

BORDERS, REFUGEES AND MIGRATION: WHAT RIGHT TO MOBILITY IN THE MEDITERRANEAN?¹

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1. Introduction: the European Migration Crisis

Since at least twenty five years, the European Union faces the challenge of migration. During this period the profile of those who leave their country has changed: the migrants in search of a job have been replaced by family and children arrived for family reunification, asylum seekers and students. The European Union is the first destination in the world in terms of migration flows, ahead of the US, the Gulf countries and, fourth, Russia. The EU is surrounded by countries in war or in the throes of internal conflicts that produced refugees' flows at large (more often asylum seekers than refugees, but all forced migrants) of an exceptional breadth: the total number of asylum applications in the EU countries in 2014 was 562,680 and 1,255,600 in 2015 (Eurostat), compared with an average of about 200,000 people every twelve months in the previous years.

Those figures of the year 2015 are the consequence of the so called European migration crisis: a massive humanitarian crisis and as well as a political impasse for European Union and European governments. For this year UNHCR counted 1,015,078, irregular arrivals in the Northern shore of the Mediterranean, including migrants journeying by both land and sea to Greece, Bulgaria, Spain, Italy, Malta and Cyprus. There is a huge difference compared with 216,054 arrivals by land and sea for the whole 2014 and with 59,421 arrivals in 2013. In 2016, 250,154 refugees and migrants have arrived in Europe by sea and land², including 156,670 to Greece and 88,009 to Italy (UNHCR 2016). The top three nationalities of the over one million Mediterranean Sea arrivals between January 2015 and July 2016 were Syrian (45.5%), Afghan (20.4%) and Iraqi (9.2%). Following the implementation of the Turkey-EU statement of March 2016, a strong decrease of arrivals in Greece occurred starting from April 2016. Among the refugees and migrants arrived in

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² Figures updated till the 24th of July 2016

Europe by sea in 2015, 58% were men, 17% women and 25% children, in 2016 49% were men, 19% women and 32% children (UNHCR 2015 & 2016). Lastly we have to remember that most Syrians fled from Syria is located in the neighboring countries: about 4,819,494 Syrians are located in Turkey (2,7 million), Lebanon (over 1 million), Jordan (657 thousand), Egypt (117 thousand), Iraq (249 thousand) (UNHCR 2016).

What was the reaction of EU to the European Migration Crisis? What are the main consequences of the crisis on the future of migration flows in Europe and in the Mediterranean region? In this paper we aim to answer these research questions. The paper is structured as follow: section two deals with the EU migration policies before the crisis, section three is dedicated to the EU policy reaction to the crisis, the fourth and last section discusses the main implication of the crisis from the point of view of the political perspectives and of the migration movements in the EU-Mediterranean region.

2. The Securitization of EU migration policies

A century ago there were 5% international migrants on the planet compared with 3.2% today: most came from Europe which, at the time, was very populated compared to the other continents. Then migrants came to Europe in a time when in many European countries there was a need of labor force: in a period of full growth they contributed to develop the mining economy, the industrial and agricultural sectors. In the aftermath of the two world wars, the reconstruction required above all workers. All EU member countries are signatories of the 1951 Geneva Convention on asylum and share the fundamental values of human rights that are part of the European political project. All, however, at different degrees, nowadays recorded a boost of the far right parties, which, as is known, have placed immigration as a priority of their political agenda. Since the Nineties, the Union has never stopped to multiply initiatives to discourage new arrivals: the transfer of migration and asylum issues from the third to the first pillar of the Community (the Treaty of Amsterdam have transferred immigration issues in the field of Justice and Home Affairs under the first pillar of European expertise) is what makes the immigration an issue related to security; the responsibility of carriers and the privatization of some border controls through the task to private security companies and transport companies to block the passage of migrants; the implementation of the Integrated External Surveillance System (SIVE) along the Mediterranean coasts; the restriction of the right of asylum (the asylum applications of those coming from "safe" countries are considered as unfounded); a first attempt at Europeanization of asylum (Dublin I, 1990); the principle of "one

