



EUROPEAN MIGRATION AGENDA

Quo Vadis?

The presentation of the European Migration Agenda was followed closely by all stakeholders and by the European media. However, while producing a moderate contribution to the current issues concerning the Mediterranean migration flows, the Council conclusions undermine the EU's ability to match up to global challenges which may require more permanent solidarity and burden sharing commitments inside the EU, and an increased ability to support, shape and encourage multilateral responses. This policy brief analyses the European Commission's Communication and the European Council Conclusions, and sheds light on their positive and negative points, as well as their underlying objectives.

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When the European Council appointed Jean-Claude Juncker as the new President of the European Commission on 23 October 2014, the political context for the future Commission was set. Back in April 2014, he had identified immigration and asylum as a future political priority, should he be nominated as President of the European Commission. The Political Guidelines which he presented later in the process to the European Parliament, enshrined migration policy reform as one of his ten priority initiatives to which he committed.

At the same time, the political context within which the Juncker Commission would have to act was shaping up: refugees fleeing from conflict and poverty over the Mediterranean Sea drowned on their way to Europe, in unprecedented numbers. The Lampedusa tragedy in October 2013 led the Italian Government to adopt a broadly applauded, expensive search and rescue operation, Mare Nostrum - but for just one year. This highly visible and politicised operation ended in October 2014, coinciding with the appointment of the Juncker Commission.

In the meantime, European Commission led policies were implemented: Operation Triton succeeded the Mare Nostrum Operation, limiting the search and rescue focus to the Italian coastline. Partnerships with African countries were fostered and intensified with a view to preventing migrants being shipped to Europe, labelled for public consumption as stepping up the fight against human smuggling and trafficking networks.

Essentially, the EU's agenda on migration and asylum went ahead as planned, until post-winter weather conditions started to improve. From February 2015, irregular migrants resumed their perilous journeys to European shores, after having spent the coldest months of the year in waiting in North Africa. By spring 2015 irregular migration figures once more hit record highs, together with more fatalities than ever before. Once more, the shock waves of an international migration crisis reached the negotiating tables of political leaders in Brussels. Once more, following the similar tragic events of October 2013 and October 2014, EU policy makers displayed their consternation at a predictable tragedy, and once more the European Council and the European Commission adopted a series of measures, seemingly designed to avoid such tragedies happening again.

Nobody in Brussels could have been surprised by the 2015 tragedies. It was obvious to everybody that the Juncker Commission would fill the gap opened by the phasing out of the Operation Mare Nostrum on the high sea. The European Council and the European Parliament were well aware of the high priority the Commission has attached to further strengthening EU migration and asylum policies. The pressure for reform comes from within and outside the EU institutions. It is driven by external events and crises on one hand, but also by a vastly enhanced awareness of what needs to be done by policy decision makers inside the EU and its Member States. The nomination of the Juncker Commission went hand in hand with the acceptance of the ten priority points around which he had built his electoral campaign.



Against this background, the statement released by the Special European Council of Home Affairs, Foreign Affairs and International Relations, in reaction to the renewed humanitarian crisis in the Mediterranean Sea, was received mainly with disappointment over the lack of strategic orientation. It offered little that went beyond existing policies, merely presenting the established course of action as an enhanced European agenda in response to an unexpected crisis situation:

- continued priority focus on the strengthening of repressive policies aimed at curbing irregular migration, irrespective of the status of the migrant;
- no introduction of tools aimed at facilitating EU asylum application in situ, in countries of origin or transit;
- no introduction or shaping of a comprehensive approach to strengthen the EU's international solidarity with countries most affected by migration and the refugee crises in the EU neighbourhood, except for a single isolated measure to commit to the resettlement of 20,000 refugees in EU Member States;
- nothing on how to push the legal migration agenda so as to shift incentives away from irregular towards regular migration;
- no perspective on how to implement the EU Treaty Article on solidarity and burden sharing, notably when insisting on the voluntary nature of the resettlement of refugees (from outside the EU) and on the limited scope of relocation (within the EU).

There were some positive elements:

- newly established Operation Triton was revised to bring it into line with humanitarian standards established by the preceding Operation Mare Nostrum; so, at least, the EU committed to returning to the status ex ante, now based on European policy commitments;¹
- a general commitment to enhance the dialogue with partner countries in North Africa, notably through the Rabat and Khartoum process, but with rather little detail on how this policy is intended to play out;
- the establishment of a tight reporting and decision making mechanism, with the Council and Commission to report back to the European Council by June 2015.

