

Committee/Council: Special Political and Decolonization Committee

Issue: Achieving border security and provision of quotas to political asylum seekers and refugees within the premises of the European Union (EU)

Student Officer: Eirini Sotiropoulou

Position: Chair

Introduction

“Everyone has the right to seek and to enjoy in other countries asylum from persecution.” This global and fundamental principle of the Universal Declaration of Human Rights that applies to every human being has largely been incorporated into the domestic laws of most nations worldwide, including European nations and the laws of the EU itself. However, controversies arising from the incompatibility of domestic and international law in EU states, the lack of coordination and communication and maybe the lack of willingness that has recently characterized many nations when it comes to sharing the responsibilities that come with the benefits provided by the EU have resulted in the frequent non-implementation of



this principle, or even of the binding international Convention Relating to the Status of Refugees of 1951 and the 1967 Protocol. As millions of asylum seekers flee Syria, Iraq, Afghanistan and other parts of the Middle East due to the endangerment of their lives, seeking a better future in the

nearby and deeply divided Europe, and the number of displaced people around the world has never been so high since World War II, the recent political and financial turmoil often leaves them stranded at borders, confined in camps or even drowned in the sea by the thousands. This, for many people, raises the question of whether Europe is truly willing to abide by the basic human rights principles that it supports, or to stand as a union and make sure that this burden is equally shared among its states. In this study guide we will examine which existing principles of international law, EU law and previous conventions create the framework for the management of this crisis, as well as whether the creation of a fair EU quota system for refugees is

possible, and which factors of political discord and financial hardships make it less so. Please keep in mind that this study guide is merely a fundamental layout, and you should engage in careful research concerning further details and the specific position of your delegation on this matter.

Definition of Key-Terms

Political Asylum:

Political asylum is the protection offered by a sovereign state to a non-citizen who is usually fleeing from persecution in his country of origin.

Refugee/political asylum seeker:

According to the United Nations High Commissioner for Refugees (UNHCR) and to international law, a refugee is a person who is forced to flee a nation or territory due to conflict or persecution.

A political asylum seeker is someone who has submitted a request for asylum to a nation, but whose claim for refugee status is still being evaluated. This means that it can be recognized, and thus asylum can be granted to them, or that they can be found not to be a refugee, or in need of any form of international protection, and thus be sent back to their country of origin.

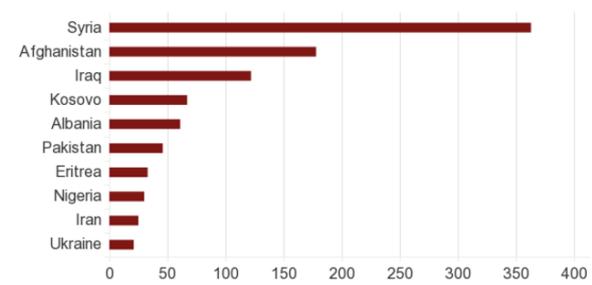
Border security:

Although there is no global definition of border control by an international organization, the term generally refers to the means by which a country monitors and regulates its official borders, and their strictness (or lack thereof). Border security measures usually concern the entry and exit of persons and goods, the control of legal and illegal immigration and the prevention of smuggling, criminal activity and international terrorism.

EU Refugee quotas:

Due to the fact that the EU functions as a political and economic union of nations that share ideological and also geographical ties, in which many joint regulations and conventions are in power concerning transnational movement of persons and populations, EU leadership needs to coordinate the fair distribution of refugees

Top 10 origins of people applying for asylum in the EU
First-time applications in 2015, in thousands



Source: Eurostat

amongst EU member states. A quota system would mean that each nation would be assigned a specific percentage of all refugees entering the EU at the time in accordance with three factors: the size of its population, the current state of its economy and its unemployment rates. This idea was supported by the European Commission and German Chancellor Angela Merkel, but divided European nations and was partially implemented through the EU's recent and infamously controversial deal with Turkey concerning refugees, on which we will elaborate later.

