

Bernd Kasperek

**MIGRATION POLITICS
AND POLICIES
IN THE EUROPEAN UNION**



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Introduction

This study was commissioned to establish an overview of the history and present state of migration policies in the European Union. It coincides with a period in the EU where migration policy is at the core of the political conflicts that are determining the state and the development of the European project. The summer of migration – that is, the mass arrival of refugees and migrants in Greece starting in early summer 2015, and their subsequent onward movement towards Scandinavia initially and Germany that found its preliminary end in February 2016 with the closure of the so-called Balkan corridor – and the rifts within and obstacles to a common European migration policy that these migrations have revealed, are at the core of the post-Brexit debates concerning the future of the European project. While the European project was originally founded on the promise of peace and prosperity, the current proposals for a deepening of the EU concern themselves almost exclusively with a vague promise of providing security: both the proposal to establish closer supervision and registration of travellers across the EU external border as well as the proposed process towards a European army carry that promise. However, in a second analytical step, one can also argue that the summer of migration is inscribed deeply in both proposals. The escalation of the Syrian revolt against Assad into a full-blown civil war and military conflict was at the root of the 2015 migrations. While it is debatable what the EU's role could have been vis-a-vis this conflict, the process towards a European army is clearly inspired by the observation that the region around the EU has become less stable, and is likely to remain so. Instability, however, is understood as a strong factor driving refugee migrations. Similarly, the proposed traveller pre-registration programme is a measure to offer a more fine-grained control over and knowledge of cross-border movements. While it is certainly

inflected with a strong securitarian rationale, it also contains, as will be shown, the recurrent theme in European migration policies that the border is the designated measure with which to regain sovereign control over mobilities and migrations towards and inside Europe.

SUMMARY The border is indeed a specificity of European migration policies. Even though the analytical finding of a proliferation of borders in recent decades holds true globally, the nexus between border and migration control is strongest in the EU. This justifies the reference to a European border and migration regime, where institutions, practices and discourses of borders as well as migration control are situated in a vast network. While the networked character of contemporary governance, especially on a global scale, is not a new finding, the particular process of Europeanisation, moving from the nation state towards a more supranational union, has led to a multiplicity of actors being involved in this particular network. To this end, it is not trivial to determine the political direction of the network, as conflicts and difference of rationality can play out over long periods of time. Moreover, some institutions are in for the long run.

However, the general trends in European migration policy in the last three decades can be analysed. After the crisis of Fordism, the general notion within Europe was that migration was undesirable and should be reduced to preferably zero migration. With the institution of asylum, a historical exception, migration policies in Europe moved towards a repressive and securitarian approach. On the European level, this is embodied in the Schengen treaties (1985, 1990), which manifested the developing nexus between borders and migration for the first time.

The Treaty of Amsterdam (1997) marked the next, and first decisive step, towards a European migration policy. Beginning

in 2000, a serious attempt to consolidate migration policy on the European level can be detected, especially around the issues of asylum and the external border.

In 2005, the EU's *Global Approach to Migration* extended these policies, adding an external and intersectional dimension to migration policy in Europe. At the same time, the European Commission strove to facilitate more avenues of legal migration to Europe but its efforts were largely unsuccessful.

Towards the end of the first decade of this century, European migration policy was characterised by four elements:

1. Common European Asylum System (CEAS)
2. A hardened, semi-Europeanised and high-tech external border
3. Externalisation, that is, cooperation with Countries of Transit and Origin
4. Tentative attempts at organising legal migration on a European level.

Around 2011, these elements entered a dynamic of crisis, which unfolded in the following years and reached its apogee with the summer of migration in 2015. The crisis response has been determined both by the attempt by the Commission to establish a stronger Europeanised framework of migration policy through the *European Agenda on Migration* and the concrete dynamics of the so-called "refugee crisis", that is, the breakdown of the system of registration, reception, channelling of movements and European coordination as individual member states have taken idiosyncratic actions threatening the coherence of the Schengen area at large.

METHOD- OLOGY

The networked character of migration governance in Europe, the characteristic that the term "European migration and border regime" attempts to capture, prevents the forming of generalised statements about policy directions, as they are a function of diverging interests, strategies, situational alliances and external developments. Even though there are tangible policy decisions and material implications and manifestations, the respective developments in the regime are as much the outcome of policy as of implementation. And, most importantly, the policies are, more often than not, direct reactions to the dynamics of migration and migratory movements, which take routes around obstacles and attempts to control or channel migration.

To understand and analyse the concrete dynamics, these interplays of forces and conjunctures need to be integrated into the analysis, in order to explain specific developments. This, of course, charts an agenda that a study of this limited scope cannot deliver. The aim of this study is to provide a succinct overview of the historical development of the European migration and border regime, sketch the identifiable long-term elements, trends and rationales behind it and the interplay between it and the larger dynamics. The study can only be an entry point to a critical examination of European migration policies at large.

EU MIGRATION POLICY

To understand the current state of European migration policy, and the rationalities and references contained within it, a brief overview is required of the development of migration policies within the EU, in particular to highlight its main strands. Explaining why and how the border question has risen to the prominence it currently occupies, and how this justifies speaking of a European migration and border regime, is also necessary.

MIGRATION AND BORDER POLICIES BEFORE AMSTERDAM

After the end of the Second World War and in the initial postwar decades, migration policy in Europe was still firmly in the hands of the nation states. The predecessor bodies of the EU were still comprised of relatively few states, and the focus of European cooperation lay on a nascent internal market.

Even though the Treaty of Rome (1957) already envisioned an area of freedom of movement for persons, this would not come to fruition for many decades. National migration policy in northern Europe was determined by the high rates of economic growth of the Fordist model, while many countries of the European South were largely countries of emigration, exporting labour to the North. Former colonial states, such as the UK and France, also organised immigration along postcolonial lines. Migration policy was firmly anchored in the field of social and labour market policy, and rarely discussed as an internal security issue.

If we trace the emergence of a European field of migration policy, as opposed to national migration policies in Europe, the starting point would be the emergence of the so-called TREVI (Terrorisme, Radicalisme, Extrémisme et Violence Internationale) group, founded in 1975 as an intergovernmental network outside the context of the European Community. The initial focus,

as indicated by its name, was to allow cross-border police cooperation against mostly politically motivated violence. However, the body soon included international migration as an area of priority. The body remained in existence during the 1980s and was finally absorbed by the EU's Justice and Home Affairs (JHA) pillar through the Treaty of Maastricht in 1992. Incidentally, it is precisely in the JHA policy field where migration and border policy continue to be crafted and decided until today.

