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The European Agenda for Migration: A new narrative for an old tale?

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On March 4th 2015 the European Commission announced the “European Agenda on Migration”.

The College of Commissioners held a first orientation debate on key actions to step up the EU's efforts to implement the existing tools and cooperation in managing migration flows from third countries. First Vice President, Franz **Timmermans**, outlined the purpose of the agenda in his statement that “*It is now time for a fresh approach in the way we work together*”. Though the only official document so far is the outline released, it immediately became clear that the new agenda for migration and asylum is neither new nor a bold step towards addressing the crucial problems currently plaguing the European Union as regards management of legal and irregular flows, including refugees. Rather, it is a cautious proposal, hinting at alternative ways of tackling old problems. It is a new narrative to an old story, grounded around the notion of solidarity that the new Commission aims to transform from a catchphrase to a reality.

The attempted shakeup of migration policy was triggered by the Lampedusa tragedy of 2014, when 366 people drowned off the coast of Italy's island. European leaders' response was the setup of Task Force Mediterranean. The Task Force in reality looked to preexisting instruments and tools, from the Global Approach to Migration and Mobility (GAMM) and the European Neighborhood Policy (ENP) to the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) and the European Asylum Support Office (EASO). It sought to balance the external with the internal dimension, with the underscoring aim of managing (and thus regulating) irregular migratory flows; an unattainable task in reality. At the time the Task Force has proposed increasing refugee resettlement in EU countries and opening more channels for legal migration. Those proposals, however, met with heavy resistance from many Member States and unwillingness from the Commission to submit bold proposals that would lead to true burden sharing, redistribution, and safe access to territory.

Following the above, the narrative of the new Agenda runs across four pre-existing thematic areas: the Common European Asylum System, legal migration, irregular migration and specifically smuggling and trafficking, and security of Europe's external borders. However, for the first time the four elements are brought together as interconnected issues, recognising that they meet at critical junctions and affect each other. Thus, the new Agenda suggests a ‘holistic approach’ to addressing migration to Europe by bridging the deterrence and security approach strongly supported by many Member States, with the structured efforts of saving lives and finding alternative pathways to protection for those in need. Nonetheless, it falls short of the expectations that surrounded its announcement and continues to pay lip service to the securitization approach imbedded in the migration and asylum issues.

1. A “Common” European Asylum System?

Two elements in the outline are noteworthy. On the one hand the commitment of the European Commission to ensure that “all divergences in national asylum policy practices disappear” and on the other hand the reference “to making progress in the increased use of relocation and resettlement efforts by the European Union, in close dialogue with Member States and third countries which host important numbers of refugees”.

The EU has a long way to go towards a truly harmonized EU asylum system and one based on fairness, balance and equal treatment. The Asylum Information Database (AIDA) in its recent report (AIDA 2014) mapped out asylum, reception and detention procedures and conditions in 16 EU Member States and showcased the continuous gap between theory and practice. Refugee recognition rates, detention practices and reception of asylum seekers still widely vary between countries, making protection a game of chance for those who succeed in overcoming the obstacles and reach the territory of member states. Thus, eliminating divergence across the EU is a crucial goal, albeit unclear how it will be achieved, since a truly common implementation of CEAS requires more than political will or commitment. Reception,

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detention and protection depend also on the capabilities of Member States and the number of arrivals they are called to respond to.

In that sense, it is a glaring omission the absence of alternatives to the Dublin Regulation that calls for registration of an asylum claim to the first country of arrival. Though suspension of returns in some cases has been initiated (for already overwhelmed asylum systems like Greece), it is a short-term measure and not a long-lasting policy response to redistribution of responsibility and burden-sharing that could in turn facilitate an equal application of CEAS.

2. *Legal migration for the highly skilled*

Surprisingly, despite the recognition on behalf of the European Commission of the linkage between internal and external factors in shaping the migration landscape, legal migration was only mentioned in the context of high-skilled labour. There was no mention of safe and legal pathways to protection, though it was mentioned by the European Commissioner D. Avramopoulos in the press briefing that followed the announcement of the new Agenda. The document itself, nonetheless, focuses exclusively on skilled migrants, who would fall under the Blue Card Directive. Integration was also left outside the scope, though critical in relation to retaining legal migrants.

