

EPSU Briefing on Migration Conclusions at EU Summit, 28-29/06/18

Very Little on Protection, a Lot on Pushing-Back

Brussels 13th of July 2018

This paper outlines the conclusions on migration reached at the last EU Summit of 28th – 29th of June, that took place only a few weeks after the Spanish government's praised decision to dock in the 629-strong migrant boat Aquarius, that had been rejected by Italy, Malta and France. Once again the EU governments decided to do very little to protect vulnerable people, as we would expect in light of EU rules on asylum¹ and anti-racism including on border control², and do a lot more to strengthen and outsource border control. What is emerging is a very unsettling political stance to push-back non-white, non-Christian refugees and migrants.

The key problems of resources, especially in public services dealing with the reception, care and integration of newcomers, and absence of a common humane policy, have been brushed under the carpet, due to the politicization of what is presented as overwhelming numbers in arrivals.

As the ETUC put it, whilst the Mediterranean sea continues to be a mass grave, "*EU leaders are scoring points to take home instead of finding real solutions. It is simply unrealistic and unsustainable to put so much emphasis on policing borders and outsourcing the management of refugees to Turkey and North Africa to keep refugees out of Europe and so-called regional disembarkment platforms.*"³

As we recently highlighted at an EPSU-backed meeting on public services and migration in Melilla, Spain, on the 13th – 14th of June, even though the number of asylum seekers and migrants reaching Europe has drastically declined in 2018, returning to the pre-2014 averages, the EU security and border response continue to sharpen. UNHCR highlights that despite the number of arrivals in the first half of 2018 being five times lower than in 2016, the number of deaths at sea continues to exceed 1,000.⁴ We should not make mistakes about this. It is not the causes of displaced people fleeing conflicts, especially in Syria, that are gone, but the access to Europe is becoming more restricted. The sharp decrease in arrivals is a direct outcome of the EU-Turkey Statement of March 2016⁵ and of the subsequent deal with Libya's border guards. Both have been strongly condemned by EPSU, ETUC, PSI and human rights organisations for violating international rules on asylum.

What was actually agreed?

¹ Article 18 of the EU Charter of Fundamental Rights provides that the right to asylum is guaranteed with due respect for the rules of the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol.

² https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/combating-racism-and-xenophobia_en

³ <https://www.etuc.org/en/pressrelease/eu-squabbles-over-migration-while-100-more-drown>

⁴ <http://www.unhcr.org/news/briefing/2018/7/5b3f270a4/mediterranean-sea-arrivals-decline-death-rates-rise-unhcr-calls-strengthening.html>

⁵ <https://www.epsu.org/article/stop-building-walls-europe>

The EU leaders' only focus remained on reducing the number of arrivals, especially from Sub-Saharan countries, at all stakes in their own states. This was the only consensus reached between the Mediterranean group calling for a mandatory EU-wide system of redistribution of newcomers and the Visegrad bloc adamantly against redistribution. However, this does not mean, that the latter do not accept migrants. According to Eurostat, Poland issued the largest number of residency permits for work in 2016, after the UK, to non-EU citizens, mostly Ukrainians.⁶

As a result, the only agreed measures are to strengthen the EU's border control and push back newcomers, contributing hereby to the strengthening of 'fortress Europe', especially against certain groups of newcomers. However, the meaning of some of these measures and their implementation are sparking heated debates at national level.

EU funding

EU/Turkey deal maintained

Firstly, it was agreed to finance an additional **€3 billion for the facility for refugees in Turkey** – €2 billion from the EU's budget and €1 billion from member states according to their share of the EU's GNI. This represents the second tranche of the EU-Turkey Statement, that delegates the EU's responsibility to offer international protection for refugees to a third country. For EU leaders as well as the Commission the EU/Turkey deal has been a success in light of the sharp decrease in the number of arrivals (Syrians).

Support for Libyan coast guards maintained

Secondly, the leaders agree to transfer **€500 million from the 11th European Development Fund reserve to the EU Trust Fund for Africa**. This funding is part of EU's support of the Libyan Coast Guard, praised by the Council's President Donald Tusk while delivering a clear message to NGOs operating rescue missions in the Mediterranean: "*respect the law and do not obstruct the operations of the Libyan Coast Guard.*"⁷ The one violating international law in this case is however the EU, as the **UN recently imposed sanctions on Libyans for people trafficking** who are associated with the coastguards supported by the Union.⁸ There are many reports available by NGOs of coastguards' use of violence and of smuggling activities.

Thirdly, the leaders called for a **new dedicated external migration management facility (MMF)**, which should be included under the next EU long term budget. President Tusk highlighted that the new MMF is meant "to combat illegal migration", a notion which is misleading and can potentially refer to asylum seekers or migrants fleeing war, persecution or poverty.

