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**European Policies during the Refugee Crisis: A
Challenge for EU Civilian and Normative Power**

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ΥΠΕΥΘΥΝΗ ΔΗΛΩΣΗ

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Η δηλούσα

Ελένη Γκολέμη

Ευρωπαϊκές Πολιτικές Κατά την Προσφυγική Κρίση: Πρόκληση για την Πολιτική & Κανονιστική Ισχύ της Ε.Ε.

Σημαντικοί Όροι: κοινή ευρωπαϊκή πολιτική, κανονιστική ισχύς, πολιτική ισχύς, αιτούντες άσυλο, προσφυγική κρίση, πολιτικές ασύλου, κανονισμός του Δουβλίνου, υπερεθνικός

Περίληψη

Η προσφυγική κρίση του 2015-2016 έριξε βαριά την σκιά της στην ικανότητα της Ευρωπαϊκής Ένωσης να δημιουργήσει ένα κοινό σχέδιο δράσης με την μορφή κοινών ευρωπαϊκών πολιτικών, οι οποίες από την μία πλευρά θα διασφάλιζαν την δίκαιη και ίση μεταχείριση των προσφύγων και από την άλλη θα αποδείκνυαν την αφοσίωση της Ευρωπαϊκής Ένωσης στις θεμελιώδεις αρχές της δικαιοσύνης, της ελευθερίας και της δημοκρατίας. Η Ε.Ε. είχε έντονο το αίσθημα της περηφάνειας για την πίστη της στις παραπάνω αρχές καθώς και για την διαμορφωτική ισχύ την οποία κατέχει. Η ικανότητά της να επηρεάζει τρίτες χώρες και να διασφαλίζει ένα σταθερό περιβάλλον το οποίο αποτελεί γόνιμο έδαφος για πολιτική και οικονομική ανάπτυξη καθιέρωσε την Ευρωπαϊκή ένωση ως «πολιτική» και «κανονιστική» ισχύ. Η προσφυγική κρίση, ωστόσο, οδήγησε σε μία έντονη αμφισβήτηση των πολιτικών οι οποίες εφαρμόστηκαν και οι οποίες απέτυχαν να διαχειριστούν τον ανθρωπιστικό Γολγοθά των προσφύγων οδηγώντας παράλληλα σε περαιτέρω ανασφάλεια στο εσωτερικό της Ευρώπης και αποτελώντας εμπόδιο για την συνεργασία με τρίτες χώρες για τις οποίες είχε χαθεί το γόητρο της Ε.Ε. Η συγκεκριμένη εργασία καταπιάνεται με τον βαθμό στον οποίο οι πολιτικές που εφάρμοσε η Ευρωπαϊκή Ένωση επιδείνωσαν την κρίση και αποτέλεσαν πρόκληση για την «πολιτική» και κανονιστική» της ισχύ.

European Policies during the Refugee Crisis: A Challenge for EU Civilian and Normative Power

Keywords: Common European policies, normative power, civilian power, asylum-seekers, refugee crisis, asylum policies, the Dublin Regulation, supranational

Abstract

The refugee crisis of 2015-2016 cast a heavy shadow on the European Union's ability to devise a common action plan in the form of common European policies which, on the one hand, would ensure the fair and equal treatment of refugees and on the other hand, prove the EU's loyalty to its fundamental values of justice, freedom and democracy. The European Union has taken pride in its loyalty to the above principles as well as the transformative power it possesses. Its ability to influence third countries and secure a stable environment which comprises the fertile ground for political and economic development has resulted in the EU being described as "civilian" and "normative" power. The refugee crisis, however, brought this power into question as the policies implemented did not only fail to deal with the humanitarian plight of the refugees but also led to further insecurity within the EU itself while at the same time creating an impediment for collaboration with third countries for which the European construction had lost its allure. This paper discusses the extent to which the policies enforced by the EU augmented the crisis and posed a severe challenge for its "civilian" and "normative" power.

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Περιεχόμενα

Περίληψη

Abstract

INTRODUCTION	1
CHAPTER 1: EU “Civilian” and “Normative” Power	
1.1 Introduction	3
1.2 EU Civilian Power	5
1.3 EU Normative Power	7
1.4 The Refugee Crisis as a Challenge to EU Civilian and Normative Power	9
1.5 Conclusions	11
CHAPTER 2: EU Migration and Asylum Policies	
2.1 Introduction	12
2.2 The development of EU Migration and Asylum Policies	13
2.3 Dublin II: A Challenge for EU Civilian & Normative Power	17
2.4 Conclusions	21
CHAPTER 3: A Political Crisis	
3.1 Introduction	22
3.2 What about Solidarity?	23
3.3 EU – Turkey Agreement	26
3.4 Conclusions	29
FINAL REMARKS	31
BIBLIOGRAPHY	33

INTRODUCTION

2015-2016 witnessed the escalation of a humanitarian crisis whose magnitude, momentum and character posed a great challenge for the European Union, one might say even greater than the preceding economic crisis, in the sense that it exceeded the boundaries of its nature and developed into a political crisis for the EU, a crisis of its own identity. The EU was faced with the moral dilemma of either pleading allegiance to the principles of justice, freedom and democracy which pervade all of its founding treaties and subsequent documents or adopting a more rationalistic approach which would balance between the desire to remain faithful to its values and safeguard its borders. The greatest challenge of all proved to be the construction and implementation of a common European migration and asylum policy which would ensure the protection of migrants and a fair distribution of the responsibility among Member States. It was not, as it seems, a path strewn with roses. Nationalistic sentiment assumed control of the situation and the EU failed to fulfil its ambition of acting as one entity. The end product does justice to no one. Unfathomable death toll, migrants trapped in the reception facilities of the South without any legal status, a divided EU, followed by a significant loss of its credibility.

On a theoretical level, the refugee crisis has once more sparked the debate over the European Union's identity and the role that it aspires to play in international affairs. The EU has proclaimed itself as a non-military power but one which is founded on ideals and norms and thus one which wishes to diffuse these ideals into the rest of the world through political and economic cooperation with third countries. This has led to the articulation of two dominant theories regarding the nature of the EU, namely the EU as a 'civilian power', a theory proposed and endorsed by Francois Duchene in the 1970s and that of the EU as a 'normative power', coined and supported by constructivist theorist Ian Manners at the beginning of the 20th century. Although both theories converge as regards the value-oriented approach that the European Union has been following ever since it was created, there is differentiation when it comes to the processes and the means applied in the exertion of its power on its Member States and third countries.

This paper discusses the effect which the refugee crisis had both on the ‘civilian’ and ‘normative’ power of the EU. In the first chapter, the paper presents the theoretical background that will provide the basis for the analysis of EU response to and policymaking during the refugee crisis. Francois Duchene’s theory of ‘civilian power’ and Ian Manners theory of ‘normative power’ will be presented and analysed with reference to the EU and the ways in which it dealt with the 2015-2016 humanitarian crisis. Chapter 2 will attempt a thorough analysis and critique of EU policies prior to the refugee crisis and how these changed or developed as a result of the massive influx of asylum seekers in EU territory, placing special attention to the Dublin Regulation. Finally, Chapter 3 will deal with the political crisis that was brought about as a consequence of EU policies during the migrant crisis, focusing primarily on the deepening of the existing divisions between the European North and South, the EU – Turkey Statement and the detrimental effect these had on the EU’s civilian and normative power.

