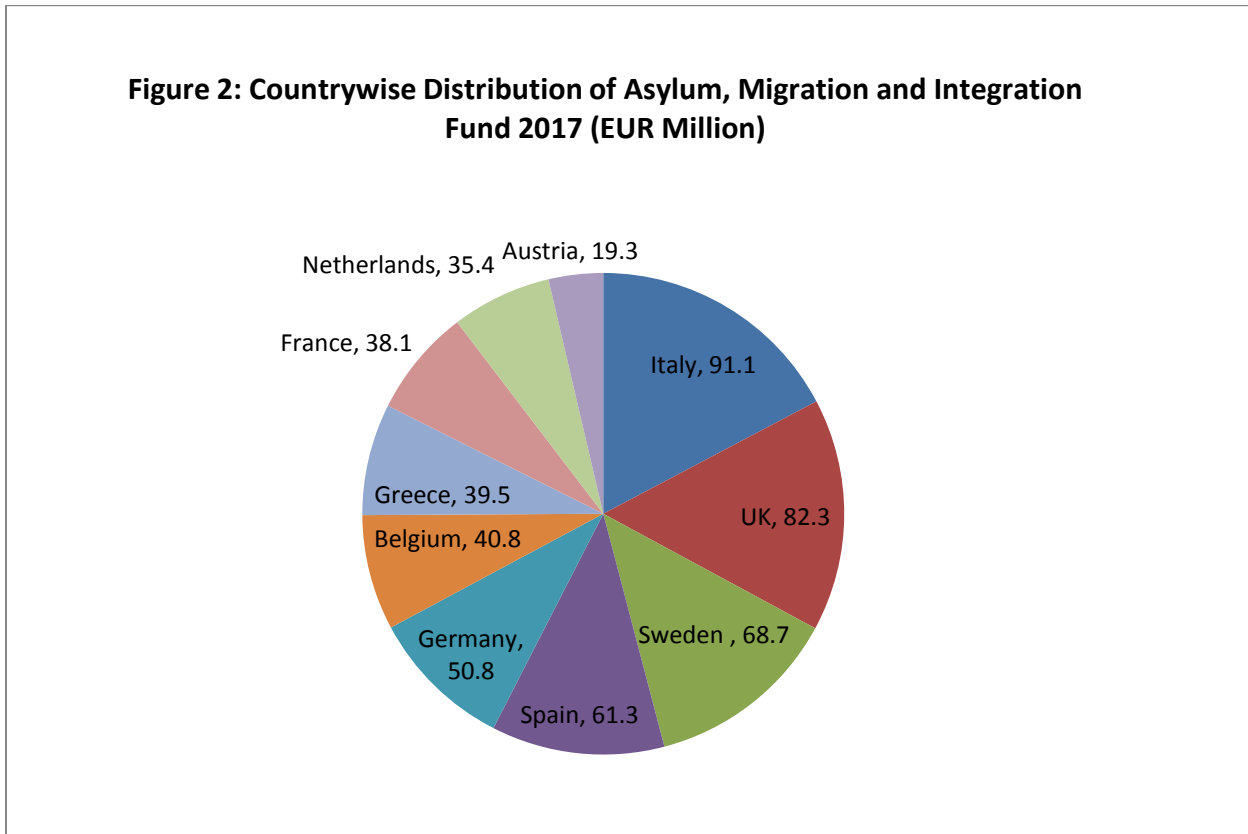
The Context

The year 2015 constitutes a watershed in the context of migration to Europe when an estimated one million asylum seekers and migrants reached the shores of Europe. These flows were triggered by the ongoing conflict in Syria, violence in Afghanistan and Iraq as well as from countries in Africa such as Eritrea and Nigeria. International Organization for Migration estimates that 1,011,700 arrived by sea in 2015 and 34,900 by land.¹ As Europe struggled to cope with these flows there emerged renewed vigour and change in policy stance on the question of migration and asylum in Europe. The clamour around a reform of the Dublin regulations, sharing of the burden by countries other than the frontline states such as Italy and Greece gathered momentum. The public perception also, as recorded by the Eurobarometer poll results released in May 2018, registered that 72% of Europeans want the EU to put more efforts when it comes to migration.²

In 2017, 728,470 applications for international protection were received by EU witnessing a decrease from 2016 when the asylum claims hovered around 1.3 million.³ The estimated inflow of

illegal border crossings in Europe is down by 96 per cent yet the Central Mediterranean Route is a cause of concern for the EU. The European Border and Coast Guard Agency that collects the data on illegal crossings in EU, confirmed the drop in numbers with the aggregate of illegal border crossing in EU down to 204,700 from 2.3 million illegal crossing detected in 2015 and 2016. However, the proportion of foreign born population in many countries across Europe has increased, and with the rise of right wing coalition governments across Europe such as in Italy and Austria, negotiating on migration issues remains a challenge.