There are two observations to be made from this initial development. It is, of course, no coincidence that the field of migration policy was securitised precisely in the 1970s. The rather abrupt transition from Fordism to post-Fordism occurred in this period. Fuelled by anticolonial struggles, new political movements emerged globally. At the same time, the onset of a global recession and the start of the reconfiguration of the global economy along neoliberal lines severely reduced the possibility of northern European labour markets to absorb migration, even from within Europe. To some extent, this development explains why migration policy moved from social and labour market policy to interior policy or home affairs, in the EU's parlance. With the shrinking of the post-Fordist labour market and the new policy objective of reducing migration to zero, migration policy became securitised. Being a cross-border phenomenon by definition, migration policy became part of the emerging cross-border police cooperation in Europe. This marks the inscription of the border as a policy field in European migration policies.

The second observation, which will be discussed more in depth in the concluding part of this study, consists in the parallels of the developments in the 1970s with those of today. While arguably we live in very different times and a vastly changed global context, we are again witnessing both a breakdown of the predominant global economic model

(neoliberalism in this case) as well as the rise of a new global dynamic of conflict and antagonistic political movements. The world again has become a more unstable place, which is already taking its toll on political and public discourse around migration and state configurations, as evident in the discussion around the Brexit vote in the UK, for example.

With labour migration channels to western and northern Europe closed since the end of the 1970s and the antagonistic political global landscape of the present, we have seen a resurgence of asylum. Originally rooted in the population dynamics of the postwar years and codified internationally through the 1951 Geneva Refugee Convention and the wide variation in its implementation in national law in Europe, asylum became the most prominent category of providing legal migratory access to European countries. Similarly, the problematisation of asylum began in the 1980s.

The conflation of migration, border and security policies in Europe can be demonstrated most succinctly around the development that gave rise to what is now known as Schengen, that is, the area of free movement that abolished internal border controls, to the EU external border and, more generally, to the framework that is at the core of European interior policies. Signed in 1985, the first Schengen agreement aimed at the abolition of internal border controls between the participating states, the division of responsibility for securing the Schengen area through a reinforcement of the external border and a common visa policy. It also introduced the first pan-European police database, the Schengen Information System (SIS). The Schengen Convention of 1990 (Schengen II) detailed the implementation of the political will expressed through Schengen I, and created the technical infrastructure. However, a significant portion of the convention also dealt with asylum seekers. The convention sought to ban multiple asylum applications in different states of the Schengen area, through the so-called

"one chance rule", as well as to restrict freedom of movement for asylum seekers within. It also laid down criteria for determining the state responsible for examining asylum applications, which already in 1990 amounted to the "rule of first entry", that is, assigning the responsibility mostly to the states at Europe's emerging external border. Around the same time, these policies were embodied in the Dublin Convention (Dublin I), which extended their reach to several European states that were still outside the Schengen area.

To this end, the predominant migration policy mechanisms of the present emerged from the Schengen and Dublin conventions: a reinforced external European border, the restriction of movement within these borders under the Dublin rules, and digital databases to track migrants both at the border as well as inside Europe. However, these measures were still largely outside the framework of the European Community, later the EU. Only with 1997 Treaty of Amsterdam were these conventions and the rather informal structures around them consolidated into a more homogeneous European policy framework.

AMSTERDAM 1997 AND THE COMMON EUROPEAN ASYLUM SYSTEM (CEAS)

The 1997 Treaty of Amsterdam, which entered into force two years later, can generally be credited with shifting decision-making competences in many policy fields to the European level. This is especially true for the JHA field, with the proclaimed creation of an "area of freedom, security and justice", and thus for migration and border policies. The Amsterdam Treaty incorporated the Schengen Agreements into the EU's legal framework, while the creation of a Common European Asylum System (CEAS) was declared one of the top priorities for the JHA field.

The CEAS started to emerge in 1999. The approach was less

the creation of a wholly new European asylum system, but rather a homogenisation or convergence of the different national asylum policies within the EU. To this end, a set of regulations and directives was passed around 2003, accompanied by funding measures such as the European Refugee Fund. The less binding directives sought to establish minimum standards concerning asylum procedure, reception conditions during the asylum process, refugee recognition criteria and family reunification. The legally stronger regulations, however, established the foundation of the emerging CEAS. The so-called Dublin II regulation largely incorporated the Dublin Convention into EU law, while the Eurodac regulation of 2005 established an administrative fingerprint database.

As discussed above, the Dublin regulation sought to impede the so-called secondary migration of asylum seekers within the EU. To this end, it lay down criteria to determine the EU member state responsible for the asylum procedure. While the Dublin regulation did include (narrow) criteria for family reunification or the protection of minors, it effectively established the principle of causation: the member state which "caused" the entry of an asylum seeker was responsible for his/her asylum claim. This could either be because the (potential) asylum seeker had crossed the state's border without authorisation, or because the state issued a visa to the person in question. This principle of causation established an incentive for the relevant state to implement a stricter visa policy as well as to reinforce its part of the EU's external border.

It must be noted that the system that arose from the Dublin regulation is anything but a quota system for the distribution of asylum seekers within the EU. Unsurprisingly, the member states located in the south and southeast of the EU, in geographical proximity to other continents and with a large portion of the EU's external border, were confronted with much higher numbers of asylum application than states in the north or west. Similarly, this

uneven distribution was a major obstacle for many migrants and asylum seekers, who sought to reach precisely the states that had engineered the Dublin system to rid themselves of the responsibility for refugee protection. The historically low numbers of asylum applications in Germany throughout the last decade, for example, can largely be attributed to the Dublin effect.

It is frequently asked why the EU's southern states agreed to this principle in 2004, when the Dublin II regulation was passed. In retrospect, this seemed like an ill-informed political decision. There are at least four points that need to be discussed in this context. Firstly, there was generally more enthusiasm for the European project around the time of the Treaty of Amsterdam and the development of a European asylum and migration system seemed desirable as a whole. Secondly, the Dublin system could not be enforced properly at that time, since determining the country of first entry was not even remotely feasible. Thirdly, the CEAS was accompanied by a policy of reinforcing the external border (see below); in general, the EU's migration policy was still moving towards disallowing migration towards the EU.

Last but not least, during the 1990s and the following decade, asylum became deeply problematised and discredited. The international discourse, of which even the UNHCR was part, saw asylum and refugee protection as stemming from a different historical context (that is, the 1950s and the Cold War) and in need of reform and adjustment to meet the demands of the 21st century. Tony Blair's claim during his time as British prime minister that between half and three-fourths of asylum claims were ill-founded (Blair, 2003) echoed the spirit of the time. Migration, again, was perceived as mostly economic in character, and the southern European economic boom of the first decade of this century created labour market conditions that allowed for the absorption of migration, especially in the labour-intensive agricultural, construction and care sectors.

The creation of the Eurodac database in 2005 created the conditions to enforce the Dublin system. All EU member states were compelled to enter the fingerprints of all asylum seekers and irregular migrants apprehended at the border into a European database. By following the fingerprints, it became possible to trace migrants' trajectories within the EU, and thus to determine the country of first entry. Fingerprinting and the entry of that data into Eurodac became pivotal to the CEAS.

