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Humanitarian watchdog

The EU asylum reform enables migration management without curtailing the rights of refugees. Still, solidarity from the member states remains crucial

The European Union is facing a challenge — both internally and externally. More than anything else, Russia's brutal war of aggression has again pushed migration towards the top of the political agenda and into the public spotlight. Yet, the EU is showing an ability to act – regardless of the approaching European election campaign – or, more positively, precisely because of it. It has managed to develop viable solutions and overcome the dithering of the previous decade without capitulating to right-wing tendencies or even handing over the baton to extremists.

Compared with former German Chancellor Angela Merkel's time in government, Europe's political context has undergone some enormous changes. More populist, conservative or indeed nationalist governments are now at the helm of EU Member States. And yet, for many years, the Common European Asylum System (CEAS) was left to stagnate. The opportunity to reform the CEAS should have been seized much earlier. In this respect, Germany's role and the actions of the Merkel government deserve some scrutiny. As an EU country with multiple internal borders with other Member States, Germany took things easy for far too long and handed over responsibility to the EU external border countries. As long as the number of asylum seekers aiming to reach Germany remained within reasonable limits, it turned a blind eye. For a long time, the countries particularly affected, such as Greece or Italy, were therefore left to handle the new arrivals and the resulting problems on their own.

At the very latest following the events of 2015/2016, it became evident that the previous legislation had failed — particularly that of the Dublin Regulation, which formalises roles and accountabilities and, among other things, the responsibility of the country of first entry into the EU. A *Common* European Asylum System that places the responsibility for beneficiaries of protection on the shoulders of just a few EU countries cannot function properly. It was only when forced migration began to affect countries such as Germany and France on a large scale that there was a sudden general call for immediate action. Nevertheless, political

obstacles ensured that attempts at reform petered out during the last EU legislature, despite years of negotiations, and ultimately failed. This criticism also applies to the EU Commission under the leadership of Ursula von der Leyen, as much time was lost in the prevailing uncertainty as to whether an agreement could be reached.

Short-term problems, long-term strategies

In light of continuing European integration and the indisputable advantages of open internal borders and the internal market, a retreat to nationalism and single-state solutions appears to have little going for it. The arrival figures in the United Kingdom and the hardening of the domestic political debate clearly highlight the disadvantages of leaving the EU. Migration happens and is, from a historical perspective, a normal state of affairs. Labour migration, particularly that of skilled workers, is both desired and necessary in large parts of Europe. An ever-increasing number of people are, however, looking for protection or a better life in the EU and therefore also in Germany.

We require long-term strategies to handle short-term problems, as international crises – particularly those extending beyond European borders – can only be partially controlled and seldom avoided. We are confronted with a situation for which there is no short-term remedy. Combatting the causes of migration, a key aspect of social democracy's approach to handling forced migration, can only be successful in the long term.

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To overcome the current challenges, we need to combine a variety of measures on different levels and, above all, adopt a cohesive, humane and rules-based policy in the EU. Based on the guiding principle that no nation state can solve the current problems on its own, a robust and sustainable solution can only be found if all EU partners buy into it. The German government and, in particular, Interior Minister Nancy Faeser, have played a major part in the conclusion of a historic political agreement by the Council of the European Union and the European Parliament in December 2023, which signals a new beginning for the handling of refugees.

Compromise is common to every political activity. Too many different interests collide, particularly those of Member States that have external borders and justifiably want this burden to be eased, and also those of EU countries without external borders, of whom barely any are now interested in taking in refugees. The solution cannot, however, be 'more of the same', no black or white choice between blocking access to asylum and the unregistered redirection of arrivals throughout Europe. Whether refugees receive a fair asylum procedure should not depend on where they arrive in the EU.

EU-wide minimum standards do, of course, already exist for the for conducting asylum procedures, as well as the responsibility for and provision of accommodation and care of those fleeing persecution. Until now, however, only very few Member States have applied them. The aim is to enforce control and order — without endangering the rights of refugees to a fair asylum procedure. At the same time, immigration figures are to be reduced by a clear separation between those who are entitled to protection and those who are not, and to refer other reasons for migration to orderly labour migration procedures based on need and capacity.