EU has set up an Asylum, Migration and Integration Fund with a total amount of 3.137 billion Euros for a period of seven years (2014-2020). A look at the EU expenditure on Asylum, Migration and Integration Fund reflects that the EU wide spending on migration increased during 2014-16 but it registered a decline in 2017. The reduced figures corroborate a reduction in illegal border crossing recorded in 2017. The top 10 countries which have incurred the maximum expenditure on migration are Italy, the UK, Sweden, Spain, Germany, Belgium, Greece, France, Netherlands and Austria.



Source: European Commission⁴

The EU members have also pledged to stand by Libya and other frontline member state in Europe as well as Africa. Africa constitutes the fulcrum on which any migration agreement arrived at in Europe is based today. Majority of the migrants, who arrive in Europe, take the sea route from Africa. Countries which have been ravaged by war constitute the bulk from where these asylum seekers are coming to Europe (see Table 1)

Table 1: Top 10 countries of Origin in 2017 for Asylum Applications

All Countries	727,805
Syria	108,00
Iraq	52,560
Afghanistan	49,055
Nigeria	41,675
Pakistan	31,975
Eritrea	29,290
Albania	26,025
Bangladesh	20,765
Guinea	19,015
Iran	18,840

Source: Migration Policy Centre⁵

Recent Negotiations in the European Council

The European Council Meeting on June 28 was centered on migration issues even though matters such as security and defense, economic and financial affairs were also discussed. The deal reached after marathon deliberations tries to assuage the concerns of the frontline countries which have been most affected by arrival of migrants and asylum seekers. The leaders agreed that it was not “a challenge for a single Member State but for Europe as a whole.” “After intensive discussion on perhaps the most challenging topic for the European Union, it’s a good message that we agreed on a common text,” German Chancellor Merkel told reporters.⁶

The result of these deliberations was a compromise agreement on migration. The leaders failed to reach an overall agreement on rewriting the Dublin regulation on asylum policies. The Summit was also a first for many leaders. Pedro Sanchez, from Spain attended his first summit as the Spanish Leader and was crucial in achieving the compromise deal on migration along with French President Emanuel Macron. Giuseppe Conte as the new head of Italy blocked the Council negotiations and remarked that Italy would not agree on anything before a deal on migration was reached. In the deal that was reached, the leaders accepted three proposals floated by Donald Tusk, President of the Council which were disembarkation platforms outside Europe, a budgetary tool to combat illegal migration and to boost support for the Libyan Coast Guard.⁷ In the conclusion adopted by the council, the following was agreed:

- A comprehensive approach was required to deal with migration that included ‘increased control of external borders, increased external action and internal aspects.’⁸

- Increased efforts on the Central Mediterranean Route, to curb the operation of smugglers operating from Libya need to be intensified. The EU reiterated continued support to frontline member states such as Italy and others to deal with the issue of migrant smuggling.
- On the Eastern Mediterranean Route, it was agreed that additional efforts are needed to implement the EU-Turkey readmission agreement and bilateral readmission agreement should be fully implemented for ensuring swift returns and forestall the possibility of new sea or land routes.
- To reduce the incentive for migrating through smugglers, it was decided that cooperation among member states was essential, as well as cooperation with third countries as well as UN agencies such as UNHCR and IOM.
- It was also agreed that tackling migration problem at its core requires partnership with Africa that would address socio-economic transformation of the African Continent building upon the principles and objectives defined by the African countries in Agenda 2063.
- Recognizing the importance of shared effort, it was agreed that controlled centres would be set up in member states on a voluntary basis for faster processing of those who made migrated to EU through irregular channels and those in genuine need of international protection.
- The member states agreed that a consensus needs to be reached for reform on the Dublin regulation for a balanced division of responsibilities. The secondary movements of asylum seekers has the risk of endangering the Common European Asylum System and Schengen Acquis and hence there was a need for member states to tackle the issue through internal legislative measures and cooperate with each other.
- It also recognized the need for establishing comprehensive partnership with Africa, that not only looked at increasing the development funding for Africa but also enable increase in private investment from both Europe as well as Africa. Cooperation between European Union and African Union needs to be strengthened.