EXTERNAL BORDERS, SMART BORDERS

As mentioned above, the policy to establish an asylum system in Europe was intrinsically intertwined with a policy of reinforcing the EU's external border. The notion of a European external border, and the obligation to reinforce it, had already been established through the Schengen Agreement and its subsequent acts. Starting in the 1990s, the external border was gradually reinforced.

Reinforcing the border did not necessarily imply mere architectural elements, but rather moving the now defined peripheral border more into the centre of interior policies concerning migration. Spain, for example, established its Integrated System for the Surveillance of the External Border (SIVE) in the late 1990s, which involved an increased deployment of its Civil Guard, as well as the introduction of vast technical measures to detect border crossings at the onset, that is, mostly to identify boats departing from Morocco. Migration control shifted to the border, where the aim was to create an impenetrable perimeter. Migration from Albania to Italy in the 1990s triggered the deployment of the Italian navy for the purposes of migration control, while Germany vastly increased the intensity of patrols on its border with Poland (which had not yet joined the EU).

The general notion was that the territorial border could

assume a central function in migration control. Coupled with a new securitarian imperative after the 11 September 2001 terrorist attacks in the US, the EU put the technological notion of border control in the centre of its migration policy. The creation of Frontex, the European border agency, in 2004, which was preceded by years of discussion, is paradigmatic for this notion. Again, the reference to the US is instructive. While increased securitisation also led to the creation of a centralised agency, the Department of Homeland Security, charged with controlling the border among many other tasks, the role of Frontex was mostly discussed in terms of migration. While there were specific references to customs and cross-border crime in general, Frontex's main purpose was to deal with irregular migration towards Europe.

However – and this is where the reference to the US, with its politically strong central government, ends – the necessary transfer of sovereign rights to a European border agency did not take place. While the European Commission had already proposed the creation of an actual European Border Guard Corps in 2002 (European Commission, 2002), that is, a European border police staffed sufficiently to take over the patrolling of the external border, EU member states refused to concede this central aspect of national sovereignty to Brussels. As a compromise, Frontex was created as an agency tasked with supporting the national border guard institutions within the EU and, especially, to foster cooperation between them.

The agency, headquartered in Warsaw, started operating in 2005. Its mandate and activities are:

1. Risk assessment: the collection of relevant data from the national contact points inside the national border guard institutions in the EU member states and the compilation of so-called "risk analyses", forecasting developments at the European external border and providing data on them.

Lately, this has grown to include Eurosur, the European Border Surveillance System (see below);

2. Training: the creation of training curricula and the organisation of training events for officers of member state border police agencies;
3. Research and development: tracking and pushing for research in technologies relevant to the policing of borders, most notably unmanned aerial vehicles (UAVs, or drones) and biometrics;
4. Logistical support for deportations: the coordination among member states and facilitation of return logistics;
5. Joint operations: the organisation, planning and coordination of operations at the EU external border, bringing together border guard institutions from various EU member states;
6. Rapid response: coordinating available resources to be deployed at the EU external border in the event of an emergency.

Taken together, these tasks do seem like a mixed bag, indicative that indeed the current Frontex setup is the result of a compromise. There are, however, two elements in this arrangement that need to be highlighted. For one, Frontex is chiefly involved in networking. The implementation of these tasks is predicated on national border guard institutions, which contribute data, human and technical resources. As in the case of the CEAS, the political model for Europeanisation is not the creation of a new system from scratch, but rather an ever more intense networking and harmonisation of existing practises and services. Moreover, the tasks of the agency cut across the division of labour as practised in the EU member states. With Frontex, there is a new institutional perspective on policing the border (referred to as "integrated border management", IBM) which has the EU external border as an entity and instrument firmly at its centre.

From all the tasks mentioned above, the so-called joint operations have been most visible in the public domain, especially Operation Hera in the eastern Atlantic; Operation Nautilus, later Operation Triton in the Mediterranean; and Operation Poseidon in the Aegean. These operations have been under intense scrutiny by the public and critical researchers. Contrary to initial expectations, the operations have not involved extensive illegal practises, such as pushbacks or physical violence. Such practises, which are still commonplace at the EU external border, are more frequently attributable to national border guard units. The critical perspective that an ongoing assessment of Frontex should invite is much more towards the transformation and reconfiguration of the EU external border as a process that Frontex largely oversees, implements and assesses.

One important aspect of this reconfiguration is the inclusion of technologies that are labelled as "smart borders". This means both an intensification of surveillance capacity as well as the capability to track individuals before and after their crossing of the border. It aligns with the risk-based vision of the border (Neal, 2009) and the intelligence-gathering and forecasting approach taken by Frontex. To this end, and building on research initially commissioned by Frontex, in 2008 the European Commission proposed the introduction of a so-called Entry-Exit-System (EES) (European Commission, 2008), a database to track all entries to and exits from the EU, as well as a Registered Traveller Programme (RTP), yet another database that would speed up the border crossings of so-called bona fide travellers. A third element was the proposed creation of Eurosur, the European border surveillance system, a modularised architecture both for information-sharing between European institutions concerned with the border as well as a platform for the future inclusion of further border surveillance technologies. While the former two rely heavily on biometrics, the latter allows, for the first time, the emergence of a uniform, real-time view of the EU

external border as a whole. While the EES, and related programmes such as the RTP or a recently proposed visitor pre-registration programme are still up for debate, Eurosur has been operational since 2013 (European Union, 2013).

GLOBAL APPROACH TO MIGRATION

The notion of zero migration and migration control through external borders, which drove the developments in European migration and border policies from the 1990s, faced a reality test in 2005. In the autumn of that year, migrants attempted to cross, collectively, the fences separating the Spanish exclaves of Ceuta and Melilla (situated on the African continent and thus the only land borders between the EU and African countries). Since Spain began reinforcing its external border in the Mediterranean at the end of the 1990s, a simple boat passage from Morocco to Spain was no longer feasible. Groups of up to 500 persons attempted to cross the 3m-tall barbed-wire fences with improvised ladders. Moroccan and Spanish police used massive physical violence to repel the migrants.

These events, televised globally, triggered a decisive shift in the EU's migration policy debates. On 27 October 2005, the European Council met for an informal summit in Hampton Court in the UK to debate a new strategy to deal with migration. The relevant policy documents (Council of the European Union, 2005) show a degree of unsettledness: the certainty that borders are an appropriate and adequate means for controlling migration had dissipated. In December 2005, the Commission published a new policy paper, entitled the *Global Approach to Migration* (European Commission, 2005), which underlines that next to border controls, new instruments for "managing migration" have to be developed in order to offer a broader strategy.

The *Global Approach* understands migration as a "global phenomenon", which has to be addressed from a global perspective. Countries of origin and transit need to be included much more stringently in a common project of migration management. Even though the border remains a fundamental part of the approach, the gaze of control shifts to the routes of migration and thus increases the relevance of the countries through which migration transits, transforming them into dialogue partners. The so-called Barcelona Process, the Mediterranean Transit Migration Dialogue, the Rabat Process and, more recently, the Khartoum Process are completely in line with the strategy outlined by the *Global Approach*.