Attracting highly-qualified immigrants is a priority in the 'Europe 2020 Strategy', yet European efforts continue to face several obstacles in both attracting and retaining skilled talent. Acknowledging this, a review of the Blue Card Directive is set to take place. However, attraction is one aspect of legal mobility. Integration is another and though briefly mentioned in the brief released to accompany the Agenda outline, no explicit mention is made on the growing anti-immigration rhetoric in many EU member states, combined with the economic (and political in some cases) crisis in Europe, and the impact this might have in retaining and integrating legal migrants. Anti-immigrant and anti-EU right-wing parties are making electoral gains from Sweden to France, and there is little political will among mainstream parties to "Europeanise" immigration policies including integration policies.

The anti-immigrant element and the absence of political will are perhaps the reason why resettlement was also left out of the outline, along with relocation and positive recognition of refugee status to assist overburdened states. Even more problematic however, was the absence of mention of legal and safe routes of entry for asylum seekers and forced migrants. In the past the European Commissioner D. Avramopoulos has hinted at discussed plans to use EU offices and embassies in third "countries of origin" to process applications for asylum and refugee status before the migrants reach Europe¹, yet even under that scenario the off-shore processing was envisaged as a way of reducing the number of migrants reaching EU shores.

3. *Combating smuggling and human trafficking*

As in the past, the new Agenda implies that the focus remains on the management of mobility and mainly the management of irregular migratory flows. Policies of border controls and deterrence and absence of safe legal paths to Europe have proven ineffective in curbing arrivals. Rather, the new European Commission is focusing on combatting human smuggling and trafficking, in an effort of also reducing arrivals. The narrative here is more proclaimed than ever before. The fight against smuggling and trafficking is set in the context of the protection of human rights, fundamental rights and protection of migrants "who make use of smugglers".

It is rather disconcerting to note the failure of the new European Commission in making the link between absence of legal pathways of entry and use of smugglers for both irregular migrants and asylum seekers. Though smuggling is approached -and rather accurately- as a business based on supply and demand, the new Agenda falls short on proposing alternative "supply" avenues monitored and managed by Member States that would ensure safe and humane arrival to the EU, especially for those in need. Rather, further emphasis is placed on the collaboration with origin and transit countries and readmission agreements. However, there is an inherent risk in attempting to engage third states in readmission agreements or other cooperative framework, usually negotiated from a dominant EU viewpoint, while simultaneously ensuring that they comply with human rights and fundamental rights. As the case of the Italian-Libyan

¹ <http://www.theguardian.com/world/2015/mar/05/european-commission-third-country-immigrant-processing-centres>

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Agreement showed, there is a very real possibility that migrant rights will be set aside in an effort to please the donor country.

The absence in the outline of alternative legal paths of entry could be attributed to the political dimension of the issue. For many Member States, from the UK to Denmark and Hungary, any proposal that would open legal routes in an effort to reduce irregular entry, is inconceivable in the current political and economic climate. Rather, fight against smuggling is a cause most Member States are willing and have a vested interest in supporting. However, it is fairly problematic also the way smuggling is presented side by side with trafficking. Though both criminal activities, they are fundamentally different and require different policies accordingly. Trafficking is not a by-product of absence of legal ways of entry or of border controls. It can be, but it is not at its core a business that targets migrants. Rather, trafficking results in the exploitation of human beings irrespective of their 'legal' status and in the case of the EU this is evident in the fact that most cases of trafficking refer to the exploitation and violation of human rights of EU citizens. Smuggling, on the other hand, is a business that targets and exploits those who seek access to territory and are unable to achieve it in an accessible and legal manner. Yet, increasingly in the EU, the discourse tends to link smuggling and trafficking, further securitizing-by extension- irregular migration and the policies attempting to manage the phenomenon. By seeking to combat smuggling, the new European Commission effectively seeks to reduce irregular arrivals. A lofty goal by itself, it also begs the question what will happen to those who are left with no legal or irregular paths of leaving the countries of origin and entering the Union and what extremes can such a policy produce risking further human lives.

4. *The external borders of the Union*

The outline of the new Agenda concludes with a reference to the security of the external borders of the Union. Though not heavily expanded, it is perhaps the point the Agenda culminates to. From the first element discussed, a CEAS that applies equal treatment for all and same processing mechanisms for asylum to legal migration for the highly-skilled migrants, and fight against smuggling, the overarching aim is the creation of a common policy on immigration, asylum and by extension external border control. The latter was integrated in Article 67 of the Treaty on the Functioning of the European Union (TFEU), making operational cooperation a key component in ensuring the Union's "safety". After all, the counter-balance to Schengen and the freedom of movement is a solid asylum and migration policy that begins from the external borders of the Union. To this, the EU's Border Agency, Frontex, is the predominant player. Frontex was created in 2004 with an explicit mandate to assist in the application of existing and future measures regarding the management and surveillance of the external borders as well as coordinate operational cooperation in the field of management of external borders.² Primarily through Joint Operations and through participation in the Mobility Partnerships, the Agency is above all focused on deterrence and prevention, achieved from risk analysis to training of border personnel of transit and origin countries to the Joint operations at the external borders of the European Union.