It has also been agreed to by EU member states that an additional 3 billion Euros would be spent for the EU refugee facility in Turkey in support of the Syrian refugees, who constitute the bulk of refugee flows in Europe.⁹ Donald Tusk, President of the European Council remarked that “as regards our deal on migration, it is far too early to talk about a success. We have managed to reach an agreement in the European Council. But this is in fact the easiest part of the task, compared to what awaits us on the ground, when we start implementing it.”¹⁰

Response within Europe

The issue has been at the centre of discussions. Pending the reform of the Dublin regulations, the bulk of processing of applications for refuge and asylum have been handled by Italy and Greece till now. At the height of the refugee crisis in 2015, European Commission put forward a slew of measures that included among other things using the emergency response mechanism under Article 78(3) of the Treaty on the Functioning of the European Union to set up emergency relocation scheme to assist Italy and Greece help relocate 40,000 persons to other EU member states over a span of 2 years, a recommendation requesting member states to resettle 20,000 people in need of international protection from outside EU and an action plan on migrant smuggling and fingerprinting.¹¹

In Germany, Angela Merkel now has the challenge of bringing on board, her coalition partner Bavaria’s Christian Social Union (CSU) and their Interior Minister Horst Seehofer who has

been very vocal about imposing new rules to stem the flow of asylum seekers entering Germany. Even before the European Council meeting, European Commission President Jean-Claude Juncker had hosted an informal meeting on migration at the insistence of Germany which included leaders from Germany, Italy, Greece, France, Malta, Spain, Bulgaria, Austria, the Netherlands and Belgium. Chancellor Merkel has been under pressure to act on migration from her coalition partner CSU. In an attempt to address the domestic concerns, Germany has concluded an agreement with Spain that allows Germany to resend migrants who have already applied for asylum back to Spain. It is an attempt to signal to other countries about strict rule enforcement in Germany as well as also attempt to reach similar agreements with Italy and Greece.

In Italy, a populist government is in power, which is opposed to more migrants being given refuge in Italy. Even during the European Council meeting, the new government in Italy headed by the Prime Minister Giuseppe Conte was insistent on blocking fresh proposals on any other issue pending the settlement of the migration issue. The Italian Prime Minister agreed only when it was emphasized by other European leaders that EU will continue with the efforts of establishing disembarkation centres outside Europe. Post the summit, Italy has been resisting accepting these migrants. Foreign Minister Enzo Moavero Milanesi in a letter to EU foreign policy chief Federica Mogherini said that “Italy does not want to be the only country where migrants saved at sea by its own naval units disembark.”¹² Italy’s interior minister has been a vocal critic of EU’s migration policies.

Another country, which has been vocal in its criticism of EU’s approach to migration, is Austria. Headed by a right wing coalition, Austria has followed a hard line approach on the question of migration and since July 2018, it also holds the rotating EU presidency. It can be expected that Austria might not play the role of deal broker in the deliberations on migration during its presidency. In an informal meeting of the interior ministers in Innsbruck, the interior ministers of Austria, Germany and Italy agreed to form an “axis of the willing”. The Austrian Federal Minister of the Interior remarked that “In order to save Schengen, we intend to work with dedication on the effective protection of EU external borders and a crisis-resistant EU asylum policy”.¹³ He also remarked that “Our primary goal is to finally put an end to people smuggling operations and the related deaths in the Mediterranean”.¹⁴

The Visegrad group countries (Poland, Hungary, Czech Republic and Slovakia), are opposed to the idea of migration quotas for all countries and are promoters of strong external borders for the EU. They came on board for the joint agreement achieved at the June Council meeting, as a result of the assurances given by France in a meeting with the Prime Ministers of these countries ahead of the Council meeting, and after EU abandoned the idea of mandatory quota for all. Czech Prime Minister Andrej Babiš called the agreement a “huge success” for the Visegrad Group after the June 28th meeting.¹⁵