CHAPTER 1

EU “CIVILIAN” AND “NORMATIVE” POWER

1.1 Introduction

Following the end of World War II, the need for the establishment of a European coalition force which would act as both a deterrent to further nationalistic insurgencies and a platform which would enable political and economic collaboration among European states dawned as an ideal alternative to centralized state-governance and isolation and as such an opportunity for Europe to regain its rightful place in global politics and international affairs. The 1951 Treaty of Paris¹ and the 1957 Treaty of Rome² set the foundations for economic integration soon to be followed by the Schengen Agreement³ for open borders and free movement within the member states. Its economic character notwithstanding, the European Union is inextricably associated with the fundamental values of democracy and human rights as those are explicitly stated in Article 2 of the Treaty of the European Union “The EU is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.” (EUR-Lex, 2012). However, attributing specific characteristics to the EU has not been an easy process nor has its place in the international affairs discourse. It is the end of the Cold War which signifies a turning point for the EU and its role in global politics, as maintaining peace and stability, ensuring progress and facilitating multi-lateral cooperation within the framework of a globalized political and economic system could only be achieved through adherence to the core values of respect for diversity

¹ The Treaty establishing the European Coal and Steel Community (ECSC) [1], or Treaty of Paris, was signed on 18 April 1951 and came into force on 23 July 1952. For the first time, six European States agreed to work towards integration. This Treaty laid the foundations of the Community by setting up an executive known as the ‘High Authority’, a Parliamentary Assembly, a Council of Ministers, a Court of Justice and a Consultative Committee.

² The provisions of the EEC Treaty (the Treaty of Rome) [2] included the elimination of customs duties between Member States; the establishment of an external Common Customs Tariff; the introduction of common policies for agriculture and transport; the creation of a European Social Fund; the establishment of a European Investment Bank; the development of closer relations between the Member States.

³ “The Schengen Agreement” covers the gradual abolishment of the internal borders between countries and extended control of the external borders, was only signed on 14 June 1985.

and human rights, rule of law and democratic governance in accordance with the United Nations Human Rights Charter. Therefore, Duchene's theory of EU as a "civilian power" followed by Ian Manners' "EU normative power" emerged, initializing yet another round of contestation amongst International Relations theorists regarding the EU's place in world politics. These theories will provide the theoretical background for this paper whose purpose is to assess whether the EU was still able to maintain its civilian and/or normative power during the 2015-2016 refugee crisis.

When on October 3, 2013 a boat carrying more than five hundred people making the hazardous journey from Africa to the tiny island of Lampedusa in search of a better life went up in flames resulting in the demise of in excess of 300 souls, the European and international community was aghast⁴. The Italian President Giorgio Napolitano went so far as to call the accident "a succession of true slaughters of innocents" and Jean-Claude Mignon, head of the Council of Europe's parliamentary assembly a tragedy that had to end (The Guardian, 2013).

However, this unfortunate event which forced the European Community to stand up and take action against illegal transit of humans was neither the culmination nor the beginning of the end for one of the worst refugee crises the world has witnessed. In 2015, approximately 900 people were lost at sea⁵. The months that ensued saw a staggering rise in the number of refugees and other migrants trying to cross the Mediterranean either through legal means but mostly as victims of traffickers making the migrant issue the most important problem that the EU was forced to tackle. A problem which shook "the most basic and fundamental beliefs of the Union: its solidarity among 28 countries, its ethos as a humanitarian power, and its symbols and policies demonstrating its deepening process. It is a question of border control, migratory policies, political unity, normative and ethical behavior, and foreign affairs" (Larivé, 2015, p.1).

This chapter will provide an analysis of Duchene's theory of the EU as a civilian

⁴ Survivors confirmed to UNHCR that they had left on Saturday from Libya on rubber dinghies and had been at sea without food and water. Aside from those on the first boat that UNHCR reported on, only two out of about 100 passengers survived on a second dinghy and seven out of about 100 people on a third one. The youngest of the missing was a 12-year-old boy.

⁵On April 18, 2015 overcrowding and incorrect maneuvers cause a shipwreck in the Strait of Sicily with at least 700 victims. Some witnesses spoke of up to 900 victims, making it the most serious tragedy of all. Only 28 people survived.

power followed by Ian Manner's theory of EU as a normative power, and will proceed with discussing the challenges facing the theories mentioned above as a result of the 2015-16 refugee crisis.

1.2 EU 'Civilian Power'

The kind of power that the European Union holds has been a source of preoccupation ever since it came into existence. For a very long time, it has been depicted as the source of 'good', a political entity wishing to resolve all issues in a peaceful, diplomatic manner. It is true that both the Cold War and conflicts within European territory forced the EU to develop specific mechanisms that would enable it to safeguard its own existence, adopt to a new political and economic system and find its own identity in a globalized world. In this process, the EU has had to face numerous challenges ranging from political scandals and economic crises to the 2015 refugee crisis and the current sanitary one. These along with the Union's lack of uniformity, and political will created the need for a restructuring in EU institutions, a revision of its goals and methods of achieving them and, equally significant, a redetermination of its place in international affairs.

Undeniably, the EU has never aspired to become a new military power, rather a civilian and economic one, the two being closely connected. The protection of the national borders of member states is, first and foremost, a national issue, and although they also constitute the external borders of the Union, decisions are made on a national level (European Commission, 2020). It becomes evident, therefore, that the EU is mainly preoccupied with developing diplomatic, financial and even cultural mechanisms that will allow it to enhance and consolidate its power through democratic means⁶. The ability to possess and exert civilian power revolves around three fundamental pillars: the need for synergy with the aim of accomplishing national goals, the development of non-military means to achieve those goals, and the willingness to create supranational institutions in order to handle critical global issues (Maull, 1990, p.92). As regards the European Union, it is considered to be a paradigm

⁶ According to Duchene, characteristic examples of EU civilian power include the enlargement process, the European Neighbourhood Policy (ENP), trade agreements and developmental aid to third countries, political pressure through its active participation in international fora etc.

of civilian culture, capable of exerting civilian influence over other states with the use of solely political means (Duchene, 1973, pp.17-34). Those means include international cooperation, solidarity, corroboration of international law and responsible conduct sprung by and diffused through the principles of justice, equality and tolerance (Duchene, 1973, pp. 23-27), (Maull, 1990, p. 98).

The ways in which the above means are applied is also of great significance in the exertion of civilian power. The power of persuasion, the implementation of a reward system, the impending threat for and imposition of sanctions, the carrot-and-stick method are pivotal in the consolidation of a political organisation's civilian power while public dialogue and open debate on matters of foreign policy help promote democratic procedures. By combining the four aforementioned elements, namely means, goals, incentives and democratic processes we can provide a definition of civilian power (Smith, 2000, pp.11-28).