In reality Frontex's operational presence is limited, severely dependent on Member States to provide equipment, personnel and resources and unable to conduct extensive Search and Rescue Operations. This became clear under Operation Triton. Following Italy's announcement of scaling back operation Mare Nostrum, the new European Commission announced that Frontex would launch Operation Triton with the participation of all Member States. In the official announcement at the time, the then European Commissioner Cecilia Malmström noted that "though Frontex is neither a search and rescue body nor does it take up the functions of a Rescue Coordination Centre, it assists Member States to fulfil their obligation under international maritime law to render assistance to persons in distress³."

More importantly, while acknowledging that Triton is not a replacement for Mare Nostrum, the new European Commission did not propose alternative ways of ensuring all Member States share the burden of search and rescue at the external maritime borders of the Union. A brief mentioning of European Border Guards hints at the possibility for a European force to tackle the borderline of the Union, yet once more the question of political will and commitment of the various States comes into play.

Looking beyond the Union

² "Frontex Regulation": Regulation (EC) No 2007/2004 of 26 October 2004.

³ http://europa.eu/rapid/press-release_MEMO-14-566_en.htm

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Recognizing that migration is a byproduct and effect of a broad range of issues, for the first time in a decade an information discussion took place with the Foreign Ministers and the European Commissioner D. Avramopoulos. This is critical in offering a 'holistic' approach to the management of migration. Though migration and asylum are primarily dealt internally in the EU, through the Justice and Home Affairs, the issues begin outside the EU, making the involvement, consultation and active participation of the European External Action Service, critical. The Global Approach to Migration and Mobility has for a long time been dominated by the Home Affairs Directorate General, influenced and shaped by internal needs and dynamics. Acknowledging that migration policy is not only about the internal dimension but inherently also contains a strong external component, the new Agenda focuses on the potential in the Dialogues for Migration, Mobility and Security, as well as the broader framework of the GAMM. The strengthening of the internal with the external dimension was verbally confirmed through the statements of both the High Representative Vice-President Federica Mogherini and the European Commissioner D. Avramopoulos and it remains to be seen whether migration and asylum can be managed in their full dimension: as a global and not solely EU phenomenon.

Final thoughts

The outline released is indicative of what's to come, though we will have to wait for the full draft to see how limited or wide is the approach undertaken in each of the four axes. At first glance, the new Agenda does not offer a radically new approach. It acknowledges the shortcomings of the past without proceeding into bold transformations for the future. Rather, it suggests utilization and further exploration of the instruments, tools and policies already available to Member States. Though not an immediate solution, it can be in the long-run an effective strategy. One of the main problems as regards migration and asylum was that for the past decade, the Commission was building the toolbox but spending little time in ensuring it was equally and properly applied.

By shifting the focus on the application and potential improvement, there is a chance that in some areas at least, Member States will come closer to forming a common migration and asylum policy. It is a worthy goal, a crucial task for the European Union, its members but also the recipients of said policies; the migrants (legal and irregular) and refugees, who enter the EU. Sadly, it seems that we still have a long way to go towards achieving that goal.

A common system implies, common interests and similar-at least- capabilities to face common problems. Today, in the EU of 28 member states, we are still very far from that model, especially on the issue of migration. Redistribution of asylum claims and their positive recognition between Member States that could lead to relocation, resettlement, are all issues to which Member States fall short of agreeing. With almost half of the members having small immigrant communities, and a growing anti-immigrant rhetoric in key Member States, like the UK and France, few are keen to open the discussion on taking up part of the burden. Despite the fact that solidarity is discussed by the new European Commission as core of the European Union, rather than its catchphrase, it begs the question how is the term understood by Member States and how much political will exists to see solidarity manifest in real policies. This will likely also be the greatest challenge of the European agenda on migration; to move a step further towards creating a Union of solidarity and equal burden sharing. Though discussions are under way, it remains to be seen how much of the vision of the new Commission will be realised as regards migration and asylum.

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