Reception by the African Countries

The EU today relies on the cooperation with Africa to manage the influx in Europe. In the past as well, policy dialogues and initiatives have been launched such as the Rome Programme (2015-2017), the EU-Horn of Africa Migration Route Initiative (Khartoum Process) in 2014, European Agenda on Migration (May 2015), the Emergency Trust Fund for Africa launched in 2015, establishment of a new Partnership Framework with third countries in November 2016 and the Tunis Declaration (July 2017). The European The African Union (AU)-EU Summit held on 28-29 November 2017 focused on migration and border controls.¹⁶

Given this background, countries in North Africa such as Libya which serves as the platform for migrants trying to enter Europe, has not accepted the EU proposal of setting up asylum centres in Libya. In recent months, Italy has been transferring calls for help for those caught at sea to the Libyan coastguard for rescuing those trying to reach Europe. This policy however has been criticized by UN as inhuman, as migrants are brought back to detention centres in Libya.¹⁷ This policy of externalizing the borders of Europe and the centrality of North African countries such as Libya explains the emphasis given to strengthening Libyan coastguard in the Council meeting conclusions. The Libyan Prime Minister while rejecting the EU proposal remarked that “We are strictly against Europe officially placing illegal migrants who are no longer wanted in the EU in our country.”¹⁸ In a recent move, the European Commission said that Libya did not meet the international standards for disembarking rescued migrants.¹⁹ Egypt, Morocco and Tunisia approached by EU to host these centres have also rejected the proposals.

Reform of the European Common Asylum System

The Dublin system established in 1990 provides for the first country of entry to process the asylum claims leading to a small number of frontline states being responsible for processing a majority of asylum claims and this system came under severe strain when the European Refugee crisis was at its peak in 2015. Under the Dublin regulations, the asylum burden is not evenly distributed and countries such as Italy and Greece have asked for fair burden sharing. Further, it also has implication for the Schengen system that provides for uniform visa rules for short term visas and allows for free mobility within the EU Member States. The issue of secondary movement of refugees, once they enter Europe is also a formidable challenge.

The proposal to reform Dublin regulation includes among other things: better identification of the single member state responsible for examining the asylum application, fair distribution and sharing of responsibilities between member states with a corrective allocation mechanism, discourage and prevent secondary movements of applicants within the EU.²⁰ The issue of updating the Eurodac database that includes the fingerprint data of all irregular migrants and asylum applicants registered in EU member states and associated countries is proposed to be expanded to include facial images, data on third country nationals staying within the EU and simplification of access for law enforcement authorities. It has also been suggested that European Asylum Support Office be transformed into the EU Asylum Agency dedicated to the processing of asylum claims and providing operational and technical assistance to member states. Furthermore, the proposal also includes the provision that all asylum application are treated uniformly across all member states and there are common rights for those persons in all member states.

The EU resettlement framework is also set to be revised so that the arrangements made are more long term in nature. The idea is to foster legal and safe pathways for arriving in EU, establish common rules for resettlement and admission and to assist third countries hosting refugees and asylum seekers in need of international protection. A step in this direction has been taken by releasing additional funding for programmes being run under the EU Emergency Trust Fund for Africa.²¹ The political overtone of the migration issue has affected the process of reform of the Dublin regulations.

Conclusion

The question of illegal border crossings in Europe and handling migration has proved to be a litmus test for EU as a regional organization. Since the peak flows registered in 2015, the numbers have come down and Europe appears to be seemingly more in control as far as the total numbers of those in need of international protection reaching European borders are concerned. Yet, the

rise of populist government in Italy, the right wing coalition in Austria, and Christian Social Union in Germany have made the task of arriving at a consensus very difficult. The recently concluded European Council meeting managed to arrive at a compromise deal to assuage Italian concerns by proposing the setting of disembarkation platforms outside Europe, in North Africa, but it is easier said than done given the implementation challenges. The African countries in North Africa have refused to set up these disembarkation platforms. Europe today needs Africa to help cope with the inflow of refugees and asylum seekers within its territorial boundaries. To achieve this goal, EU needs to promote development in Africa to help eliminate the root causes of migration and establish stability. It is only then that the movement of those fleeing poverty, destitution and conflict in their own countries will stop.

The cooperation of Europe with Africa to address its development needs is essential, both for internal negotiations in the EU, and for finding long term solutions to the issue of migration from/through Africa to Europe

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Disclaimer: The views expressed are that of the Researcher and not of the Council.*

Endnotes

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