Principle of non-refoulement:

The most crucial principle of the UNHCR's 1951 Refugee Convention, the principle of non-refoulement prohibits states from returning a refugee or asylum seeker to "territories where there is a risk that his or her life or freedom would be threatened", or more simply countries that are for some reason unsafe.

Background Information

Since the 1990s, the EU has made several attempts at harmonizing the procedures and standards of its member states for the examination of asylum applications and the flow of refugees within its premises. It has done so by legislating a number of agreements and regulations and creating bodies responsible for helping member nations coordinate these procedures, thus aiming at the creation of a Common European Asylum System.

The Dublin Regulation and the Schengen Area

The Dublin Convention(1990) and the two reevaluated Dublin Regulations are EU laws with the purpose of determining which member state has the responsibility of processing the requests of asylum seekers entering the Union. Even though the regulation is very complex and has many sub-categories, it basically ensures that asylum seekers have their applications processed and their fingerprints taken in the first member state that they enter, which due to geographical reasons is usually Greece or Italy. Exceptions have been made to this rule in cases where family reunification is at stake. If asylum seekers move on to different nations, they can be sent back to the first country they registered in to be processed, but due to the overwhelming flow of refugees in the past two years which has caused the system to break down, the EU forbade Dublin transfers of asylum seekers back to Greece since 2011, and Hungary decided to stop accepting them in 2015 by itself. Some have criticized this system by supporting that it puts too much pressure on the countries with external EU borders receiving the majority of refugees, like Italy, Greece, Spain and Hungary, instead of creating a fair burden-sharing quota system.

The Schengen Area was first established in 1985. Any nations that have joined the Schengen Area have agreed to allow travelers from within the Area to cross their

borders without being controlled. Only when someone enters the zone from outside must they have their passports and/or visas checked. Therefore, the agreement is based on mutual trust between nations, which has recently started to falter due to the overwhelming numbers of refugees reaching e.g. the Greek islands, seeing as from the moment that they have entered the Schengen Area they can move freely to reach countries like Germany and Norway (which is part of the Area but not of the EU, just like Iceland and Switzerland). Furthermore, Schengen Area members theoretically implement the same asylum policies and have a shared list of nations whose citizens require visas to enter the area. Another factor that contributes to border security is the so-called “hot pursuit”, which allows police forces to chase suspects across borders. Austria, Denmark, Germany, France, Sweden and Norway have decided to bring back internal border controls for the time being due to the refugee crisis, something which is allowed under Schengen rules for emergency situations.

Information Sharing and Support Systems

In order for the above two regulations to function properly, a number of systems for information exchange and the setting of common standards have been created to assist communication between EU nations.

- Schengen Information System:
The Schengen Information System(SIS) enables regional border guards and police forces to exchange information on persons crossing the borders of the Schengen Area and issue certain alerts and instructions that automatically reach all correspondents with the aim of preserving border security.
- EURODAC:
The EURODAC regulation created an EU asylum fingerprint information sharing data base. This way, the Dublin regulation can be upheld and the re-examination of asylum applications can be prevented, as all asylum seekers over 14 years of age must have their fingerprints taken and identified to check if their asylum requests have been rejected or not.
- Asylum Procedures Directive:
The Asylum Procedures Directive is an effort to set certain common standards for all member states concerning the examination and acceptance of asylum applications, and to make sure that those applications are examined as fairly and efficiently as possible.
- European Asylum Support Office(EASO):
EASO tries to coordinate all of the above, by organizing these procedures across Europe, training asylum officials, helping with translation and interpretation, increasing information sharing, checking reception facilities and providing experts, instructing the

necessary personnel on new technologies and publishing a yearly report on the general situation.

