



MIGRATION, ASYLUM, MOBILITY AND INTEGRATION IN EUROPE: INSEPARABLE COMMON VALUES

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INTRODUCTION .



Avenues to endow the EU with a migration and asylum policy that lives up to its values

Three years after its initial [Report for a European Policy on Asylum, Migration and Mobility](#), the Jacques Delors Institute is publishing its second report as a collection of contributions. Ahead of the French Presidency of the Council of the European Union, it strives to learn lessons from a deeply concerning overview of common migration and asylum policies.

A concerning overview

Admittedly, as Commissioner Ylva Johansson pointed out, European external border control, migration and asylum policies appear to run smoothly. Since the exceptional inflow in 2015 and 2016, the number of illegal arrivals has fallen sharply, the number of cases of protection granted to asylum-seekers has on the whole remained compatible with reception and integration capacities which have developed significantly. The number of foreign nationals who access a nationality of the EU remains high and the number of persons from outside the EU who have received a residence permit for work reasons has increased since 2016. Three facts, however, urge us to question the direction that the Common European Asylum System is taking.

The first fact concerns the **status of negotiations on the EU Pact on Migration and Asylum**. This major initiative of the von der Leyen Commission strives to address the tension between the “responsibility” of countries of first entry and the “solidarity” from second-line countries to share with the former the burden of welcoming asylum-seekers who arrive in the EU. Despite its shortcomings,

this comprehensive proposal presented in September 2020 demonstrates the European Commission's drive to break the deadlock on the reform of the Dublin Regulation through some interesting innovations.

Today, as three successive presidencies have taken on the task, some positive results have been achieved¹. Yet these accomplishments in no way tackle the main focus of the negotiations, concerning the balance between responsibility and solidarity. Member States are still as divided in three opposing groups. The Slovenian Presidency has just experienced this, suffering the refusal of the group of Mediterranean States to commit to a partial agreement approach. Above all, **no political drive appears to be taking shape** and the last European Council meeting dedicated to the crisis in Afghanistan did not once refer to these negotiations. Observers agree in their predictions of the negotiations failing, or at the very least stretching over a long period of time. This slowness is in itself very bad news and justifies why Jean-Louis De Brouwer and Jérôme Vignon sound the alarm in their contribution. Not only does the European Union find itself lacking in terms of prevention and collective organisation ahead of a potential new "migration wave", but the *acquis communautaire* on asylum, which mostly dates back to 2013, runs in a lower operating mode, which tends to distance itself from the prerequisites of convergence and solidarity set out in the Treaty of Lisbon.

Regardless of the difficult negotiations of the Pact, the deterioration observed in the conditions of application of European asylum legislation is a second cause for concern. Several examples must be highlighted which point to a **diminishment of rights to access asylum or of rights related to protection**:

- Despite the importance of funds the EU has devoted to improving the conditions of reception and of application of asylum procedures, **waiting times in some countries such as Greece remain incompatible with the protection of fundamental rights**. Other emblematic locations of irregular situations remain, **creating permanent places of serious insecurity and lawlessness**.
- Several documented reports have recently borne witness to the **push-back of asylum-seekers**, under no grounds of protecting public order, particularly at

¹. As regards legal immigration, this concerns an agreement on the directive that updates the advantages of the "Blue Card" aimed at the most qualified migrants, new proposals concerning returns and cooperation on resettlement, an agreement on a partial application of the important regulation that converts the European Asylum Support Office into an Agency endowed with resources and competences that are much broader. More recently, on 22 October, the Commission presented the European Council with the first results of negotiations with eight third countries of transit and departure, drawing up with them a new generation of migration partnerships.

the borders of Croatia and Greece, while it has not yet been possible to verify the allegations claiming that the Frontex Agency did or did not oppose these practices.

- Cooperation with third countries of transit continues to be mired in ambiguity; the EU and its Member States actually find themselves in a situation of negotiating agreements with countries like Turkey and Libya which result in potential asylum-seekers being discouraged from reaching European borders, as **the partner countries in these agreements do not provide clear guarantees for their safety**. One Member State, Denmark, which enjoys the right to opt out of the Common European Asylum System, uses this right to release itself completely from the obligations of the Geneva Convention, and the European Commission has not yet launched a preliminary investigation into this.
- The application of “Dublin transfers” appears to increasingly adhere to *ad hoc* considerations, i.e. tacit bilateral agreements between countries, taking into account the lagged effects of the 2015/2016 crisis. The outcome is often an increase in the number of persons, making possible the **secondary movements** that the Dublin Regulation is supposed to combat.
- Lastly, case law itself tends to be decreasingly protective of fundamental rights, particularly in cases of **family reunification**, with a risk of enshrining a major deterioration in the conditions of these rights in some Member States.

The third fact concerns the **fragile nature of the governance of the Schengen Area of free movement** made clear by the health crisis throughout 2020 and 2021. This has led to probably inevitable differences in situations and assessments between Member States. Internal border controls have been restored on many occasions and, in certain cases, border closures were applicable. Justified by law under the Schengen code, these provisions were made unilaterally due to health and public order requirements and in great disarray. It has happened that some States have applied these exceptional measures in a discriminatory way between their partners in the Schengen Area. The European Commission has attempted to channel these abuses through recommendations². It has emerged, however, that its coordination capacity is limited: in fact by insufficient knowledge of situations and in law as Member States ultimately remain responsible for the management of their borders. In short, this situation of retreats into national self-interest has

2. For example, by calling for the creation of reserved corridors that allow for the transit of road traffic that is essential to the functioning of highly interdependent industries.

not been conducive to the negotiations of the Pact, which relies on trust between Member States. The new legislative proposal to reform the Schengen code is set to be published in early December 2021. We can expect it to reinforce the disciplines of applying exceptions to the removal of internal border controls and European sanction capacities in the event of a breach of these common disciplines. It will most likely be one of the priorities of the future French Presidency of the Council of the European Union.

The continual disagreements regarding the core of the negotiations of the Pact on Migration and Asylum, the abuses in the application of existing asylum law, the weakened trust between Member States for the exercise of free movement within the Schengen Area do not seem to have any relation to each other on the surface. Yet if we stand back a little, we become aware that they all express **a deep conflict of values that tends to oppose European citizens' need for security and the ideas on which their membership of the European Union are based.**

This need for security is legitimate, but its overrating in response to populist pressure weakens aspirations that are just as legitimate for solidarity between Member States and with foreign nationals seeking protection. It unduly pushes for borders to be perceived as providing sanctuary within, to the detriment of the common good of free movement. As regards migration, we must again state that the need for security and foreseeability is essential, but the bias of giving it an exclusively national response, without any consideration for exchanges between people, only impairs European awareness. It also deprives people of the effectiveness of cooperation mechanisms within the EU. The different contributions found in this report each address an aspect of this return to key values to which the EU Member States adhered by confirming their accession to the treaties that connect them.

Meeting the need for migration security through the exercise of shared sovereignty

In the first contribution, Alain Régnier uses his experience in charge of reception and integration policies to show that **hostility and fear are very far from reflecting the feelings of French and European populations on whole.** He stresses the openness to reception and solidarity, demonstrating how this feeling can grow when it is experienced on a local level. He reminds just how successful integration hinges on reciprocity between the community that hosts and those who are hosted, success which can be achieved if the **assistance of civil society, companies, universities and local authorities is** correctly sought.

Securing migratory exchanges also involves **an intelligent organisation of legal immigration flows with a view to discouraging illegal immigration**. In the second contribution, Yves Pascouau reminds that we have not yet “tried everything” to create effective legal immigration routes to the European Union, which is viewed as a single space and not as a collection of States. He proposes “a step sideways”, to view legal immigration not only from the standpoint of host countries’ requirements but also from that of the expectations of countries of origin. He revisits the project which was once mooted to create a **single work visa which could be granted to applicants located outside the EU for a limited period to look for a job**, provided that minimum conditions are met.

The contribution by Lucas Rasche (Jacques Delors Centre, Hertie-Berlin) focuses on the **potential opportunities of resettlement and “community sponsorship” schemes** to create **safe and legal immigration routes on a humanitarian basis** for the most vulnerable refugees. They are also a sign of solidarity with third countries that the European Union encourages, through its support for the actions of the UN High Commissioner for Refugees, to welcome a very high number of displaced persons or refugees, as recently demonstrated by the launch of a Forum on Afghanistan.

To conclude, Jean-Louis De Brouwer and Jérôme Vignon want to **open up prospects beyond the deadlock impeding negotiations** on the Pact on Migration and Asylum at the Council of Ministers. They list avenues that have been hitherto neglected which would be a useful response to citizens’ current concerns, in terms of civil prevention and collective management in the event of an exceptional migratory influx. They also set out the reasons why we should not get bogged down in the deadlock. We cannot accommodate the suffering caused by the current failures, the EU’s vulnerability in terms of migration risks, or the adverse political impact caused by this uncertainty as regards public opinion. They therefore propose to go back to the very sources of the values that have inspired, since the Tampere European Council, the construction of a common area both for the exercise of free movement and for the organisation of asylum on a European scale. Stressing that these two aspects are inseparable, they describe the situation in which **only some of the 27 Member States accept to fully endorse the unification of the conditions for granting asylum through a common European agency**, as was envisioned by Emmanuel Macron in his address at the Sorbonne in September 2017. For the other Member States, which could not, at least temporarily, share this type of solidarity, there would be a “price to pay”.

1.

IS WELCOMING REFUGEES IN OUR DEVELOPED NATIONS NOW A UTOPIA?