¹ This meant, from the perspective of EU Member States, that the EU committed to taking over the costs of EUMS Search and Rescue competencies, while leaving their benefits under national control.

The “EU Migration Agenda” as proposed by the European Commission²

The parameters for the European Commission’s approach to the Mediterranean refugee and migration crisis were set out at the special European Council of 23 April 2015. Here we examine the EU Migration Agenda adopted by the Commission on 12 May, followed just two weeks later by implementing provisions on a wide range of initiatives.

The title of the document seemed self-explanatory in terms of scope. It was written, however, more as a response to the Council on a number of selected priority measures, rather than presenting an outline of the policy visions and intentions of the Juncker Commission in one of its priority areas. The paper consists of an ad hoc report to address a severe humanitarian and political crisis caused by the record numbers of refugees drowned in the Mediterranean Sea, with a blend of immediate measures and some short- and mid-term guidelines. It does not provide a strategic or long-term perspective, nor does it attempt to do so. Its core focus is more on asylum policy reform than on the evolving EU migration policy. An evolving EU Migration Agenda, as a comprehensive and self-explanatory document that is readable to EU policy outsiders, has yet to be written. Such a report is urgently needed. While EU policy insiders may not feel the need, the Commission also has the task of explaining the EU agenda to the broader public, enabling citizens and other interested stakeholders, inside and outside the EU, to understand the many facets of the process, so that they are able to contribute to the public discourse on the future of our migration and asylum policy.

Second, with regards to scope and substance, the core of the Communication primarily addresses important policy gaps which could undermine the viability of the Common European Asylum System as adopted by the EU. As a result it is more a Communication on the EU’s asylum policy, than on the evolving EU migration agenda:

- The Dublin Regulation, and in particular its provision that asylum claims have to be processed by the country in which asylum seekers first entered the EU, is increasingly unacceptable to the southern EU Member States: if EU legislation were implemented to the letter, they would bear a disproportionate burden in processing and hosting the increasing flow of migrants and refugees to the EU.
- In the field of asylum, the EU Lisbon Treaty establishes the principles of shared competence between the EU and its Member States and, based on Article 80 (TFEU), “solidarity and fair sharing of responsibility” in its organisation and implementation. In short, the Lisbon Treaty obliges the EU to go beyond the Dublin Regulation. Otherwise, southern European Member States will simply refuse to implement the new Common European Asylum System effectively which, in turn, will maintain the burden on the two countries which are the migrants’ favoured destinations. Central and Eastern European countries tend to be comfortable with this situation, as most of them are,

² Communication adopted and published on 12 May 2015.

by and large, spared the migrant flows³. This is an area in which southern and northern EU Member States find common ground, wishing to spread their burden more equally between EU Member States.

- The Commission has now introduced a step beyond the Dublin Convention, by proposing a quota-based emergency mechanism for the relocation of asylum seekers from the two most affected EU countries⁴, Greece and Italy, to other EU Member States, thereby going courageously beyond the policy framework established by the European Council of 23 April.
- The Commission also foresaw a limited contribution to international burden sharing, by proposing an emergency resettlement scheme that would distribute 20,000 refugees from outside the EU to EU Member States, again on the basis of proportional allocations to all EU Member States
- By introducing these two flagship measures, the Commission opens the horizon towards a truly European asylum policy in which all Member States⁵ carry their fair share, based on Art. 80 of the Lisbon Treaty (TFEU).

Indeed, the European Council of 25/26 June gave a mixed response. On one hand it adopted the relocation scheme as proposed, although as a “temporary and exceptional” measure, advancing the European agenda by providing a precedence for future relocation initiatives towards an intra-EU solidarity based, integrated migration and asylum policy⁶. On the other hand, as concerns the resettlement initiative, EU leaders did not manage to set up an integrated response. Whereas they agreed to engage on a voluntary basis, they opened the path for eurosceptic governments to engage through other national or multilateral channels, hence weakening the EU’s ability to engage as a regional or even global actor in future. Hence, while producing a moderate contribution to the Syrian refugee problem, the Council conclusions undermine the EU’s ability to match up to global challenges which may require more permanent solidarity and burden sharing commitments inside the EU, and an increased ability to support, shape and encourage multilateral responses.

In short, our political leaders did just enough to establish a better basis, hopefully sufficient, for making the EU asylum policy work, by enhancing intra-EU solidarity and thereby limiting the incentive for Southern European Member States to circumvent the implementation of EU legislation. When it comes to the ability of the EU to act internationally and to operationalise the EU’s commitment to international solidarity, however, there is very limited progress, if any.