Disembarkation platforms outside Europe

⁶ http://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:First_residence_permits_issued_by_reason_2016_MI17.png

⁷ <http://www.consilium.europa.eu/en/press/press-releases/2018/07/03/report-by-president-donald-tusk-to-the-european-parliament-on-june-european-council-meetings/>

⁸ <https://www.theguardian.com/world/2018/jun/08/un-accuses-libyan-linked-to-eu-funded-coastguard-of-people-trafficking>

As presented in the conclusions of the Summit, the regional disembarkation platforms are meant for people saved at sea in order “to allow to rapidly and safely distinguish between economic migrants and asylum seekers”⁹.

This bears resemblance with a proposal by the UNHCR and IOM¹⁰ which stated that these platforms should make the rescuing operations at sea “more predictable and manageable” in order “to save lives and ensure access to asylum” and that “people rescued in international waters should be quickly brought ashore in safe locations in the EU, and potentially elsewhere too.”¹¹

However, in the EU leaders’ proposal **these platforms are to be established only outside the EU**, which confirms the outsourcing and offshoring trend of asylum application processes in Europe, similarly to other parts of the world as in Australia.¹²

In contradiction to the above stated objective, it is difficult to see how these platforms will actually help rescued people to access asylum in Europe. Both the Greens and the S&D in the European Parliament, criticized these platforms as “**the end of the right to asylum**”¹³, that they “are sending a message that is contrary to human values and to the European spirit.”¹⁴ European Commission’s President Juncker expressed lukewarm support “we need to ensure that we do not give the impression that the reception camps in North Africa are a return to neo-colonial attitudes. We need to work together with African countries to reach decisions.”¹⁵

Indeed neo-colonial attitudes are at play, since those talks have yet to take place with African countries, making the entire proposal even more controversial and lofty. The African Union agreed at their last summit (2nd of July) to set up their own agency for migration called “African Observatory for Migration and Development,” which will be based in Rabat, Morocco and rejected the disembarkation platforms proposed by European leaders.¹⁶ Morocco, Tunisia and Libya have already expressed their refusal to host such platforms. However, other countries in the Sahel region, like Niger, Chad, Mali and Sudan, where the Italian far-right Interior Minister Matteo Salvini called for centres to be established, have not yet voiced their position on this issue.

Controlled centres inside Europe

This is newspeak at its best. According to the Council, the **controlled centres are to be established in the EU only on a voluntary basis** with the aim of providing a “rapid and secure processing” in order to “distinguish between irregular migrants, who will be returned, and those in need of international protection, for whom the principle of solidarity would apply.”¹⁷

⁹ <http://www.consilium.europa.eu/en/meetings/european-council/2018/06/28-29/>

¹⁰ <http://www.unhcr.org/news/press/2018/6/5b33d8bf4/iom-unhcr-appeal-region-wide-action-eu-countries-mediterranean-tragedies.html>

¹¹ <http://www.unhcr.org/news/press/2018/7/5b39f5e44/unhcr-calls-austria-eu-presidency-lead-unite-eu-countries-towards-fair.html>

¹² [https://www.world-](https://www.world-psi.org/sites/default/files/documents/research/final_psi_epsu_psiu_privatisation_of_migration_and_refugee_services.pdf)

[psi.org/sites/default/files/documents/research/final_psi_epsu_psiu_privatisation_of_migration_and_refugee_services.pdf](https://www.world-psi.org/sites/default/files/documents/research/final_psi_epsu_psiu_privatisation_of_migration_and_refugee_services.pdf)

¹³ <https://www.euractiv.com/section/eu-priorities-2020/news/meps-slam-tusk-over-migration-summit-failure/>

¹⁴ <https://www.euractiv.com/section/future-eu/news/european-parliament-sd-co-chair-rejects-disembarkation-platforms-proposal/>

¹⁵ <https://www.euractiv.com/section/eu-priorities-2020/news/meps-slam-tusk-over-migration-summit-failure/>

¹⁶ <https://www.euractiv.com/section/global-europe/news/african-leaders-set-up-migration-body-reject-eu-migrant-platforms/>

¹⁷ <http://www.consilium.europa.eu/en/meetings/european-council/2018/06/28-29/>

It is unclear how those centres would differ from the already existing EC-backed “hotspots” established in 2015-16 in Greece and Italy. The Greek hotspots have been described by human rights organisations, MEPs¹⁸ as well as EPSU/PSI Greek affiliate Adedy¹⁹ as places of de facto detention, police violence, where fast track asylum procedures undermine the individual right to asylum and to a due process and where return procedures are carried out in breach of the ‘**non-refoulement**’ principles.

Asked whether these centres will be closed and essentially operate as detention facilities, the French Minister of European Affairs Nathalie Loiseau replied that “*these will not be closed centres, but centres from which migrants cannot leave.*”²⁰ The “voluntary basis” provision for establishing these centres was pushed by the Visegrad countries -Hungary, Poland, Czechia and Slovakia- which categorically oppose them on their territory, similarly to the Italian government, which sees the hotspots as a failure for the very reason that they are not closed centres.