- European Border and Coast Guard(formerly FRONTEX): The European Agency for the Management of Operational Cooperation at the External



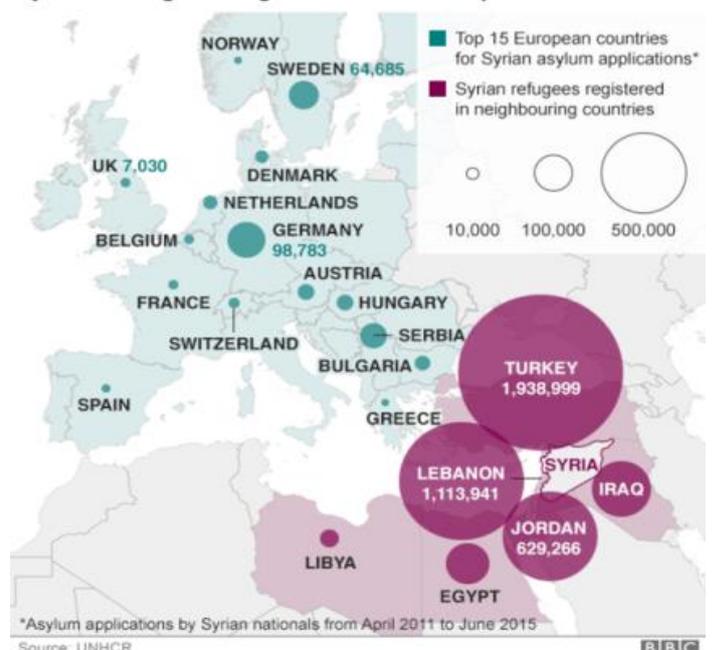
Borders of the Member States of the European Union, more well-known as Frontex, was created in 2004 and had the aim of helping the border officials of different member states work together to ensure border security, human rights standards and integration. It will now most likely be replaced by a similar agency called the European Border and Coast Guard(EBCG), participation in which will be mandatory for member states.

Recent Developments and controversy

Despite all of these existing systems, Europe's divided reactions and lack of cooperation and coordination, in combination with the rise of the radical anti-migrant right in almost every member state, have resulted in confusion and lack of a plausible and comprehensive solution. For example, the EU's Qualification Directive, which had the purpose of establishing common criteria for who qualifies as a refugee regardless of their nationality, has failed according to the European Council on Refugees and Exiles and the UNHCR, seeing as for example, in 2008 almost no Iraqis were granted refugee status in Greece, whereas in Germany almost 91% of Iraqi asylum seekers were recognized. Furthermore, the only nationalities currently recognized as refugees are Syrians, Afghans and Iraqis, while for example Somalians, Eritreans and Pakistanis are not.

With the boom of the refugee crisis in 2015 and the arising humanitarian crisis in the Mediterranean, attention was drawn to the matter. However, due to domestic political conflicts, with regional or presidential elections approaching in many key EU nations and the shift of the entire political spectrum to the right, leaders were pressured and many resolved to temporarily close internal borders, build fences, place patrols and

Syrians in neighbouring countries and Europe



limit the number of allowed asylum applications dramatically. Many were accused of not taking on their fair share of the burden and many problems arose when the nations between Greece and Germany that the refugees wished to use as a passage started closing their borders. Greece, due to its financial situation, was unable to competently handle the stranded refugees. Germany and the EU Commission pushed for the creation of a fair quota system, but nations like Austria, Hungary and Serbia opposed it, and animosity was created. Unfortunately, as we can see in this chart, the crushing majority of refugees do not wish to remain in Greece and Italy, but to pass through the aforementioned nations in order to get to Germany and Sweden. Of course, the majority of refugees is not even in the EU, but in neighboring countries like Turkey and Lebanon who take on most of the burden.

Concerning the threat to border security, if one considers the activity of the so-called Islamic State in the regions the refugees are fleeing, one could say it is a valid concern, but not one that cannot be handled with comprehensive background checks at borders. Panic arose after the Paris attacks of November 2015, but the fact remains that only two of the 10 suspects for the attacks actually passed through Greece as refugees to get to France, as the others were of French or Belgian nationality. The crushing majority of refugees has absolutely no link to criminal or terrorist activities, and background checks can be implemented with the help of the EBCG and the Schengen Information System to make sure the ones that do are not granted refugee status under international law.

