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The future of the European migration system: unlikely partners?

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The European Union (EU) is strongly divided on its migration system. How will tensions in Europe unfold in the coming six months and beyond? This contribution focuses on an unlikely alliance that seems to be emerging in Europe: between traditional conservative opponents of a Common European Asylum System (CEAS); and frontline states that have received migrants on their initial arrival. How will this alliance develop in the near future and what are its consequences for the EU?[1]

The European Council remains strongly divided two years after the introduction of the Common European Asylum System (CEAS) reforms. The impasse can be traced back to the Dublin Regulation, which lists the criteria for determining which member state is responsible for assessing asylum claims. Under the current Dublin framework, it is often the state of first entry that is responsible for assessing asylum claims. Sole reliance on this 'first-entry criterion' is not in line with the EU's principle of solidarity. It places a disproportionate burden on frontline member states, which have to cope with the arrival of refugees and migrants who cross the Mediterranean Sea.

The tension between the principle of 'solidarity' and 'first entry' has been at the centre of discussions for years. Frontline member states have been calling for a reallocation scheme to allocate asylum applicants effectively across European member states, thus alleviating the burden that currently rests upon member states along the southern European border. The Visegrád countries (V4) – Poland, the Czech Republic, Slovakia and Hungary – instead have made it clear that mandatory quotas reallocating asylum seekers from one member state to another are out of the question. The V4 argues that it needs to protect its homogeneous society from foreign threats, such as migration. These two fronts are radically opposed, with other EU member states taking various positions between them.

Interestingly, a 'coalition of convenience' seems to be emerging between the two fronts. Both the Visegrád group and the frontline states are united, in the sense that they are critical of the current European approach towards migration. With proposals for reform on the table, this new alliance puts the chances of agreement on the CEAS under pressure. This article explores what this will mean for the European migration system: how will the alliance develop in the near future – particularly when driven by a populist undercurrent – and what are the consequences for Europe's divided union? This article starts with a discussion of the signals of cooperation between the frontline states and Visegrád Group countries. European policy options to cope with mixed migration flows are then discussed.

Painting of African refugees on the Mediterranean.

Flourishing relationships between South and East Europe?

Both the southern and the eastern blocs are increasingly expressing objections to the (lack of) European migration management. This is not a *rapprochement* that one would expect. From a non-political perspective, one would assume cooperation between those member states that are actually affected by the reception and integration of refugees and migrants. This would mean stronger ties between arrival countries and destination countries, focusing on creating a system for effective migration management within the EU. The countries in Eastern Europe would be considered as transit countries, but not as countries that have to cope with the large-scale reception of asylum-seekers into their countries.

Yet the reality of European politics is different. Minister of Interior Matteo Salvini of Italy – a frontline state – has found a partner in Prime Minister Viktor Orbán of Hungary – a Visegrád Group member. Orbán also recently found another ally in Central Europe – Austrian Chancellor Sebastian Kurz. Kurz, hailing from the centre-right People's Party (ÖVP) and governing in coalition with the far-right (FPÖ), considers it his mission to stop irregular migration to the EU and avoid repetition of the 2015 situation, when Austria experienced an increase of 241.78% in asylum applications.[2] Kurz recently raised eyebrows across Europe, proposing an 'axis of the willing' against illegal migration among Austria, Italy and, remarkably, Germany. The idea was proposed by Kurz after a meeting with German Interior Minister Horst Seehofer (CSU), who has just survived a struggle over asylum policy with Angela Merkel (CDU). This shows the growing cooperation between countries outside of the Visegrád with the Visegrád Group. For the EU, this means that dismissing the V4 voice is becoming difficult.

Salvini argued that Italy should no longer be considered 'a refugee camp of Europe'

Cooperation between both fronts has benefited from the new Italian right-wing government.[3] In his first days as Italy's Minister of Interior, Matteo Salvini announced that he aimed to reform EU migration policy in cooperation with Hungary's Prime Minister Viktor Orbán. Salvini argued that Italy should no longer be considered 'a refugee camp of Europe'. These words were followed by deeds, when Italy refused to allow the *Aquarius* vessel to dock in Italian ports and later stated that subsequent ships would also be denied access.[4]

Looking at the other frontline states, Greece takes a more moderate stance in the debate. Different issues are at stake for Greece, which is still recovering from the financial crisis. In the migration debate, Greece's ultimate priority is to obtain compromise on a European reallocation scheme for asylum applicants in order to alleviate the burden that rests upon Greece. Greece is dependent on EU agencies such as the European Asylum Support Office (EASO) and European Border and Coast Guard Agency (Frontex) to manage the established 'hotspots' on five Greek islands.[5] Moreover, Greece is helped by the M.S.S. case (2011), which ruled that asylum applicants cannot be returned to Greece because of detention conditions, living conditions and deficiencies in the asylum procedure. As a consequence, Greece is not accepting calls from other EU member states to take back asylum-seekers based on the Dublin criteria.[6] Hence, despite a general feeling that burden-sharing needs to improve, Greece prefers to have a good relationship with the EU and other member states in the first place and is partly aided by a ruling that does not force it to take back migrants based on the Dublin Regulation.

