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Editors: Oliver Thränert, Martin Zapfe

Series Editor: Andreas Wenger

Authors: Severin Fischer, Daniel Keohane, Prem Mahadevan,
Oliver Thränert, Lisa Watanabe

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Editors STRATEGIC TRENDS 2016: Oliver Thränert, Martin Zapfe
Series Editor STRATEGIC TRENDS: Andreas Wenger

Contact:
Center for Security Studies
ETH Zurich
Haldeneggsteig 4, IFW
CH-8092 Zurich
Switzerland

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CHAPTER 2

Borderline Practices – Irregular Migration and EU External Relations

Lisa Watanabe

Irregular migration to Europe from the Middle East, Africa, South Asia and beyond will have ramifications for the European Union that go beyond the immediate challenges posed to border control-free travel and asylum procedures in the EU. The EU's migration agenda is increasingly being taken up within the foreign policy realm as the need to focus on the external dimension of migration takes on greater urgency. However, 'externalizing' migration management practices through coopting neighboring states is likely to come at a normative price, given that a migration control oriented agenda that primarily serves EU interests is being outsourced.



A memorial stone for the Schengen Agreement is erected in the small village of Schengen, Luxembourg, 27 January 2016. The treaty with the goal of eliminating internal border controls was signed at the quay of the Moselle river at the tripoint of France, Germany and Luxembourg.



Acute irregular migration to Europe over recent years has important implications for the EU as a foreign policy actor, though the shaky future of the Schengen System and an increasingly moribund ‘Dublin rule’ have drawn the most attention as a sense of crisis has gripped the Union. Unprecedented numbers of people arriving irregularly in the EU, due to conflict and instability in the EU’s immediate and wider neighborhood, have had the effect of pushing the management of the migration further into the foreign policy realm, reinforcing an already emergent trend.

The process of ‘externalizing’ the management of the EU’s external border beyond the Union’s actual frontier, primarily through ‘outsourcing’ border control practices to source or transit countries had, to be sure, begun even before the current migration crisis. Yet, this process is now being taken a step further, involving more dimensions of foreign policy and heightened efforts to share the burden of curbing irregular migration with non-EU countries.

As such, the viability of the ‘borderless’ Schengen zone and the future of EU asylum procedures are increasingly dependent on the willingness and ability of neighboring countries to reduce irregular migration to the EU. Yet, these countries will need incentives to

do so, and the EU may have more leverage with some countries than with others. The recent deal with Turkey, for example, has shown that certain countries hold considerable bargaining chips of their own. Even employing the EU’s normative agenda strategically may prove difficult when faced with fairly reform-resistant countries that are important from a migration viewpoint. Outsourcing control practices could also lead to the violation of human rights, including those linked to international protection, raising yet more troubling issues for the EU.

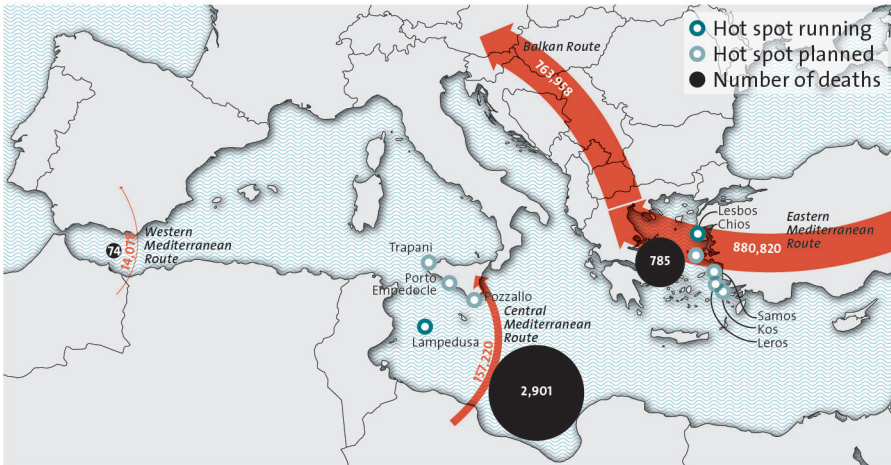
This chapter sets out the scale of irregular migration to Europe and the major migration routes used to reach the EU. It then outlines the pressure that recent irregular migration flows have placed on border control-free travel in Schengen Europe and related EU asylum practices. It then looks at how the EU has sought to reduce irregular migration to its territory through externalizing border management to its neighbors. Finally, it deliberates the dilemmas this generates for EU foreign policy.