Major Countries and Organizations Involved

European Commission

The European Commission is the EU's executive body, responsible for drafting European legislation and upholding the treaties the EU has signed. It is composed of 28 commissioners, one from each member state, and it is the one that proposed the quota system, aims to replace Frontex and signed the refugee deal with Turkey. It has a key role on any further actions or reforms to be made by the EU on this matter.

Greece

Greece is, until now, the highest recipient of refugees in the EU, as many of them make the short crossing from the Turkish coast to the easternmost Greek Islands of Lesbos, Chios and Kos. Greece has been accused of neglecting its Schengen border control duties, and the UNHCR has characterized Greek infrastructure for refugees inadequate and underfunded. Due to the fact that Macedonia decided to close its southern border with Greece to refugees, the total number of refugees in Greece is over 50,000.

Germany

Germany is the most popular destination for asylum seekers. Due to this fact, Germany depleted the Dublin Regulation, deciding not to send asylum seekers back

to Greece but to directly assess their application within its soil. In September 2015, however, it decided to temporarily forestall the Schengen agreement and close its borders with Austria for “security reasons”.

United Nations High Commissioner for Refugees (UNHCR)

The UNHCR is the United Nations’ principal organ for the assistance of refugees and asylum seekers. It was created in 1950 due the immigration caused by WW II, but still exists today, even though it wasn’t originally meant to. It has created many camps in the Greek islands, southern Italy, Lebanon and Turkey, and aims to provide humanitarian assistance, help with the coordination and enlistment of refugees and assessment of the general situation in comparison with certain standards.

Austria

Austria is a key player in regulating the flow of migrants into Germany and Scandinavia. It too kept a fairly open stance regarding refugees in the beginning of the crisis, but decided to impose border controls and deploy troops to its border with Hungary, and then decided not to allow more than 37,500 asylum applications in the next four years, which was heavily criticized as being disproportionate to its actual population, economy and obligations. It also decided to hold a meeting with the interior and foreign affairs ministers of many Balkan states in order to discuss stemming the flow of refugees but did not invite Germany or Greece, which provoked angered responses. Hungary has also had similar policies on this matter and decided to hold a referendum to decide if it would abide by an EU refugee quota system in October 2016.

Timeline of Events

Date	Description of event
1985	Creation of the first Schengen Area
2013	Dublin III Regulation
2015	First big breakout of the refugee crisis takes worldwide dimensions due to the death toll in the Aegean rising
2015	EU Commission announces that 420,000 refugees from Greece and Italy will be relocated to the rest of the EU without a binding quota system
2015	Hungary begins to build a barbed wire fence on its borders

2015	Germany temporarily suspends its Schengen obligations
2015	Austria and Slovakia reintroduce border controls, Hungary threatens those entering the country illegally with imprisonment
2015	UNHCR reports that more than 1 million people have reached Europe
2016	Austria states that it will impose a cap on the daily flow of refugees
2016	Hungary announces that it will hold a referendum on refugee quotas
2016	EU and Turkey agree to cooperate in order to tackle illegal immigration
2016	The European Commission proposes fining all nations that do not abide to the quota system, with the money going to states like Italy and Greece for assistance

Relevant UN Treaties, Resolutions and Events

1951 UN Convention on the Status of Refugees

This convention is the most important existing document of international law concerning the rights of refugees and has insofar been signed by 144 states. The 1967 Protocol to it removed any geographic limitations. All member states of the EU have signed it, but its implementation varies in each state, depending on whether domestic legislation overpowers international law or not.

General Assembly resolution 70/135 on the Office of the UNHCR

This resolution was adopted on the 17 of December 2015, and mainly focuses on congratulating the UNHCR and its Executive Committee on the work it has done and the annual conclusions it draws, re-emphasizing its importance and urging states to fully comply with their legal and moral responsibilities concerning refugee issues, with focus on the humanitarian situation, refugee detainment conditions, refugee education and respect for diversity and human rights.