stop, one shop" (Dublin II, 2003), according to which an asylum seeker must apply for asylum in the European country where he arrives first - a mechanism partially amended later (Dublin III, 2014); the computerization of fingerprints (Eurodac, 2000) in order to identify fraudulent asylum seekers in different EU countries; the militarization of the external borders and the sharing of the police to protect them (Frontex, 2004). An "arsenal" of bilateral and multilateral agreements (about 300) between European and non-European countries located on the other side of the external borders of Europe completes the picture. The management of the external borders of Europe, in the past a secondary theme compared to the internal freedom of movement established by the Schengen agreements in 1985, has become imperative today. Thirty years ago, at the time of the adoption of these agreements, it was thought that the era of mass migration was over, that non-European would return to their countries of origin thanks to the aid granted and that the European internal mobility was going to increase, that local residents would take the place of the Northern European immigrants in the labor market and that the development policies implemented in countries of origin will stop migrations. Now, most of these scenarios proved to be wrong: very few Europeans left their country to go to work in another country of the Union, at least until 2004, when the Union has widened up to include ten new Member States; there has been no change in the labor market, taking into account its high segmentation; the returns, few in number, have been a failure. Development policies have failed to stem migrations. Initiatives aimed towards the southern Mediterranean (Agreements of Barcelona, from 1995 to 2005, Union pour la Méditerranée in 2007), have never been able to offer a counterpart to the opening to the Eastern Europe. Finally, crises like the one of Great Lakes in Africa, the conflict of the former Yugoslavia or the "dirty war" in Algeria have put in very distant journey asylum seekers from the figures that had predicted the Geneva Convention: persecuted for social, ethnic or religious they were victims of civil society and not of the States from where they came. Hence it was really complicated to consider their applications.

Under the effect of these changes, and the growth of xenophobia in Europe, policies towards immigration and asylum have become more restrictive and are oriented on the security front. In parallel, in different countries it has been a tendency to fall back on the national management of migrants, because of attachment of the European countries to their sovereignty in this matter. Many voices were raised to ask the closure of national borders (e.g. at the border between France and Italy, in Ventimiglia in 2011 and 2015, then at the border between Bulgaria and Greece in 2015, as well as, again in 2015, at the border between Germany and the Austria), while a number of new members in central and Eastern Europe expressed their hostility to the "sharing of the burden" suggested by Brussels. Europe is facing increasingly difficulties to consider immigration as an

integral part of its identity under construction. Yet it is precisely on accommodating asylum seekers that the values on which Europe is founded are at stakes.

The war and the political violence represent the leading cause of departures is the case of Eritrea, Somalia, Syria, Iraq, Afghanistan and Libya. Most of the newcomers is represented by families of asylum seekers, although not all fall within the individual persecution category established by the Geneva Convention of 1951 on asylum. Many of them fail to get the refugee status: in France only 35% of the people applying get the refugee status; in Germany 45%. There is another factor that plays a significant role: information. Many migrants - often well-educated, with urban backgrounds, graduates and not resigned like their predecessors - use new technologies (internet, smartphones); in addition there is television which also helps to define the imaginary of immigration. And the transfers of funds (\$ 400 billion sent in 2013 to the countries of origin, i.e. more than 3 times the annual public investment for development) feed the ghost of a western paradise and make the countries of origin increasingly dependent on migrant remittances. In a world where the right to travel is one of the most unequal (in fact dependent on nationality, which gives the opportunity to travel with or without a visa) who decides to take this route it is the result of a rigorous selection among the youngest. You have to be healthy, determined, able to overcome the many obstacles that are encountered during the trip; you must have been able to put together a sum of up to 30,000 euro and have planned to stay abroad for a time long enough to be able to get a regular status. We are far from the manpower arrived in Europe in the Sixties at the request of some of the Union member states, regularized and smoothly animated by the prospect of returning to their country. Today, some worked in the territories that have passed through, such as sub-Saharan in Libya, and have lost their jobs because of the chaos that reigned there; others were victims of the war that raged in their home (Syria, Libya); others, finally, found themselves jobless after the war (Afghanistan) in countries where the youth unemployment rate has now risen to 40%. But everyone sees Europe as a land of peace, security, respect for rights, where there is a future for themselves and for their children.

3. The EU reaction to the crisis

The actual crisis is not a new phenomenon for Europe: it should be remembered that in the early Nineties, after the fall of the Iron Curtain, Europe has faced the arrival of half a million asylum seekers originating from Eastern Europe (former Yugoslavia included), in addition 2 million Aussiedler (ethnic Germans) moved to