Acute migration flows: Pressure at the EU’s border

Significantly elevated irregular migration to Europe over the past five years is a reflection of increased instability in Europe’s near abroad and beyond. The



Migratory routes to Europe, Jan – Nov 2015



Sources: IOM, Euronews, Frontex, Greek Ministry of Foreign Affairs

Arab uprisings that swept across North Africa and the Middle East in 2010 and 2011 were initially responsible for more acute irregular migration to Europe. More recently, ongoing conflict and political instability in the Middle East, Africa and South Asia have been responsible for the largest irregular arrivals of migrants to the EU to date.

First, some definitions are essential. Migrant arrivals generated by such geopolitical developments are irregular in so far as they take place outside the regulatory norms of sending, transit and receiving states. From the viewpoint of receiving countries in Europe, this implies entering, staying or working without the necessary authorization or documents. Among the

people undertaking irregular migration are economic migrants, people fleeing conflict and persecution, who intend to claim asylum, and people who fall somewhere in between. As such, irregular migration to Europe is mixed in nature.

The number of people coming to the EU irregularly is at an all-time high. 2014 was considered an unprecedented year for irregular migration to the EU, with some 280,000 instances of irregular entries. Yet, this number was surpassed in the first six months of 2015 alone, when 340,000 ‘irregular’ migrants entered the EU. Syrian, Afghan and Eritrean nationals constituted the majority of people undertaking irregular border crossings.



By September, this figure had almost doubled again, reaching almost 617,412 irregular border crossings, and the number kept growing.

Migrants entering the Schengen/EU zone irregularly use three main routes, in addition to international airports. The primary route used is the Eastern Mediterranean route, which comprises the sea passage from Turkey to Greece, Cyprus and Bulgaria. This is followed by the Western Balkan route, which comprises migratory flows from the Western Balkans and secondary movements of migrants from the Eastern Mediterranean route. The third major route is the Central Mediterranean route to Europe, which until 2015 constituted the major route and consists of the sea passage from North Africa, especially Libya, to Italy and Malta.

Pressure points reflecting the relative importance of these routes exist along particular sections of the EU's external border. In 2014, Italy became a 'front-line' country, given the predominance at the time of the Central Mediterranean route. As the Eastern Mediterranean and Western Balkan routes have gained in importance, additional pressure points have emerged. As more people attempt to enter the EU irregularly from Turkey via the Aegean Sea, the Greek islands of Lesbos, Chios and Kos have also come under particular

stress, due to higher numbers of Syrians and Afghans taking this route.

From the Greek Aegean islands, many migrants then take the Western Balkan route to the EU. This has placed the Hungarian and Croatian land borders with Serbia under intense pressure. Syrian and Afghan nationals are especially well represented in irregular migration flows across this route.

Given diverse reasons for irregular migration to Europe, the EU has also witnessed a corresponding surge in asylum applications, mostly in Germany, Sweden and Hungary. The figures for Hungary appear especially high due to the speed with which it appears to have processed claims. Moreover, most of those who sought asylum in Hungary have made secondary movements. The high number of asylum requests in 2015 has been primarily propelled by the conflicts in Syria and Iraq, as well as ongoing turmoil in Afghanistan; with Syrians, Afghans and Iraqi nationals constituting the majority of asylum claimants in the EU.