With reference to the EU, the question whether it comprises primarily a political power is a challenging one. Let us consider the four parametres that, as referred to previously, provide the definition for civilian power. In terms of means, while it is commonly accepted that the EU prefers to refrain from any sort of military intervention in conflict-ridden regions, the inclusion of the "Petersburg Tasks"⁷ in the EU's Common Foreign and Security Policy (CFSP) attach a slightly more invasive character to the Union's foreign policy (Duchene, 1973, pp.23-45). Critics of the EU as a civilian power regard the ability provided to the Union to deploy military troops to third countries as a direct breach of its democratic character and render it a military power. However, according to the revised definition regarding the Union's capacity for military intervention, drafted in 2003 "The Union may use them [...military assets] on missions outside the Union for peacekeeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter" (Article 43, Treaty on European Union). As long as military means are used for maintaining peace and stability in the form of peacekeeping operations, then the EU has not wandered far from its civilian nature. Concerning goals, the

⁷ These tasks were set out in the Petersberg Declaration adopted at the Ministerial Council of the Western European Union (WEU) in June 1992. They have covered humanitarian and rescue tasks; conflict prevention and peace-keeping tasks; tasks of combat forces in crisis management, including peacemaking; joint disarmament operations; military advice and assistance tasks; post-conflict stabilisation tasks.

second element of ‘power’, these refer to the EU’s ventures to ensure protection of human rights in third countries, whether via democratic dialogue, incentives or military intervention under the auspices of the United Nations and in the form discussed above. The element of persuasion can be described as the most frequently employed mechanism on the part of the EU. However, it does possess a dual dimension; one of rewards should a state abide by EU conditions (as is the case with EU conditionality) and another of penalty, most often in the form of economic sanctions (Smith 2000, pp.11-28) . Finally, the European Union has often been criticized as suffering from a democratic deficit. And despite the fact that most European citizens are pro-EU, the Union’s institutions deem rather complex and unappealing to most. Also given the fact the EU is not a state with its own government, it conveys the image of a weak institution unable to exceed national interests. However, significant progress has been made with the European Parliament (EP) assuming a more legislative character compared to its initial advisory one especially as a result of the Lisbon Treaty⁸.

The various crises that the EU has had to face have rendered it mandatory to revise many of its policies and regulations. The refugee crisis in 2015 put an additional strain on member states and European Institutions frequently bringing the question of the validity of its civilian power to the surface. The following chapter will identify the changes in EU migration policies and explore whether, the unprecedented circumstances notwithstanding, the Union managed to maintain its civilian nature.

1.3 EU ‘Normative Power’

As opposed to François Duchêne’s “civilian power”, conceptualized as a combination of tangible and intangible power in the form of non-military economic coercion and dissipation of values and ideas respectively, Ian Manners’ initial theory of “EU normative power” focuses on norms as the undeniable vehicle for the exertion of power, especially given the fact that the USSR’s decline and the reunification of

⁸ The Lisbon treaty, which came in force in late 2009, brought new law-making powers to the European Parliament and put it on an equal footing with the Council of Ministers in deciding what the EU does and how money is spent. It also changed the way the Parliament works with other institutions and gave MEPs more influence on who runs the EU.

Germany had paved the way for more peaceful, democratic forms of governance. According to Manners, as norms we define a set of principles which govern human conduct aiming at regulating a group's actions and reactions to a given situation (Manners, 2000, pp.235-238).

With reference to the EU, Manners maintains that its supranational value-oriented character purports to exert influence on other states in the international arena. The EU could, therefore, take on the role of mitigator, bridging the gaps between states within a globalized environment. These regulating principles, ubiquitous in all its official documents, treaties, agreements, policies and institutions, are founded on two equally important pillars, each the product of variables existing at the time they were applied. According to the first pillar, the EU cannot exist detached from the fundamental values of peace, equality, freedom, democracy and rule of law. On a subsidiary, yet equally significant level, the EU cannot proceed without emphasizing on social progress, sustainability, and justice (Manners, 2006, pp.197-203). Consequently, from its birth throes , it became apparent that the EU could not function solely as an economic alliance, but as a '*sui generis*' political entity whose aim would be to achieve economic, social and scientific progress and ensure stability through the diffusion of its fundamental values.

EU normative power is facilitated through the involuntary transmission of ideals in third countries. The EU functions as a beacon of democracy and freedom. Its policies, its open democracy and its civilian nature have a certain appeal on states where democratic expression is the exception rather than the rule. Dissemination of information through diplomatic démarches, the establishment of communication channels with third countries and political initiatives for cooperation are of equal importance, while on an institutional level, the EU tries to forge regional agreements and co-operations, participation in international organizations and, of course, achieve enlargement. Trade agreements⁹ with third countries which include the import and

⁹ There are three main types of trade agreements with third countries:

- a) Customs Unions which eliminate customs duties in bilateral trade and establish a joint customs tariff for foreign importers.
- b) Association Agreements, Stabilisation Agreements, (Deep and Comprehensive) Free Trade Agreements and Economic Partnership Agreements which remove or reduce customs tariffs in bilateral trade.
- c) Partnership and Cooperation Agreements which provide a general framework for bilateral economic relations and leave customs tariffs as they are.

export of products but also information on up-to-date methods of production, also hold central position in the diffusion of European principles (Manners, 2000, pp.235-238).

It becomes evident, therefore, that EU member states share common principles of peace and security, democracy and human rights, development and sustainability and a desire to use their ideological and economic power to shape world politics. The economic and refugee crises, nevertheless, put EU normative power to the test. Its response ranged from totally consistent with its principles and the ideals it has been trying to disseminate to introverted and undermining of human rights. On the one hand, policies were revised in order to include more mechanisms that would ensure the just treatment of refugees, proving once more that the EU can act as a paradigm of virtue, while on the other hand morally questionable agreements were made with third countries so as to guarantee the safety of EU borders, a practice which comes in stark contrast with the EU's normative power (Woollard, 2018, pp.151-152).

1.4 The Refugee Crisis as a Challenge to EU Civilian and Normative Power

Having established that the EU has the potential to act both as a civilian and a normative power through the implementation of common internal and foreign policies, it is important to examine the challenges that were posed as a result of the refugee crisis of 2015-2016.

For many scholars and political analysts, except for the obvious humanitarian implications that the refugee crisis entailed, it should be viewed as a political crisis which almost brought the EU to its knees and resulted in a contemplated contestation of its place and power in international affairs, as well as exerting further strain on the heavily burdened identity crisis within the European Union. Setting the economic encumbrance aside, the greatest blow was sustained by the EU's value system as that is laid down in the Treaty of the European Union (TEU), more particularly with reference to violation of human rights.

In a juxtaposition between civilian / normative power and the EU's critical decisions in policy-making, it becomes clear that the refugee crisis weighed heavily upon the Union, taking an immense toll on the latter's prestige, at times transforming it from a political entity with respect for human dignity to virtually a military power, or to say the least a close-knit community which had been distanced from its fundamental principles and denuded of its idealistic cloak. In an effort to prevent further inflow of migrants in its land, the EU resorted to agreements of questionable ethics, as the one contracted with Turkey in 2016, which will be discussed in a succeeding chapter of this paper or the agreement between Italy and Libya (Woollard, 2018, p154). This type of shadowy accord with third countries and a subsequent silent acquiescence of their search and rescue methods or the conditions in which refugees were forced to live is testament to the EU's failure to function as a normative or civilian power, especially if we take into consideration that it is those states that the Union has been striving to instill its ideals in with the aim of promoting peace and stability in the wider Mediterranean region and forging profitable economic partnerships.

As regards the Union's goals during the refugee crisis, they appeared to have gradually shifted from humanitarian to self-protectionist. Through the application of certain policies, to be analysed in the next chapter, the EU did not only fail to cater for a large number of displaced people many of whom are still without legal status but also to perpetuate their suffering in an endless blame game. Even when the power of persuasion was used by the EU, as in the case of the agreement with Turkey, it was done so in a climate of fear also central in the way migrants were presented by the media. Islamophobia and a sense of insecurity accompanied by the rise of far-right political entities became more and more prevalent. Concludingly, The EU had suffered a direct hit to its power to influence the rest of the world through the diffusion of its core values.

1.5 Conclusions

As a relatively young political entity, the European Union has gone a long way towards forging its own personality. It is undeniable that ever since its establishment, it has been faced with numerous crises all of which have posed a challenge but which have also acted as springboard for revising policies, achieving international co-operations and consolidating the Union's power in global affairs. Primarily an edifice founded on the principles of respect for human rights, solidarity, and democracy, for many the EU has served as humanity's beacon of hope for a more inclusive political system devoid of militaristic characteristics. In fact, this persistence of the EU to always act upon its founding principles is what gave rise to the theories of the EU as a civilian and normative power, expressed by François Duchêne and Ian Manners respectively.