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A ship used by immigrants at Lampedusa island in 2015.

Regarding the closer cooperation of Italy, Austria and the Visegrád Group, the main question is whether this relationship will become more than a temporary alliance against a common 'enemy', allegedly driven by a 'populist' undercurrent. This cooperation may be temporary, since interests are ultimately not fully aligned: Italy demands solidarity that Austria and the Viségrad allies are not willing to deliver. Still, the Italian government has taken a harder stance

in the debate, moving from a cry for solidarity to a more populist position that it is no longer willing to receive migrants, thus joining the Visegrád voice. Politics in Europe are more complicated, however, and the remainder of this article assesses how far cooperation may reach given the current policy options on the table.

Reform of the European migration system?

The European Commission introduced two packages to reform the Common European Asylum System in 2016, aiming to create a more efficient system for allocating asylum applications across member states. The 'Dublin IV' proposal builds on the existing hierarchy of the Dublin criteria, but includes a 'fairness mechanism' to improve solidarity-based burden-sharing among member states.[7] Other CEAS Directives have also been amended, but are less relevant for this article. In addition, the role of the EASO will be enhanced by being turned into a full EU Agency for Asylum. Frontex will also be increasingly active on the EU's external borders and beyond, with a significant budget increase being negotiated for the next multiannual financial framework.

The EU is rethinking its entire migration policy

However, there are also more encompassing discussions on dealing with (irregular) migration flows. The EU is rethinking its entire migration policy. A draft of the June 2018 European Council's conclusions was leaked, elaborating on the proposals that are currently on the table. The EU's main priority is to have effective control over its external borders. The EU wants to avoid a reoccurrence of the uncontrolled flows of 2015 and 2016. It therefore aims to halt all illegal migration on routes towards (and inside) the European Union. In light of the June European Council, several policy options are being discussed to manage irregular migration flows better: a) Regional Disembarkation Platforms (RDPs) outside the EU; b) reception outside of the EU but on the European continent; and c) 'controlled' reception centres in the EU.[8]

The leaked version of the draft conclusions of the June European Council referred to the development of RDPs. This concept entails that people, after being intercepted at sea, will be returned to these platforms. According to the draft conclusions, 'such platforms should provide for rapid processing to distinguish between economic migrants and those in need of international protection'. In the final conclusions, this was amended to 'such platforms should operate distinguishing individual situations, in full respect of international law and without creating a pull factor'. Although not literally mentioned in the Council's conclusions, the aim is to establish these RDPs in North African countries. Alternatively, closed reception centres could be located on the European continent, but outside EU territory, an idea supported by Austria and Denmark. Albania was mentioned as an example for these centres.

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Rescue Operation Triton in Italy, 2015.

In the RDPs or the asylum centres *outside the EU but on the European continent*, initial screening of asylum-seekers would take place. Individuals who are not entitled to protection in the EU will be repatriated to their country of origin with the assistance of the International Organization for Migration (IOM). The United Nations High Commissioner for Refugees (UNHCR) will be responsible for screening asylum applications and providing assistance to determine who has a *prima facie* case to asylum. Individuals likely to be granted asylum will be distributed across the EU.

The third policy option is advocated by France and Spain: closed European reception centres, on the coasts of member states at the external southern border of the EU. Contrary to the RDPs, the European reception centres would be aimed at migrants who have already reached the EU. Similar to the RDP concept, the EU reception centres would aim to provide a quick decision on who is allowed to apply for asylum in the EU and who is not.

Managing irregular migration flows: positions of the V4 and frontline states

When it comes to developing a European migration policy, EU member states are strongly divided. What are the sentiments and how are the proposals being received by member states? And what does it mean for cooperation between the V4 and other (frontline) states?