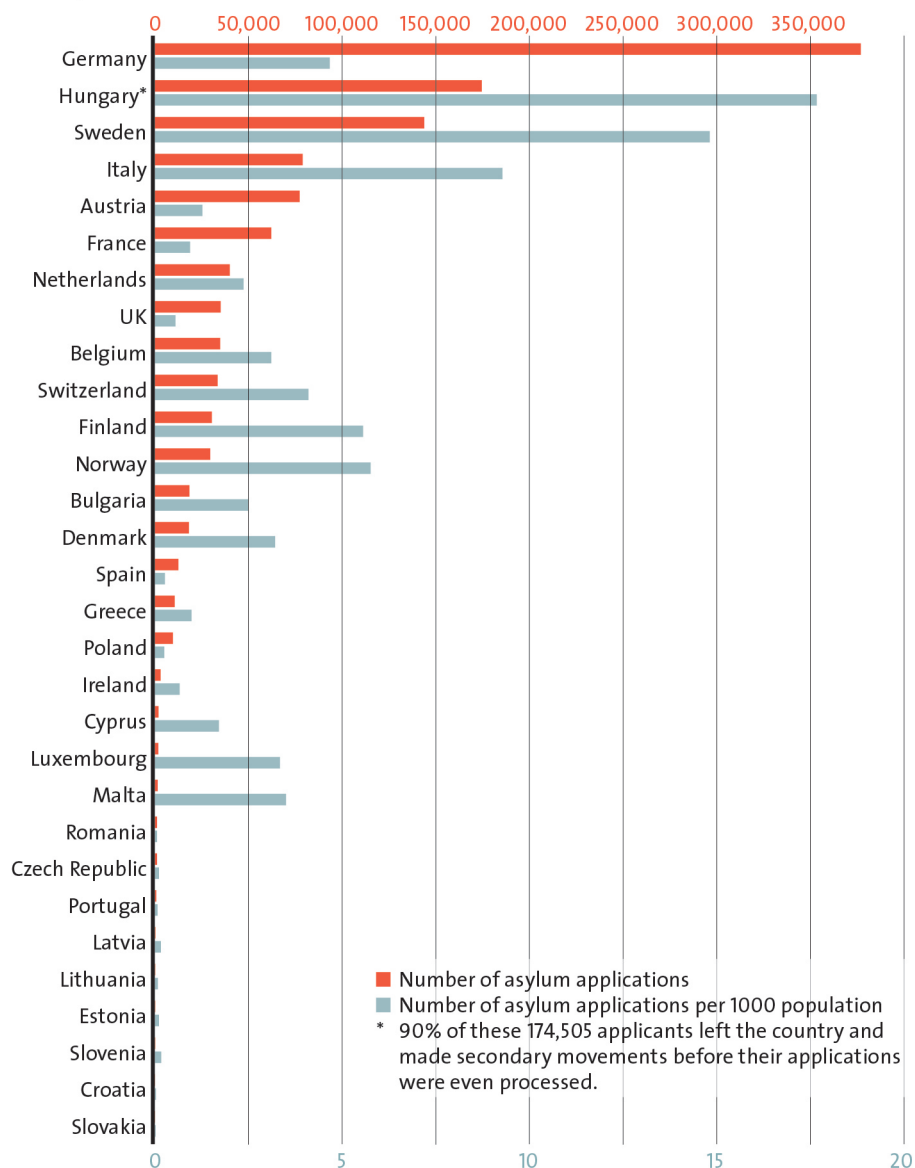
Schengen strained, Dublin defunct

The migration crisis has placed the Schengen and Dublin Systems under severe strain. To make matters worse, uncoordinated responses from Schengen/EU member states have not only



Asylum seekers in Europe

January to November 2015



Sources: Eurostat; AP; Hungarian Immigration Office; Austrian Ministry of Interior; Oct 15: Spain extrapolated; Nov 15: Romania, Malta, Luxembourg, Cyprus, France, Spain extrapolated (average of previous 3 months)



led to tensions between them, but also prompted a crisis of confidence in the future of both systems.

Schengen shambles

Since its creation in 1995, the 'borderless' Schengen zone has depended on the effective management of the EU's external border. The Schengen Agreement thus provided for a common set of rules on border controls and visa requirements designed to meet that end.

In a bid to stop irregular border crossings to their territories, EU/Schengen states have taken a number of emergency measures. Some states have even erected razor-wire fences to secure their borders. Hungary, an EU Schengen state, has constructed a fence along the land border with Romania, Serbia and Croatia. Austria, also an EU Schengen state, is planning to erect a fence on its border with Slovenia, another Schengen state, which has constructed a fence along its border with Croatia, and Bulgaria, a non-Schengen EU state, has built a fence along its border with Turkey.

Several EU Schengen states have also re-imposed formal border controls in the intra-Schengen area. During the latter half of 2015, eight of the 26 Schengen states re-imposed temporary border controls. Germany temporarily reintroduced border checks, with a

particular emphasis on the German-Austrian land border. The latter did the same along all its land border, with a particular focus on the Austrian-Slovenian border, where border crossings can only be made at authorized crossing points. These states were then joined by Slovenia, Sweden, the Netherlands, Norway, France and Malta, all of which temporarily re-imposed border controls. In early 2016, this trend persisted, with Sweden introducing border controls at its border with Denmark. The latter then followed by introducing controls at its borders with Germany to prevent Sweden-bound migrants travelling irregularly from getting stuck on its territory.

One should not forget that the Schengen zone has always allowed the possibility of the temporary re-introduction of border controls. Schengen member states may temporarily re-introduce controls at intra-Schengen borders when there is a serious threat to security or public policy for 30 days or for the likely duration of a threat that lasts longer.