As concerns the level of ambition of the Commission Communication concerning asylum, its proposals are indeed indispensable to making the EU asylum policy work, complementary to the porous Common European Asylum System (CEAS) recently adopted by the EU after many years of negotiations. But by

³ With the notable exception of Hungary and Bulgaria

⁴ Italy and Greece

⁵ Except for UK, Ireland and Denmark

⁶ UK has already decided not to participate, whereas Ireland and Denmark have yet to decide: all three countries do not automatically participate in EU legislation on justice and home affairs, as specified by their EU accession treaties.

failing to evoke broader international crisis scenarios, it made it too easy for political leaders to ignore their broader regional and global responsibilities, an opportunity which they unfortunately chose to seize.

“Immediate Action”

In its first section, the Communication focuses on “immediate action”. It demonstrates that the Commission and the EU at large have understood the political, moral and reputational hazards involved when failing to live up to the search and rescue responsibilities of EU Member States and, in broader terms, the EU as a whole. The EU had to react to the record number of migrants risking a perilous journey across the Mediterranean Sea to its shores in spring 2015, in order to flee conflict and poverty. It did so by agreeing to re-establish the standards set under the Italian Operation Mare Nostrum between October 2013 and 2014. Second, the Commission proposed in this section to support the EU Member States most affected by the unprecedented wave of migrants, by relocating 40,000 asylum seekers from Greece and Italy to all other EU Member States⁷. Third, the Commission proposed a comprehensive resettlement scheme in which all EU Member States participate, again aiming at going beyond voluntary participation, towards more solidarity with Third Countries affected by the crisis and between EU Member States. Fourth, the EU was held to provide more financial support to Third Countries and Regions to help protect those in need.

All other measures to be taken “immediately” by the Commission are aimed at closing unauthorised escape routes to Europe for economically motivated migrants and legitimate refugees. This includes the further development of well established EU policy orientations, such as further enhancement of the early detection of movements on the sea, cracking down on smugglers and traffickers, destroying their means of transport, and organising more effective repressive policies in neighbouring countries through tailor-made partnerships with the EU.

Despite its strong focus on crisis prevention and mitigation, the Communication did not, as a matter of immediate humanitarian concern:

- propose to facilitate access to European asylum procedures outside the EU, so as to compensate for the progressive blocking of escape routes to Europe, including for refugees in dire need of help and support;
- shape ways for the EU to better react to future migration crises outside the EU, and to contribute to regional policy sustainability in this field, based on international solidarity and regional burden sharing;

⁷ With the exception of UK, Ireland and Denmark who don’t participate in this area of EU policy, unless they decide otherwise.

- address the role of the EU in relevant UN and other multilateral global governance processes that focus on the development of policy responses in this field.

The Communication looks mainly into the balancing of burdens and commitments between EU Member States, in a clear attempt to broker a qualitative compromise between EU Member States on how to share responsibility and burdens in the evolving European migration and asylum policy. This is a crucial and unavoidable debate in Brussels, but ultimately it is of limited relevance to the victims of poverty and conflict that seek their future in Europe. Overall, the EU is still very much inward looking rather than providing comprehensive responses to real needs and challenges. The policy instruments of the EU have been sharpened over the years, however, and the expectation is that EU migration policy will soon reach a more mature status that will allow it to act and intervene more effectively inside and outside the EU. There is still a need therefore for the European Commission to also come up with a more mature EU Migration Agenda.

“Four pillars to manage migration better”

The next section of the EU Agenda is the “four pillars to manage migration better”. The core idea of the European Commission is to balance its policies effectively⁸. The overarching objective is identified as a “migration policy which respects the right to seek asylum, responds to the humanitarian challenge, provides a clear European framework for a common migration policy, and stands the test of time.”

Unfortunately, the policy segments described subsequently fall behind stated aspirations. They even differ to some extent from the acclaimed segmented objective.

Section 1: “Reducing the incentives for irregular migration”

This section focuses on the prevention of migration, unless authorised. Contrary to what is stated in the Communication, it is clearly not “in the interest of all” to crack down on smugglers and traffickers. Many victims of crises prefer to be smuggled, rather than being left on their own with their trauma, needs, and aspirations.

⁸ Rather than responding effectively to relevant global and regional challenges.

The aim of this section is to contain the migration and protection problem geographically, and to minimise spill-over to Europe. This is completely legitimate, provided that the EU does not block all escape routes for refugees and those in need of protection entirely, and provided Europe is ready to shoulder a fair burden as a dominant regional actor. However, we will see later that this is not the case. The Commission should have focused more on balancing its policy orientations towards Third Countries and regions. And it should have been more candid in presenting its policy objectives: their *main* driver is not humanitarian concerns⁹, but the legitimate insistence on regulating and controlling migration inflows as an important means to safeguard the fabric of our democratic societies.