Failure to discuss much needed reform of Dublin III

The Council presents the discussion on EU asylum rules as “progress,” with “close to finalisation” of the five out of seven legislative proposals made by the European Commission,²¹ a view which is not shared by the Commission’s President Juncker: “*Even where we agree, we can’t agree that we agree.*”²²

Clearly the leaders failed to reform the number one priority, namely the Dublin Regulation III, which sets out that asylum claims must be examined in the first country of arrival, in effect placing a disproportionate responsibility on austerity-stricken Southern Mediterranean countries.²³

Yet, a number of institutions have made sound proposals to reform the EU’s flawed asylum policy.

Last November, the **European Parliament** reached a consensus on an automatic mandatory relocation system via support from the EU budget and the EU Asylum Agency. In a nutshell, the proposal is that applicants with family or other links with a particular member state would be relocated to that member state. Applicants with no links to a particular member state would be given the opportunity to choose from 4 member states to register as groups of maximum 30 people, allowing applicants who have formed closed bonds during the journeys to stay together. The fairer relocation share of each member state would be based on their GDP and population. The parliament also foresees strong safeguards for unaccompanied children²⁴.

¹⁸ <https://www.ellyschlein.it/wp-content/uploads/2017/07/letterMoriadef.pdf>

¹⁹ <http://www.world-psi.org/en/psi-greek-affiliate-adedy-launches-study-refugee-crisis-and-greek-public-services>

²⁰ https://www.euractiv.com/section/future-eu/news/controlled-centres-for-migrants-not-hotspots-say-eu-leaders/?_ga=2.164690111.1073222159.1530687769-1492091089.1516697720

²¹ <http://www.consilium.europa.eu/en/meetings/european-council/2018/06/28-29/>

²² <https://www.euractiv.com/section/eu-priorities-2020/news/meps-slam-tusk-over-migration-summit-failure/>

²³ <http://www.consilium.europa.eu/en/meetings/european-council/2018/06/28-29/>

²⁴ <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&mode=XML&reference=A8-2017-0345&language=EN#title2>

The **UN's special rapporteur on migration** also made some proposals back in 2015 including resettlement of Syrian refugees and issuing temporary visa protection so that economic migrants could come and go without having to resort to dangerous routes. EPSU has long argued that improving asylum policy must go hand in hand with safe and legal channels for economic migrants, or else the latter are pushed into taking dangerous routes and de facto becoming asylum seekers after having been subject to degrading treatment by the authorities of the places that they only tried to cross to reach Europe. Libya is a case in point here.

Those proposals should be seriously considered as a matter of emergency by EU leaders.

Germany's bilateral discussions on quotas

In spite of the Council's failure to reform the Dublin Regulation, Germany is currently attempting to reach bilateral agreements with other member states on returning asylum seekers whose first country of entry is not Germany.²⁵ Such deals have already been reached with Portugal and Spain, both declaring that they will welcome refugees from Germany, and with Greece.²⁶ The Greek deal involves Germany allowing 2,900 family reunifications on its soil, while Greece takes back the 100-150 asylum seekers that are leaving Greece for Germany each month at present.

Other countries declaring to have reached deals with Germany are Finland, Luxembourg, Lithuania, Netherlands, Denmark and Estonia.²⁷ However, in each case more details are to follow. On the other hand, Poland, Hungary, Czechia clearly rejected such a deal. Countries which did not provide clear details about any potential deals are France and Sweden. Latvia declared that it is ready to have discussions with Germany, but that it has not been yet approached by Berlin. The Commission declared that such deals could serve as temporary remedies, as long as they are compliant with the Dublin Regulation.

Future developments: the Austrian Presidency's no asylum in Europe plans

According to media reports, Austria's proposal for the reform of the right to asylum includes a policy "which would allow for asylum procedures not to be processed on European soil."²⁸ This proposal seems similar to the disembarkation platforms. Regarding the other proposal of controlled centres on European soil, the Austrian far-right Interior Minister is silent, insisting on **all asylum applications to be managed outside of the EU in the future**. This view is shared by the Visegrad countries.

In addition, Austria stresses the importance of strengthening the external borders which are currently monitored by 3,000 Frontex agents. Following the latest decision of the Council, the European Commission will present in September a proposal to increase this number to 10,000 by 2020 and to extend Frontex' mandate in order to create a real border police.²⁹ The European border police will operate in EU territorial waters in the Mediterranean. However, the question of

²⁵ <https://www.politico.eu/article/germany-angela-merkel-migration-deals-not-in-the-bag/>

²⁶ <https://www.politico.eu/article/spain-greece-and-germany-seal-migrant-swap-deal/>

²⁷ <https://www.politico.eu/article/germany-angela-merkel-migration-deals-not-in-the-bag/>

²⁸ <https://www.euractiv.com/section/global-europe/news/right-of-asylum-austrias-unsettling-proposals-to-member-states/>

what will happen to those managing to cross the maritime border remains unanswered, EU sources declaring that “Europe will never do push backs. It is illegal.”³⁰ In spite of such declarations, the disembarkation platforms proposed at the last Council’s meeting and the EU-Turkey Statement suggest the contrary.

Further briefings on the Austrian Presidency’s worrying plans will follow.

³⁰ <https://www.euractiv.com/section/politics/news/commission-to-table-eu-external-border-proposal-by-september/>