Most of the countries that did this over the autumn/winter of 2015 or more recently have justified their actions on the basis of threats to security and public policy resulting from deficiencies in managing the external border. Exceptions were France and



Malta, both of which invoked security concerns linked to public events and, in the case of France, the risk of terrorist attacks following the November 2015 Paris attacks and the subsequent state of emergency in the country.

While temporary interruptions of border control-free travel in Europe have all taken place within the legal framework of the Schengen System, the number of countries temporarily re-imposing border controls over a short period of time has generated a crisis of confidence in the system itself. It has raised questions about the desirability of 'borderless' Europe and generated divisions over how to best improve the management of the external border. While reinforcing the external border and alleviating pressure on it may help ensure the survival of the system, more frequent temporary re-imposition of border controls seems likely and would mean a compromised Schengen System.

Dublin deficiencies

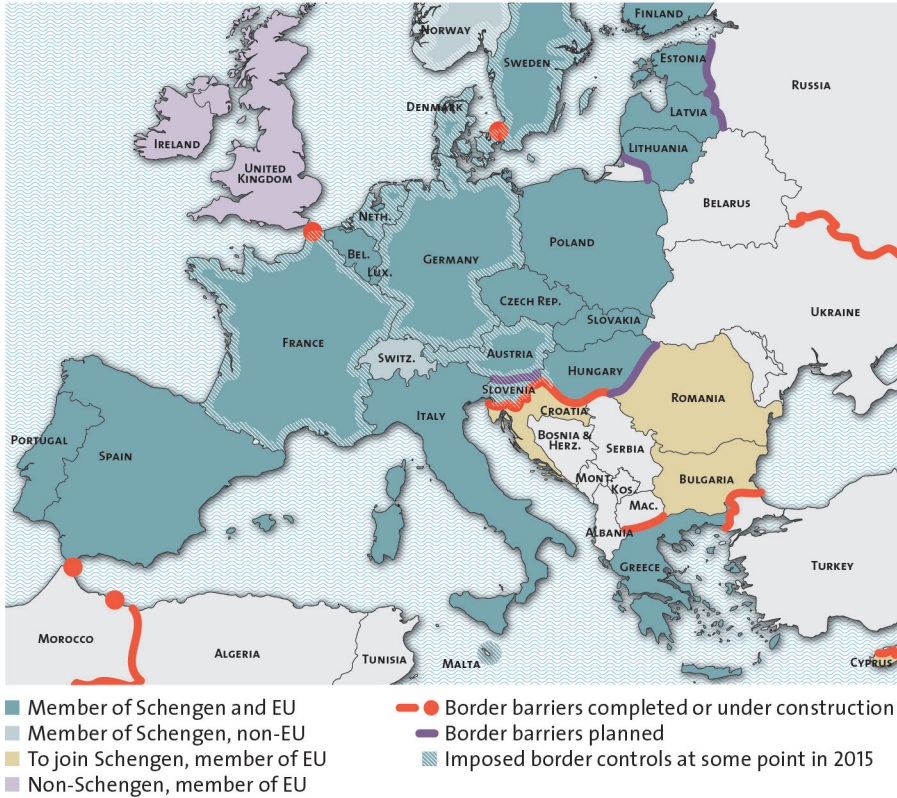
The recent increase in asylum claimants has also made deficiencies in the Dublin System painfully obvious. The system was created as complementary to Schengen. With border control-free travel possible, the Dublin System was put in place to prevent 'asylum shopping' and disputes between EU member states over responsibilities for handling asylum claims. Created in 2003,

it introduced the so-called 'Dublin rule', which allocates responsibility for processing asylum applications to the countries in which those seeking asylum first arrive. Also, potential asylum seekers who travel on to secondary states risk deportation back to the EU country in which they first arrived.

A disproportionate burden on front-line states at the EU's external border, which includes Italy, Greece and Hungary, with land and sea borders across which irregular migration to the EU occurs, was hence built into the system. Asylum system capacities in these countries are consequently being severely stretched. Some states have struggled more than others to provide adequate protection and reception conditions to asylum seekers. To boot, Hungary's construction of a fence deliberately prevents asylum seekers from gaining access to protection.

Divergent asylum system capacities may also have the effect of encouraging secondary movements of people wishing to claim asylum, which was something that the Dublin System was set up to prevent in the first place. Many potential asylum seekers have attempted to make their way to northern European states that were perceived as having more generous asylum policies, Germany and Sweden being cases in point. One of the

Schengen members and border regimes



Sources: European Commission, Economist, Stratfor, Reuters

key contested issues is therefore how the Dublin System should be adjusted to reflect these differences in asylum system capacities.