With this caveat, the gist of the Commission proposal should nevertheless be full-heartedly supported: the EU and its Member States should do more to reduce the risk of disasters and to enhance the resilience and self-help capacity of countries and regions. Recent policy developments at the UN¹⁰ level will further facilitate the integration of migration and asylum policy concerns into the future international development agenda, by mainstreaming migration policy into the future Sustainable Development Goals and harnessing development assistance in support of promoting convergent migration, asylum and protection agendas with third countries and regions.

Regrettably, the Commission remains silent on this important development.¹¹ The concluding section, “Moving Beyond” sets out a number of policy initiatives in the field of migration which the Commission will address at later stages, but the global migration agenda does not seem to form part of it.

The reason for this surprising gap may well be that the external dimension of migration and asylum will increasingly be covered by other departments of the Commission, rather than by DG Migration. However, not presenting all relevant elements of the evolving EU Migration Agenda in a comprehensive policy document seems to be contrary to the spirit and organisation of the new Commission under President Juncker. It also indicates a lack of transparency towards the public, and very limited focus on clear writing, if not worse: the continued lack of cooperation between the administrative departments of the Commission.

As concerns the numerous policy gaps left open by the Migration Agenda, it seems likely that the Commission aims at developing these through other related or overlapping policy prongs, such as

⁹ In fact, human rights are not even mentioned by the Communication, contrary to earlier Communications by the Commission on this topic.

¹⁰ Relevant UN policy processes and debates are not even mentioned by the Communication, apart from one descriptive paragraph, as if global governance would not drive EU policies, and vice versa.

¹¹ Apart from a cryptic reference to a “strategic reflection” being underway to maximise the impact of development policy support, “with results expected in 2016” (see p. 8).

labour, humanitarian or foreign and security policy. As regards the broader aspects of multilateral cooperation based on international cooperation, more effective humanitarian diplomacy and the building up of better and more realistic governance standards for the protection of vulnerable migrants and refugees, including in times of migration crises, will probably be dealt with through other policy initiatives, hopefully to be released by the European Commission in due course ahead of the upcoming 2016 World Humanitarian Summit in Istanbul. Whatever it has on its mind, the Commission should have set out its intentions and orientations in a transparent way.

Section 2: “Border management – savings lives and securing external borders”

This Communication provides a good example of the incremental way in which Europe builds its policies, by avoiding addressing strategic objectives openly, in order to minimise tensions between EU Member States, hoping that time and step by step approaches will smooth the process towards desirable outcomes. The setting up of a strong European border agency is a case in point. Of course, there is no consensus between EU Member States on the future of FRONTEX. But informed observers understand that that this is what eventually may need to happen, in one way or the other.

The Communication states that Frontex will be further strengthened, through ways yet to be explored. The Commission aims at establishing a comprehensive standard that will guide and determine administrative practices and border management outcomes. Visa systems are being further developed with a view to establishing a water-tight monitoring of entries and exits. The EU’s powerful ERSUR will enhance early detection of movements on the sea. Interceptions on the high sea will become more frequent, if not systematic, legitimised through the EU’s announced fight against illicit smuggling and trafficking of human beings, possibly legitimised through a UN Security Council resolution at a later stage. Last but not least, the EU will fund and support increasingly tighter border management by its neighbouring countries, with a view to progressively curbing unauthorised migration. This is, in a nutshell, the policy which the EU pursues. It has very little to do with the saving of lives, at least not in this phase of EU policy developments. As matters stand, life saving will remain an issue to be pursued through single EU funded operations such as Triton. But Triton also provides an opportunity to develop life saving standards, with the potential of becoming comprehensive legal standards at a later stage.

Section 3: “Europe’s duty to protect: a strong common asylum policy”

There is a lot of fog surrounding the EU’s asylum policy. The EU and its Member States have been negotiating and struggling for a European policy framework for many years now. The truth is that



there is no single European system yet, even if it is formally in place. The public seems convinced, wrongly but plausibly, that the European asylum policy has failed. It stands for over-ambition, inefficiency and lack of professionalism in the management of European affairs in general. It has become a favoured field for populist mobilisation by EU sceptics.