As discussed in this chapter, the European Union has focused its efforts on effectuating progress, development and sustainability through civilian means with the implementation of four elements, namely goals, means, persuasion and democratic processes (Smith, 2000). Even though many of its critics find fault with the ways the EU has tried to balance between values and power, it can be said that to a large extent it has managed to maintain its loyalty to its founding principles while at the same time ensuring and promoting collaboration outside its sphere of influence and particularly with third countries. For Ian Manners, this has been achieved through the EU's normative power, that is its ability to exploit its very nature in order to instill third countries with European ideals and secure good relations. Naturally, the process has not been easy or unimpeded and there have been times when the EU has been faced with ethical dilemmas but has managed to strike a balance and maintain its prestige.

However, the 2015-16 refugee crisis pushed the EU towards the opposite direction. Although initial response was consistent with all that the Union stands for, the non-stop influx of migrants which ended in a humanitarian crisis of unprecedented rates putting an unbearable strain on EU member states, exposed the Union in the eyes of the international community and brought to the surface vast gaps that exist among European states. Its role as a civilian and normative power was put under the

microscope and although the Union survived that crisis as it did with all the rest, its prestige had suffered a severe blow.

CHAPTER 2

EU MIGRATION AND ASYLUM POLICIES

2.1 Introduction

EU Migration and Asylum Policies cannot be regarded irrespective of the fundamental values of cooperation, respect for human dignity, solidarity, freedom of movement, democracy and the rule of law that comprise the very core of EU existence, nor, however, can they be detached from the essential identity crisis that has been plaguing EU member states ever since the Union's creation along with an inherent inability to exceed national interests and function on the much desired supranational level. As such, forging and implementing a concrete migration and asylum policy has been an arduous, formidable and protracted venture while integration has largely depended on national variables, which will be thoroughly analysed in the next chapter.

Before attempting to construe the modifications that EU Migration and Asylum Policies have sustained, it is imperative that the distinction between migratory and refugee flows is made as that can, to a certain extent, account for inconsistencies and delays in the reaction of the EU during the 2015 refugee crisis. According to the European Migration Network (EMN), a migrant is defined as “a person who establishes their usual residence in the territory of an EU/EFTA Member State for a period that is, or is expected to be, of at least 12 months, having previously been usually resident in another EU/EFTA Member State or a third country”. Although on an international level, neither the causes nor the routes of migration are of any particular significance for institutions and integration procedures, for the EU the term ‘migrant’ has been largely, if not utterly, associated with voluntary migration in search of employment and better financial prospects. An asylum seeker, on the other hand, is protected by international law and any attempt at deportation or expulsion is

precluded though their status is yet to be determined (European Parliament, 2017). The 2015 refugee influx, therefore, caught EU member states and institutions completely off-guard with the former struggling to either refashion or maintain existing policies and the latter to upgrade those same policies with a view to achieving minimal impact on European economies, while, concurrently, ensuring social appeasement and indicating consistency with EU fundamental principles. Consequently, the challenging task of an aligned migration and asylum policy proved to be even more daunting. As mentioned above, migration is considered to be a voluntary act, thus clearly connected to freedom of choice as migrants opt for the country they would prefer to immigrate to, follow specific procedures which enable them to reside and work in a EU member state, in turn detracting any element of surprise or massiveness from the entire process while, at the same time, facilitating integration.

However, the civil war in Syria flipped the scales and led to a humanitarian crisis of unthinkable proportions. The hordes of displaced people that reached the shores of Europe mostly through illicit means of transit infiltrated ‘illegal’ immigrants. This sudden and, for European standards, unprecedented influx of migrants in 2015, blurred the line between solidarity and the imperative need to strengthen and protect European borders, hence stripping the EU from its own values and, to a degree, annulling its civilian and normative power. In this chapter, we will examine the changes in European Migration and Asylum policies focusing on the effects of the Dublin Regulation and its subsequent developments, Dublin II and III, and exploring whether these policies were in consistency with EU normative and civilian power.

2.2 The Development of EU Migration and Asylum Policies

Regulating migration has been on the EU’s agenda since the 1990s primarily assuming the form of preventative measures against transit countries with the sole aim of protecting European borders. Nevertheless, long before forging their own official policies, all EU member-states had co-signed and were, as such, subject to the 1951 Geneva Convention and its subsequent New York Protocol (1967) relating to the Status of Refugees which established the principle of ‘no return’. Based on the

Geneva Convention, all people forced to flee their country of origin for fear of being persecuted on the grounds of their race, religious and political beliefs, ethnicity, should enjoy protection by all signatories if requested (UNHCR). For the member states of the EU, however, migration had for many years been a national issue for which individual countries had developed their own national policies and legal procedures. But compliance with the decisions of the Geneva Convention presupposed international cooperation forcing the EU to reconsider its stance towards the migration issue, devise a legal framework and forge the right conditions for the development of a common European policy. To that end, five EU member states (France, Belgium, Luxemburg, Germany and the Netherlands) promoted the idea of free mobility, which in 1994 came into effect as the Schengen Agreement. The Agreement called for the elimination of internal border control and the enactment of common external borders. With reference to migration, the Schengen Agreement is of paramount importance as it emphasizes effective management of the EU's outer borders that can only be achieved on a supranational rather than on a national level.

In the 1990s, the gradual increase in the number of migrants wishing to enter EU territory, however, prompted member states to take the adoption of a common European migration policy further in an attempt to regulate migratory flows in a just and equal manner for all member states. To this end, the EU has worked laboriously in order to devise a Common European Asylum System (CEAS) as a means of providing fair treatment to asylum-seekers on the one hand, and ensuring that the burden of migration is equally distributed among European Union countries on the other. The basis for and simultaneously the primary impediment in this effort appears to be the Dublin Regulation, initially adopted in 1990.

The dominant rationale behind the Dublin Regulation was imposing a limit both on the number of migrants who actually reached the European borders and the number of those who applied for asylum in a country of their own choosing, a term widely known as 'asylum shopping'. According to the Dublin Regulation, the right of a person to seek asylum is non-negotiable; however, the prerogative to opt for a specific state should not be granted as that would impose an insurmountable burden on the wealthiest countries in the Union, namely those in the North (European Council on Refugees and Exiles, 2006). The significance of the Dublin Regulation with reference

to EU normative power does not only lie in the fact that it denies asylum-seekers the right of free movement, as that is explicitly stipulated in the UN Human Rights Charter or that it runs counter to the Schengen Agreement and ‘The Treaty of Amsterdam’¹⁰ given the fact that migratory routes quite often include countries outside the EU but still members of the Schengen area, but also in the Regulation’s character as it constitutes an international legal document.