ALAIN RÉGNIER

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and Integration of Refugees*

1.1 ■ Introduction

Over the last ten years, France has welcomed around 400,000 people with international protection status, who are what we call refugees. While this figure is definitely significant, it remains well below those recorded in countries bordering those from which refugee flows originate: 3.7 million Syrian refugees in Turkey for example or 1.4 million Afghan refugees in Pakistan. We must acknowledge that developing nations carry much of the burden: 86% of refugees live in these countries.

In France, following a difficult situation in 2015 due to a rise in asylum applications, the State set out to improve reception and integration conditions for refugees by relying on a very wide range of stakeholders. While the Paris region traditionally welcomes these populations, joint efforts from the State and local authorities outside this region have resulted in a better distribution of people seeking protection. It is in particular in areas that are sometimes not used to welcoming refugees that effective synergies have emerged between the State, economic players, associations and local authorities, etc.

In addition to the number of refugees, there is the more obscure number of persons who entered the country illegally, whether or not they have applied for asylum under the 1951 Geneva Convention. This category of people is at least as large as that of refugees. Again, in this case, a vast majority live in the Paris region and other major French cities. Refugees have the same rights as French citizens, while the others only enjoy limited rights which do not extend to access to the labour market and to housing.

Beyond the figures, these are first and foremost human beings; men, women and children.

The history of humanity is closely linked to that of the city, and its capacity to welcome new arrivals or to reject them. Until the end of the 19th century, city ramparts structured spaces into “inside the walls” and “outside the walls”. The poor and foreigners mostly lived outside these walls. In Paris, before the First World War, these areas were known as “the zone”.

While more subtle than ramparts, this physical separation did not hinder passage and exchanges on both sides of this urban continuum.

Borders are a recent idea in the history of nations. They are tending to become impenetrable. Since the year 2000, we have built more than 20.000 kilometres of

walls across the globe and more than 270 million men, women and children have had to flee their countries. 90% of these migrations are regional and around 40% are South-to-South flows. At the same time, since the application of the Schengen Agreement in 1995, citizens of the European Union have enjoyed freedom of movement without any checks at the EU's internal borders, although this free movement has currently been called into question due to the Covid-19 crisis and terrorist threats.

These new physical borders are above all confined to developed nations. The recent request submitted to the European Union by twelve Member States to finance a wall at the EU's external border is the latest example of this.

While developed nations only welcome a few percent of these migratory movements, borders are closing and international law and the multilateralism that stemmed from the Second World War are now challenged. Law is no longer a framework; it is becoming contingent and unstable.

The Global Compact adopted on 17 December 2018 by the United Nations was rejected by around twenty States, two thirds of which are located in Europe. This Compact sets out that human migrations are a long-term phenomenon and strives to organise them. In France, Marine Le Pen called this Compact, which is nevertheless not legally binding, a "*pact with the devil*".

The Anthropocene Era that we are now in causes serious disruptions that break up continents, increase inequality and give rise to population movements that are unprecedented in the history of humankind.

As regards the European Union, the health crisis has only made the inability to reach a common approach to tackle the migration crisis be felt more keenly. The health crisis and the migration crisis are inextricably linked, however.

A few days prior to the lockdown in Europe, Turkey's president set out to blackmail European leaders. He organised the massive arrival at the Greek border of migrants present in Turkey. Brutal clashes between migrants and Greek police officers made the headlines. These situations are occurring again today along the Polish and Lithuanian border. Migrants are thereby becoming a geopolitical instrument to destabilise democratic States, especially the European Union.

However, our societies would not function without migrants and refugees. Our health system would collapse without the contribution of foreign healthcare pro-

professionals. In many small hospitals, accident and emergency departments remain open solely thanks to refugee doctors. This is the paradox that can make us look to the future.

What would happen to research, culture and sport in our country without international exchanges? Open borders should remain one of Europe's cardinal values. Moreover, what would happen to France's economy without the 90 million tourists who come to visit the country every year?

Withdrawal and closed borders, which were already visible before the pandemic, could quickly become fatal for our societies, if they were to become standard practice.

1.2 ■ Positive changes

There is nothing, however, that indicates that we are doomed to remain in the vicious circle of withdrawal and decline. For a few years now, on all continents, we have seen changes that bring hope.

Everywhere, new local ecosystems that promote refugee integration are being developed. It is important to identify the stakeholders concerned and the reasons why they are committed to integration. In France, the State has supported territorial mobilisation since 2018 as part of an overhaul of refugee reception and integration policies. The aim is to create conditions of trust between stakeholders and the selected way forward is that of a contractual partnership.

States are not acting alone. Other public and private stakeholders are organising themselves in networks, on both national and European levels. Cities and local areas, companies and civil society, and citizens are working to mobilise public opinion and to roll out real initiatives that bring about social innovation.

1.3 ■ Action by cities and local areas

In recent decades, powerful mega-cities have emerged across the globe. They must meet major challenges in all areas, but particularly as regards sustainable housing as they have the largest shantytowns in the world. It is estimated that one billion people live in these peripheral areas where density can reach twenty times that of Paris. The population of these mega-slums is young and often from elsewhere, from within the country and also migrants who have come to look for a

better future. Clearly, the issue of public health is a recurring one, particularly during a pandemic.

These mega-cities have gradually become aware of their capacity to take action, to act as specific political players which can dialogue with States and international organisations. The 2008 financial crisis and the rise of the climate issue brought about the founding of the C40, a network of major cities focusing on the implementation of global climate agreements. Members of this network, in the United States of America for example, are opposed to the US government's position and have stated their intention to pursue the implementation of the Paris Agreement.

On a European level, the *European Metropolitan Authorities* (EMA) forum was formed in 2019. This network strives to be a stakeholder in the environmental transition and a laboratory to combat all forms of inequality. Part of its work concerns the migration issue.

While on a scale that cannot be compared to that of mega-cities, large European cities are facing the issues of homelessness, squats and the re-emergence of shantytowns. In Paris, more than 3000 homeless people were recorded in early 2021; shantytowns which are often home to more than one thousand people are regularly formed to the north of the capital and in the Seine-Saint-Denis area. A large majority of these homeless people and those living in these shantytowns are migrants. This situation is also present in France's main cities, though this time the scale is in the hundreds.

In France, cities and more broadly local authorities are also taking action as host communities. Upon the initiative of the Mayor of Grande-Synthe, ANVITA (which stands for National association of welcoming cities and territories) was founded two years ago. The association brought together around thirty authorities to work on the values behind hosting. Today, it boasts more than fifty local authorities. Previously, the Association France urbaine was created as a State partner, bringing together the 100 largest towns and cities in France and which, since 2018, has been very active in fostering integration by supporting the initiative of local and regional contracts for the reception and integration of refugees.

1.4 ■ Companies

Traditionally, companies do not take part in societal issues. However, during the 2000s, the fight against discrimination was highlighted and promoted. Today, the issue of refugee integration has become a firm corporate commitment.

This development is due to several factors: firstly the 2008 financial crisis and secondly a proven need for labour in ageing European societies.

The 2008 crisis called into question the meaning of globalisation. It has become a management challenge and, for major companies, a necessity. Corporate social responsibility is now recognised by law and employees are becoming exacting in this regard

Furthermore, the retirement of baby boomers is game-changing and many companies are experiencing recruitment problems. Refugees and more broadly legal migrants are sought after for their availability and motivation.

Many international initiatives can be mentioned, often driven by refugee men and women who have become top bosses. Hamdi Ulukaya, CEO of Chobani which produces the best-selling yoghurts in the USA, has successfully mobilised the largest global companies within his Tent foundation to promote access to employment for refugees across the globe.

In France, there is also real corporate mobilisation. It is expressed either directly through internal recruitments, or through action by foundations which support social innovation and citizen engagement. To name but a few, there have been direct recruitments at BNP Paribas, Michelin, Veolia, Lactalis, Humando, Engie, Solvay...

Corporate foundations leverage resources and are becoming specialised: the Generali Foundation for incubator support, the SNCF Foundation for its commitment to the Solidarity Train project with the UN High Commissioner for Refugees (UNHCR) and the French Interministerial Delegation for the Reception and Integration of Refugees (DIAIR), and the SFR Foundation for its work to combat the digital divide.

The Generali Foundation, *The Human Safety Net* (THSN) launched in 2017 a programme for refugees with a view to assisting them to develop their skills, particularly for the purpose of creating a company. Two incubators have been opened, one in Montreuil and the other in Saint-Denis, and a third is set to be launched soon in Strasbourg. The idea is to help refugees to achieve their plan to create a company or an association via training, coaching and skills mentoring. The Singa association is involved in this initiative alongside THSN. In total, 55 companies have been founded thanks to this support.

The economic recovery underway heightens the pressure on companies to hire, and employing refugees is becoming attractive if they speak French.

1.5 ■ Associations and citizen initiatives

Finally, civil society is very active in assisting refugees. Associations stand out in particular depending on their relationship with the State: some prefer total independence for advocacy while others are State partners and even have a public service delegation agreement for the management of reception centres for asylum seekers, centres for newly arrived asylum seekers, integration schemes, etc. These associations sometimes struggle to make themselves heard in public debate as they are limited in their role by their status as State-backed operators. Like governments, they are viewed as part of the established order. In recent years, they have not always successfully innovated in terms of initiative-taking and advocacy, against a backdrop of highly standardised calls for proposals and public contracts, where associations that are less connected to the State were able to take action to drive changes to the law or to practices. Their professionalism remains essential for the management of permanent reception and integration facilities in France.

We cannot ignore the facts: over the last five years there has been a constant high level of annual flows of new refugees and civil society, including State operators, has remained very active in the promotion of refugee integration. This encompasses initiatives concerning refugees' empowerment.

In this regard, new forms of citizen engagement have emerged in recent years, without necessarily being officialised through the creation of an association governed by the French law of 1901, at least at the start of the project. This new citizen power does not want to be regulated. It reflects new modes of action of young generations, significantly supported on the social networks and by the range of skills provided by volunteers and professionals alike who are also motivated simply by the joy of meeting people from different cultures.