The contrary should be the case: because we need a single level playing field, in particular if we are serious about upholding international human rights standards and the principle of equal living conditions linked to the free movement of persons inside the EU, there must be no scope for a weak European policy framework. Hence, we need European policy makers to close loopholes and address weaknesses. We need them to be more ambitious and more ready to prevent policy failure.

The European Commission has done the right and necessary thing in proposing additional complementary measures to advance the European asylum policy beyond the Common European Asylum System as adopted. Whereas we don't yet know whether it will work, or how much time it will take to make it work, we can at least say that the prospects of the European Asylum System of succeeding have increased considerably with the proposed solidarity instruments for relocation and resettlement in emergency situations, the fingerprinting of all immigrants, and the entry of all related data into the Schengen Information System.

With the endorsement and adoption of these measures by the European Council of 25/26 June 2015, we finally have a legal framework that can be made to work inside the EU. It provides at least the prospect of a successful roll out. Efforts must now shift towards implementation and monitoring. It remains to be seen how the European machinery of reporting, peer pressure, infringement procedures, penalties for non-compliance, and European Court of Justice rulings will work. Civil society should stand ready to support the process pro-actively, towards convergence in asylum policy and practice at EU level, including with regard to the "new systematic monitoring process" announced by the Commission. We thus encourage the European Commission to establish a sound and strong network with civil society and other stakeholders to work towards the implementation of ambitious and effective European standards.

Through this Communication, the Commission also addresses policy gaps outside the CEAS, which impair its working:

- As already mentioned, fingerprinting is not systematically applied yet. Less than 5% of asylum seekers are fingerprinted in the country of arrival. The European system remains a paper tiger; the European Council of 25/26 June decided to remedy this.
- Another important problem is the abuse by economic migrants of the asylum system with a view to achieving asylum surreptitiously. Too many fraudulent applications clog administrative systems with limited capacities. There is a case for using scarce administrative resources more efficiently. The mechanism as it currently works is not sustainable. First, it distracts administrations'

resources from the real clients and difficult border cases. Second, it sends wrong signals to defrauders who try to use existing legal and administrative loopholes for their personal advantage. Indeed, we need strengthened Safe Country of Origin provisions, and better and more reliable country of origin information as a basis. From a human rights angle, the EU needs to develop a balance between the right to individual consideration and the core thrust of the European asylum system, i.e. to save lives and provide protection for refugees.

The EU's asylum policy is clearly an area where more intra-EU solidarity is needed, as noted in earlier sections of this text. The Communication addresses this effectively: the setting up of a comprehensive relocation pattern that, hopefully at one point in time, may replace the Dublin Regulation, preferably in combination with an equally comprehensive EU resettlement policy. In this vein, we share the Commission's expectation that the upcoming evaluation of the Dublin system in 2016 may provide an excellent opportunity to review the obsolete approach. It should be replaced, probably gradually and over time, as Member States increasingly comply with European standards. Given the reticence, mistrust or lack of ambition on the side of so many EU Member States, civil society should support the Commission in its uphill efforts.

Finally, two points which the Communication should have also addressed.

First, asylum determination procedures in EU Member States remain slow and cumbersome, despite efforts to speed them up. The high psychological, social, economic and political costs tend to be ignored. In addition, longer periods in reception centres translate into administrative bottlenecks, additional financial burdens and the increased perception of "overburdened" asylum systems, in particular in periods of increased refugee influx. Furthermore, the mental toll on individuals who want to reset and start their new life is considerable; the longer refugees are kept in limbo, the higher will be the cost of their integration. The collateral damage is the negative social attitudes fostered in our future co-citizens, with all the consequences this may entail for our future security.

Overall, there are many good reasons to speed up decision making procedures as a core priority, with clear quantifiable targets, including from a human rights perspective. Gaps in country of origin information or an ineffective return policy, as highlighted by the Communication, are just a part of a more systemic problem to be addressed. Unfortunately, as matters stand, countries that have speeded up their procedures feel "penalised" as they attract more asylum seekers, once the word spreads – which happens swiftly nowadays. Hence, we need standards and inspections. And we also need a beefed-up "hotspot approach", as called for by the Commission, equally with the objective to complement national efforts where needed to comply with the registration of new entrants to the EU, including as asylum seekers, to adjudicate cases more swiftly and according to the book. Again, the European Council of 25/26 June followed the proposal of the Commission. Beyond what has been put on the table, the establishment of a reserve corps of trained asylum officers could also be considered. Procedures specifically designed for the management of migration crisis situations are necessary.