The RDPs, as proposed by European Council President Donald Tusk, include the need for a distribution key to be agreed upon (although not mentioned in the draft Council conclusions). Based on earlier experiences, the population size and total GDP would be two factors taken into account for the distribution key.[9] However, this returns us to member-state dynamics, similar to the Dublin discussion: with frontline states arguing for solidarity-based reallocation

mechanisms among all member states; and the Visegrád countries and Austria, and possibly also Slovenia (where the anti-immigrant SDS party has recently won elections), vehemently oppose such an idea.

However, Italy distinguishes itself from other frontline states by taking a harder stance in the migration debate: aiming to stop people from reaching European shores at all. This means tightening and strengthening border controls and a preference for outsourcing asylum: a language similarly used by the Visegrád countries.

The second option is 'migrant camps' outside the EU but on the European continent (whether this would concern temporary or long-term reception remains unclear). This could be a project that Austria promotes now that it has taken over the Presidency of the Council of the European Union from Bulgaria. However, it would be difficult to find a third country willing to facilitate this. This concept would also entail significant concerns of human rights violations.[10] The Visegrád Group and Italy would support this concept. The camps should have a deterrent effect on refugees and migrants, aimed at decreasing mixed migration flows to the EU.

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Refugees hotspot in Lesbos, Greece 2015.

The third idea, European detention centres – introduced by France and Spain – initially counted on little support, but was included in the Council's conclusions. With this idea, refugees and migrants who have already entered the EU will subsequently be brought to other member states – a situation that is hard to realise in the EU's current political discourse, especially since it would proceed on a voluntary basis.

The Netherlands has expressed its concerns regarding the concept of European detention centres. According to the Dutch perspective, the EU should strive for a European solution, aiming for a fair and solid Dublin system, with effective management of the EU's external borders, and also focusing on dynamics in Africa (instability, but also analysing the potential

shift of migration flows). Once external pressure has decreased, this would provide room for consensus within the EU on a fair and equitable CEAS, with effective burden-sharing.[11] The Visegrád Group, Italy and Austria would be hesitant about supporting this in full, considering that their key priority is to have full control over their borders and to prevent asylum-seekers from arriving in the EU at all. As mentioned above, the conservative *group of friends* would be likely to oppose any plans involving mandatory quota mechanisms.

> the EU is unlikely to agree on how to allocate asylum-seekers across the EU, as some member states refuse to accept migrants at all

Hence, for all three proposals, obtaining consensus on a mechanism to reallocate asylum-seekers across European member states is vital for effective migration management in the EU. Yet the EU is unlikely to agree on how to allocate asylum-seekers across the EU, as some member states refuse to accept migrants at all. If reallocation takes place on a voluntary basis, the Visegrád countries would agree, but would not participate in the procedures. This would intensify Italy's dissatisfaction, making it prone to more unilateral radical decisions.[12]

The June 2018 European Council and beyond: coalitions of hearts?

In preparation for the June 2018 European Council, an informal summit was hosted in Brussels on Sunday 24 June, bringing together leaders of sixteen EU member states to discuss the European migration system's future.[13] Member states agreed that a European vision on migration management was needed, that the EU's external borders should be better protected and that all EU member states should contribute to sharing the burden of assessing asylum claims and reception. However, the Visegrád countries were absent during the informal summit, underscoring the fundamental problem at the heart of the debate.

The conclusions adopted after the June European Council mention that possibilities for developing RDPs in third countries should be explored. For the Visegrád, this would fit with their philosophy of stopping immigration to Europe. However, the Visegrád would reject mandatory resettlement quota and it is unlikely that the V4 countries would participate in resettlement schemes on a voluntary basis. RDPs are not a satisfying solution for Italy, however, for while the concept may decrease irregular arrivals on Italian shores, it does not provide an answer for the Italian cry for solidarity. Italy wants to overcome the country-of-first-arrival criterion to establish effective solidarity in the EU.

What will the RDPs mean for a future European migration system? If the RDPs become reality, they would lead to a shift towards externalization of the European migration policy, including policies on asylum. Combined with enhancement of the EU's external border control (also a likely scenario, with almost a tripling of the budget for external border management being discussed within the next Multiannual Financial Framework), this leads to images of a Fortress Europe. With the advent of the Austrian EU presidency from July 2018, a path towards a restrictive migration policy is anticipated, to the satisfaction of Italian and Visegrád perspectives. Meanwhile, discussion on internal matters such as the Dublin Regulation and the Asylum Procedures Directive will be postponed to later in 2018.

The "Weiwei boat" in Prague 2017. The 70 meter long boat with 258 refugees aboard was Chinese artist and activist Ai Weiwei's way to draw attention to the refugee crisis in Europe.