These new citizen initiatives are rolled out on at least two different levels, locally and universally. Locally, the aim is to foster a close support group for the homeless, migrants and underprivileged people in the broadest sense of the term. For example, during the 2010s and heightened by the "2015 crisis", several initiatives to help migrants emerged, including Singa, Kodiko and Wintegreat (now Each One), promoting in particular social cohesion and access to employment.

Solidarity-based start-ups and more traditional associations can enrich each other, provided that public funding, which is now scantier and more unstable, once again acknowledges the importance of these commitments for our health of our democracy.

1.6 ■ An example of a citizen initiative: resettlement and humanitarian corridors

Refugees do not just access France by claiming asylum upon entering the country. Some are resettled or transferred via a humanitarian corridor.

Resettlement is one of the three durable solutions proposed by the UNHCR for persons hosted in camps under its responsibility, alongside local integration into the host country and voluntary repatriation to the country of origin. Out of all refugees, less than 1% are resettled each year. Resettlement programmes have experienced significant growth in France: between 2016 and 2019, the number of persons resettled per year has almost increased tenfold, from 600 to 5.600 (including relocations). Following this quantitative jump, France is now among the five main resettlement countries in the world.

In addition to resettlement, citizens have also mobilised to broaden the legal ways of accessing France, inspired by initiatives in North America. Since 2017, ecumenical associations, mainly Sant'Egidio, the Fédération d'entraide protestante (FEP) and the Secours Catholique, have worked as volunteers to welcome, house and assist more than 520 vulnerable persons from Iraq and Syria who had fled to Lebanon, for whom the French government has accepted to grant temporary asylum visas as part of a specific memorandum of understanding.

1.7 ■ Co-construction in local areas, key to a successful integration policy

a ■ Contractual relations with local areas

While integration policy falls within the State's jurisdiction in France, it is implemented more closely to where people live, i.e. directly in local areas. Mobilising local authorities alongside State services is essential for the success of a policy which provides the best response to the needs of these new citizens, based on trust and the definition of common and shared objectives. Precise diagnostic work must be conducted to meet differing local situations.

It is along these lines that in 2019 the DIAIR proposed to eleven volunteer local authorities to make their commitment official with a view to integrating refugees

alongside the State by means of local contracts for the reception and integration of refugees (CTAIR).

The fourteen largest French cities (Lyon, Bordeaux, Strasbourg, etc.) are now committed to work alongside the State through local contracts, and four new municipalities (Marseille, Montpellier, Besançon and Rouen) will sign contracts by the end of 2021. This success is based on the model's flexibility and on the trust that has been fostered between the different stakeholders, all mobilised for a common, well-identified objective. The contract format makes this possible on a local level through an agile organisational structure.

b ■ Investing in refugees' skills

Emmanuel Macron's five-year term as President has also seen the roll-out of the Skills Investment Plan (PIC), a major programme to support employees and job-seekers in the upgrading and development of their professional skills. A separate budget has been set to assist beneficiaries of international protection, for whom certain particular obstacles (level of French, access to stable housing, understanding the company's cultural practices, etc.) require specific consideration.

Fifty-five local projects are currently receiving funding until 2022, €50 million of which is provided by the French Labour Ministry. With a solid local base on a *département* level, these projects have the specific features of being conducted by mixed consortia bringing together associations and institutions, thereby affording a comprehensive view of local requirements and allowing for an appropriate response.

c ■ Universities

Universities became involved as early as 2015 to enable students claiming international protection to resume their studies. This initiative resulted in the creation of the MEnS ("Migrants in Higher Education") network, now with association status, which brings together around forty higher education institutions in France. These institutions offer exiled students "bridge" university qualifications made up of French lessons, cultural workshops, information and career sessions and sports workshops.

At the same time, the PAUSE programme (a national assistance programme for the emergency reception of scientists and artists in exile) welcomes exiled researchers in a research laboratory or art school for one or two years (three years for doctoral

students) in France. These scientists and artists can thereby continue their work and prepare for their professional career.

The Council of Europe also supports many projects such as the European Qualifications Passport for Refugees (EQPR), a type of assessment aimed at refugees, particularly those who are unable to justify their qualifications, in order to facilitate their integration on the labour market or their continued study. Another project, the [coLAB project](#), has enabled four European higher education institutions, including the Université Clermont Auvergne, to invite refugees to teach at the university.

A number of associations were founded in France following the crisis in Syria in 2015 to enable refugees to resume their studies. Such associations include in particular RESOME, the Union des Étudiants Exilés and UniR.

d ■ Refugee participation: the Académie

In this stakeholder ecosystem, the persons concerned have a role to play that is not confined to that of mere users. Their inclusion and participation are encouraged here. The aim is to create the basis for an effective participation in policies, along all phases of the process: design, implementation and assessment. The *Académie pour la participation des personnes réfugiées* was founded on the basis of this observation and is an innovative initiative of the DIAIR, the UNHCR and Ifri. It strives to strengthen the participation of refugees and develop their skills throughout a “commitment path” offered to winning recipients.

e ■ Europe via the AMIF

The European Union has been challenged in recent years by the influx of persons seeking protection, particularly in States located on its external borders. Against this backdrop, and particularly since 2015, the EU’s inability to achieve a consensus regarding asylum has been exposed, visible in the application of the resettlement scheme or in the ongoing failure to reform the Dublin Regulation, despite it being unanimously criticised.

In spite of this, the European Commission is stimulating a dynamic in certain fields such as developing States’ reception capacities, legal access routes and the roll-out of innovative or multi-State projects. The Asylum, Migration and Integration Fund (AMIF), resulting from the 2014 merger of four different funds, finances State actions concerning asylum, integration and return strategies. The AMIF has

enabled the development of many initiatives, such as the significant increase in resettlement or the roll-out of innovative integration projects, particularly regarding refugee mental health or housing.

However, the administrative and budgetary restrictions related to the AMIF have made it inaccessible to many small-scale associations which cannot manage the particularly long timescales for funding payments (more than three, and sometimes even five years after the first expenditure incurred). This has exacerbated the difference between associations with sufficient cashflow to carry debt and small associations.

1.8 ■ Turning the overhauled integration policy into a winning strategy

France arguably has a unique position in this awakening of democratic conscience. We have to turn the overhauled integration policy into a winning strategy. The first results are promising: fostering synergies between stakeholders, heightening local roots, insisting on professional integration, participation and social cohesion. Coverage in the media and feedback from local areas are also positive. Let us hope that all these initiatives will play a part in creating a more favourable climate for foreigners in France and more broadly within the European Union.

The current stability of migration flows and the very low share of refugees received in EU Member States compared to developing countries invite us to take the opportunity to update our European integration policy.

Local initiatives in several EU communities encourage us in this direction. One example is the measures adopted since 2015 by the city-state of Hamburg, which has, on the one hand, created a «Central Coordination Unit for Refugees» to speed up the procedures for granting decent housing to refugees and, on the other hand, involved citizens at several stages in the design local integration policies¹.

The development of such initiatives on a European scale is an objective that the EU institutions, with the support of the Member States, must pursue, both in the interests of protecting the fundamental rights of refugees and of adapting local populations to the arrival of new people with special needs.

1. Anselm Sprandel, 2018, "Housing and integrating refugees in Hamburg", *Field Actions Science Reports* [Online], Special Issue 18 | Online since 15 December 2018, connection on 20 April 2019.

2.

AN ODE TO SIDESTEPPING



YVES PASCOU

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2.1 ■ Introduction

The Place du Bouffay in Nantes has been home for the last few years to a work by the artist Philippe Ramette entitled “*Éloge du pas de côté*” (Ode to Sidestepping). This is a bronze sculpture of a man resembling the artist wearing a suit and looking towards the horizon. He stands on the base with only one foot. The other foot dangles freely. The work is striking for its misalignment and imbalance but also for the thoughts it provokes.

While Philippe Ramette’s statue pays tribute to the city of Nantes’ audacity, its commitment and its relationship with art, this allegory of sidestepping is more broadly an invitation to change outlook. The act of sidestepping involves taking a step back, to stand apart to look at a given situation or object with fresh eyes and to understand it in a different and even new way.

Out of all European policies, migration policy is definitely among those which stand to gain from a different understanding, from a different point of view. Over the last twenty years or so, European Member States have developed an imbalanced immigration policy that favours border control and initiatives to combat illegal immigration, to the detriment of a legal immigration policy focused on admission and stay for third-country nationals. This trend intensified with the 2015 migration crisis, when legal immigration considerations became increasingly evasive and proposals regarding checks on individuals and border controls became even more stringent.

Is it possible to view the European legal immigration policy from a different angle? We think so, but to achieve this... We must step sideways and shift focus. In other words, we should sidestep. This exercise entails standing in two different places to propose two separate yet complementary vantage points.

Firstly, the idea is to view legal immigration not from the inside but from outside the European area. Viewing the situation from the viewpoint of a person considering migrating for work reasons to understand the European States would benefit from creating a legally homogenous bloc rather than a composite whole with as many rules as there are countries. The definition of common ground rules concerning admission and residence for work reasons therefore emerges as a potential, and even desirable outlook (2.2).

Secondly, the aim is to gain a little perspective and to consider our common history and our heritage by questioning our representations as much as our achieve-

ments. Based on the experience gleaned in terms of freedom of movement and an acknowledgement of contemporary border management developments, this approach calls for the creation of a jobseekers' visa for non-EU nationals (2.3).