Second, the Global Agenda on Migration and Mobility of the EU, which preceded this Communication, introduced “the external dimension of asylum” and the EU’s commitment to international protection. We would have expected this work to further unfold, rather than to evaporate in loose commitments to deal with relevant issues in other policy contexts. The EU must be in a position to look beyond its borders and become an actor in international policy and global governance developments. Lamentably, the Communication remains silent on this aspect, and thus does not match up to the letter and spirit of the Lisbon Treaty. Rather than standing idly on the side, the Juncker Commission with its political mandates is well-placed to raise its voice in the multilateral debate on evolving governance standards in the field of migration, asylum, and humanitarian standards. In line with Lisbon Treaty provisions, it should engage in moving the international agenda ahead proactively, alongside its Member States – or explain if and when it chooses not to do so.

Section 4: “A new policy on legal migration”

“Europe is competing with other economies to attract workers with the skills it needs”, in particular against the background of demographic aging and workforce decline. As many Member States have tacitly accepted shortages in workforce supply, as a result of ineffective education systems¹², insufficient labour market planning, or plain financial bottlenecks, they will be tempted increasingly to resort to the easiest short term solution to their problems, the recruitment of other EU or Third Country nationals¹³. Against this background, the Communication rightly underscores the need for enhanced labour market initiatives at European level, with a view to matching, as far as possible, evolving needs with internal resources.

In this light, the initiative announced by the EC to set up a “permanent dialogue and peer evaluation at European level on issues such as labour market gaps, regularisation and integration” is crucial. The Commission’s intention to set up a platform with social partners, including employers, trade unions and others is highly welcome. FEPS and its network of national foundations stand ready to engage.

¹² The best example is the medical profession: the education of medical doctors is expensive and most EU Member States allocate insufficient resources, knowing this will be compensated by highly-skilled immigrant Third Country Nationals.

¹³ Migration can only be one of the many elements to stabilise labour markets, and it must not be the policy of first choice, despite the temptation to find quick and easy short-term fixes. Other relevant policy options are commonly referred to as: productivity increases, pension age, better labour market matching, including through increased labour mobility and the better integration of the unemployed (including women, in particular from migrants’ families).



However, there is also a broader issue to be addressed, which requires more than common approaches to needs identification and recruitment. The challenge to balance economic demand and societal concerns effectively is closely related. It is against this background that we need common rules aimed at optimising the mobilisation of internal human resources, through educational reform, better training, enhanced pro-active labour market policies, more effective social inclusion measures etc. Eventually, we will need European standards in this area, in particular in the Euro and Schengen zones. The bounds of the European Treaties need to be reviewed in this light, as appropriate.

The new European Agenda on Migration limits itself cryptically to evoking a new “Labour Mobility Package” and a new “Initiative on Skills”. Whereas the sympathetic reader tends to assume that the right things will finally happen, civil society deserves to be better informed. There were times, prior to the adoption of the Lisbon Treaty, where the overall coherence of evolving EU policies was well documented through long term programmes agreed between the EU and its Member States, providing a sound orientation on the broader issues at stake. Unfortunately, the Communication does not fill this gap, and it remains silent on how this gap is eventually being filled.

“Moving beyond”

Under its Global Approach to Migration and Mobility, “migration and development” figured as one of four pillars of the evolving EU migration and mobility policy. Under the new EU Agenda on Migration, this policy dimension has, at best, been mainstreamed into the other policy segments.

However, a degree of neglect is obvious, be it deliberately or by default. This seems strange given the claims by the Juncker Commission to attach priority importance to the EU migration and asylum policy, including setting up a distinct administration for its management. There were high expectations for a reformed, more comprehensive and coherent policy approach. Hopes were that notably horizontal cooperation and coordination mechanisms would be enhanced between all relevant administrative and policy units involved, possibly along the lines of similar reforms introduced by the World Bank more than a decade ago.

With regard to the EU’s international cooperation, however, there are a number of important deficiencies in the EC Communication:

- Firstly, as already seen to some extent, the EU’s evolving migration and development policy is fragmented into partial approaches, with gaps and overlaps, and without any effort to submit an integrated approach to inform interested stakeholders: under the section on irregular migration, we see EU external cooperation assistance and development cooperation addressed as part of the evolving policy; on border management, cooperation with third countries is only briefly mentioned;



the section on the evolving European protection system plainly ignores the development of the external dimension of protection and asylum; the legal migration agenda comprises three paragraphs which blend broad policy commitments, without prioritisation of measures, with a short list of isolated measures, without addressing their contexts.

