

In search of fairness in responsibility sharing

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The cycle of mutual mistrust between EU Member States that prevents solidarity can only be broken if responsibility is assessed fairly on the basis of objective indicators.

The European Union's (EU's) asylum system is riddled with factors that hold back its development. First of all, the responsibility-determination mechanism (the Dublin system) fails to share responsibility fairly between the Member States, and in addition largely disregards the realities faced by those seeking protection and their preferences or their links to specific Member States.

No objective discussion of what is a 'fair share' of responsibility has ever taken place. This creates a disincentive for Member States to implement the obligations they have undertaken legislatively. The different levels of economic development of Member States and the varying levels of investment in their asylum reception and processing systems have led to widely divergent reception conditions, knowing that there are still differences in the recognition rates among the EU Member States. Nor, for example, is any account taken of the investment of some frontline Member States in controlling the EU's external borders and in saving lives at sea.

The principle of solidarity and fair sharing of responsibility is clearly established in the EU treaties. Until recently, however, EU institutions in different policy declarations have avoided committing themselves on this issue and instead have adopted a 'toolbox' approach, listing different measures that operationalise solidarity. The majority of such measures are of an operational, technical or financial nature, representing an extremely limited degree of actual solidarity between Member States.

That said, the European Asylum Support Office, a dedicated EU agency tasked with coordinating operational cooperation between Member States, would have a significant part to play in achieving more solidarity. For this to become a reality, its financing and resources should become commensurate

with the level of ambition and expectations placed upon it. At the same time, its mandate should be strengthened in order to ensure the agency has greater operational capacity.

Solidarity between EU Member States

Given that no objective assessment of responsibility sharing has ever taken place, any claim by a Member State for solidarity because it is 'overburdened' cannot be objectively substantiated, and raises the suspicion among other Member States that it does not want to carry out its responsibility. An objective assessment of the asylum capacity of each Member State would allow 'inability to comply' with one's obligations to be clearly distinguished from 'unwillingness to comply', thus addressing the current tensions between Member States when it comes to distributing responsibilities.

In pursuit of solidarity, Member States should agree on a system of evaluation of their individual share of responsibility on the basis of objective indicators. A commonly agreed framework would make objective assessment of calls for solidarity possible; it would also reveal to what extent Member States are under-performing and should be investing more in building up their systems in terms of both human and financial resources.

Finally, intra-EU transfer of asylum seekers or protected persons (called 'relocation' in EU jargon) should be further operationalised. Recent initiatives for temporary relocation schemes from Greece and Italy as an exceptional measure within the Dublin system are a breakthrough in putting the issue of fair sharing of responsibility at the forefront of the political debate for the first time. However, they have some flaws.

Firstly, the number of asylum seekers to be relocated is the arbitrary result of a political choice, rather than the result of an

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objective evaluation of the number of persons that should be relocated in consideration of a fair sharing of responsibilities. The fact that the mechanisms are static, with a numerical cap on persons to be relocated, rather than dynamic, means they are unable to respond to changes or variations in the flows of persons.

Secondly, the decision over relocation is imposed on asylum seekers without taking into consideration their preferences. Finally, their exceptional, rather than permanent, nature creates the same disincentives for effective implementation that were observed in the normal working of the Dublin system. These factors significantly undermine the mechanisms that the EU and its Member

States have tried with some difficulty to put into place since late September 2015.

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