At the same time, migration policy became intersectional policy, to be included in such diverse policy fields such as foreign policy and development cooperation. An immediate consequence of this new designation of migration policy was that it could no longer function purely in a repressive manner. In the new dialogue, partners do not necessarily understand migration as a negative phenomenon. The new discourses on migrant remittances, which often surpass the funds made available under development cooperation, but which are largely inaccessible for the governments of the receiving states, as well as a new problematisation of migration as a "brain drain", were attempts to find a new, common language to talk about migration. In this vein, the EU, as part of these dialogues, offered new mechanisms to access remittances and legal migration channels within the framework of so-called "mobility partnerships".

The *Global Approach* can be interpreted as an attempt by the European institutions to draft a new migration policy rationale which is no longer rooted in a national framework. The new prominence of the term "migration management" highlights this reorientation. For migration management, as opposed to migration control, contains a concession: migration, as a social

and global phenomenon, cannot be stopped entirely. What the state, or in this case the EU, can offer, however, is to maximise the positive effects of migration and minimise the negative ones. In this sense, migration is redefined as a valuable resource, whose profits must be unlocked. If EU migration policy had so far been largely viewed from a securitarian angle, the *Global Approach* signalled the return of an economic rationality into the migration policy discourse. Fittingly, the category of asylum no longer plays a relevant role in the approach.

LEGAL MIGRATION

The formation of European migration policy in the first decade of this century included a tentative discussion on enabling legal migration. Especially with the advent of the *Global Approach*, the policy discourse around legal migration and the instruments to facilitate it grew stronger.

However, new avenues for legal migration still do not play a significant role in migration to the EU. The most successful scheme is the so-called Blue Card, a residence permit akin to the US Green Card, that is directed mostly at so-called highly skilled migrants. Despite the scheme's existence since 2009, the Commission had conceded that it is mostly used by Germany, with other EU member states being slow to adopt it.

Other initiatives, such as the Centre for Migration Management and Information (CIGEM), a pilot project in Mali that aimed to pair Malian citizen with prospective employers in the EU, never gained much traction and has since been transformed into a mere information centre.

Likewise, the so-called mobility partnerships, that is, quotas negotiated with specific third countries, have not been deployed on a large scale and have often been unsuccessful.

In summary, while there are some EU policy instruments for legal migration, practically they play only a minor role.

THE CRISIS OF SCHENGEN

The main elements of the European border and migration regime, that is, a reinforced, digitalised and gradually Europeanised external border, the Common European Asylum System constructed around Dublin and Eurodac, and a linking of external policy, home affairs, development cooperation and security policies through the Global Approach to Migration, gradually entered a crisis in 2011, culminating in the 2015 summer of migration and the temporary breakdown of the European migration and border regime. The crisis is composed of various elements, to which we will now turn.

THE DUBLIN CRISIS

As described above, the Dublin system does not include a quota system for the distribution of asylum applications throughout Europe, but rather assigned the responsibility for processing asylum applications largely to the member states at the EU external border. Greece and Italy, in particular, but also Malta and Cyprus, felt that this mechanism was to their disadvantage. Shortly after the Dublin system began to function, following the introduction of the Eurodac database in 2005, these states took the first political initiatives to move towards a European quota system. These attempts, however, were largely unsuccessful. The revision of Dublin in 2013 (Dublin III) and the proposed Dublin IV regulation do not depart from the "country of first entry" rule.

For refugees and migrants, the Dublin system constituted a large problem. Many of those arriving in Europe had already decided beforehand where they wanted to go. The social and transnational character of migration, which means that migration only rarely happens outside a transnational web of information and social relations, made certain places in Europe more

desirable as end destinations, be it for family connections, language skills or other subjective preferences. However, once a migrant's data was registered in Eurodac, he or she were obliged to remain in the country of first entry.

In a complicit development, the member states that felt most disadvantaged by Dublin pursued a rather lax practise of fingerprinting, thus facilitating transit northwards. Migrants and refugees attempted to reach and to apply for asylum in other member states. While the EU placed increasing pressure on the former, the conflict soon reached the national and European courts. Despite all the rhetoric of a common and harmonised asylum system in Europe, standards still grossly diverged, not only as regards the asylum system, but also the living conditions that asylum seekers and recognised refugees had to live under.

In the beginning of 2011, this development reached its preliminary apogee. The German Constitutional Court considered banning all Dublin deportations to Greece; meanwhile, the European Court of Human Rights (ECHR) found both Belgium and Greece in violation of the European Convention of Human Rights, after a refugee who had been deported from Belgium to Greece under the Dublin rules had taken a case against them (European Court of Human Rights, 2011). Effectively, this led to the suspension of all Dublin deportations to Greece within Europe. While the conditions in Greece were the most deplorable, similar problems existed in a host of EU member states, such as Italy, Malta, Cyprus, Bulgaria and Hungary. Subsequently, the Dublin system came under considerable strain, a situation the Commission sought to rectify. However, once the European Court of Justice ruled that member states seeking to initiate a Dublin deportation first had to establish that the conditions in the country to which the asylum seeker should be deported would not be in violation of his/her human rights, the fiction that, by virtue of being a EU member state, the asylum system could not be deficient was shattered, revealing the dire state of the CEAS.

HIRSI VS. ITALY

While Italy did play a role in the Dublin crisis, both by refusing to consistently fingerprint all arriving migrants and by maintaining an asylum, reception and integration system that was frequently found deficient by European courts, its contribution to the Schengen crisis was different in character. Throughout the first decade of this century, Italy sought an agreement with Libya, in which the latter would stop the departure of migrants towards the former, and would readmit migrants from there. Under the 2008 Italian–Libyan friendship treaty, a secret protocol created the conditions for the externalisation of migration control. Soon after it entered into effect in May 2009, the different institutions of the Italian state charged with border policing commenced pushback operations in the central Mediterranean, outside Italian territorial waters.

However, Libya had not fully ratified the Geneva Refugee Convention, and many reports revealed that transit migrants were being detained in deplorable conditions in Libya. The UNHCR unsuccessfully sought to establish an office in Libya. Generally, Libya could not be considered a Safe Third Country, and the Italian pushback operations were thus a violation of the Geneva Convention's ban on refoulement (the non-refoulement principle). The Italian government, under prime minister Silvio Berlusconi, argued that since the pushbacks occurred outside Italian territory, the institutions and individual actors involved were not bound by international law, such as the Geneva Convention, and thus refoulement, in the sense of the convention, was not taking place.

Some of the first migrants to be subjected to the pushback operation sued the Italian state. The case, which became famous as Hirsi¹ vs. Italy, went through the Italian legal system and finally

1. Hirsi Jamaa was one of the first victims of the new Italian pushback practice.

reached the ECHR, which, in January 2012, found that international law was applicable internationally and that state actors were bound by it even when acting outside state territory. It thus found Italy in violation of the non-refoulement principle (European Court of Human Rights, 2012).