- Secondly, coordination between the EU's external policies on migration related issues has not been addressed, with the exception of some immediate short-term measures such as the continuation and deepening of Regional Development and Protection Programmes; most surprisingly, the Communication does not establish a link between evolving international migration policy developments and the evolving international protection agenda. Human rights and their promotion have disappeared from the screen. In the absence of guidance on these matters, stakeholders will have to rely on the ability of the Juncker Commission to draw the right policy conclusions. This is not good enough for a mature and informed public policy discourse which is so badly needed in an area that is highly politicised. The public is not given the chance to understand the gist of European efforts to address one of the most contentious problems in Europe.
- Thirdly, the EU Migration Agenda is virtually silent on global governance developments in the field of migration and asylum. Whereas there is a justified degree of trust in the ability of some EU Member States to shape global policies in line with EU orientations – or is it the other way round? - there are nevertheless risks involved in disengagement from the international global governance agenda, not to mention questions related to the letter and spirit of the Lisbon Treaty.

Conclusions

Global migration and human displacements on an unprecedented scale are one of the megatrends of the 21st century. The incoming Juncker Commission has rightly identified the EU's policy development and roll out in this field as one of its core political priorities.

In the light of the (predictable) tragedy in spring 2015, when thousands of displaced persons resumed their perilous journeys to European shores with improving weather conditions, and many lost their lives, the European Council had to react politically. However, apart from re-establishing the status quo with regard to Mediterranean rescue operations, and a lukewarm commitment to resettle 20,000 refugees from the Syrian conflict on a voluntary basis, political leaders accelerated efforts to plug escape channels to Europe, without indicating flanking measures to facilitate humanitarian access through other channels, and with no conceptual approach for the external dimension of asylum and broader international protection efforts in its neighbouring regions.

Within the tightly determined framework adopted by the special European Council of 23 April 2015, the Commission had very prudently pondered its scope for moving the European agenda forward.

Essentially, it followed the orientations of the Council, with two important exceptions: it proposed two obligatory European schemes, one on resettlement and one on relocation. By taking these critical initiatives, the Commission not only advanced solidarity based policies inside the EU and enhanced the contribution to international solidarity, it also shaped the path towards a more permanent integrated asylum policy beyond the Dublin Regulation. As deliberations in different Council formations during June 2015 showed, it will remain an uphill struggle to introduce mature burden sharing arrangements at European level.

By advancing solidarity based relocation and resettlement gradually, with clearly less ambition than proposed by Commission, the European Council created the conditions that may allow for the Common European Asylum System to succeed. Without these and some other flanking measures adopted on 25/26 June, prospects for the effective implementation of the CEAS would have been very limited, and the risk of failure for the EU migration and asylum policy exceedingly high.

Another positive result is that Heads of State will keep migration and asylum on their agenda. This opens scope for European leaders to enhance efforts and match up to the challenge. In future, the Commission must be more comprehensive in its policy analysis and presentation of the relevant policy choices to take. Civil society must be more vocal in supporting the right policy choices.

The Commission Communication on the EU Migration Agenda is difficult to read for Brussels outsiders. It is not written for the broader public, rather it is the product of an intimate dialogue between EU institutions. This is problematic. It makes it difficult for non-governmental stakeholders to engage, which would be so crucial, to inform and educate, and to provide a basis for a broad public discourse. This document is definitely not in the running for a transparency and clear writing award.

Rather than presenting the broad picture of an evolving EU Migration Agenda, the Communication presents essential policy decisions to be taken to keep the EU policy by and large on track. Global and long-term considerations don't seem to play a role. Whereas EU policy developments in the area of justice and home affairs were driven by five-year programmes in the past, elaborated between the EU Member States and the Commission, the Commission has taken over this task under the Lisbon Treaty. The subsequent gap in policy leadership must be filled, either by the European Council or by the Commission.

If it were for the Commission to do so, it needed to enhance effective cooperation and coordination between the multiple departments of its administration. The Juncker Commission placed a lot of attention on new managerial structures. This Communication, however, will not become a showcase in this endeavour. Silo mentality continues to affect policy coherence and quality, despite enhanced oversight and top level arbitration mechanisms. Horizontal coordination must be reinforced, possible by taking inspiration from respective reforms introduced by the World Bank more than a decade ago.

If the Commission does not improve its work methods, and does not take more distance from day to day politics, it will make it all too easy for political leaders to ignore, push aside and dismiss policy decisions that are necessary to strengthen and stabilise the European project. In essence, Europe has to respond to global and regional challenges, rather than to internal squabbles.