In 2003 the Dublin Regulation was replaced by Dublin II. The amendment aimed to delineate the member state responsible for the evaluation of an asylum petition. In essence, should a refugee seek asylum in an EU country upon which it is not incumbent to accept or decline the request, then the asylum seeker in question must return to the designated member state and repeat the same procedure (European Council on Refugees and Exiles, 2007). Although the amended Dublin Regulation aspired to prevent the phenomenon of ‘refugees in orbit’, i.e, the same refugees seeking asylum in numerous European states, by strengthening asylum procedures and empowering institutions, it continued to put a strain on countries of first entry, particularly those in the South of Europe as they were the ones that had to sustain the bulk of the migration flows during 2015-2016. Dublin II was further amended in 2014 (Dublin III) to include more explicit criteria that would be applied when determining the member state responsible for asylum evaluation as well as concretising the mechanisms that would facilitate the process. The inclusion of Eurodac in Dublin II made it possible to identify the first country of entry through the construction of a database system which was utilized as a means of collating finger prints and as a result, determining the country responsible for processing the asylum request. In addition to Eurodac, Frontex was also included in the Regulation with the purpose of managing EU external borders, preventing illicit migration and combating migration-related criminal activity in an environment of co-operation not only with EU member states, through the application of the European Border Surveillance System (EUROSUR), but also with other stakeholders, namely transit countries outside the EU (Frontex, 2021). The Dublin II Regulation has been extensively used throughout the negotiations between the EU and Turkey with the former insisting that Turkey, a non-member state, adhere to the Regulation and the latter refusing to do so unless the

¹⁰ The Treaty of Amsterdam makes explicit reference to human rights and to the principles of freedom, democracy and rule of law.

refugees' countries of origin concur as well, which is to be discussed further down in this paper.

Following the Dublin Regulation, the European Council approved the Hague Programme in November 2004. The Hague Programme emphasised ten priorities that would act as pillars for a carefully designed action plan that would ensure 'freedom, security and justice' in the EU (European Commission, 2005). The Programme prioritised developing policies that would facilitate citizenship, prevention against terrorist attacks, the necessity to develop a common European policy on migration and visa issuance alongside a more systematic control of European borders, a common asylum area, incentives for the integration of migrants, maintaining a balance between privacy and security, strengthening Europol and Eurojust in their struggle to counter organised crime, ensuring unimpeded access to law enforcement and judicial institutions and urging all member states to demonstrate solidarity (European Commission, 2005). Special attention was paid to the EU's responsibility to enhance third countries in their efforts to cater for refugees, on the premise that provision of international assistance is of utmost importance for EU foreign policy. The particular Programme is integral in the civilian and normative power narratives as it highlights not only the urgency of the migration issue but also the compelling need to act upon it in a unified manner in complete accordance with the EU *acquis Communautaire*, the UN Human Rights Charter and the Geneva Convention.

The Stockholm Programme ratified in 2009 by the European Council covered a time span of five years (between 2010 and 2014) and functioned as a road map for EU in upholding 'security, freedom and justice'. Basically, the programme reaffirmed the legal framework activated through Dublin II but also expanded in order to include new priorities like provisions for unaccompanied children and establishing an Anti-Trafficking Co-Ordinator (Council of the European Union, 2009). Even though the Stockholm Programme was a step towards the right direction and proved the EU's determination to deal with migration flows in unison, its advisory character was not enough to promote large-scale co-operation among member states. The decisive step was taken with the enactment of the Lisbon Treaty in 2009 (initially ratified in 2007). The Treaty solidified previous efforts to create a common legal framework and consequently a common European policy by clearly stipulating the need for unified

asylum procedures. Both the European Parliament and the European Court of Justice were granted more authority on legislature. According to the Lisbon Treaty, the establishment of ancillary and provisional protection, common procedures for the granting of and abjuration of asylum status or protection, unified criteria and mechanisms for the determination of the member state burdened with the obligation to review the asylum petition, standards determining the well-being of all migrants upon entering European territory and synergy with third countries were the most opportune way of ensuring that asylum seekers would enjoy fair and humane treatment, the idea of “no return” would be reinforced, all member states would abide by the terms of the Geneva Convention under one common policy and the EU in its entirety would strengthen its supranational character (European Parliament, 2013).

2.3 Dublin II: A Challenge for EU Civilian & Normative Power

As mentioned previously, cooperation and solidarity among EU member states comprise the basis for the perpetuation of the European Union construction alongside respect for human rights and the rule of law. The Dublin Regulation in all its forms has aspired to strike a balance between upholding the aforementioned principles while at the same time protecting EU borders, achieving a fair distribution of migrants across the EU and facilitating integration. Nonetheless, despite its ambitious character, the Dublin Regulation is not without its shortcomings most of which relate to an inability on the part of EU member states to supersede national interests and assume the burden of mass migration on equal terms and a deficiency in safeguarding the human rights of migrants reaching the European shores. Through thorough inspection of the successes and failures of Dublin II and III, this section will venture to discover whether and to what extent the EU has achieved to fulfill its role as the world’s herald of democratic institutions and guardian of human rights, and hence reinforce its civilian and normative power.

Dublin II varied in comparison to The Dublin Regulation in the sense that it was incorporated in the European legal system as an official document and that it adopted two additional clauses: the humanitarian clause and the sovereignty clause (ECRE, 2007). Both clauses provide the opportunity to diverge from the criteria described in

the Regulation as a means of protecting the fundamental human rights of asylum seekers. Indicative of the reformatory power of the sovereignty clause is article 3 which clearly states that a migrant seeking asylum should not be returned to the first country of entry if there is concrete evidence which proves that the country in question lacks the organizational structure that would enable the unencumbered operational asylum procedures during and after the migrant enters European soil (ECRE, 2007). In case a member state is verifiably unable to ensure humane conditions for the migrants then, in obedience to the sovereignty clause, they are granted the right to “escape”. The humanitarian clause, on the other hand, provides the member state where the process of determining the first country of entry is held to request from another member state to assume responsibility of an asylum seeker on the basis of reunification either with a family member or other migrants of common cultural background. Of course, accepting or refusing the request is upon the state to which the request is addressed as long as there is substantiated evidence of its inability to cater for the migrant in question (ECRE, 2007).

Protection of unaccompanied minors was one more parameter that took front stage with Dublin II. According to the renewed Regulation, the concept of family broadened in order to include not only first-degree relatives but also members of the extended family or in absence of any such members an adult designated by the country responsible for evaluating the asylum request (European Network of Guardianship Institutions, 2016). On the same note, member states were required to secure a point of contact whose duty would be to represent the unaccompanied child in all legal matters regarding the latter’s petition. Special provisions were made for the reunification of vulnerable groups such as pregnant women, migrants suffering from serious ailments or disability with their offspring or other members of their family.

With the second revision of the Dublin Regulation, mechanisms became more intricate and varied moving away from mere paperwork to more constitutive methods of screening migrants entering the EU. More specifically, member states were obliged to provide information, and legal advice to all migrants. An interview with individual asylum seekers was also included in the Regulation in an effort to keep them updated with the content of Dublin II and III, the procedures in order as well as their lawful

rights, including their ability to litigate against a decision to be transferred to another member state. Even more importantly, the plaintiff could not be compelled to leave the country for as long as the legal procedures were in progress.

As regards EU adherence to its fundamental principles, incorporating the above amendments in the Dublin Regulation, on the surface, seems to facilitate the process of asylum issuance as the additions made equipped EU member states with the necessary tools to handle the influx of displaced peoples with efficiency and respect for human dignity. Taking into account all the provisions that were made in order to reunite families, bring people of the same cultural background together, give migrants the opportunity to plead their case in a court of law, all point to a EU which placed the human being and not national or regional interests in the centre of the refugee crisis discourse. On a European level, the Dublin Regulation created a common policy and legal framework for all member states thus extracting the national element from the equation.

One might argue, however, that the intricacy of the procedures effectuated the opposite result for people who had fled their countries and either through legal or illegal means had reached the EU's outer borders. Having to undergo endless bureaucratic screening processes, being detained in reception centres while waiting for their request to be examined have been criticized not only for fabricating impediments but also as a method applied by the EU with the purpose of deterring more migrants from making the journey to Europe. If this is the case, then the EU could not be standing any further from its target to instill democratic and humanitarian ideals in the rest of the world.