While the judgement ruled on a very specific case, it had deep implications for the practices of the European migration and border regime. Effectively, it meant all manner of externalisation involving cooperation between EU member states or their institutions' cooperation with third states could be scrutinised as to their conformity with international law and the varying codification of human rights. While not an unsurpassable obstacle to externalisation, the ECHR's verdict created a legal enclosure for such measures, as underlined by the frequent references by the Commission to the case in its communications.

ARAB SPRING

The ECHR decision, as decisive as it was, did little to change Italy's practice on the high seas as the verdict came too late. With the eruption of the social and political revolts that became known as the Arab Spring in January 2011, the EU's neighbouring landscape was massively transformed. While the Arab Spring began with the revolution in Tunisia, it soon spread to other countries of the Maghreb and beyond. Most notably, it engulfed Libya in a vicious civil war which has not been resolved. Because of NATO's intervention on the side of the Libyan rebel movement, Libya's dictator Muammar Gaddafi terminated the cooperation with Italy, and in turn sought to use migration as a weapon against the EU, with police units still loyal to him forcing many migrants who never wanted to travel to Europe onto boats.

More generally, due to the political dynamics of the Arab Spring, numerous partners in the European migration and border

regime were no longer available to collaborate, bringing the various processes of cooperation around the Mediterranean to a temporary halt. This proved a severe setback, and the subsequent increase in cross-Mediterranean irregular migration can also be attributed to this development.

However, there were more immediate consequences, which were minor taken by themselves but indicative of the developments to come. Most notably, after the success of the Tunisian Revolution, around 30,000 Tunisians arrived in Italy within a few weeks. This new quality of migration, even though it was a temporary phenomenon, demonstrated the cracks in the architecture of the European migration and border regime. While Italy sought a special procedure to deal with this migration, the other member states insisted that the arrival of the 30,000 Tunisians had to be treated under the Dublin system, thus assigning sole responsibility to Italy. The Italian government, however, decided to issue Schengen visas to all Tunisian migrants who had arrived before a set date, thus granting them freedom of movement within the whole Schengen area and Europeanising the issue. In retaliation, France closed its border with Italy at Ventimiglia for around 17 hours. While small in scale and length, this conflict foreshadowed the conflictual processes within the EU upon the arrival of nearly a million refugees and migrants in 2015. As is known, the clear majority came from Syria, which, in another development after the Arab Spring, was engulfed in an even more vicious civil war.

THE HUMANITARIAN TURN AFTER LAMPEDUSA

While the discussions on the Dublin crisis, the legal interpretations of the applicability of international law extra-territorially and the tensions around the residence status of 30,000 Tunisians were largely confined to experts, the volatility of the European migration and border regime was brought into sharp focus with the tragedies that occurred in October 2013 in Lampedusa. Within the space of a few days, two shipwrecks resulted in the deaths of around 500 people. While these were not the first, nor the last, such tragedies around the island, they captured the attention of the European public like never before. The legitimacy of hardened borders, which were clearly seen as responsible for the deaths of so many people, was severely called into question.

The developments after Lampedusa deserve their own analysis. While on the EU level there was a discursive shift towards a reprioritisation of humanitarianism and the saving of lives at sea, in the immediate aftermath no decisive shift of policy was discernible. The Italian government's decision to start its Mare Nostrum operation proved to be more decisive, as, for the first time, a national government reframed its border policies, putting the saving of lives before the securing of borders. However, the increased arrival of migrants because of the Italian operation placed more stress on the Dublin system and registration practices in Italy slowed down severely. The EU's attempt in late 2014 to counter the Italian initiative by replacing Mare Nostrum with the Frontex-led operation Triton, which reprioritised secure borders over the lives of humans, was short-lived as another tragedy struck in April 2015. Costing nearly 800 people their lives at sea, the disaster put the humanitarian rationale squarely back on the table.

In summary, it can be said that the Schengen crisis consisted of slow and seemingly unconnected developments in the

different core policy areas of the European migration and border regime. The EU's institutional response was delayed, as it tried to address the different developments through different processes. The political context deserves special emphasis. The Schengen crisis unfolded at a time when the EU was gripped by the so-called euro crisis, which threatened the very stability of the EU and consumed all political attention. Migration and borders, or more generally home affairs, which had been an important driver of Europeanisation, were put on the backburner.

EUROPEAN AGENDA ON MIGRATION

Despite the attempts of the Barroso Commission, and specifically Home Affairs Commissioner Malmström's fresh attempts to realign the EU's migration policy in the light of the Lampedusa tragedies in October 2013, no palpable results could be achieved. Even though migration policy fared high on the EU's agenda, external events such as the Ukraine crisis, as well as internal dynamics surrounding the European Parliament election and the demand that the election frontrunner should become the next president of the European Commission, kept migration policy off the agenda of European Council meetings in 2014.

Only when the Juncker Commission, which assumed office in October 2014, declared migration as one of its top political priorities and created the new post of Commissioner for Migration, Home Affairs and Citizenship, taken by the former Greek defence minister, Dimitris Avramopoulos, did a new dynamic around the EU's migration policy start to unfold.

In May 2015, the Commission presented its European Agenda on Migration (EAM) (European Commission, 2015), consisting of both short- and medium-term priorities. The policy objectives and measures laid down in the EAM do not represent a decisive departure from the EU's migration policies since Amsterdam, but rather build on them. On the contrary, the EAM needs to be understood as an attempt to concentrate the often disparate policy pushes of the past into one unified agenda and programme. It allowed the Commission to regain the dynamics of the offensive, which had been lost in the previous years, mainly to the Council and, to a lesser extent, to the Parliament, and gave the field of migration policy a new and higher visibility in the EU.

Even though the EAM is characterised by continuities in the policy field, a new underlying discourse of legitimation can be detected throughout the text. The duty to "save lives" as well as

obligations stemming from international law such as the Geneva Convention to guarantee adequate refugee protection fare more prominently throughout the objectives described in the EAM. The new humanitarian logic is a direct response to the crisis of legitimacy that the European border and migration regime faced following the Lampedusa tragedies in October 2013. This is already prominent in the EAM's introduction, where the Commission argues that "the immediate imperative is the duty to protect those in need" (European Commission, 2015: 2). Regarding the "EU's global role and wide range of tools", the imperative translates directly into the policy objectives sketched out in the EAM. This is a remarkable turn in the argumentation. As described above, the reprioritisation of border control in the Mediterranean, from protecting borders to saving lives, did not come swiftly. Italy's Mare Nostrum operation did not receive support, either discursively nor logistically, from the EU and its member states. Its official continuation, Frontex's Operation Triton, initially saw rescue at sea as a secondary priority. It was only after the tragedy in April 2014, when around 800 people lost their lives in the central Mediterranean, that Triton was realigned with the Mare Nostrum operation plan. This rise of a humanitarian rationale, which had been both evident as well as contested in the European border and migration regime in the previous years, had thus surfaced in a key policy document.