2.2 ■ Standardised entry and residence conditions for workers

The distinguishing feature of the EU's intervention in the field of work-related immigration is the high level of disparity, which calls into question the relevance of the decisions made. Rejecting the Commission's proposal back in 2001 to adopt a framework text on the admission of migrant workers, Member States preferred a category-based approach. Several texts have been adopted concerning researchers¹, students², highly qualified workers³, seasonal workers⁴ and workers posted within their group⁵.

The fragmentation of the legal framework has been heightened by the wide range of conditions and rights applicable to each specific category of workers. Lastly, to round off this overview, all these rules were defined in directives which, in most cases, have left Member States significant latitude in their implementation, sometimes even to the extent of allowing parallel national schemes to co-exist.

While this situation may be deemed satisfactory, as these rules safeguard State control over admission issues, in practice it is blind to certain shortcomings. Faced with current and future labour shortages, caused in particular by economic recovery and demographic trends, and competition between national admission systems, it does not take the trends on the European labour market into account.

Moreover, by repeatedly preferring an admission system for migrant workers that is governed by as many rules as there are States, the European labour market is a disparate and incomprehensible area for workers wishing to come and work in the EU, particularly in fields where labour shortages are real or foreseeable.

1. Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research, OJ L 289, 03.11.2005.

2. Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, OJ L 375, 23.12.2004.

3. Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, OJ L 155, 18.06.2009.

4. Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, OJ L 94, 28.03.2014.

5. Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer, OJ L 157, 27.05.2014.

In this respect, demographic decline in the EU will create two different types of needs: replacing those who retire on the labour market and to fill the new jobs created to assist an ever-increasing number of elderly people, in particular in the health and personal assistance (care workers) sectors.

Yet it is somewhat counterintuitive to tackle these challenges with the limited framework of national borders while workers develop globalised strategies. In addition, the purpose of the single market is to ensure full employment and social progress⁶ which cannot be achieved with a scattered national approach. If the EU and its Member States wish to be key players in these global stakes by becoming attractive destinations to meet current and future needs, they must provide common responses.

Indeed, the adoption of common rules that set the minimum admission conditions for migrant workers and that are applicable in all Member States is possible, and even feasible. It is possible, because documents published by the OECD⁷ demonstrate that most European States share demand-driven labour force migration systems, according to which migrant workers are admitted if they have an offer of employment. It is also possible, because the definition of common conditions does not result in a loss of sovereignty for Member States. If conditions are standardised, Member States retain their decision-making power over admission applications, as is currently the case for example for short-term visas.

Next, it is feasible by proposing a standardised legislative framework, the EU would be perceived from the outside as a single and coherent area. If, in addition, European governments accept to improve the opportunities for foreign workers to travel from one Member State to another, the EU would become more attractive and able to compete with other global regions, particularly as regards key talents.

Here, taking a step sideways means looking at the situation clearly and acting accordingly to open an area that has up to now broadly been left neglected, to the detriment of all. Economic recovery, demographic decline and the ageing of the population will have an impact and will give rise to new requirements. While migration is not the answer to these challenges, it is among the solutions. Yet, by keeping the current status quo, the EU will fail to attract the migrant workers it needs. In the medium term, Member States may have to beg these workers to come to the EU, with a heightened risk of competition between countries...

6. Article 3 of the Treaty on European Union.

7. See *International Migration Outlook*, OECD, 2013.

2.3 ■ The creation of a jobseekers' visa

Taking a step sideways also means being able to shift and look at oneself from a different angle. To see and understand that past constructions can be used as the pillars of future achievements. In the case in point, this means leveraging the systems that structure freedom of movement and border controls to develop a new policy based on the issuance of jobseekers' visas⁸.

Do European citizens know that the EU has developed a genuine area of free movement that has resulted in no major migration issues⁹, with one exception¹⁰? In practice, European citizens enjoy the right to enter and reside in other Member States. This right covers the exercise of an economic activity and also allows travel to another State to seek work.

Yet mentioning freedom of movement gives rise to a great deal of tension if it is related to the migration issue, i.e. regarding entry and stay of third country nationals, while it is viewed with relative indifference in relation to the intra-EU framework. This approach is curious to say the least if we remember that we have more than sixty years of experience demonstrating that organising a fundamental entry and residence right between States does not contribute to destabilisation if it is implemented in a coordinated manner. However, despite experience spanning decades, Europeans refuse to consider an extension of this model to relations with third countries.

Alongside this *acquis* based on freedom, there is a highly developed system which is based on security. Twenty years of action in external border control have not only resulted in the adoption of a significant legal framework but also in the implementation of very sophisticated operational tools. This field has experienced the unprecedented roll-out of a range of IT systems with a view to enabling national authorities to share information on people, their status and their right to enter, reside and remain in the EU. Suffice it to say that with the SIS, Eurodac, the VIS,

8. For a more in-depth analysis, read in particular Y. Pascouau "A jobseekers' visa: towards a new mobility policy for third-country nationals", Policy Paper, Jacques Delors Institute, April 2016.

9. "Among the EU citizens of working age (20-64), 3.3 % resided in an EU Member State other than that of their citizenship in 2020. This share has slightly increased over time, as in 2010 it stood at 2.4 %.". See Eurostat, [EU citizens living in another Member State - statistical overview](#).

10. In 2004, when Europe was enlarged to the East, only three Member States out of fifteen (the United Kingdom, Ireland and Sweden) decided to open their labour markets to the millions of potential workers from the ten States joining the European Union. This decision created an imbalance with effects that can still be felt today, as many Eastern European citizens continue to exercise their freedom of movement to the West.

the Entry-Exit system and the ETIAS register, third country nationals admitted or wishing to enter the EU are under strict surveillance.

These instruments have significantly strengthened the controls conducted on third-country nationals and the security component of the policy. As a result, the existence of a broad control system may encourage States to accept the development of a more open policy that draws inspiration from free movement. In this case, we propose the creation of an EU jobseekers' visa.

The idea of creating such a visa is not necessarily new but rather is based on experience, the free movement of EU citizens, which did not give rise to a "migration wave" between European Member States, and a robust legal and technological "arsenal" that provides in-depth checks of applicants, necessary for the project's acceptance.

In practice, visa applications would be submitted by candidates to the consular authorities in their countries of origin or residence. The application process would include the presentation of a valid identity card or passport, a travel document authorising the person to cross the border, evidence that the person has sufficient resources for the duration of the stay and travel tickets for the outbound and return journeys. Except on grounds of public order or an alert on the applicant in the EU IT systems, consular authorities would issue the visa.

If the system is based on the principle governing free movement, the granting of the visa, together with all the aforementioned documents and evidence, is a formal step that allows for a monitoring mechanism to be rolled out that is based on all the control instruments and databases developed as part of the migration policy.

Once admitted in the Member State of destination, several scenarios are possible. The visa holder finds a job, enabling him/her to reside in the EU for the purpose of performing this job. Otherwise, (s)he must return to the country of origin before the visa expires. This return would not prevent the person from submitting a new visa application after a timeframe to be determined. However, in the event of failure to meet this obligation to return, and therefore the person remaining in the EU after expiry of the visa, a sanction system would be organised. This could in particular include the rejection of any future visa applications and an EU entry ban for a set period of time. Sanctions could also be aimed at employers who incite workers to remain in the EU, in breach of the rules set by the visa, particularly under the Employer Sanction Directive.

While the proposal is technically possible, it still struggles to gain political traction, specifically because it concerns legal immigration. However, Member States must assess the opportunity to take a political step forward in light of the advantages of a system that is currently lacking and which would change many parameters.

Firstly, it would improve discussions and partnerships with third countries, finally providing a real trade-off in discussions on migration issues. Still today, partnerships with third countries remain broadly focused on border control and provide few opportunities for legal immigration. This jobseekers' visa would give the notion of mobility real substance.

Secondly, it creates individual prospects, enabling unemployed persons or those without any real job prospects in their country of origin to access a broader and more dynamic labour market.

Thirdly, it bolsters European policy, by enabling Member States to regulate together a labour market that is changing due to the demographics and ageing of the European population and ensuring a real limitation of illegal immigration and people smuggling through the opening of legal immigration routes.

Lastly, it should be stressed that this proposal would be an experiment, a validation stage. It could initially be rolled out with a single country or with a very limited group of countries. Subsequently, it would be extended if the system proves effective, or immediately stopped if breaches were identified.

Ultimately, creating a jobseekers' visa, inspired by the free movement of citizens and buoyed by the solid acquis of migration control, would open up new perspectives, "breathing new life" into interactions between people and places.

The role of a think tank is to propose, inspire and guide. Sometimes, this also requires us to offer the chance to step sideways. Nonsense, some would say, while others would call it utopian. It is neither. This contribution aims simply to stimulate considerations and new initiatives to break the deadlock that EU Member States find themselves in. As regards the obstinacy for ever greater controls of persons and borders, which only provides a partial and momentary solution to the issue of migration flow management, the idea is to prefer an approach inspired by our freedoms and which hinges on modern security tools that benefit an innovative proposal for legal immigration. Ultimately, we propose a little freedom in an area pre-empted by security, an opening against a backdrop of closure.

3.

THE FRENCH EU COUNCIL PRESIDENCY: HOW TO PROCEED ON RESETTLEMENT & HUMANITARIAN ADMISSION?

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3.1 ■ Introduction

After the European Commission had presented its Migration Pact on 23 September 2020, negotiations about its implementation commenced under Germany's EU Council Presidency. More than a year later, it will be up to the French Council Presidency to pick up the thread and take discussions forward. Achieving a compromise on the two most controversial issues – the solidarity mechanism to relocate asylum seekers and the responsibility for processing asylum claims – remains unlikely. Yet, the French Council Presidency should resist the temptation of entirely dropping the dossier. For one, because the crisis in Afghanistan, and more recently the bleak situation at the EU's external border with Belarus, have shown that the EU's approach to migration is unsustainable. Moreover, the stalemate in current reform negotiations should not become an excuse for inaction. The French Council Presidency should therefore focus on areas where progress is equally necessary and possible. This is the case when it comes to enhancing member states' efforts to establish safe and legal pathways to protection.