The idea of holding the country of first entry solely responsible not only for the evaluation of migrant requests but also for the preliminary care and subsequent integration of asylum seekers might not have been of major significance during the 1990s when the Dublin Regulation was first drawn up but, eventually, following the events of the Arab Spring and the domino effect that ensued leading up to the Civil War in Syria proved almost detrimental for solidarity amongst EU member states. The burden of providing for the refugees and other migrants fell exclusively on the EU's periphery namely Greece, Italy, Spain and even Malta. What is most noteworthy in the development of the common European migrant and asylum policy is the

intensification of border control with the aim of obstructing entry in the EU of illicit migrants. It is natural, therefore, that such acts of crackdown also affected refugees and those entitled international shelter. The Dublin Regulation established a link between the countries responsible for examining and granting asylum and their inability to effectively control their outer borders. Given the fact that the external borders of the EU are also the national borders of the countries around the periphery, a more systematic approach had to be adopted. That is not to say, of course, that the member states seized to be sovereign states as regards border control, but as a consequence of Dublin II and III cooperation among states became pivotal in fighting illegal migration, which was achieved via the application of modern technologies in addition to more traditional methods, such as security and military forces.

With reference to EU periphery, we should not disregard numerical data. The number of refugees and other migrants that reached European external borders between 2015 and 2016 was not only staggering in itself but also totally disproportionate to those countries' GDP, rendering their chances of integration quite dim. To a large extent, this reality accounts for the migrants' preference for member states with higher rates of development which had the capacity to cater for vulnerable groups. The combination of a lack of willingness on the part of migrants to seek asylum in the first country of entry with the inflexibility of Dublin II and III, though on a smaller scale, presented further obstacles in the application of the Regulation and contributed to extensive criticism aimed at the EU for inhumane treatment and a shortage of political will.

What can be deduced, therefore, is that despite progress that was made with the introduction of Eurodac and more systematic checks in the first countries of entry along with more formalized processes across European Union member states, the Dublin Regulation proved ineffectual and counter-productive. Migrants still found their way to Northern and Western European states putting an additional strain on EU budget while, as indicated above, Europe came in for severe scrutiny from the international community for having violated the Geneva Convention.

Another thorny issue is that of the establishment of the European Border and Coastguard Agency (FRONTEX). The Agency's primary duty is to coordinate joint missions among member states using sophisticated technology. FRONTEX, however,

is limited to surveillance and is in no way charged with the obligation to protect migrants as, in essence, it does not function under the auspices of the European Parliament, thus lacking legalization and raising the question of a democratic deficit within the EU. Added to that is a frequent grievance expressed by political forces in the interior of the Southern European states regarding the staggering cost of such joint missions as they require state-of-the-art technology. It is a commonly held belief that the promotion and maintenance of such missions is done at the expense of the budget allotted to member states so as to reinforce welcome and integration processes¹¹.

The EU's orientation towards a closed-knit border control mentality also becomes apparent in the time period preceding the refugee crisis whereby the EU allocated 4 billion euros to the Solidarity and Management of Migration Flows Programme (SOLID), 1,8 of which was granted to the External Borders Fund (EBF) and barely 17% ending up in the Asylum, Migration and Integration Fund (AMIF) (Westerby, 2019, pp.15-21).

2.4 Conclusions

It can be inferred, therefore, that EU migration and asylum policies demonstrate Europe's propensity to construct an almost impenetrable wall around its outer borders. This wall shares both tangible and intangible characteristics as it takes the form not only of fences and elevated vigilance on the ground and at sea but most importantly that of a tight legislative framework which renders entry to the Union of citizens from third countries highly unlikely and exceedingly burdensome. Conclusively, the end product seems to be entirely at odds with Europe's self-proclaimed devotion to the values of respect for human dignity and solidarity giving rise to the rhetoric of "Fortress Europe", a term coined to encapsulate the underlying premise of common European migration and asylum policies. The term itself carries a military connotation placing the EU in the midst of a battlefield in which European member states are on the defensive and migrants on the offensive side and comes in stark contrast with its

¹¹ Only 33.5% out of the 9,26 billion euros was allocated to member states so as to improve living conditions for the migrants and promote integration programmes while the remaining 66.5% was granted to agencies and border management.

founding principles. The fear of illegal immigration soaring seems to have had a profound effect on EU officials who have opted to turn a blind eye to the plight of refugees as they try to balance between their duty to the EU's mission and national interests. Such a divided European Union can hardly be a role model for third countries nor maintain its transformative power.

CHAPTER 3

A POLITICAL CRISIS

3.1 Introduction

In the previous chapter, the policies that the European Union implemented were thoroughly discussed. The common element in these policies is that they all aimed at creating a protective legal element for those seeking asylum. The Dublin Regulation being the most prominent document on the migrant issue caused both approbation and discontent. We have proven that despite the good intentions on the part of EU institutions, the Regulation is forged in a way that favours certain Member States while at the same time it violates the terms of the Geneva Convention. The situation is aggravated by Member States themselves which do not always comply with EU regulations and establish their own national policies in an effort to protect national interests and by the EU's propensity to externalize its borders.

During the first half of the 20th century, and especially after World War II, the countries of the North relied on refugees to assist them in the development of their industries, however, this changed in the 1970s and in the 1990s, migrants were viewed with suspicion and were no longer welcome. National policies aimed at impeding access to a given Member State, rendering visa and asylum issuance a daunting and time-consuming task, generally cultivating a climate of uncertainty for those wishing to migrate to the EU. To this end, the European Pact on Migration and Asylum was drawn up in 2008. On the one hand, the Pact promoted integration of legal migrants, recognizing their usefulness for the European community and

referring to the EU as an asylum area (Council of the European Union, 2008) while on the other hand, it emphasized border control.

The above discrepancy served as the foundation for EU and Member States course of action during the 2015-2016 refugee crisis. Loyal to its values, the EU could in no way refuse to accept displaced people seeking international protection and indeed during the first few months of the crisis, took action that could be described as accordant to its founding principles. However, as the situation deteriorated and the number of migrants crossing EU borders in order to reach the countries of central and Northern Europe soared, EU institutions failed to live up to the expectations of many of its Member States and the international community. National policies took over in the centre and north of Europe leaving the countries of the European South to struggle with an unprecedented humanitarian crisis.

In this chapter, I will attempt to analyse how the predominance of national policies and interests deepened the existing gap between the North and the South, simultaneously forcing the EU to resort to dubious agreements with third countries, and jeopardise its position as a global civilian and normative power.

3.2 What about Solidarity?

The refugee or migrant crisis carries immense humanitarian significance, but for the EU it also proved to be a daunting test for its policies as was discussed in chapter 2, its civilian and normative power, as analysed in chapter 1 but also for its own nature. It created a deep political crisis among its own member states, not all of which were equally affected by the large numbers of migrants arriving on their shores. Divisions between the North and the South had always existed and had been augmented with the economic crisis that preceded and in some countries, like Greece coincided with the refugee crisis, but the inability of the Union to act as a unified whole and prove its solidarity broadened the existing chasm.