Previous Attempts to solve the Issue

After the chaos ensuing from the refugee crisis in 2015 and the general anti-immigrant policies implemented by many EU states, the EU closed a deal with Turkey in order to stem the flow of refugees from Turkey onto European soil. The deal that was negotiated stated that Turkey will agree to take back every person who does not apply for asylum in Greece or whose application is rejected. The deal further states that for every Syrian sent back to Turkey, a registered Syrian refugee will be sent from Turkey to the EU until a maximum of 72,000 people is reached. In exchange Turkey has received 3 billion euros in financial aid and its citizens will probably be granted visa-free entry into the Schengen area starting from June 2016. The UNHCR has stated that it will not be part of this agreement, which has also been heavily criticized by Médecins Sans Frontières, the Human Rights Watch, Save the Children and the UN, which has stated that returning refugees to an unsafe country in exchange for political and financial benefits is in violation of international law. However, since the implementation of the deal, the flow of refugees from Turkey to Greece has almost completely ceased.

Another measure taken was the deployment of a maritime NATO force on the Turkish-Greek maritime border with the aim of stopping smugglers. Due to previous conflicts about maritime border disputes between these nations, Greek ships stay on the Greek side and Turkish ships on the Turkish side, with ships from other nations patrolling both.

Possible Solutions

A fair distribution quota system has been recently proposed by the European Commission, and it would admittedly be the best solution to the current problem. It needs to be voted upon by the EU Council of Ministers and the European Parliament first, but many states seem to oppose this. It could be promoted by the United Nations in order to put more pressure on those nations to abide by it, and a quota trading system could also be implemented (this means that nations would be able to sell their obligatory quota to each other for a considerable sum of money). The European Commission has further proposed that nations that do not take on their fair share of refugees be severely fined for each refugee they reject, with the money going to receptor countries like Italy, Greece and Spain for aid in this field..

Furthermore, more comprehensive background checks and registration need to take place in Greece and Italy with the assistance of experts from EASO and the UNHCR, humanitarian conditions in camps need to be improved and the transfer of refugees between nations needs to take place in an organized and efficient manner.

Some more radical proposals are the reevaluation of the controversial EU-Turkey deal, the increase of the ceiling on the total number of refugees to be accepted into the EU and even the general temporary suspension of the Dublin Regulation, whereby refugees will be asked where they want to apply for asylum when entering

the Union and will be safely sent there by authorized organizations in order for their application to be processed.

Bibliography

“Refugee Quota Trading within the Context of EUENP Cooperation: Rational, Bounded Rational and Ethical Critiques”:

<http://www.jcer.net/index.php/jcer/article/viewFile/512/400>

UNHCR: <http://www.unhcr.org/>

“Border Control Law& Legal Definition”: <http://definitions.uslegal.com/b/border-control/>

“Selected UN General Assembly Resolutions on Refugees and Related Matters”:

<http://www.unhcr.org/4b9fb1199.pdf>

“Convention relating to the Status of Refugees”:

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfRefugees.aspx>

“Refugee nationalities screened at borders: witnesses” :

<http://www.aljazeera.com/news/2015/11/refugee-nationalities-screened-borders-witnesses-151119180736277.html>

“Hungary to hold referendum on EU's refugee quotas”:

<https://www.theguardian.com/world/2016/feb/24/hungary-viktor-orban-will-call-referendum-on-eu-refugee-quotas>

“Common European Asylum System”: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/refugee-status/index_en.htm

“Explaining the Rules for Migrants: Borders and Asylum”:

http://www.nytimes.com/2015/09/17/world/europe/europe-refugees-migrants-rules.html?_r=0

“Migrant crisis: Migration to Europe explained in seven charts”:

<http://www.bbc.com/news/world-europe-34131911>

“refugee crisis timeline”: <http://www.independent.co.uk/news/world/europe/refugee-crisis-timeline-how-the-crisis-has-grown-10502690.html>

“CONCLUSIONS ADOPTED BY THE EXECUTIVE COMMITTEE ON THE INTERNATIONAL PROTECTION OF REFUGEES”:

<http://www.unhcr.org/publications/legal/41b041534/compilation-conclusions-adopted-executive-committee-international-protection.html>