At the High-Level Forum for providing protection to Afghans at risk on 7 October, Commissioner Johansson announced that EU member states had collectively evacuated 22.000 Afghans since mid-August¹. Member states also committed to increase their resettlement pledges by providing additional admission spaces. Whereas countries such as Canada or the United Kingdom respectively promised 40.000 and 20.000 resettlement places in response to the Afghanistan crisis, EU member states remained silent as to the scope of their additional commitment. The caution with which the EU announced its resettlement pledges at the High-Level Forum correspond with member states' mixed messages in the immediate follow-up to the Afghanistan crisis. For example, French President Emmanuel Macron irritatingly called on the EU to "protect ourselves against irregular migratory flows", whilst also promising that France "will continue to do its duty to protect those who are most at risk" by participating in "an international effort, organised and just"².

With elections coming up in April 2022, the French government will be wary of making the impression that it has changed its mind towards a more liberal migration policy. This is especially the case given that the French population considers migration to be among the top three issues deciding the election outcome, with

1. Ylva Johansson, 07.10.2021. *Press Briefing*, Commission européenne.

2. Giorgio Leali, 16.08.2021. "Macron call for European Plan to manage Afghan migration", *Politico Europe*.

40% of voters advocating against any immigration.³ Hence, the French EU Council Presidency finds itself in a position where it must keep in mind public opinion at home whilst encouraging member states to present concrete numbers as to their intended resettlement pledges. In light of the Presidency's three pillars (recovery, power, belonging), one way to go about this would be to discuss the migration dossier not primarily as a security threat, i.e. under the power heading. Instead, a focus on resettlement and humanitarian admission provides for the possibility to associate migration with issues such as European norms and adherence to EU law. This would allow subordinating it to under the title of belonging.

The Migration Pact offers two frameworks for member states to scale up their humanitarian admission channels. First, it calls on member states to conclude negotiations with the European Parliament on the proposed regulation establishing a Union Resettlement Framework⁴. Second, it encourages member states to build a distinct "European Model" for community sponsorship⁵. In order to assess the benefits and pitfalls of both initiatives, this policy brief first traces the development of EU's global leadership on resettlement. It argues that the EU's growth in resettlement activities has led to competing objectives: humanitarian concerns on the one hand and the interest to reduce irregular arrivals through third country partnerships on the other. The brief then outlines to which extent these objectives are mirrored in the Migration Pact before concluding with recommendations for the French EU Council Presidency.

3.2 ■ The EU's evolution as a resettlement actor

According to estimates by the UNHCR, 1.47 million refugees are eligible for resettlement⁶. However, in part due to the coronavirus pandemic, merely 26.000 refugees departed to a safe third country by the end of September this year⁷. While this is a slightly larger contingent compared to 2020 (22.800), it is merely about one fifth of the global resettlement places available in 2016 (126.000). Despite a reduction in the total number of resettlement places since 2016, the share of refugees resettled

3. Salomé Vincendon, 20.10.2021. "Présidentielle: Le pouvoir d'achat principale préoccupation des français, loin devant l'immigration ou la sécurité", *BFMTV; CNEWS*, 07.10.2021. "4 Français sur 10 favorables a une immigration zero", *CNEWS*.

4. Resettlement is the transfer of a person with refugee or humanitarian protection status from the country of settlement to a host state.

5. Community sponsorship is the commitment by local actors, local authorities or associations, to participate in the reception and integration of protected persons in a humanitarian framework.

6. UNHCR, 23.06.2021. "UN Refugee Agency releases 2022 resettlement needs". Press Release.

7. UNHCR, [Resettlement Data](#).

by EU countries has gradually increased (see Table 1). In 2020, resettlement to the EU made up 45% of global resettlement transfers, compared to merely 14% in 2016. France increased its annual resettlement pledges from 360 in 2010 to 5.600 in 2019 – spearheading the EU’s resettlement effort ahead of Sweden (5.005) and Germany (4.890)⁸.

TABLE 1 ■ Resettlement to the EU, Canada and the US, including global share.

Year	EU		Canada		United States	
	Total	Share	Total	Share	Total	Share
2016	17 093	14%	21 865	17%	78 761	62%
2017	26 397	41%	8 912	14%	24 559	38%
2018	26 029	47%	7 704	14%	17 112	31%
2019	28 992	45%	9 031	14%	21 159	33%
2020	10 321	45%	3 502	15%	6 740	30%

Source: UNHCR

The gradual increase of resettlement to the EU prior to the coronavirus pandemic is largely a result of two developments. First, member states have resorted to resettlement as a response to mounting crises in the European neighbourhood. Second, they have done so as a result of the Commission’s growing effort to expand financial incentives and facilitate coordination among member states’ practices⁹.

Given that there is no legal obligation under international or European law, resettlement to the EU was historically driven by just a few member states, most notably by Sweden, Finland, Denmark and the Netherlands. The number of resettling EU countries increased when the Justice and Home Affairs Council called on member states to resettle 10.000 vulnerable refugees from Iraq in 2008. Eventually, twelve EU countries participated in the joint effort¹⁰. Common European resettlement priorities and increased financial incentives were further introduced through the Joint EU Resettlement Programme in 2012, which was adopted following political upheavals in North Africa and the Middle East throughout 2011¹¹.

8. Eurostat, “Resettled persons – annual data”, European Commission.

9. Delphine Perrin, Frank McNamara, 2013. “Refugee Resettlement in the EU: Between Shared Standards and Diversity in Legal and Policy Frames”, KNOW RESET Research report, European University Institute.

10. European Resettlement Network. “The Policy Framework”.

11. European Commission, 2009. “Communication proposing a Joint EU Resettlement Programme”, COM (2009) 447 final.

A substantial increase in national resettlement programmes and in the number of persons resettled to the EU followed upon the so-called “migration crisis” in 2015. In June 2015, the European Council concluded that all member states would contribute to “multilateral and national schemes in the resettling of 20.000 displaced persons in clear need of international protection”¹². This was followed by a Commission recommendation in 2017, which urged member states to provide another 50.000 resettlement places¹³. As a result, 20 European countries (including Norway and Switzerland) had set up national resettlement schemes by the end of 2019¹⁴. Both *ad hoc* programmes, in combination with the parallel downscaling of the United States’ resettlement programme under the Trump administration, help explain the EU’s growing relevance as a resettlement actor.

3.3 ■ Resettlement after 2015: conflicting objectives

The growth of resettlement activities in the EU has been accompanied by a process of embedding resettlement into a wider set of policy objectives¹⁵. Traditionally, resettlement serves a twofold purpose. First, states can express solidarity and help in sharing the responsibility for refugees with countries of first asylum. Second, resettlement offers access to protection and a durable solution to the most vulnerable refugees.

However, the EU’s approach to resettlement – as well as to other forms of humanitarian admission – is increasingly shaped by an objective that has been described as “contained mobility”¹⁶. Rather than providing safe and legal pathways for purely humanitarian purposes, this approach implies that selective refugee admission is offered to third countries as an incentive for cooperating with the EU in areas such as readmission or border management. The idea to contain asylum seekers in countries of origin or transit whilst offering limited, restrictive refugee admission was instrumental for the EU’s response to 2015 and its partial externalisation of asylum responsibilities through third countries arrangements.

12. European Council, 2015. “Conclusions – 25 and 26 June 2015”, CO EUR 8, CONCL 3.

13. European Commission, 2017. “Recommendation on enhancing legal pathways for persons in need of international protection”, C(2017) 6504.

14. UNHCR, 2019. “Resettlement Overview Europe”, January – December 2019.

15. Luc Leboeuf, 2020. “Legal Pathways to Protection: Towards a Common and Comprehensive Approach?”, EU immigration and Asylum Law and Policy – Odysseus Network.

16. Sergio Carrera, Roberto Cortinovis, 2019. “The EU’s Role in Implementing the UN Global Compact. Contained Mobility vs. International Protection”, CEPS.

The coupling of refugee admission with border control measures is perhaps most evident in the EU-Turkey statement. The statement entered into force in March 2016 and has frequently been described as a blueprint for the EU's future cooperation with third countries. As part of the statement's so-called 1:1 mechanism, EU countries committed to resettle Syrian refugees from Turkey. This is a laudable effort as it helps alleviate pressure from Turkey and offers a durable solution to displaced Syrians. Yet, admission under the EU-Turkey statement is limited to refugees who have not attempted to irregularly enter the EU before. At least in theory, admission is also conditional upon Turkey's promise to readmit asylum seekers who had irregularly entered Greece. This rests on the assumption that Turkey can be considered a safe third country, even though it has not signed the 1967 Protocol to the Geneva Refugee Convention. In practice, EU member states had resettled 28.000 refugees from Turkey by March 2021, while merely 2.140 were returned under the framework of the EU-Turkey statement¹⁷. The low number of returns can in part be explained by lengthy procedures in Greece. They are also a result of the fact that Turkey suspended its bilateral readmission agreement with Greece and stopped implementing a readmission agreement with the EU¹⁸.

The desire to use resettlement as a means for engaging third countries in migration management is also visible in the Commission's 2016 legislative proposal for a Union Resettlement Framework regulation. The proposal attempts to establish "a more structured, harmonised, and permanent framework for resettlement across the Union"¹⁹. Although a partial provisional agreement between the European Parliament and the Council was attained in June 2018, member states remained wary of ceding control over the design and scope of their admission programmes²⁰. Eventually, the Council did therefore not endorse the Commission proposal and handed the file back to negotiations at technical level during the Austrian Council Presidency in the second half of 2018.

