



Towards a true European Coast Guard and burden sharing¹

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The refugee crisis of 2015-16 exposed latent inconsistencies in the EU's management of its external borders. The basic problem was known from the start of the formation of the Schengen area: under the so-called Dublin system, the first country a refugee enters remains the responsible authority for taking care of that individual and deciding about his or her asylum application. In practice this means that the states at the external border of Schengen would have to bear the entire burden of managing any influx of refugees. When one million refugees started to arrive in Greece in 2015-16, it became apparent that the Dublin system was not viable. Border states, such as Greece and Hungary, were overwhelmed and started a policy of 'wave through', encouraged by the initial open arms policy in Germany.

Since about March 2016, the flow of refugees via the Balkan route has dried up almost completely. A combination of factors led to this result: the closure of the Greek-Macedonian border, new limitations on the movement of refugees from the Greek islands close to the Turkish borders and the agreement with Turkey under which the EU promised to pay Turkey several billions of euro to help the country defray the cost of sheltering the millions of Syrian refugees already on its soil. Turkey also agreed to take back on a one to one basis any refugee

¹ This contribution draws heavily on the work of a CEPS Task Force on these problem chaired by Enrico Letta. https://www.ceps.eu/system/files/TFR%20EU%20Border%20and%20Coast%20Guard%20with%20cover_0.pdf

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who might still reach the Greek islands, but this part of the agreement has not been implemented in practice.

While one flash point seems to have been dealt with, at least for the time being, another problem continues to fester. Between 150 and 200,000 persons are arriving in Italy every year, mostly after having been rescued at sea off the coast of Libya. Providing support to these new arrivals is imposing a heavy burden on the country, which already suffers from weak public finances and high unemployment.

The more general problem is the fact that the southern border of Europe is the Mediterranean and it is just not possible to build fences on water. Once people are on a boat, they either make it to a port and are then already on EU soil, entitling them to submit a request for asylum. Or, as happens in reality in most cases, they must be rescued because the boats used are often not seaworthy and there is a legal and moral obligation to rescue people whose life is in danger at sea. The European Union and its member states cannot evade this responsibility. Under current circumstances, however, the burden of this obligation is not evenly shared: almost everyone rescued in the Mediterranean ends up in Italy, which usually provides the nearest port.

The 2015-16 crisis led the EU to take many initiatives to strengthen the external borders. The only element already adopted is the regulation to reinforce the competences of the Frontex Agency, which was passed in record time last year. It was presented as creating a European Border and Coast Guard (EBCG), but in our view, there cannot be a true European Border and Coast Guard as long as Frontex retains its inter-governmental nature. But the key problem goes even deeper: it is not possible to create a true European Coast Guard if the burden of taking care of refugees remains with the border states. This applies in particular to the Mediterranean: why should Italy welcome a European flotilla transporting ever more people to Italian ports, leaving that country to bear the administrative, fiscal and societal burden of dealing with hundreds of thousands of refugees, many of whom are unlikely to be later recognised as deserving asylum or protection? Today the problem concerns mainly Italy, but tomorrow it might be Spain, France or, again, Greece. This is thus not an Italian problem, but rather caused by the Dublin system in general.

In short, it is not possible to make much progress on a European Coast Guard unless Dublin is changed. But there is no agreement in sight on the Commission's proposals to reform the Dublin system and to strengthen the European Asylum Support Office (EASO).²

There is no need to completely overturn Dublin since experience shows that the problems it creates on the land border can in principle be dealt with. But the problems on the sea border remain acute. This means that Europe more urgently needs a common Coast Guard, rather than a generalised Border Guard. A Coast Guard operates mostly outside the territorial waters and thus represents much less of an infringement of national sovereignty. But the establishment of a European Coast Guard requires one important change to the Dublin system: anyone picked up at sea and saved by a European institution would then become the responsibility of the entire EU.

In concrete terms we thus propose a package consisting of two elements, both of which are essential:

1. A truly federal European Coast Guard would be created.
2. Those rescued by this EU agency will be distributed throughout all member states of the EU.