As concerns substance, the title of the Communication is a bit misleading. Its essential parts are focused on EU asylum policy, and the conditions to make it work, which indeed required policy adjustments in related policy areas. With the focus on EU asylum policy, which indeed comprises an internal and an external dimension, we miss the broader focus on how to strengthen and roll out solidarity based policy developments, in particular at local and inter- or multilateral levels.

As concerns national levels, a core challenge relates to stabilising enlightened public discourse, which finally boils down, in operational terms, to balancing the absorption capacity of our societies with external migratory pressures on one hand, and labour market needs on the other, while fully respecting the democratic rules of the game. This is indeed the core driver of our external asylum policy, not the humanitarian concern about irregular migrants perishing on their arduous path to Europe.

The Communication hardly speaks about the need for the EU to engage multilaterally, alongside its Member States. The global dimension of asylum and international protection requires governance rules and diplomatic engagement to foster effective national and regional policy approaches in our neighbourhood and beyond. An integrated and comprehensive EU resettlement policy is a condition for effective engagement in line with the evolving “more for more” approach of the EU in urging neighbouring countries to enter migration partnerships. However, political leaders have rejected the Commission’s milestone proposal, and promoted voluntary national contributions to multilateral processes instead, in which the EU will have to remain marginalised, given the weak policy tools at its disposal. The Commission did not do enough to explain and expose the risks and stakes of inaction. It also chose not to address, or at least mention, the critical relationship between the external dimension of migration and asylum on one hand, and our evolving humanitarian engagement on the other. This was certainly not negligence by default. But it allows Member States to pursue their narrow national interests in a world of global challenges. Given the institutional stakes and interests involved between EU Member States and the Commission, civil society can only partner with the European Parliament in pushing for more ambitious reforms in this field.

To conclude:

Over the past three months, we have seen that the EU decision making machinery works effectively with regards to the technical ability to respond to external challenges. However, the close cooperation

between the European Council and the Commission leaves little scope for inter-institutional tensions as a consequence of diverging policy assessments.

From an asylum policy perspective, there is laudable qualitative progress when it comes to solidarity based policies between EU Member States. An integrated relocation scheme shows the way towards implementing Article 80 of the TFEU on solidarity and responsibility sharing. As concerns solidarity at national level, including its impact on the ability of the EU to engage externally, there is little news. However, the prospects of the CEAS succeeding have increased considerably with the recent European Council conclusions of 25/26 June. Pro-active engagement of civil society may remain crucial to make it work. And finally, as concerns the EU's approach to international solidarity, the prospects are gloomy. As matters stand, the EU remains a medium for underpinning and reinforcing multilateral initiatives rather than contributing to their shaping. Without further progress, the EU, and notably its funding, risks becoming a bargaining chip in the hands of a handful of influential Member States, at best.

Finally, the consequences of a potentially failing EU migration and asylum policy must not be underestimated. Once immigration flows get out of control, Member States will be tempted if not obliged to reintroduce border controls within the Schengen zone. Freedom of movement would be dispensed with. When Member States use enhanced border controls to respond to populist tendencies, or to exert pressure on neighbouring countries, they risk undermining the European project itself. Hence, there is a need to establish operational modalities to distribute the burden between EU Member States fairly, in particular in times of migration crises, but without compromising on the principle of free movement of immigrants as such. Any distribution scheme must remain temporary by design.

Overall, the Commission must be encouraged to be more comprehensive, foresightful and intelligible in its communications. It had the political, legal and moral obligation to guide the deliberations of our political leaders, in particular on critical topics. If the Commission does not improve on these deliverables, it will make it all too easy for political leaders to ignore, push aside and dismiss the policy decisions needed to safeguard and stabilise the European project. Confronted with evolving global refugee and migration trends, it is not sufficient for our leaders to limit efforts to endorsing and supporting further policy development on the EU's three-pronged approach to fighting illegal migration¹⁴. An effective Migration Agenda that stands the test of time is much broader.

In turn, European citizens must be reassured about their understanding of the global challenges at stake, their readiness to face them and, last but not least, they must be given a chance to support the

¹⁴ 1: relocation of asylum seekers inside the EU and resettlement of refugees from third countries to the EU; 2: return, readmission and reintegration of rejected asylum seekers and illegal immigrants; 3: enhanced cooperation with countries of origin and transit



shaping of an evolving global governance which includes domestic responsibilities. Responsibility, solidarity and burden sharing inside the EU are not ideological luxury, they are not an option, but a matter of interest and anticipation, in response to one of the most challenging megatrends of our time.

Civil society has no interest in a failing migration and asylum policy, watered down by short-sighted politics and populist motivations. EU institutions, European governments and civil society can all do better to rise to the challenges ahead.

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