Conclusion

Recent election results in several member states have brought more populist, politically right-wing parties to power in the EU. There is a strong focus on security in migration discussions. For some member states, security concerns provide a reason not to participate in the European policy at all. This opposition was limited to the Visegrád countries until recently, but now Austria and Italy are siding with the V4. What are the prospects of durable cooperation between frontline states and the V4?

While these countries have found each other's voices in the discussions on migration policy – for example, criticising EU migration policy – broad, longer-term cooperation remains unlikely. Ultimately, the Visegrád countries want to bring a halt to irregular migration flows to the EU, focusing on reception facilities outside the EU and increased border management. Additionally, Italy wants to find a European solution for migrants arriving in the EU: alleviating the burden on southern border states by reallocation schemes, in which participation by the Visegrád Group is unlikely.

The core reason for believing that the V4 voice and the frontline states may not structurally cooperate is that internal European consensus on the shape of the CEAS is unlikely to manifest. Considering the EU member states' current reluctance to participate in resettlement schemes or to offer legal pathways on a significant scale, the chances are that this will stay the same if no agreement is reached on how to allocate asylum-seekers across the EU. Although the EU appears willing to bring the idea forward, resettlement is still dependent on member states' pledges. And there are consequences if the idea of RDPs fails: after all, regional reception including resettlement is not possible without a strategy on member-state participation and how to allocate asylum-seekers within the EU. Therefore, a true CEAS should be established, pushing the V4 and the frontline states apart, but bringing closer the EU as a whole.

Noten

[1] An extensive version of this article was originally published as Clingendael Strategic Alert (https://www.clingendael.org/publication/future-european-migration-system-unlikely-partners)

[2] Bundesministerium für Inneres, 'Asylstatistik 2015 (http://www.bmi.gv.at/301/Statistiken/files/Jahresstatistiken/Asyl_Jahresstatistik_2015.pdf)', p 3.

[3] Coalition between the anti-establishment Five Star Movement (M5S), and the populist Northern league.

[4] De Volkskrant, 'Reddingsschip kan 226 geredde migranten niet kwijt: 'Laat Nederland dat schip maar opvangen (https://www.volkskrant.nl/nieuws-achtergrond/italie-voert-druk-op-eu-verder-op-spanje-moet-volgende-vier-reddingsschepen-opvangen-~b720ac14/)', June 21, 2018.

[5] In a response to the high influx in 2015, the Commission introduced a 'hotspot approach'. In this scenario, EASO, Frontex, Europol and Eurojust work together in closed reception facilities with authorities of frontline EU member states facing a disproportionate migratory pressure. EU actors assist local authorities to help them to fulfil their obligations under EU law and to identify, register and fingerprint incoming migrants swiftly.

[6] Art. 13, Dublin Regulation (http://www.mixedmigrationhub.org/wp-content/uploads/2018/03/Trend-Bulletin-February-2018-1.pdf) (state of first entry, p. 7; and Greek Reporter, 'German Press: Greece Refuses to Take Back Refugees from Germany (http://greece.greekreporter.com/2018/03/01/german-press-greece-refuses-to-take-back-refugees-from-germany/)', March 1, 2018.

[7] Art. 34, Dublin IV Proposal COM(2016)270 final.

[8] Another is the establishment of regional centres in transit countries.

[9] For example, looking at the Emergency Relocation Scheme that was adopted in 2015 and 2016 and the Dublin Proposal as put forward by the Commission in 2016.

[10] Such as concerns about push-backs and violations of the right to seek asylum. Additionally, there is ambiguity about how to assign responsibility to involved

actors; as described here (https://www.migrationpolicy.org/news/europe-pushes-outsource-asylum-again).

[11] NOS, 'Leiders temperen verwachtingen bij begin migratietop (https://nos.nl/artikel/2238176-leiders-temperen-verwachtingen-bij-begin-migratietop.html)', June 24, 2018.

[12] Such as no longer accepting vessels into its ports, or the move by Italian Prime Minister Giuseppe Conte to refuse to endorse a text at the EU summit on security and trade unless progress on an agreement on European migration policy was reached. See also (https://www.reuters.com/article/us-eu-summit/italy-blocks-eu-summit-agreement-until-migration-demands-met-idUSKBN1JN3AP?il=0).

[13] Germany, France, Italy, Spain, Greece, Malta, Bulgaria, Austria, Belgium, the Netherlands, Luxembourg, Croatia, Slovenia, Denmark, Finland and Sweden.

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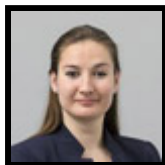
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