EU member states have also generated divergent responses to the question of resettling people who have already entered the EU in recent months. In solidarity with frontline states and in recognition of Dublin System failures,

several non-frontline states, notably Germany and Sweden, opened their doors to potential asylum seekers from Syria, expressly acting outside the Dublin rule. In further recognition that the Dublin rule would need to be suspended in response to the crisis, in September 2015 EU member states then agreed by consensus to resettle, on a voluntary basis, 40,000 irregular migrants from nationalities



that have a high asylum rate (Syrians, Iraqis and Eritreans) from Greece and Italy over the following two years.

In a further move away from the Dublin rule, albeit also under emergency provisions, EU member states subsequently agreed on a temporary relocation system to resettle 120,000 asylum seekers over a two-year period, most of whom entered through Greece and Italy (Hungary choosing not to be a beneficiary of the scheme) across 23 EU states, with burden-sharing on the basis of a mandatory quota system. Greece and Italy are naturally exempt from further resettlement, and Denmark, Ireland and the UK are exempt from EU asylum policies under provisions set out in the 2009 Lisbon Treaty. Ireland has, nonetheless, chosen to 'opt in' to the scheme.

It bodes ill for the future that the temporary relocation mechanism was adopted by qualified majority voting in the Council, which is unusual for such sensitive topics, and was carried out to overcome considerable resistance by Hungary, the Czech Republic, Romania and Slovakia. Adding to potential future discord over resettlement, the scheme allows states to decline to relocate up to 30 percent of the number allocated under the scheme under 'exceptional circumstances'. This, after only 361 people had been relocated from

Italy and Greece by January 2016. The struggle over how and whether to share the burden of asylum more fairly is thus likely to go on. The European Commission and several EU member states are likely to push for a more permanent shift in paradigm with regards to asylum procedures, while other member states may be expected to vehemently oppose any such efforts.

In the meantime, in a further move to reduce the pressure on frontline states, EU member states have also agreed that they should receive financial support to offset the costs of receiving and processing asylum claims. A first reception or 'hot spots' approach has also been adopted in particularly challenged areas in Italy and Greece to help ensure the quick identification, registration and fingerprinting of migrants, with the support of staff from other EU member states and EU border, police and asylum system agencies. However, the latter will not directly intervene in the decisions of national authorities concerning entry/refusal of entry, which could limit their effectiveness.

Pushing the border out: Coopting neighbors

Besides reinforcing its external border, the EU also tries to impede the movement of irregular migrants before they ever reach its territory. It has



sought to do so through pre-border controls, undertaken not only in cooperation with EU/Schengen countries but also with non-EU countries. Outsourcing the management of migration to neighboring states that are either source or transit countries along major migration routes to Europe has also implicated them in EU asylum practices, primarily through the conclusion of agreements to ensure the return and readmission of migrants to the country from which they departed for the EU.

Expanding pre-border controls

The EU's border agency, Frontex, has played a major role in preventing migrants from reaching its actual frontiers irregularly through interception operations in cooperation with Schengen states. In response to irregular maritime migration within the current context, the geographical scope of Frontex search and rescue operations in the Mediterranean has been expanded. Frontex's Operation Triton in the Central Mediterranean, which replaced Italy's Mare Nostrum search and rescue operation, will now be extended to cover that of its predecessor. Increased support will also be given to the agency's Operation Poseidon, which assists Greek authorities in carrying out border surveillance and search and rescue operations in the Eastern Mediterranean.

The EU's external border has not just been pushed further out as a result of Frontex operations carried out in cooperation with EU/Schengen states, but also through cooperation with non-EU countries. One of Frontex's first major operations, Joint Operation Hera II, which was launched in 2006, sought to disrupt maritime irregular migration flows from the West African coast to the Canary Islands. Its mission was to stop vessels carrying migrants departing from Cape Verde, Mauritania and Senegal before they ever left the African territorial waters. This was made legally possible through bilateral agreements concluded between Spain and these countries.

Until very recently, the EU's pre-border controls had only involved Frontex surveillance and interception missions. However, increased irregular migration across the Central Mediterranean route since the Arab uprisings has led to a new development. For the first time, the EU's Common Security and Defence Policy (CSDP) is being employed in pre-border maritime control activities linked to migration. The operation not only adds a novel, military dimension to the EU's efforts to combat irregular migration, but also expands the CSDP's portfolio to include issues on the EU's Freedom, Security and Justice agenda. EUNAVFOR MED, dubbed Operation Sophia,



was launched in May 2015 and entails military action to “disrupt the smuggler’s business model by destroying boats and other infrastructure used by smugglers on the high seas of the southern Mediterranean”. So far, this involves boarding and seizing vessels on the high seas suspected of being used by human smugglers and traffickers.