Germany's goal of limiting irregular migration does not, however, imply that fewer people are allowed to enter the EU to seek protection here. But that they need to be better distributed across the Member States — in an ordered, structured and manageable manner. Ultimately, the EU with its approximately 450 million inhabitants should not be overwhelmed by taking in a million people per year and accommodating them in a humane manner. It just requires everyone to join in and participate in the intake of refugees. When dealing with Ukraine, Europe succeeded in demonstrating unity and solidarity. In adopting the directive on temporary protection in 2022, the EU Member States proved that, if there is a will, there is also a way.

Understanding the CEAS reform

The CEAS reform contains different elements to ensure that humanitarian responsibility towards people seeking protection continues to be honoured and, at the same time, that irregular (secondary) migration is limited. There are a number of instruments that can restore justice and order to the EU migration policy in the long run. These include, in particular, the obligation resulting from the screening directive, whereby the identity of individuals, and also any health and security risks, are to be established and all third-country nationals quickly allocated to the appropriate follow-up procedure. EURODAC is to be upgraded to a genuine migration database and applications for

international protection are, in certain cases, to be already submitted to an obligatory inspection at the European external borders — particularly if there is little chance of success. Finally, a lasting, binding solidarity mechanism based on a fair reference key has been agreed. EU Member States that are subject to particular migratory pressures will be unburdened by other EU Member States — in return, the irregular onward migration of people will be curbed by asylum procedures already at the external borders.

The Commission keeps a constant eye on the situation and presents a report containing the expected migration flows and the resulting migratory pressure for the Member States every year. Member States confronted with such pressure can rely on the solidarity of the other Member States. For this purpose, a so-called solidarity pool will be established, from which relief measures will be provided to the beneficiary States. It is vital that all Member States are obliged to participate in it, using a reference key based on the size of the population and the Gross Domestic Product of the States. This is a major step in the right direction, even if the intake of refugees is not obligatory, but the contribution is, for example, of a financial nature. Not only in Germany, but everywhere in the EU, there are municipalities that would be happy to take in refugees. A suitable means of support would be financial compensation of costs from the EU budget or else the consideration of the expenses incurred when calculating the contributions paid by the respective Member States to the EU budget.

The application of European Law in a given country is based on the fundamental conviction that such legislation is regarded as its 'own' law. Its success therefore depends inevitably on the discipline and solidarity of every EU Member State.

Clear rules and standards based on the rule of law apply everywhere in the EU — just like the common minimum standards for the intake, accommodation and provision of care for those seeking protection. This is also an important intermediate step in the reestablishment of the rule of law everywhere in the EU. It serves as a clear rejection of the untenable situation on the European external borders and in some Member States. A monitoring system is to guarantee that Member States respect the applicable rules, including those relating to procedures on the external borders. For this purpose, every State is establishing an independent mechanism that oversees compliance with EU and International Law, particularly in relation to the access to asylum procedures and the principle of non-refoulement, and ensures that any infringements are investigated and sanctioned.

In this area, there are clear expectations for the European Commission in its dealings with countries like Hungary and the question as to who abides by which legal acts. In an era in which countries such as Russia and Belarus instrumentalise refugees as a means of waging war, the question as to whether the EU is a legal area in which human rights are defended takes on a new meaning. In the future, the Commission will be called upon to control compliance with the CEAS ever more strongly and to penalise any violations of it.

A common understanding of the CEAS reform will help us take a decisive step in the right direction. Instead of an inefficient or even dysfunctional system, national isolation and continued disorderly circumstances, particularly in parts of the EU's external borders, we are introducing a new, fairer system as the basis for a fresh, supportive migration policy in the EU. Migration can be controlled and regulated, ensuring the protection of humanitarian standards for refugees.

The success of the agreements has direct repercussions for the concept of Europe as an area with 'open (internal) borders'. The increasingly frequent announcement and conduct of internal border controls must therefore once again become an absolute – and temporary – exception. Even Germany had resorted to this drastic step *vis-à-vis* Poland, the Czech Republic and Austria. For this reason, the new regulations must be implemented quickly. The application of European Law in a given country is based on the fundamental conviction that such legislation is regarded as its 'own' law. Its success therefore depends inevitably on the discipline and solidarity of every EU Member State. Germany will have to be a role model and will, at the same time, benefit greatly from it.

For a different perspective on the CEAS reform, read here.



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