Considering previous *ad hoc* approaches, the proposal offers a welcome opportunity to make resettlement to the EU more systematic and reliable. However, in doing so, the proposal has not struck an adequate balance between the competing

17. Karoline Popp, 2021. "No more Morias"? Origins, challenges and prospects of the hotspots on the Greek islands", SVR Policy Brief 2021-1, Berlin; Kyiliah Terry, 2021. "The EU-Turkey Deal, Five Years On: A Frayed and Controversial but Enduring Blueprint", Migration Policy Institute (MPI).

18. Karoline Popp, 2021. "No more Morias"? Origins, challenges and prospects of the hotspots on the Greek islands", SVR Policy Brief 2021-1, Berlin.

19. European Commission, 2016. "Proposal for a regulation establishing a Union Resettlement Framework", 2016/0225 (COD).

20. European Parliament, "EU Resettlement Framework", Legislative Train Schedule.

objectives of border management on the one hand and humanitarian concerns on the other. In the proposal's explanatory memorandum, the Commission lists helping "displaced persons in need of international protection" alongside using resettlement as a "tool of international solidarity and responsibility sharing"²¹. Yet, the overall emphasis of the proposal is better described as "managing migration flows" with the objective to "help reduce the pressure of spontaneous arrivals". The proposal's focus on border management manifests itself primarily in the proposed (in)eligibility criteria for resettlement candidates, as well as in the prioritisation of third countries from which resettlement should occur²².

- First, the proposal excludes "persons who have irregularly entered, irregularly stayed in, or attempted to irregularly enter" the EU within the past five years²³. It hence frames resettlement not only as an alternative to irregular arrivals but attempts to (partially) replace irregular arrivals through a "contained mobility" approach.
- Second, the proposal gives member states substantial leeway in selecting beneficiaries. It allows member states to give preference to candidates with a certain skillset or with characteristics perceived as facilitating integration. The proposal thereby provides for more flexibility in setting up admission schemes, which can be helpful when responding to immediate crises. However, the broad scope of eligibility criteria and the emphasis on integration outcomes risk undermining vulnerability as the prime parameter for selecting resettlement beneficiaries.
- Third, the proposal not only considers "the number of displaced people in need of protection" as a relevant factor when determining the countries from which resettlement should primarily take place. It also states that "any onward movement of those persons to the territory of the Member states" should determine priority regions²⁴. The proposal further specifies that "a third country's effective cooperation" in reducing the number of irregular arrivals to the EU and in increa-

21. European Commission, 2016. "Proposal for a regulation establishing a Union Resettlement Framework", 2016/0225 (COD).

22. Katharina Bamberg, 2018. "The EU Resettlement Framework: From a humanitarian pathways to a migration management tool", Discussion Paper, *European Policy Centre (EPC)*.

23. European Commission, 2016. "Proposal for a regulation establishing a Union Resettlement Framework", 2016/0225 (COD).

24. European Commission, 2016. "Proposal for a regulation establishing a Union Resettlement Framework", 2016/0225 (COD).

sing the number of readmissions should be considered when deciding whether resettlement should take place from these countries.

3.4 ■ Resettlement & humanitarian admission in the Migration Pact

Contrary to other files from the Juncker Commission's 2016 reform package, the Migration Pact neither amended nor replaced the Union Resettlement Framework proposal. Instead, the Migration Pact urges member states in the Council and the European Parliament to "conclude swiftly negotiations" on the Framework regulation²⁵. It also invites member states to formalise their resettlement pledges from 2022 onward with the intention to "confirm the EU's global lead"²⁶.

Hence, rather than offering a "change in paradigm", as the Commission described it, the Migration Pact consolidates the "contained mobility" approach²⁷. It does so by framing resettlement as integral to the EU's "comprehensive approach to migration". This is particularly the case when outlining the EU's cooperation with third countries on a variety of migration-related areas. As part of a comprehensive approach, creating legal pathways to protection is one out of many priorities in the toolbox for engaging with third countries outlined in the Migration Pact. Other priorities include readmission and addressing the root causes of displacement. It thereby further integrates resettlement into a wider set of policy objectives that "are not inherently opposed to one another but generate tensions upon their implementation"²⁸.

In the absence of a legislative framework to steer harmonisation, the Migration Pact outlines three measures through which the Commission intends to coordinate member state practices. First, the Commission points to its financial instruments for supporting implementation of resettlement pledges. This includes a payment of 10.000 EUR per person resettled from priority countries and 6.000 EUR for other resettlements under the Asylum, Migration and Integration Fund (AMIF) (Recital 16)²⁹. The Commission further points to the 2021-2027 Asylum and Migration Fund (AMF) as a resource for resuming resettlement efforts following the coronavirus pandemic (Recital 21). Second, the recommendation stresses the

25. European Commission, 2020. "Communication on a New Pact on Migration and Asylum", COM(2020) 609 final.

26. European Commission, 2020. "Communication on a New Pact on Migration and Asylum", COM(2020) 609 final.

27. Paula Garcia Andrade, 2020. "EU cooperation on migration with partner countries within the New Pact: new instruments for a new paradigm?", EU immigration and Asylum Law and Policy – Odysseus Network.

28. Luc Leboeuf, 2020. "Legal Pathways to Protection: Towards a Common and Comprehensive Approach?", EU immigration and Asylum Law and Policy – Odysseus Network.

29. European Commission, 2020. "Recommendation on legal pathways to protection in the EU", C/2020/6467.

relevance of operation support offered by the European Asylum Support Office (EASO) in organising “remote interviewing or dossier resettlement” (Recital 19) and through the European Resettlement Support Facility in Turkey (Recital 22)³⁰. Third, the Commission encourages member states to use the Resettlement and Humanitarian Admissions Network for “information sharing and peer learning” (Recital 22).

In addition to traditional resettlement, the Migration Pact introduces the idea of a “European Model of community sponsorship” with the intention to increase the number of refugee admissions³¹. Although there is no settled definition of community sponsorship, it can be described as “a modality of welcoming asylum seekers based on the shared responsibility of private actors and public authorities”³². Several EU member states have over recent years set up sponsorship schemes. These can either be linked to complementary pathways or be incorporated into existing resettlement programmes³³. For example, France developed a so-called “humanitarian corridors” programme with an annual quota for 500 refugees³⁴. The programme is run by faith-based organisation which identify beneficiaries and are subsequently responsible for organising travel, housing and integration support of beneficiaries.

The proliferation of pilot projects, as well as the attention given to sponsorship both in the Global Compact and in the Migration Pact have raised expectations that community sponsorship could offer “a potential solution to the dismal global refugee situation”³⁵. And while sponsorship schemes indeed bear much potential, both in scaling up refugee admission and in creating a positive narrative around refugee admission, there are also risks. Given that community sponsorship involves a (partial) transfer of responsibilities from the state to private actors, such risks revolve less around the strategic use of sponsorship for a “contained mobility” approach. Instead, they refer mostly to the inherent flexibility of sponsorship schemes that give states considerable leeway in the design of programmes. For example, the Migration Pact repeatedly stresses the added value of community

30. European Commission, 2020. “Recommendation on legal pathways to protection in the EU”, C/2020/6467.

31. European Commission, 2020. “Communication on a New Pact on Migration and Asylum.”, COM(2020) 609 final.

32. Carlotta Duken, Lucas Rasche, 2021. “Towards a European Model for Community Sponsorship”, Policy Brief, Jacques Delors Centre.

33. Carlotta Duken, Lucas Rasche, 2021. “Towards a European Model for Community Sponsorship”, Policy Brief, Jacques Delors Centre.

34. European Resettlement Network, 2018, “Towards a Private Sponsorship Model in France”, Feasibility Study.

35. Nikolas Feith Tan, 2020. “Community Sponsorship, the Pact and the Compact: Towards Protection Principles”, ASILE Forums.

sponsorship in strengthening the integration process of refugees. Similar to the proposed Resettlement Framework regulation, an overly due focus on integration outcomes may, however, risk prioritising candidates with certain skill sets over more vulnerable refugees. This is a particular concern when community sponsorship does not offer additional pathways to protection but is instead integrated into existing resettlement programmes where candidates would thus compete for the same admission places. The flexibility of community sponsorship schemes hence necessitates introducing certain safeguards as to the protection status of beneficiaries and non-discriminatory selection criteria.

3.5 ■ A twofold approach for the French EU Council Presidency

Setting up a resettlement scheme for refugees displaced by the Afghanistan crisis requires immediate action. It would therefore be sensible to implement such efforts in another *ad hoc* manner, rather than waiting for negotiations on the Union Resettlement Framework to be concluded. Whereas it remains unlikely for migration to become a political flagship of the Presidency, this is not necessarily a disadvantage. Instead, a less politicised approach can focus on solving technical issues to make progress on enhancing member states' efforts to substantiate their resettlement pledges. With that in mind, the French EU Council Presidency should pursue a twofold approach when it comes to enhancing member states' efforts to establish safe and legal pathways to protection.

First, the French government should encourage other member states in the Council to follow up on their pledges made at the High-Level Forum for Afghans at risk on 7 October. Underpinning their previous commitment to increase resettlement places with concrete numbers would send a strong signal of support to countries in the region. It would also underline the EU's ambition to claim a leadership role on resettlement. To support member states in scaling up existing resettlement programmes or setting up new schemes, the French EU Council Presidency can make use of the instruments laid out in the Migration Pact. For example, it could persuade member states to make use of the EU's existing resettlement infrastructure, such as EASO's Resettlement and Humanitarian Admission Network, which can serve as a platform for horizontal dialogue between traditional resettlement countries and newcomers in order to share best practices. The recent crisis in Afghanistan has further worsened a situation of protracted displacement for many Afghan refugees in the region. An *ad hoc* scheme should therefore pave the way for the EU's longer-term commitment to resettle from the region. This also requires ensuring sufficient financial support to the UNHCR in order to establish and maintain the necessary resettlement infrastructure in countries like Pakistan or Iran.