That more migrants are taking the Eastern Mediterranean and Western Balkans routes, as opposed to the Central Mediterranean one, could be an indication of the mission’s success. However, the deteriorating security situation in Libya since mid-2014 is also partially responsible for the shift in the relative importance of migration routes to Europe. Operation Sophia’s ultimate success could depend on obtaining a mandate to operate in Libyan territorial waters and on Libyan beaches, given that the final phase of the mission foresees the destruction of vessels, even before use, and apprehension of smugglers and traffickers. UNSC Resolution 2240, under which Operation Sophia is mandated, does not allow it to operate within the territorial waters of Libya or on Libyan soil, though. To do so, the EU would need either the consent of a future unity government in Libya or that of the UN Security Council. Establishing a unity government in Libya, let alone obtaining its consent, could take some time.

Were the EU to obtain authorization from the UN Security Council, the EU could for the first time find itself carrying out a military mission on the territory of a sovereign state without its permission. Given that the latter scenario seems unlikely, the mission’s effectiveness could be limited.

Outsourcing to the periphery

Outsourcing migration control practices to third countries has formed part of EU’s agenda for managing migration since the late 1990s, with the initial focus being on Africa and eastern and southeastern Europe. Mobility Partnerships have provided the overall framework for cooperation between the EU and third countries. Within these partnerships, readmission agreements have been key tools in establishing a legal framework for return and readmission of nationals and non-nationals of the country of last departure before entering the EU irregularly. To increase their appeal and to incentivize third countries to abide by the obligations they imply, readmission agreements have usually been linked with visa liberalization arrangements.

Political upheavals in North Africa and the Middle East provided an opportunity to expand the transferal of the EU’s migration agenda to countries in its southern neighborhood.



The revised European Neighbourhood Policy (ENP), which was designed as a new approach to a changing neighborhood following the Arab uprisings, reflected the greater emphasis placed on cooperating with third countries in the Southern Mediterranean with regards to migration. The revised ENP incorporates Mobility Partnerships, which require third countries in the EU's southern neighborhood to commit to concluding readmission agreements with the EU, cooperate with Frontex and reinforce border management capacities in exchange for visa facilitation and financial support for capacity building in the area of migration management.

Morocco, Tunisia and Jordan have concluded Mobility Partnerships with the EU. The EU also hopes to establish Mobility Partnerships with Algeria, Egypt and Libya. However, Egypt has allegedly shown no interest in doing so, and negotiations have not yet begun with Libya.

While such arrangements are outsourcing some asylum procedures to third states, the conduct of asylum procedures and the granting of asylum, nonetheless, remains linked to the territory of EU member states. Yet, even this could change. The idea that asylum applications could one day be processed in third countries is gaining

traction. The idea of 'off-shore' reception centers in third countries was promoted by Britain, Italy and Germany in the mid-2000s, but never got off the ground. This has been echoed more recently when the mayor of Lampedusa and an Italian senator submitted a proposal to the European Council in October 2013 that called for the creation of asylum reception centers in North Africa. Within the current context, the European commissioner responsible for migration policy has also spoken out in favor of establishing offshore asylum processing centers. Strong supporters of the idea include Italy, France and Germany.

Stepped up use of the Eastern Mediterranean migration route in recent times has raised the strategic importance of Turkey for the EU *vis-à-vis* migration. This has led to the development of an EU-Turkey Action Plan, concluded in October 2015, under which the EU has pledged EUR 3 billion aimed at halting the flow of Syrian refugees and migrants entering the EU irregularly via Turkey. The deal includes support for Turkey's provision of temporary protection to more than two million Syrian refugees. The EU has also committed to supporting Turkey in strengthening its efforts to combat smuggling by reinforcing Turkish Coast Guard



patrolling and surveillance capacity. In order to increase information exchange with Turkey on combatting smuggling networks, a Frontex liaison officer will also be deployed to Turkey.

In return, Turkey has agreed to strengthen the interception capacities of its coast guard, increase cooperation with Bulgaria and Greece to prevent irregular migration across common borders and to readmit 'irregular' migrants who do not qualify for international protection and entered EU territory through Turkey. This implies better implementing the readmission agreements that it has with both countries. Ankara has also agreed to bring into line Turkish visa provisions with those of the EU, and to combat smuggling networks through enhanced cooperation with individual EU member states and EU agencies.