The EAM has gained special prominence since the summer of migration and the ensuing crisis of the European border and migration regime and its political architecture. However, and this is an important point for its analysis, the agenda had been proposed before the summer 2015 events. As a policy response, the agenda was designed to address and remedy the shortcomings and failures of the European migration and border regime since 2011. To this end, it is necessary to distinguish between the EAM as proposed and the EAM as implemented, as a specific response to the dynamic unfolding since summer

2015. In fact, even though the instruments proposed by the EAM were central to the EU's approach to the so-called "refugee crisis", the approach also contained other instruments, especially the so-called EU-Turkey deal, that do not fit easily into the EAM. Therefore, it is instructive to first engage with the EAM as proposed in May 2015 to address its practical implementation and augmentation through the EU's response to the summer of migration.

SHORT-TERM ACTIONS

In its most direct response to the crisis of the European border and migration regime before the summer of migration, the Commission sketched out the "immediate actions" (European Commission, 2015: 3ff) to be undertaken. Not surprisingly, saving lives at sea is the first of these immediate actions, expressed in a tripling of the budget for Frontex's Triton and Poseidon (in the Aegean) operations. However, it made specific reference to Frontex having a "dual role of coordinating operational border support to Member States under pressure, and helping to save the lives of migrants at sea" (European Commission, 2015: 3). Effectively, this is the specific field of tension opened up by the objectives of Mare Nostrum and Triton, with the vague formulation of a "dual role" leaving the prioritisation of the former over the latter still a possibility. Again, the objective of saving lives seems more a legitimation for an expansive deployment of border control vessels. An alternative would have been the creation of a civilian European organisation for sea rescues, or at least far-reaching structural changes in the operational plans of Triton and Poseidon.

The second immediate action picks up an old theme, that of targeting criminal smuggling networks. While police action against this specific form of "cross-border crime" has long been a policy goal in the field of EU internal security policies, the

Commission here proposes not only a "single entry point for inter-agency cooperation on smuggling" (European Commission, 2015: 3f) encompassing Frontex and Europol, but also takes up the proposal of Federica Mogherini, the EU's High Representative for Foreign Affairs and Security Policy, to launch a military mission (EUNAVFOR Med) against smuggling networks operating out of Libya. This initiative clearly brought migration into the field of the Common Security and Defence Policy (CSDP), and can only be analysed as a militarisation of EU migration policy.

The CSDP field also reappears under the heading "working in partnership with third countries to tackle migration upstream". This action stems rather directly from the *Global Approach to Migration* (GAM) and its 2011 reformulation as the *Global Approach to Migration and Mobility* (GAMM). In these predecessor policy papers to the EAM, migration policy is described as intersectional policy, that is, the objectives of European migration policy are to be included in different policy fields, such as external policy, development policy, etc. They echo older attempts to create, for example, so-called Regional Protection Zones (RPC), that is, refugee camps close to countries of origin, to inhibit further refugee mobility towards Europe. In the EAM, they have morphed into so-called Regional Development and Protection Programmes, especially in North Africa and the Horn of Africa. The action also includes a new multipurpose centre in Niger, set up and operated by the International Organisation for Migration (IOM) and UNHCR, which intersects with an important migrant transit route, and mirrors the EU's desire to control migration already on the routes towards Europe, and not only once migration arrives at the external border. The third component of this action is the expansion of regional CSDP missions, that is, military missions, in Mali and Niger to include border management.

The next two proposals, relocation and resettlement, can

be read as a direct policy response to the autonomous or uncontrolled movements of migration, both within and outside the EU, and especially the trend towards larger numbers of arrivals, which had already been evident before 2015. Both schemes refer to a policy of controlled and authorised movement. While resettlement, that is, the admission of refugees from outside the EU, has been on the table as a policy instrument for at least a decade, and features prominently in the asylum policies of the US and Australia, for example, it had never been fully implemented in the EU. Rather than refugees organising their own way towards Europe to submit an asylum application, under the resettlement scheme they are supposed to remain close to their country of origin, where they would pre-apply for asylum or protection. Only upon being granted refugee status would they be able to travel to Europe.

Relocation, on the other hand, refers to refugees and migrants who have already arrived in the EU and are bound, mostly due to the rules of the Dublin system, to remain at the periphery of the EU. As sketched out above, this necessitated both a highly efficient and resource-intensive asylum system at the borders of Europe, which never materialised, and led to the unauthorised movement of asylum seekers inside Europe, causing the Dublin crisis. In lieu of an actual quota system, the Commission proposes that certain nationalities, whose refugee recognition rate is above 75% on average in the EU (at the time, this only applied to Syrians and Eritreans) and that arrive in countries under "high pressure" (Italy and Greece), can be transferred to other European countries. The Commission established a formula, taking into account factors such as size, economy, unemployment, etc, to calculate the distribution.

In a very specific sense, the EAM addresses a different question than previous approaches in European migration policy. While certainly before 2005, and to a large degree afterwards, a notion of zero migration, or of stopping migration

altogether, still prevailed, the EAM does not address this question at all. The EAM is much less about stopping migration than devising a scheme to bring the actual movements in the migratory process under sovereign control. To this end, the Commission does not consider relocation and resettlement as an immediate fix to be applied in an emergency, but rather aims to develop them into full and stable instruments of EU migration policy.

If the control of movement (rather than inhibition) is the rationale behind relocation and resettlement, then registration and identification becomes a paramount concern. This addresses the existent deficiencies in the fingerprinting of refugees and migrants at the southern and southeastern borders that proved a significant obstacle to the full implementation of the Dublin system. It also deals with the fact that if migrants were to be channelled into different procedures, such as relocation, special protection for vulnerable cases, or national asylum, or if they were to be deported at the border, an accelerated and sufficiently funded registration procedure had to be in place. To this end, the Commission proposes the so-called "hotspot approach", which should allow European agencies such as the European Asylum Support Office (EASO), Frontex, Eurojust and Europol to intervene at specific points of the European external border, where they "will work on the ground with frontline Member States to swiftly identify, register and fingerprint incoming migrants" (European Commission, 2015: 6).

Altogether, these immediate actions represent a mix of old instruments (now extended to include military actors), a reconfiguration in the deployability of existing European actors such as Frontex and EASO, as well as genuinely new policies such as relocation.

MEDIUM-TERM ACTIONS

To understand the long-term direction that the EAM is taking, and to detect the underlying rationales of the EAM, the medium priority actions are much more relevant. The Commission names four action pillars on which the new architecture of European border and migration policy is supposed to rest. However, on closer reading, they do not depart from the main elements of European migration policy that have developed over the last two decades.