Second, the French EU Council Presidency should invest its political weight to move negotiations on the Union Resettlement Framework forward. In the past, external crises have often driven the EU to corroborate its resettlement efforts. This could be similar with regard to the Afghanistan crisis. The main objective for establishing a common resettlement framework should be to counterweigh an otherwise restrictive EU migration policy that is mostly directed at the “non-admission” of refugees and asylum seekers³⁶. For that to happen, member states need to increase their annual resettlement pledges. Further, the European Parliament and Council should agree on a better balance between humanitarian and migration management priorities in the proposed regulation establishing a Union Resettlement Framework.

Over the next six months, the French government should therefore invite member states to revisit the proposal’s emphasis on third country arrangements. This does not necessarily imply that member states should entirely abandon cooperation with third countries. Instead, they should reconsider under which circumstances cooperation is beneficial for *all three* parties involved: migrants, the EU, and third countries. In particular, this concerns the plan to prioritise resettlement from third countries that cooperate with the EU on migration management. Not only does such a prioritisation distort the principle that resettlement should benefit the most vulnerable refugees. The coupling of selective refugee admission with outsourcing border management has in the past manoeuvred the EU into a vulnerable position in which third countries have repetitively used migrants as a means to assert pressure on the EU.

Lastly, the French Council Presidency should ensure that the inclusion of humanitarian pathways into the proposed Resettlement Framework helps widening the range of admission channels. To that end, humanitarian admission programmes should primarily be set up in a complementary manner to traditional resettlement. This also concerns setting up a European model for community sponsorship. Rather than competing for limited resettlement spaces with the most vulnerable refugees, community sponsorship can be of added value when its flexible selection criteria are used to increase the portfolio of refugees who are being offered a safe pathway to protection in the EU.

36. Sergio Carrera, Roberto Cortinovis, 2019. “The EU’s Role in Implementing the UN Global Compact. Contained Mobility vs. International Protection”, CEPS.



THE RIGHT TO ASYLUM AND FREEDOM OF MOVEMENT: TWO INDISSOCIABLE EUROPEAN PRINCIPLES

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4.1 ■ Introduction

One year on from its proposal in September 2020 by the Commission¹, is the Pact on Migration and Asylum already dead in the water? Expert debate² indicates the most nuanced response: negotiations are underway and it is too early to draw any firm conclusions. It is clear, however, that it will take a lot of time to reach an agreement of any kind and that in the meantime the European Union is still lacking a coherent framework in which migration and mobility are considered.

There is, however, no room for excessive pessimism, or even cynicism, here; traits that are all too familiar in those observing the European agenda. Since the extraordinary meeting of the European Council in Tampere in October 1999, the foundations of a common immigration and asylum policy have been gradually established. Its instruments are effective, as demonstrated in the statistics concerning the admission of third-party nationals, for whatever reason, within the European Union. This *acquis* remains incomplete, however. Its practical application is inconsistent and the implementation of certain basic principles continues to raise questions, to the extent that the system's solidity is perceived as problematic by public opinion. Therein lies the challenge.

Migration –or rather the movement of populations against a backdrop of globalisation that is demonstrated very directly by the pandemic– is more than ever at the centre of micro- and macro-political agendas. Denouncing, lamenting and criticising is not an acceptable position for institutional stakeholders or for astute observers. Other avenues exist, halfway between hopeless realism and unproductive idealism, and they must be explored. They include the systematic implementation of an important *acquis*, the translation into actions of new initiatives that appear to be unaffected (as yet) by the politicisation of the issue and, perhaps, the opening of new avenues.

4.2 ■ Interplay appears to be in deadlock

Three presidencies of the Council have succeeded each other since the Commission submitted its proposals and the institutional interplay within the

1. "Communication on a New Pact on Migration and Asylum", 23 September 2020, COM (2020) 609 final.

2. "The New Pact on Migration and Asylum: Dead or alive?", 9-10 September 2021, conference at the invitation of Philippe de Bruycker, Coordinator of the Odysseus Academic Network, and Jean-Louis De Brouwer, from the Egmont Institute.

European Union seems unable to strike a balance, as a quick overview of the various stakeholders' behaviours shows.

Up to now, the focus has been on the position of Member States within the Council. However, the measures are adopted jointly with the European Parliament which has yet to define its negotiation position. It has deemed it necessary to use its own impact study as a basis, as it has not received one from the Commission. It will not be able to ignore the critical conclusions of this study, even though its methodology may be viewed as flawed. In any event, arbitrations between political groups are set to be difficult, as evidenced by the first discussions on draft reports. The debate on decision-making within the Council –between the consensus required by the European Council following the attempt to force through mandatory relocations at the peak of the 2015-2016 crisis and the qualified majority required by the Treaty– appears to be premature in this respect. This is particularly true as the use of the qualified majority remains well established in practice, as demonstrated by the recent adoptions of the Blue Card directive and the reform of the European Asylum Support Office (EASO).

In any case, the trilogue procedure can only fail if there is no common position within the Council. The continued divides between groups of Member States show both the total politicisation of the issue and the damage caused by “minilateralism” when it stops being a means of facilitating negotiation and becomes an instrument that constitutes opposing blocs. It would be a mistake to place too much hope in the six-monthly presidencies as it takes a great deal of self-sacrifice to include among the priorities an issue for which one takes more knocks than generates achievements. Moreover, the very complex technical considerations behind the issues to be addressed means that each presidential team must make an investment that may appear disproportionate, not least to ensure continuity and consistency in the work conducted.

That leaves the European Commission and the European Council. The former undertook to base its proposals on attentive and in-depth consultations with Member States. This is commendable, and even essential to remedy the repercussions of some past mistakes, but it leads to a limitation of its own power of initiative, relegated to a mediation role between divergent interests with no compass to guide their reconciliations, and the submission of texts that are perceived more as the early outcome of compromise than as a proposal of a model, admittedly open to negotiation, but that is coherent and operational.

As regards the European Council, even if all acknowledge that migration is a prime example of an issue reserved for heads of State or government, it has up to now demonstrated a remarkable ability to show no real interest in the future of the Pact. In this respect, it is acting within a perfect institutional approach: why take hold of the subject when the normal procedure is still only in its infancy? Even “crises” have not stirred it into action: the consequences of the upheaval in Afghanistan were left in the capable hands of the Council of Ministers and the line to be taken against Belarus was defined for the most part using traditional geopolitical criteria. Even the resumption of the subject, in greater depth than expected, during the ordinary European Council meeting on 21 and 22 October 2021 did not give rise to any encouragements to make progress with the Pact, despite the appeal from the President of the Commission.

4.3 ■ The right and wrong ways to make progress in the deadlock

Various ways of using the available time pending a “new situation” have been discussed. Upon consideration, some appear illusory, while others are even harmful. Some are more promising, however, with a focus on improving existing measures without changing legislation or on highlighting the actual innovations found in or announced by the Pact but which have been neglected to date.

Some discuss the seeking of partial agreements, such as those obtained for the next multiannual financial framework, the Blue Card and the future European Agency for Asylum³. It must not be forgotten that these proposals were submitted well before the presentation of the Pact and that none of these developments actually tackle the heart of the problem, even though the budgetary instrument is strangely under-estimated in debates⁴.

The most common forms of a headlong rush include the improbable “external dimension”, a favourite subject of rhetoric at the European Council. Much could be written in this respect but succinctly stated, the message is “the European Union is only strong on the outside when it is solid on the inside”. It is not the battlefield image that is currently that of finding common positions on fundamental international protection challenges that will contribute in any way to consolidating the EU’s position in its search for a “partnership” with third countries, which all too often takes the form of a one-sided contract. Furthermore, the reality of unsanctioned

3. “Regulation on the European Union Agency for Asylum”, COM (2018) 633 final.

4. Unlike other major proposals of the European Commission, the most important draft regulations of the Pact have not been subject to an impact assessment and cost estimates for the EU and Member States’ budgets.

practices or of intentions announced but not followed up by action as regards external border controls could also serve as an alibi for the failures of our partners, a sort of perverse manifestation of the “Brussels effect”⁵ which is much vaunted in other areas.

Other ways out include the use of agencies or the budgetary instrument. Admittedly, the spectacular progress in the adjustment of Frontex and Asylum Office mandates must be acknowledged for what it is: qualitative rather than quantitative jumps. Yet agencies remain tools that serve policies. If these policies are flawed, perfecting these tools will not offset their shortcomings. In addition, the successive cycles of financial outlooks have been punctuated by the constant rapid increase of budgets devoted to migration, both internally and externally. However, in both cases, the efficacy of the expenditure, beyond the amount, can be called into question. Are the budgets allocated to Member States for Community solidarity really meeting common interest objectives? The implementation methods of the historic “Next Generation EU” initiative to support recovery post-pandemic should give pause regarding an essential strengthening of the Commission’s steering capacities, for which amounts remain unchanged. As regards the external vehicle, the Neighbourhood, Development and International Cooperation Instrument⁶, the question is raised, from an ethical standpoint, about its purpose: is it a genuine mutually agreed contribution to the co-development of countries of origin and/or transit, or targeted support for the interventions related to controlling migration flows?

Another alternative that is regularly brought up is the concept of “legal routes” which includes in particular an openness to economic migration. The reality is that strictly national employment policies are still decisive, even against the post-pandemic backdrop. The response to needs is currently exclusively the competence of Member States and, for many of them, of social partners, employer and employee representatives. The risk is that of creating a temporary “replacement migration”, for as long as there is a need and until national structural mechanisms are put into place to ensure the best adjustment between labour supply and demand.