Germany and acquired German nationality. Today, these flows come mainly from Syria (almost 6 million have migrated abroad and 6,6 million are displaced within the country, Syrian refugees 2016), Afghanistan, Iraq, Libya (the old filter of the sub-Saharan migration to the EU, thanks to bilateral agreements in particular with Italy) and the Horn of Africa (Somalia and Eritrea). Closing a period of hesitation and delay, both the Angela Merkel's speech of 7 September 2015, in which the Chancellor declared that Germany was ready to welcome 800,000 asylum seekers by 2015, and the stance of Jean-Claude Juncker of sharing 120,000 among the European countries, laid the foundation for a new wave of immigration. The values underpinning the Union - solidarity between member states, respect for human rights and asylum rights are being challenged by the reality. The photo spread throughout the world of the body of the three years Syrian child, stranded on the Turkish beach in Bodrum after the sinking of the ship that led his family from Syria to Greece, contributed to question the security approach that dominated until then the immigration and asylum policies in Europe. Between 2000 and 2015 were recorded 30,000 deaths on Europe's doorstep, and only in the Mediterranean, fourteen deaths per day in the first seven months of this year.

Given the arrivals of immigrants in recent years, the European Union has responded by strengthening border controls, focusing on combating illegal immigration and attempting an harmonization "from below" of the right of asylum (especially through the notion of "safe" country). This policy has increased the influence of the smugglers and traffickers, turning the Mediterranean into a large cemetery. If the European countries have not been able to formulate a united response it is first of all because they have not been able to cope with the phenomenon. Germany is by far the first destination of immigration between European countries, with 7 million foreigners, and it is also the country that has absorbed three quarters of the asylum application in EU since 25 years. Germany, France, UK and Sweden formed the leading group in terms of the reception of asylum seekers. As to the number of foreigners, France, which until the twenty-first century was the second country of immigration (3.7 million), now occupies the fifth place, surpassed by Spain (5.5 million), Italy and the United Kingdom (4.5 million each). It is true that it is difficult to conceive of a harmonization of the legal status of refugees in the absence of a common foreign policy. Each state has its own diplomacy, its own history, its neighbors, its commercial agreements and their own interpretation of the conflict. The same asylum seeker will receive different answers depending on the country to which they will apply, with the fear of each country that any favorable decision could set a precedent. It should also be considered geographical location: Italy, particularly in Lampedusa, welcomed the largest contingent of North African and sub-Saharan immigrants; other islands, such as Malta and Cyprus, have had to deal with at the same time the reception of

tourists and asylum seekers in confined spaces; Greece has witnessed arrivals mainly of Syrians, Afghans and Iraqis. By land, through the greek-Turkish border, through the Evros River in Thrace, migration proves to be less dangerous than by sea, while causing an overcrowding that has brought to the closing of borders between Hungary and Serbia, Bulgaria and Turkey. During this crisis of migrants, the lack of solidarity has been clear: the operation Mare Nostrum, which followed the death of 366 people off the coast of Lampedusa, was launched by Italy in November of 2013 in reaction to the indifference of the countries of the North and East. Similarly, in May 2015, when the European Commission proposed to share 40,000 asylum seekers between EU countries in terms of their population and wealth, the response of states has been a strong denial: countries have rejected the imposition of quotas in the name of national sovereignty. The trend was reversed in September 7, 2015 with Angela Merkel's speech. But a new East-West rift between supporters and opponents of reception has occurred when Jean-Claude Juncker has called on European countries to share, compulsorily and permanently, 120,000 asylum seekers from Syria. The permanent nature of this sharing was discarded the 15th September by the most recalcitrant (UK, Ireland, Denmark, Hungary, Slovakia, but also Czech Republic, Poland and Romania). It is worthwhile to mention the position in the EU Council of the "Visegrad Group" composed by Hungary, Poland, Slovakia and the Czech Republic (V4): they are in favor of restrictive immigration policy, strict defense of the EU's external borders, and they emphasize the need to assist sending countries, instead of putting efforts on the EU's relocation scheme. On the other side France has made a 180 degree turn with respect to its previous positions, and it agreed to welcome 24,000. Germany has closed its borders with Austria following the announcement of Angela Merkel, to highlight the need for solidarity among all European countries. Yet the legal bases for a common policies exist. The Lisbon Treaty has created a Europe-wide asylum policy and a Support Office for Asylum was opened in Malta. But the implementation of certain policies was left in the hands of individual Member States, who carry the reception according to the subsidiarity rule: a rule that each position should be treated at the most appropriate level - European, national or local - according to its competence.