For the European Union, solidarity has been the stable foundation upon which the entire European construction is based. Member states cannot act individually and, in the case in which they do, this has to be done within the framework of mutual trust

amongst them. As regards the management of the EU's borders and migration, the idea of solidarity is even more crucial as can be seen in Article 80 of the Treaty of the Functioning of the European Union (TFUE) stating that its policies should be "...governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this Chapter shall contain measures to give effect to this principle" (TFEU, Article 80,2016). The principle of solidarity takes two dimensions for the European Union as is evident in all of its documents and institutions. Solidarity between the EU and third countries (external) and solidarity amongst member states (internal) which is the focus of this section. And in spite of it being central in the EU narrative, very little has actually been done to specify how solidarity among member states should be materialized. One such attempt was made by the Committee on Civil Liberties, Justice and Home Affairs (LIBE), which emphasizes the need for cooperation with a view to promoting the interests of the Union, as a whole, which by default entails the provision of support to Member States "... which, on account of geographical and demographic factors, carry a heavier burden of responsibility than others" (LIBE, 2015). Both documents serve as proof of the significance that solidarity and responsibility-sharing carry for the EU, not merely on a theoretical level but primarily as a legal order (Dimitriadi, Malamidis, 2019, pp.28-32). Such sporadic attempts at institutionalization of European solidarity can be regarded as the reason why EU response to the migrant crisis was firstly delayed and secondly lacking uniformity.

With reference to the refugee crisis, therefore, as previously mentioned, very limited effort had been made to map the ways in which Member States were to show their support for one another if need arose. Indeed, the initial reaction of the EU to the escalating numbers of refugees reaching the Italian shores was weak and advisory, following Article 33 of the Dublin regulation, which places the burden on the Member State drawing up an action plan in order to prevent an inflow of migrants in the EU territory, while EU institutions only assume an advisory role (Dimitriadi, Malamidis, 2019, pp.35-38). However, the European Union could not sit by and watch as its Southern states were in a whirlwind of a humanitarian crisis following the tragic events off the coast of Italy, nearby the small island of Lampedusa. Italy reacted by setting up the rather costly operation '*Mare Nostrum*', as it included the participation

of numerous Italian law enforcement agencies on a large scale. Its cost-inefficiency led to its termination leaving only FRONTEX patrolling the waters as a means of providing assistance to Italian authorities in organising search and rescue operations but also as a way of proving EU solidarity for a Member State in urgent need of it. But as the saying goes, the spirit was willing but the flesh was weak. With no common migration and asylum policy, no effectively-operational asylum system that would work under the umbrella of a common European framework and with most EU countries reluctant to assume responsibility for the refugees and asylum-seekers, weighty statements about the need to adhere to the Union's fundamental principles would not suffice.

In a document issued in 2013 by the European Commission, reference is made to the urgency of Member States increasing their resettlement quotas (European Commission, 2013), a proposition which was often reiterated in the European Parliament's resolutions between 2013 and 2016. From a meagre 431 in 2013 asylum requests rose to an astounding 1.3 million between 2015 and 2016, placing the EU in the precarious situation of having to re-organise its policies, protect human rights and promote solidarity (UNHCR, 2016). The South as previously stated was the gateway with Greece receiving 856,723 migrants within a year, with 60% coming from Syria, 24% from Afghanistan and 8% from Iraq, out of whom 42% were women and children and the rest were men. Only in October 2015, 211,663 migrants reached the island of the Eastern Aegean Sea after which date gradually reducing to 151,249 in November, 108,742 in December, 67,415 in January until that number dropped to 600 by March 2016 when the EU-Turkey statement was signed (UNHCR, 2016)

To the catastrophe that was unravelling in the Mediterranean the EU did not respond as decisively as it should have until the migrants started making use of the Schengen Agreement and using Greece and the rest of the Balkan countries as a gateway to Germany and Austria. The fear of having waves of migrants reaching Central and North Europe forced the EU to temporarily suspend the application of the Schengen Agreement as regards migrants moving across European borders. Also indicative of the EU's unwillingness to receive more migrants was its decision in 2015 to allocate 1,14 billion out of its budget to countries adjacent to Syria as well as humanitarian organisations as financial aid that would enable them to practice regular checks and

prevent mass migration from Syria to the EU. Admittedly, in a demonstration of solidarity, it was also decided that 160,000 refugees would be redirected from Greece to other Member States (Απέργης, 2019). However, on October 25, 2015 during an EU Summit meeting it was decided that Italy, Greece and Hungary would be burdened with the equal distribution of the refugees with the latter blatantly refusing to do so and criminalizing the illegal entry of immigrants. Many other European States followed in Hungary's footsteps. Serbia, Slovenia and North Macedonia gradually excluded migrants who were not from Syria or Afghanistan, with Serbia only conceding to let refugees pass through its territory as long as there were guarantees that they would be heading towards Germany or Austria. As opposed to international law, Austria decided to set a maximum limit to the number of migrants entering the country, in particular 3,200, and announced that only 80 asylum applications would be accepted on a daily basis (Απέργης, 2019). Austria's decision created a domino effect, with one country after the other announcing limitations not only to the number of migrants that were allowed to enter their territory on a daily basis but to the country of origin of those migrants. This stance that many Member States adopted forced the EU to grant more funds to Greece and Italy with the aim of creating more reception facilities, a practice which demonstrates the EU's reluctance to enforce a common policy.

3.3 EU – Turkey Statement

The European Union – Turkey Statement was signed on March 18, 2016. However, before attempting to provide a critical analysis of the goals of the agreement, it is important that we examine certain reactions invoked in non-governmental institutions working on safeguarding human rights.

According to a 2016 report by the Greek National Commission for Human Rights (NCHR), the statement is described as a failure on the part of the EU to uphold human rights as the clause stating that only Syrians shall be admitted as refugees in the European Union is a direct violation of the terms of the Geneva Convention, let alone the characterization of Turkey as a safe third country (Απέργης, 2019). Amnesty International, too concedes that the EU-Turkey statement is “ a shameful stain on the

collective conscience of Europe” while also pointing out that the Turkish asylum system does not meet three basic criteria stipulated by international law, namely regime, sustainable solutions, and survival means (Amnesty International, 2016). In total, more than a hundred humanitarian organisations criticized the European Union for devising a plan which proposes external aid, trade and other financial incentives as a way of reducing the number of migrants reaching the European shores. Finally, in a 2016 report, Human Rights Watch refers to the EU-Turkey statement as a catastrophe for the people it was supposed to protect, the asylum-seekers who found themselves trapped on the Greek islands. According to Human Rights Watch, it should have been up to the Greek authorities to cater for granting asylum to migrants and putting an end to the containment policy for asylum seekers.

At this point it is necessary to take a closer look at the agreement itself and provide a critique of its effectiveness. According to the statement, all migrants entering Greece through Turkey illegally should be returned to Turkey, while all migrants reaching the Greek islands should first go through a detailed inspection to verify their personal information and then their asylum requests should be processed by the Greek authorities. For every Syrian who returns from Greece to Turkey, the EU would accept another based on the criteria set by the United Nations. The first 18,000 resettlement positions were to be filled based on a prior agreement between Turkey and the EU while the maximum limit of resettlements was set to 54,000. On the other hand, Turkey assumed the commitment to take the necessary measures that would inhibit the opening or re-opening of pathways to Europe as well as intensifying existing measures against traffickers. As for the rewards promised by the EU, the process for abolishing a travel visa for Turkish nationals was expedited, 3 billion euros were to be given to Turkey immediately and 3 billion more was promised for 2018, but most importantly it was guaranteed that accession negotiations which had frozen would resume (Council of Europe, 2016).

Regarding Turkey’s concession to accept migrants that had entered Greece through Turkish territory, it should be noted that between March 2016 when the agreement was signed and October 2019 only 1,950 migrants returned, 44% of whom did so either because they never filed an asylum petition or because they decided to withdraw it. Only 41 Syrians were forced to return after their asylum request had been

rejected. And while refugee influx through the Aegean Sea reduced, more than 40,000 migrants entered Europe through Evros, on the northern borders of Greece (Amnesty International, 2016).