5. *The Brussels Effect. How the European Union Rules the World* is a work published in March 2020 by Anu Bradford, Professor of Law at Columbia Law School. In this book she explains how the European Union asserts its power by enforcing normative frameworks and standards, in particular through its trade policy, that regulate the global economy.

6. This new European fund, endowed with €70.8 billion for the 2021-2027 period, now replaces the European Development Fund (EDF): <https://www.touteleurope.eu/l-europe-et-moi/l-instrument-europeen-pour-le-voisinage-le> (in French).

All agree, however, that a full and honest implementation of the *acquis communautaire* already adopted⁷ would be tangible progress. The targeted use of Community funding and the enhancement and interconnection of information exchange systems and the effective implementation of the directive package that oversees the Common European Asylum System as adopted up to 2013 would already correct many of the failings observed in the implementation of the Dublin Regulation. As the UN High Commissioner for Refugees (UNHCR)⁸ and the European Parliament⁹, have reminded, Member States can improve the current situation considerably by using the latitude given to them in the texts in force and if they agree to mobilise sufficient resources.

Today, the Commission seems to be reluctant to use the monitoring and constraint instruments at its disposal, as guardian of the treaties, to ensure compliance with community law, as it likely fears further complication of the ongoing negotiations. However, as the negotiations are getting bogged down, Member States' trust in one another can only come from discipline in the application of the common body of law. Other initiatives feature in the Pact but have been insufficiently or not at all explored to date. That said, in terms of public opinion and potential migrants, they would have an educational purpose. One cannot claim to control or "normalise" migration without also taking into account the needs and abilities of migrants. Potential avenues include:

- The options of opening safe legal routes that act as an alternative to illegal immigration such as "talent partnerships", an updated version of circular migration which it would be appropriate now to roll out, and resettlement, a long-term solution for protection needs through which the European Union could assert its real leadership if it does not convert it into an alibi for the random compliance with obligations concerning direct access to protection. Ultimately, other tools could be added to this "arsenal", such as humanitarian corridors and the jobseekers' visa, the prototypes of which are presented in this report by Lucas Rasche and Yves Pascouau.
- Similarly, the policies presented by the Commission to combat human trafficking¹⁰ and to facilitate returns, especially assistance with voluntary returns,

7. The *acquis communautaire* is the set of legislative texts in force, including in particular the "package" of directives governing asylum, which currently dates back to 2013.

8. Opinion of the HCR for European institutions dated October 2021.

9. Report by Fabienne Keller on the implementation of the Dublin III Regulation, June 2020.

10. "A renewed EU action plan against migrant smuggling (2021-2025)", COM (2021) 591 final.

form a framework of initiatives in line with the complex realities that they are seeking to tackle. Although it is intended for another dimension of immigration control, the recommended integration strategy, developed in this report by Alain Régnier, comes under a single nuanced approach but would have to stand up to the same test of implementation, which all too often initiatives that amount to “announcement effects” fail.

- A sensitive subject if ever there was one, sea search and rescue cannot be ignored. Proposals have been put forward regarding risk management and prevention, both upstream (the analysis of migration pressure) and downstream (the creation of emergency hosting facilities), which must be debated¹¹ and if possible put into effect.
- Lastly, effective real-time mechanisms that protect migrants’ rights, in particular in border regions, must be introduced and actually rolled out urgently, without hesitation.

4.4 ■ Getting back to the basics of a common area of free movement and asylum

Beyond these wise considerations that seek out what is possible, where what is desirable is unattainable, it is necessary to take a step back. As they stand, the Commission’s proposals do not appear to provide the necessary solid foundations to fix the failings of common migration and asylum policies. This is due to the aforementioned reasons, and also because their implementation proves to be highly complex as their practical implications become clearer.

A simple return to a direct application of the Treaty of Lisbon, following the “Community method” does not seem realistic, given the political burden of the migration issue. Conversely, some allude to a renationalisation: hasn’t this trend already been observed in relation to the Common Agricultural Policy? Let’s not forget the irreversible nature of freedom of movement and the structural transformations it has caused in terms of economic, social and also cultural aspects. We might as well give up on the European Union itself.

We need to move beyond such speculations. Three imperative reasons impel us to work to break the current deadlock. The first concerns the suffering of

11. COM (2020) 6469 on an EU mechanism for Preparedness and Management of Crises related to Migration and COM (2020) 613, proposal of a regulation addressing situations of crisis and force majeure in the field of migration and asylum.

too many people to this day within the EU and at our borders. People who are in limbo due to the non-compliance with rules of law. The second reason lies in the unacceptable malfunctioning of asylum systems, a growing source of unease both within the EU and in the way it is perceived elsewhere in the world. The third reason refers to the pernicious harnessing of European institutions' powerlessness by populist-driven forces that seek to break up the Community.

Unless there is a new, and this time "real" crisis (sub-Saharan Africa –and the Sahel in particular– should be constantly monitored in this respect), a factor that may impact negotiation positions may be the Commission's presentation of its proposals regarding the Schengen code reform, the outlines of which were announced in a communication in June 2021¹². The consolidation of free movement within the EU, the aim of this reform, is indissociable from the restitution of a common immigration and asylum policy. The two issues are "genetically" related: **removing internal border controls and pooling external border management imply agreement on the entry and residence conditions applicable to third-country nationals**. This historically unique construction, in which sovereign States give up the exclusive exercise of one of their prerogatives, namely the control of access to their territory, is based on two foundations: trust and solidarity. Should it come to pass that these two prerequisites are no longer met, there may be a strong tendency to take account and to reserve access to the "club" to those willing to pay the price, while keeping the door open, as is the case for the euro area.

Chronologically, the current provisions of the Common European Asylum System were designed as the consequences of the introduction of an area of free movement: **Dublin as, dare one say, a technical complement to Schengen**. In order to view the future in positive terms and not as an East-West divide in Europe, it is better to return to the basic values which inspired the original creation of the Common European Asylum System and to determine the consequences of this for the organisation of free movement¹³.

When the creation of a Common European Asylum System was decided during the extraordinary European Council meeting in Tampere in October 1999, heads of State or government wanted to make the European Union a single area in terms of protection, for which the introduction of a common procedure and a uniform status would be a structural response to the issue of secondary movements and

12. "A strategy towards a fully functioning and resilient Schengen area", 2 June 2021, COM (2021) 277 final.

13. See also report 116 by the Jacques Delors Institute, [For a European policy on asylum, migration and mobility](#), chapter 4 "Providing the Common European Asylum System with the resources commensurate with its initial goal".

the solidarity requirement. What some called a utopia of compassion became a legal basis with the Treaty of Lisbon, which covered both asylum and subsidiary protection. In other words, the time has come to get back to the spirit of President Macron's address at the Sorbonne in September 2017 which, observing that the "migration crisis is not really a crisis" but "a long-lasting challenge", concluded that "we have only one choice, one alternative: closing in behind our borders, which would be both illusory and ineffective, or the construction of a common area for borders, asylum and migration"¹⁴ and to pursue this by stating clearly the consequence of this reasoning: the creation of a genuine European asylum office that speeds up and harmonises national procedures.

Political considerations should therefore be directed towards a **cooperation model between States determined to ensure the stable functioning of the common asylum area, exempted from secondary movements, and full freedom of movement**. In addition to the introduction of a common procedure and a uniform status (which may go as far as acknowledging the European asylum agency's jurisdiction over certain groups of applicants), this construction would be based on effective external border controls and corrective mechanisms for the spontaneous allocation of those seeking protection which would consider the plans of the persons concerned.

The project may appear very ambitious, too ambitious even. However, there are answers to the first objections that come to mind: the progress already made in terms of the convergence of national systems means that the directive may be converted into a regulation, the completion of the "smart borders" programme should make the external borders of EU Member States among the best controlled in the world and the jurisdiction of the European Agency could be adapted to the specific constitutional features of some Member States. States which cannot or do not wish to take part, for the moment, in the functions performed by the European Asylum Agency would have to give up some of the benefits of free movement, but their citizens' right to work mobility and free choice of residence would not be called into question.

This leaves the question of political drive and how to turn it into actions. The range of options is known: EU-27, but after it is decided by consensus to revert to qualified majority and accepting the foreseeable difficulty of having to keep opt-outs, through institutional channels for enhanced cooperation provided under article 20

14. "New initiative for Europe - Emmanuel Macron's address for a sovereign, united and democratic Europe", the Sorbonne, 26 September 2017.

of the Treaty on European Union, or the use of a parallel treaty, reconnecting with –ironically– the model of the Schengen “laboratory”.

Unquestionably, the avenue outlined here requires in-depth technical exploration. It should not, however, be dismissed out of hand. It will be useful to have considered this option as events will sooner or later impel heads of State or government to define a policy framework –a “pact” in the truest meaning of the word– that meets the reality of migration in all its forms.

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The contributions gathered in this report show that the serious shortcomings demonstrated by the EU migration and asylum policy are interrelated and could be overcome by returning to the common values that underpin them in the Treaty on EU:

Regulating immigration is legitimate but requires speaking the truth and relying on a sense of solidarity between countries as well as on the part of citizens to achieve integration. Illegal immigration must be combated, but this means making the European rights open to international labour mobility clear.

Similarly, the full exercise of the fundamental freedom of movement within the European Union cannot be achieved without an effective convergence of national asylum policies. Such a perspective requires the establishment of trust and solidarity between the Member

States, a condition that for the time being can only be achieved through differentiated integration.

MIGRATION, ASYLUM, MOBILITY AND INTEGRATION IN EUROPE: INSEPARABLE COMMON VALUES

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ISSN 2257-4840