The first pillar, reducing the incentives for irregular migration, picks up the argumentative and policy thread that was started with the *Global Approach to Migration*, that is, forward action in the countries of origin of migration. To this end, the Commission proposes to address "root causes of irregular and forced displacement in third countries" (European Commission, 2015: 7), invoking the existing dialogue processes while also proposing to make migration a more relevant issue, with EU delegations already present in the respective countries. Development cooperation should be more streamlined and extended, always with a perspective on migration. The pillar's rationale is, however, still one of control, with the objective of fighting "smugglers and traffickers" (European Commission, 2015: 8) through the means of police cooperation and an improved "return system" (European Commission, 2015: 9) under the same heading. Concerning the latter, the Commission notes that the EU return system works "imperfectly" (European Commission, 2015: 9), thus creating the potential for migrants to start their migratory project towards the EU.

The second pillar, border management: saving lives and securing external borders, describes the rationale of a hardened border and increased cooperation at the border, intertwining it with a humanitarian legitimising logic. The borders must be controlled better, says the Commission, in order to (also) save lives. It is no surprise that the Commission proposes

strengthening Frontex, renewing attempts at smart borders legislation and increasing cooperation with Third countries.

The third pillar, Europe's duty to protect: a strong common asylum policy, discusses the completion of the CEAS. The commission proposes strengthening EASO, new monitoring processes to ensure a convergence of national asylum systems, and a more rigid approach on so-called Safe Countries of Origin. The Commission further proposes to retain the Dublin system, enforce full Eurodac registration at the border and extending Eurodac to include biometric markers.

The fourth and last pillar, a new policy on legal migration, concedes that little progress has been made within the EU framework to encourage and facilitate legal migration. This is the pillar with the fewest concrete proposals.

To summarise, the EAM does not represent – in terms of policy – a strong departure from previous proposals. Apart from the more rational outlook towards migration, what is noteworthy, however, is the fact that the diverse policy strands and areas that concern migration have been gathered in one policy document, and thus under one umbrella where the Commission can pursue these policies. If there is one major takeaway from the EAM, it is that the Commission proposes a strong and deepened Europeanisation of migration policy, aiming for more coherence and at strengthening the influence of EU institutions, both in policy implementation as well as in monitoring.

T H E E A M A F T E R T H E S U M M E R O F M I G R A T I O N

As stated above, the EAM was devised and presented before the summer of migration in 2015, and was an answer to the Schengen crisis that had unfolded in the years before. As a consequence of the summer of migration, the policy objectives of the EAM became distorted. To pick but one example, the proposed elaboration of the Dublin system to include mandatory quotas for the relocation of recognised asylum seekers to alleviate the situation in EU member states like Italy and Greece had stalled.

The Commission's proposal not to abandon the Dublin system and its inherent "country of first entry" logic, but rather to augment it with a "pressure relief valve" under the term "relocation", constitutes an artful compromise. It was met with fierce opposition by the Visegrad states – Poland, Czech Republic, Hungary and Slovakia – which generally oppose all EU-imposed obligations concerning refugee reception. However, the opposition was not limited to these four states; they represent a much larger trend inside the EU that aims to return to a policy of zero migration by means of further tightening Europe's, and national, borders should the need arise. The argument and direction of the EU's migration and border regime in the last decade, that is, that migration cannot be stopped, or only at the price of violating international law, and that an exclusively repressive approach informed by securitarian notions is not feasible, seem to have been lost in this discourse.

This return to older notions of migration control can be observed in the actual implementation of the hotspot approach. If it was originally designed to ensure a complete registration of migrants, and then a fast channelling of migrants into different procedures, both in the case of the Italian as well as the Greek hotspots, this is no longer true. While the hotspot approach in Italy awaits a detailed analysis, initial results indicate that the

hotspots in Italy function largely as an illegalisation device. Arriving migrants are brought to the hotspots, registered there, and then, more often than not, are outfitted with a paper legalising their stay in Italian territory for no more than seven days. This constitutes a return to the old migration policy practised largely in the EU south, that is, illegalisation and a precarious inclusion into the labour market.

In Greece, the hotspots did initially function as registration centres. However, with the entering into force of the EU–Turkey deal on 20 March 2016, the situation completely changed. The deal, which had been under negotiation since the previous autumn and finally agreed upon in a rather off-handed manner, allows for the return of asylum seekers from Greece to Turkey. It is predicated on the newly created Turkish protection status for Syrian refugees, and the newly granted access to the labour market for Syrian nationals. This allows the Greek asylum service to deem asylum applications from Syrians as “inadmissible”, since Turkey constitutes either a Safe Third Country or a Country of First Asylum for most Syrians. Subsequently, the hotspot centres on five Aegean islands close to the Turkish coast have been transformed into detention centres, even if revolts by the detainees have led to the gradual opening up of the facilities. However, in a compensatory move, the freedom of movement of the asylum seekers has been restricted, which means they are not allowed to leave the islands, resulting in them remaining in a precarious situation in a zone between Turkey and the Greek mainland.

Therefore, the hotspot approach has been transformed into an exclusionary, or disenfranchising device, but still guarantees the presence of European institutions as initially devised. Current discussions around the EU–Turkey deal at European institutional level indicate that there is political will to roll out the EU–Turkey deal, which is more an emergency measure to address the migration movement of 2015, into a more general EU policy

framework that echoes the old rationality of externalisation. The ongoing debate about transforming Frontex into a proper European Border and Coast Guard Agency with permanent staff complements marks a return to policy notions that are characteristic of the Schengen and Amsterdam treaties.

These dynamics are also accompanied by the process initiated by the Valletta summit on migration in November 2015. It embodies the external dimension of post-2015 European migration policy. The summit, which included many African heads of state, attempted to forge a new process of including countries of origin and transit in a common project of migration control, and created the EU Emergency Trust Fund for Africa in order to fund projects in the field, in an approach that spans classical development cooperation and initiatives to improve border management. The declared goal of all these projects is to reduce irregular migration, be it by means of poverty eradication or strengthening the capacity of states to better control borders.

RECOMMENDATIONS

AND

POSITIONS

Migration policy in the EU has shifted in recent decades between a more repressive and controlled approach, aimed at reducing migration, and a more economic approach, attempting to reap profits from migration by means of a management rationality. This means that EU migration policy lies on a spectrum between an outright refusal to admit migrants, even persons fleeing persecution, and an attempt to incentivise economically beneficial migration. This spectrum can be traced through the main pillars of EU migration policy.