1) True European Coast Guard (ECG)

The existing proposal, whose title already contains "Border and Coast Guard", should be fully implemented for land borders. It mostly provides for measures to reinforce cooperation among national authorities and a shared pool of technical material and experts available in

² The Commission's proposal contains two elements:

The first aims to convert the temporary relocation system into a permanent one through a "corrective solidarity mechanism". This mechanism would mean that each member state is assigned a quota of asylum-seekers from a member state confronted with a "disproportionate number of applications" based on two distribution criteria (a reference key): population size and total GDP, with equal 50% weighting. The application of the corrective allocation would be triggered automatically in cases where the number of asylum-seekers for which a member state is responsible exceeds 150% of the figure originally identified in the reference key.

The second element consists of a penalty system called a "financial solidarity mechanism", according to which any member state refusing to accept asylum-seekers would have to pay €250,000 per applicant who would have otherwise been allocated to that member state during the respective 12-month period. It also increases the obligations by asylum-seekers to register in the first state of entry and to remain there. Otherwise, penalties will be applicable to asylum-seekers, so as to limit the rights and protection that they will be afforded by the member state responsible for assessing their application.

case of sudden surges. To cover emergencies in the Mediterranean Sea, however, much more is needed: a federal European Coast Guard (ECG) should be created. This would not be an intergovernmental agency relying on contributions from member states, but rather a separate institution equipped with a unified command and its own assets (ships and possibly drones).

The difference in effectiveness between a unified federal institution and an intergovernmental agency can be illustrated by looking at the difference in effectiveness of the European Banking Authority (EBA) and the Single Supervisory Mechanism at the European Central Bank. The EBA proved to be largely toothless because it was dominated by the national supervisory agencies of its member states, which had no interest in the EBA becoming strong enough to deal with the problems hidden in national banking systems. The euro area banking system was really cleaned up only when the task of supervision was assigned to a unified, federal institution. The same needs to happen for the Coast Guard function in the Mediterranean.

This ECG would then become responsible not only for search and rescue operations, but also for organising and supporting the fight against smuggling on and near the shores of the Northern African states. It would thus also represent the EU externally on the water.

2) European quotas for search and rescue operations of the ECG

The second element is in principle simple: those rescued by the ECG should be assigned to member states according to a key which takes into account population size and economic factors.³

The financial cost resulting from accepting refugees picked up by a common operation should logically also be borne by the common budget. One way to do this would be that each member state accepting an applicant resulting from a common search and rescue operation would be provided directly from the EU budget a fixed lump sum per head which is high enough to defray the likely actual costs. A sum between €6,000 and €10,000 per applicant would result in a total expenditure for the EU budget of between €1.5 and €2.5 billion per annum if the number of refugees picked up at sea were to remain at 250,000. If the recognition rates remain as low as they are at present (around 25% for the central Mediterranean route), the cost for the EU budget would be much lower. The cost for the EU

³ The distribution key would not have to be merely coercive/administrative. The European Asylum Agency, which is now to be set up, would be involved in the process of matching as much as possible the preferences of the applicants and to ensure the strict application of EU standards in the national asylum procedures.

budget would not, of course, represent an additional cost, but merely a reimbursement to member states for expenditure they have to undertake implementing common rules.

Political feasibility

Achieving consensus on this principle may be challenging in view of the opposition expressed by the new member states in particular against any notion that they could be ‘forced’ to accept refugees.

But a compromise should be possible at this juncture.

An analogy might help to explain why. When the Banking Union was created, a clear distinction was drawn between the responsibility for existing problematic debt (so-called legacy assets) and that for future actions. The creditor countries (Germany) agreed to Banking Union on the condition that the new risk-sharing mechanisms, for example through the Single Resolution Fund, would be responsible only for new debt, not the legacy assets, which would remain the responsibility of the member states. The same principle should be applied to the allocation of responsibility for handling refugees. The big wave that came in 2015 represents the ‘legacy assets’, for which a case can be made that they were the responsibility of the member states (or rather one member state, Germany, due to the decision of Angela Merkel to open the borders).

The compromise would be to quietly drop the 2015 decision on relocating 160,000 refugees (which is not being implemented anyway) in exchange for a change to Dublin under which those persons rescued in future by the ECG would be assigned to all member states according to the key already agreed. This should be acceptable to Eastern European member states not only because it could be represented as a victory, but also because the recognition rates of those picked up in the Mediterranean are rather low (around 20%), which implies that the number of those who will be granted asylum and thus the right to remain will be only a fraction of the total. Moreover, all member states would participate in the governance of the ECG, much in the same way that all euro area member states are represented on the Board of the ECB.