A whole area of internal integration is thus becoming more and more dependent on sharing responsibilities for management of the external border and asylum system practices with third countries in the EU's neighborhood. This also means that the EU is growing more dependent on the willingness and ability of its neighbors to share responsibility for curbing irregular migration flows to Europe and by default ensuring ongoing cooperation between EU/Schengen states in the

area of border control-free travel and asylum practices. But, at what price?

The periphery as enabler?

The migration crisis raises the question of whether moving further into the foreign policy domain to stem the flow of irregular migration will prove effective. Will third countries be willing and able to carry out the tasks being asked of them? The outcome is likely to be mixed. Advancing the EU's migration agenda will take place within the context of broader relations with neighbors, which differ considerably.

Persuading partners

While the uprisings and subsequent reform agendas in several North African countries have facilitated the promotion of the EU's migration agenda, the heterogeneous nature of the transitions underway in North Africa may hinder the EU's ambitions. Morocco and Tunisia have shown themselves to be the most willing partners, having started negotiations on readmission agreements with the EU. Yet, they have done so primarily because they have been eager to demonstrate their commitment to democratic reforms, both domestically and internationally. Within this particular context, the EU has found itself with considerable leverage with which to advance its interests in relation to migration



and also in a way that is in line with its normative agenda.

The relative ease with which the EU has been able to co-opt Morocco and Tunisia on migration issues contrasts with their earlier resistance to concluding readmission agreements before the Arab uprisings took place, although the regime in Tunisia has changed. Negotiations on a readmission agreement were suspended with Morocco in 2010, and Tunisia had never even agreed to open negotiations. The requirement of readmitting third country nationals, as well as their own nationals, and the lack of incentives to do so was partly behind their reluctance to conclude readmission agreements. However, the political upheavals of 2010 and 2011 changed the calculations in Rabat and Tunis. The political backing of the EU gained in importance for these countries. As a result, so did the connection made by the EU between democratic reforms and cooperation on migration.

Within the revised approach to the ENP, negative conditionality was replaced with positive conditionality captured by the notion of 'more for more' – more money, more market and more mobility in exchange for more reforms. This linkage of issues contributed to the pressure that the EU could put on Morocco and Tunisia to sign

up to Mobility Partnerships and negotiate readmission agreements, with provisions for third country nationals as well as nationals. For the more reform-resistant North African countries, such as Algeria and Egypt, this strategy is visibly less effective. This is all the more the case, given that both Algiers and Cairo are less dependent on the EU not only for political support, but also for financial assistance, due either to hydrocarbon resources of their own or Gulf aid.

The verdict is also out as to whether the benefits entailed in Mobility Partnerships with the EU will be enough to sustain support for its migration agenda. After all, Mobility Partnerships still emphasize temporary mobility over longer term legal migration to the EU, while the EU's partners are more interested in the latter. What is more, the EU's focus on a control-oriented agenda is unlikely to change dramatically in the coming years, given the highly politicized and securitized nature of the migration debate in Europe. To top it off, even the temporary mobility on offer depends on the voluntary commitments of individual EU member states, and this is far from given. The EU's promise of more 'mobility' for the citizens of third countries that sign up to Mobility Partnerships may thus ring increasingly hollow.



Should the idea of establishing off-shore centers for processing asylum applications come to fruition, transit countries could become magnets for asylum seekers from their neighborhoods. Some people whose asylum applications have been rejected may be reluctant to return to their home countries and stay in transit countries. To persuade third countries to accept such a fate, the EU may need to offer a great deal in return.

Dealing with Turkey – Ankara's cards

Turkey is a transit state that has found itself in a position of strength and able to leverage its relationship with the EU to obtain benefits on the basis of common interests rather than reforms. Being a key transit state on the main migration route to the EU while not dependent domestically or internationally on EU support for a reform agenda, Turkey has been able to extract several important concessions from the EU in exchange for its help in combating irregular migration. Its major prize has been to 'reenergize' the accession process by opening a chapter on monetary and financial policy. The fact that this has been agreed at a time when Turkey is witnessing a 'democratic rollback' is testimony to the increased strategic importance it now holds for the EU, in addition to the latter's lack of ability to advance its interests under the guise of a normative

agenda. Should the EU adopt a regulation on 'countries of safe origin' (including Turkey) to which their citizens could be returned, this would amount to turning a blind eye to Turkey's lackluster human rights record and its treatment of the Kurds.