The EU claims that the agreement with Turkey has led to a significant decrease in the numbers of refugees and other migrants entering European countries. Despite the fact that such a refusal on the part of the EU to offer asylum to non-European citizens is inherently problematic, the premise upon which it is founded is equally tenuous, given the fact that many Northern European states had closed their borders as was analysed in the previous section. More specifically, according to data by the United Nations High Commissioner for Refugees (UNCHR), between 1/4/2016-31/12/2016, a time period following the EU- Turkey agreement, 21,998 illegal migrants found their way into Greece. In 2017 the number was 29,718, in 2018 32,494 and in 2019 47,098. It is obvious, therefore, that a large and steadily increasing number of illicit migrants entered the EU via the islands of the Eastern Aegean, in spite of the continuous patrols by the Greek coastguard and Frontex, proving the weaknesses of the agreement and the unwillingness on the part of the EU to make brave decisions (UNCHR, 2016).

In addition to the challenge that the EU-Turkey statement posed for the EU's value system and the internal turmoil amongst the privileged states of the North and the disadvantaged states of the South, the humanitarian consequences were also dire. Even though the EU was cheering lower death rates as a direct effect of the Statement, drawing comparisons between the year preceding and following the agreement, it failed to also draw analogies between the numbers of migrants who entered Greece in 2015 and the years after the EU-Turkey Statement. The figures are staggering. In 2015, 856,723 illegal migrants reached Greece out of whom 799 lost their lives at sea whereas in 2018, three years after the agreement had been signed 174 people out of the 32,494 died (Απέργης, 2019). As for the conditions in the temporary reception facilities, Amnesty International has expressed grave concern about the constantly deteriorating situation both on the islands and on mainland (Amnesty International, 2018), while Human Rights Watch in a letter to the Greek government in 2018 reported on its missions in the Reception Facilities of Lesbos, Chios, Kos, Samos, Leros having determined that thousands of asylum seekers trapped in the

above islands were faced with squalid conditions which exposed them to inhumane and humiliating treatment, in addition to not having access to education, health care and other services (Human Rights Watch, 2018). On the same note, representatives of Médecins Sans Frontières (MSF), with a letter to former Greek Prime Minister, Mr. Alexis Tsipras emphasized on the fact that basic human needs of migrants were neglected creating a sense of fear, insecurity and despair, which translated into psychotic episodes, depression and suicidal tendencies (MSF, 2016).

In sum, the consequences of the agreement between the EU and Turkey with respect to the migrants' arrival, reception, and decent living conditions have irreparably injured the image of the EU. The terms of the Statement can be summarized as an attempt of the EU to pacify its wealthier Northern states which were reluctant to receive more immigrants as well as Turkey which had grown ambitious and menacing. The agreement gradually led to the entrapment of migrants and the suffocation of the Greek asylum system.

3.4 Conclusions

The refugee crisis gave prominence to the European Union's weaknesses. While it is true that the mass migration that came as a result of the Syrian Civil War caught everyone by surprise, the migration issue as a whole was not something new for the EU. However, once it ceased being a problem of the South only and assumed greater proportions, it revealed all the shortcomings of the European construction namely with respect to its adherence to its fundamental values.

Although central decisions were made and EU institutions were willing to suggest and promote solutions for the more efficient resolution of the problem, national interests weighed heavily on their shoulders. The Member States' decision to close down borders, to set limitations on the number and nationality of the migrants entering their borders is outright at odds with international law and the principles that the EU is proud of upholding. On a practical level, such callous measures bore fruit as from the autumn of 2015 until February 2016, migrant flows towards the EU significantly diminished. The realization that access to central and northern Europe had been

rendered almost impossible, that in some European countries such attempts had been criminalized acted as a successful deterrent for migrants, who decided not to make the hazardous journey to the EU as that would either mean death or endless months in a reception facility without any prospect of being granted asylum in Germany, Austria or Sweden.

As regards the EU – Turkey Statement, it is safe to conclude that had it not been for the European’s decision to implement restrictive measures, which as mentioned above, deterred migrants from making the voyage to the EU, it would have made little or no difference to the number of people crossing European borders. On an institutional level, the agreement with Turkey comprises a serious defeat for the EU’s value-oriented organizational system, its civilian and normative power. What is even worse is the fact that this defeat was brought about by all European governments which unanimously concurred to adopt and implement the Statement although it blatantly violates fundamental values and international law regarding the protection of the rights of displaced people and “*de facto*” turns the European South into human pit in return for European funding (Απέργης, 2019). The EU’s insistence to continue to enforce the EU – Turkey Statement is indicative of future policies in respect to the migrant issue. The EU, therefore, needs to make a decision. Will its role in international affairs be to exert economic power on other states whether these might be part of the EU or not even if that means resorting to questionable policies or will it enhance its civilian and normative power, and thus cultivate a climate of justice and co-operation in the Mediterranean?

FINAL REMARKS

In Strasbourg, on July 17, 1979, the newly-elected President of the European Parliament Simone Veil delivered her inaugural speech, emphasizing on the role that the European Union and its Member States as a whole should play in international relations and stressing the importance of the European Parliament and all of EU's institutions in promoting EU values around the world and strengthening EU presence in global affairs (Veil, 1979). In one part of her speech, Simone Veil refers to "... challenges, which are being felt throughout Europe with equal intensity...", pointing out that these "...can only be effectively met through solidarity. Beside the superpowers, only Europe as a whole is capable of taking the necessary action which is beyond its individual members in isolation." (Veil, 1979, p.3). Forty-one years later, the European Union is still struggling to discover its identity and find its place within the global community.

The refugee crisis of 2015-2016 spotlighted the political crisis facing the Union. As we saw in this essay, it once again brought the issue of internal and external solidarity to the surface, alongside the kind of power Europe is looking to exert on the world. Using as a theoretical background Duchene's interpretation of 'EU civilian power' as the implementation of non-military means, such as diplomacy, institutions, economic agreements with third countries, and Manners' interpretation of 'EU normative power' as a vehicle for achieving economic development through the diffusion and infusion of its fundamental values, this essay ventured to examine the extent to which

the refugee crisis jeopardised EU power and led to a political crisis within its own region.

Based on the information presented in this essay, it can be concluded that the European Union strayed far from its founding principles and failed to fulfil its destiny. The implementation of the policies discussed in Chapter 2 of the essay prove the ambiguous character of the EU's response to the crisis. The Dublin Regulation in all its forms falters as it attempts to reconcile national interests with solidarity. Putting the strain of the refugee crisis on the less privileged countries in the European Union in order to safeguard the vested interests of the rest comes in direct conflict with the very essence of the Union as that is documented in all its official Treaties. This essay has also proved that the Dublin Regulation constitutes a violation not only of the Schengen Agreement but also of the Geneva Convention as it has impeded the free movement of migrants among EU member states, has entangled them in unending legal procedures and has endangered their well-being. Referring to the EU – Turkey Statement, the essay has provided evidence both to its ineffectiveness and its inhumane character. The Statement did nothing to reduce migratory flows to the EU, as this had already been achieved through the implementation of rigid national policies when EU states decided to close their borders. On a humanitarian level, it was truly a 'shameful' agreement on the grounds that it described Turkey as a 'safe country', despite the fact that Turkey pushed migrants back to Iraq, and discriminated between refugees based on their country of origin (Amnesty International, 2016).

In sum, the response of the EU to the refugee crisis has proved to be completely inconsistent with both its 'civilian' and 'normative' character. Brave decisions were not made, and the EU missed the opportunity to exceed national interests and work united for a common cause.

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