As we already stressed in the previous section, the EU and its member states during the last twenty years have signed bilateral and multilateral agreements with third countries, with the aim to externalize migration control (Tryandafilidou 2013). Within this process there is also a policy of border externalization, such policy transfers some migration control responsibilities to migrants' sending and transiting countries (Sterkx, 2008). In this wake the EU Turkey Statement has been signed on 18 March 2016 with the aim to fight irregular migration. According to the Statement all new irregular migrants and asylum seekers arriving to Greece

from Turkey and whose applications for asylum have been declared inadmissible should be returned to Turkey. In addition, the EU will resettle a Syrian from Turkey to an EU member state for every Syrian returned to Turkey from Greek islands. The Statement implies also an huge economic effort of EU: €6bn should be given to Turkey in order to help about 2,7 million Syrians asylum seekers staying in its soil and €14 million EU funding has been allocated to Frontex activities to help the Turkish Coast Guard. The EU-Turkey Statement, presented as “the solution” to the 2015 crisis, while followed by a substantial decrease in the numbers leaving Turkey for Greece, it has also left unresolved a number of legal and procedural problems. The choice of Turkey by the European Union can be explained by the desire of Twenty-Eight to lighten the weight of arrivals in Greece that is suffering of a severe economic crisis. Most of the arrivals have been transferred on Turkish hospitality, but without the right to asylum under the Geneva Convention. Secondly, this agreement is motivated by the desire of Europeans to end trafficking of smugglers on the Aegean sea. In doing so, they acknowledge the failure of the war declared to smugglers (and, in turn, migrants).

The third reason behind this agreement is in the interest of the Turkish government to straighten its image in Europe. Turkey's claims in exchange for hosting Syrians are threefold: the resumption of negotiations on its entry bid in the European Union, the abolition of visas for Turks to Europe - Turkey presents today negative migration balance (there are fewer Turks going to Europe than European Turks returning to Turkey) - and the payment of €6bn over two years to accommodate Syrians.

Once again, this outsourcing agreement for asylum in a country outside the European Union, in violation of the principle of non-refoulement under the Geneva Convention, is straining the values of solidarity between European countries and the human rights on which the Union is built.

4. Discussion and conclusion: a look to the future of migration in the Mediterranean

The solutions to the issue of migration are anything but obvious. A European Directive adopted in 2001 to come to help Kosovo, providing a temporary protection mechanism could have been activated, but it seems to have been forgotten by the recent debate. A diversified borders' opening to various groups of migrants could be implemented in order to prevent all them to overcrowd the group of asylum seekers, for instance through a wider opening of the labor market to third country citizens. If economic migrants would increase in the near future, such "mixed" flows would choose to migrate using this option, rather than the asylum

application. It was the case, for example, of the Portuguese, who preferred to enter illegally and to be regularized by their employers rather than seek for asylum. This opening would have the merit of giving newcomers the hope of a better life and make it possible to respond to the needs of qualified and not qualified immigration in a context of population aging in Europe. Finally, the aid and trade with the countries of the South could be affected by the failure to respect human rights and inequality, arising from the political and economic migration.

We should mention once again that the Mediterranean migration area is the largest in the world together with the border between the US and Mexico. Migration is a phenomenon historically embedded within the Mediterranean area. Considering only a relatively short period of time we can argue that migration in this area has witnessed many changes between 1950 and 2014: often these changes were directly connected to crises of different nature (politics, economics, human rights...). These changes allow identifying four periods in the evolution of migration movements in this region (De Haas, 2011) : 1948-1963; 1963-1973; 1973-1995 and 1996-2010. However, a new period started in 2011. The new wave of refugees and asylum seekers show different characteristics, compared to the past. Refugees today are no longer European, but Asians and Africans. Migration flows come from distant countries and they are mixed in nature: individuals escaping by war and persecution, but also from poverty and economic instability (economic migrants).

The conflicts that are causing these population movements are not going to end in a day. In the face of enduring crisis, fighting migrants and refugees will come to a dead end. More than ever, it is worth considering the right to migrate as a universal principle and the ability to close the borders as the exception - a maneuver that States must use with care, depending on the circumstances. We should be aware that there is a continuity (of migration flows) notwithstanding with the crises of different nature: the Mediterranean area can be defined by a migratory régime (Ambrosetti, Strangio 2016): a system of principles and rules of admission for aliens that is resilient to changes in economic conditions and other exogenous shocks.

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SUMMARY

Borders, refugees and migration: what right to mobility in the Mediterranean?

The year 2015 has been characterized by the so called European migration crisis: a massive humanitarian crisis and as well as a political impasse for European Union and European governments. In this paper we try to answer the following research questions: What was the reaction of EU to the European Migration Crisis? What are the main consequences of the crisis on the future of migration flows in Europe and in the Mediterranean region?

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