From the Turkish vantage point, the deal offers a chance to restore its image with Europeans, which had been damaged as a result of backsliding in relation to political pluralism within the country and its ambiguous Syria-related policies. The Turkish government's suppression of opposition, the media and minorities suddenly seems of secondary importance, compared to Ankara's ability to curb the influx of migrants. Ankara also has an interest in implementing the deal to speed up visa-free travel of Turkish citizens to the Schengen area. This is not a done deal, however. It will depend on Turkey following through on its promise to implement the readmission agreement it concluded with the EU in 2013, as well as harmonizing Turkish visa requirements with those of the EU.

Questionable capacities

In addition to the price of incentives, there is also the issue of capacities. Some partner countries may struggle to play the expanded roles being asked of them in relation to



obstructing irregular migration towards Europe and readmission of those that have already reached the EU. The EU's southern neighbors in North Africa tend to lack control over their remote borders, as well as areas of their territories. It is precisely these types of ungoverned spaces that have given people smugglers opportunities to flourish. In this regard, the challenges facing Libya are formidable, though its institutional capacity to strengthen border controls and disrupt migrant smuggling are unlikely to improve dramatically over the short term or even medium term.

Concerns about adequate reception conditions, as well as respect for international conventions linked to the protection of refugees, also loom large with regards to some key transit countries in the EU's neighborhood. While the situation within North African countries differs, the victims of human trafficking and asylum seekers have been known to have been detained in prisons alongside traffickers and may not even be granted access to an asylum process. Expulsions at borders, including under inhuman conditions, in some countries in North Africa have also been reported. Asylum seekers are also sometimes sent back to their countries of origin, even when these countries may be unsafe, in violation of the principle of *non-refoulement*

set out in the 1951 Geneva Convention on Refugees and the associated protocol.

The deal with Turkey poses no less of a risk to the rights of those seeking asylum. Turkey already hosts more than two million Syrian refugees. While it is party to the 1951 Geneva Convention on the protection of refugees and its associated protocol, it still maintains a 'geographic limitation' clause, which means it considers asylum claims from European nationals only. Placed under increased pressure to prevent people arriving irregularly in the EU via its territory, the temptation to send back asylum seekers from Syria, Iraq or elsewhere could trump granting them temporary protection as it has done so far. Indeed, since the deal with Turkey was struck, reports of asylum seekers being mistreated and sent back to the countries from which they fled, including Syria and Iraq, point in this direction.

To be sure, the EU is not unaware of the danger that may be faced by those in need of protection as a result of return and readmission mechanisms, linked both to joint Frontex maritime patrols in the territorial waters of third states and readmission agreements. It recognizes both the need and the potential leverage provided by offering financial assistance to



partner countries to improve reception conditions, and has been considering requiring third countries to abide by international protection standards and to strengthen the capacities of third countries. Yet, adequately monitoring reception conditions and international protection standards remains a formidable challenge. So, readmitted third-country nationals could still find themselves in a vulnerable position in countries where human rights' systems, including those linked to international protection, are weak.

Conclusion

All in all, the migration crisis is acting as a catalyst for the further externalization of the EU's migration management agenda. This, in turn, is prompting the use of a wider variety of foreign policy tools to curb irregular migration to the EU, not least the CSDP, which is being drawn closer to the Union's Freedom, Security and Justice dossier. Through Operation Sophia, the CSDP's portfolio now contains a migration component, which is a new development.

While no one would deny that there is a need to address the external dimension of irregular migration, doing so does generate dilemmas for the EU as a foreign policy actor that have yet to fully play out. It could imply unforeseen shifts in relations with third

countries, for better or worse. In its bid to enlist the help of third countries, the EU may have to make significant concessions that are at odds with its values and normative agenda. This is likely to be the case should reform-resistant third countries also be key transit countries, Turkey being a prime example.

Additionally, outsourcing border control and asylum practices to non-EU countries has the effect of externalizing some of the key problems blighting the Schengen and Dublin Systems, notably those linked to reception and protection standards. Appointing third countries as the EU's gatekeepers may place the rights of migrants at risk, pointing to yet another way in which the EU's normative agenda could be compromised.

Ultimately, acute irregular migration, which is unlikely to ease up anytime soon, will require EU foreign policy engagement that goes well beyond measures aimed at regaining control of the external border. There has been a great deal of talk about the need to address the root causes of the migration crisis, such as conflict and endemic instability in the neighborhood. But words need to be translated into action. ●