The criticism of European migration policy from a leftwing European perspective, however, has mostly been steeped in a human rights perspective. This applies both to the deadly consequences of the EU external border, as well as to the detention and living conditions of refugees and migrants within the EU. This critique has – to some extent – been powerful in shifting policy. The humanitarian turn, even though it has been reappropriated by the EU institutions to legitimise an interventionist logic at the border, can be largely credited with the decades-long efforts at documenting, counting and sensitising the public about the daily deaths and other human tragedies at the European borders. Similarly, the constant scrutiny of Frontex and its operations since the inauguration of the agency has created, among other factors, a political context that made gross human rights violations in Frontex operations an aberration rather than the norm. Initiatives such as the Alarmphone network or NGOs providing their own rescue capacity in the Mediterranean have increased the pressure on EU and national institutions to uphold their obligation to rescue lives at sea. Similarly, the efforts of various initiatives to document and publicise the conditions of detention, refugee reception, living, integration and deportation in the various member states have been instrumental in revealing the

deficiencies caused by the Dublin system, or the CEAS at large.

However, these efforts have not resulted in a larger debate in Europe as to the role migration should play in the constitution of European society at large. While many initiatives content themselves with a humanitarian or human rights angle, this cannot be enough for a political perspective that is rooted in a general vision of a society of social equality and democratic and political rights for the entire population. How can such a societal and political vision translate into migration policy?

The point of departure for a leftwing policy framework for migration needs to start with a problematisation of the category of migration, not migration itself. The current discourse on migration has designated a particular form of mobility as problematic. The differentiation of migratory mobility from other, more welcome or "acceptable" forms of mobility reaches deep into the European history of racism and colonial partition of the world. While this racist and colonial perspective is seldom explicit in EU migration policy documents (it can be detected in the list of countries whose citizens require a visa to travel to the EU, for example), EU migration policies still rely implicitly on this particular form of knowledge, reproducing it through its particular implementations. To this end, migration policy is deeply contingent. It constantly reproduces its subject in a circular logic. The challenge for a leftwing migration policy is not to reformulate this historical yet arbitrary partitioning of the global population, but to expose and undo this violent division of the world.

This is not as utopian as it might seem. Precisely the reference to the achievements of the European project, in reducing inter-European racism, chauvinism and nationalism that destroyed the continent twice during the last century, should be invoked in these times where the problematisation of migration has reached new heights. After the Second World War, the migrations of the Fordist era were similarly problematised and

seen as a threat to the homogeneity of the nation states and their populations in Europe. The European project, European citizenship, the commitment to freedom of movement and freedom to settle and to take up employment has done away with the problematising category of inner-European migration to a large extent. Today, the mobility of EU citizens within the EU is precisely seen as mobility, not as migration, thus shedding a bag of racist or chauvinist conceptions that come with the label "migration".

Unquestionably, this is an achievement, but a precarious one. The mobilisations around the Brexit referendum, where the Leave side relied heavily on a renewed problematisation of inner-European mobility as unwanted migration, and the referendum outcome has revealed that these processes are in fact reversible. The ongoing problematisation of labour mobility from EU member states Bulgaria and Romania in recent years, and the many attempts to exclude these EU citizens from social rights, reinforce that argument. The mobility of Roma within the EU is another prominent example where the exercise of the freedom of movement has been recategorised and problematised as migration, in a clear reference to implicit racist European knowledge.

The line between desired mobility and unwanted migration is thin and constantly contested. A leftwing approach to migration policy would need to develop a strategy to start shifting this line, this boundary of categories, to such an extent that it loses its distinctive function. This line cannot be reshifted to include merely all EU and European citizens. This would mean accepting the current geographical boundaries of the EU. Against a postcolonial background, the argument can be made that Europe, given its racist and colonial history, has for centuries extended beyond its geographical boundaries. And in fact, migration to Europe has occurred because Europe is already present in the world, through media, products, policies, etc.

When Étienne Balibar speaks of migrants as the "(be)coming citizens of Europe", he makes the precise argument that Europe has already touched them even before they embarked on their journey.

Shifting the discussion away from the arbitrary categories of mobility and migration would allow a leftwing approach to regain the debate around social and political rights. Not surprisingly, at their core, these are the demands that have been voiced and claimed in countless struggles by migrant collectives, of which the struggles of the Sans-Papiers movement in France in the 1990s are the most emblematic example. But looking beyond the explicit invocations of demands for social and political rights, even more struggles like this can be identified. Adopting the position that migration itself is a social and political movement, even if mostly implicit, furthers the analysis that the root of the Schengen crisis, as sketched out above, lies in the movement of migration itself. The refusal to be rather arbitrarily assigned to a place of residence was at the heart of the breakdown of the Dublin system, even if it was furthered by rifts between EU member states. The desire to move freely, even to the EU after the choking restrictions of the dictatorship in Tunisia, was facilitated by a democratic revolution and caused the first cracks in the coherence of the Schengen space. And, most recently, the desire to arrive in a safe place after having fled from the turmoil of the Syrian civil war tore down all barriers and obstacles between Turkey and Germany/Scandinavia and opened, forcefully, to so-called Balkan corridor.

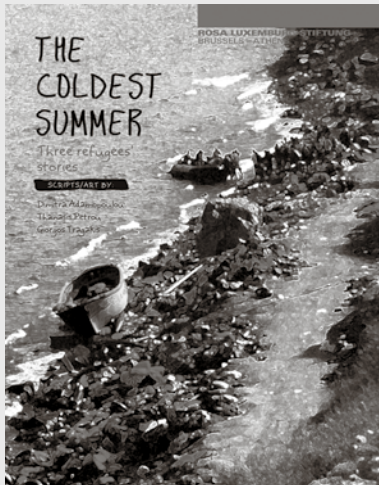
The current struggles of migration in Europe have at their core the demands to become part of society, with full rights and obligations, and for one's own life not to be governed by databases, bureaucratic procedures and legal labyrinths. Historically, the workers' movement in Europe started with a flight, with migration from the rural areas to the urban centres and the ensuing demands to become and remain part of society,

with all rights and obligations, irrespective of employment status. Contemporary migration movements, and the struggles around inclusion that they give rise to, show deep parallels. For they too are a movement towards the centres of productivity, where a better life for oneself can be imagined. The challenge for a leftwing approach to migration policy is to develop a perspective for these struggles and connect them with the ongoing and ever more necessary struggles for social and political rights with the EU.

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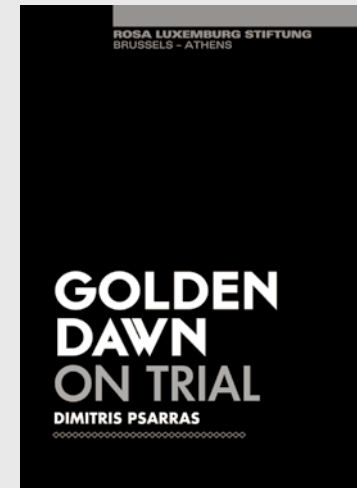
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Author

Bernd Kasperek

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Damian Mac Con Uladh

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Erifili Arapoglou

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Office in Greece**

Kallidromiou 17
10680 Athens, Greece
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**Rosa-Luxemburg-Stiftung
Brussels Office**

Ave. Michel-Ange 11
1000 Brussels, Belgium
www.rosalux.eu

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