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European solidarity in welcoming refugees: is the Ukrainian war changing anything?

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Migration represents probably the most serious political concern for European policymakers. This is true especially for those countries heavily impacted by past and actual fluxes. In fact, the European Union has often been criticised for the lack of solidarity, both among EU countries and towards third country nationals (TCNs).

With regard to intra communitarian mobility of European Union citizens, the reinforcement of the internal market during the 90s and the big enlargement of 2004 were jeopardised by the perceived threat of the so-called "benefit tourism", namely a large number of citizens moving to member states to benefit from their welfare systems rather than to work. The recent case law (among others, Dano, Alimanovic) shows that even the European Court of Justice (ECJ), the strongest proponent of social integration, is experiencing shifts in its position on economic solidarity towards European immigrants.

On the other hand, frontline countries such as Italy, Spain, Malta, Greece have been left alone handling the flux of non-European immigrants coming from Syria and northern Africa (especially Libya). According to European Council figures, in the last fourteen years there have been more than 2.8 million irregular arrivals in the EU. Therefore, it's evident that the Ukrainian emergency is not the first migratory crisis the Union has experienced. The influx of migrants entering the EU has typically followed three different routes: the Eastern, the Western and the Central.

These three tracks have something in common. The lack of a political push towards a communitarian solution became a hurdle for a sore in international solidarity. The intervention of extra-EU partners, willing to "host" in their country high numbers of immigrants in exchange for European money, limited the scope of an internal debate on the European Asylum System. Without Turkey and Libya, it would have been imperative to change the so-called "Dublin Regulation", manifest of the sobering lack of solidarity spreading among Member States. Its linchpin, the country-of-first-arrival rule, even if object of many critiques, has never been changed. The immutability of that rule is reducing the internal strength of the Union, incurably divided in different interest groups. It has been the main foothold used by European countries guided by xenophobic governments to justify their lack of collaboration and solidarity. Indeed, attempts to create an European redistribution mechanism have always been blocked by the crippling opposition of different Member States, especially the ones part of the political block known as Visegrad Group.

Even when the Taliban regained power in Afghanistan last year, European policymakers decided not to address people fleeing that dangerous theocracy with innovative instruments. Geographically speaking, the distance between the EU and the Asian country represented a barrier. As a result, more than 3 million Afghans are currently refugees in Iran and Pakistan.

Only tens of thousands were welcomed in the EU, mainly thanks to private solidarity and NGOs, which obviously could operate on the basis of their reduced economic capacities.

All these aforementioned crises could have been tackled by the means of the Council Directive 2001/55, or "Temporary Protection Directive" (TPD). The legal instrument was approved in 2001 to face the disastrous humanitarian consequences of the Balkan War and never used notwithstanding many calls. It overcomes the Dublin Regulation, establishing a voluntary communitarian redistribution of refugees, which allows an immediate and collective protection, thus avoiding lengthy procedures.

Things changed on 4th March 2022, 8 days after the start of the Russian invasion of Ukraine. The Council voted unanimously to recognize the presence of a mass influx of persons fleeing Ukraine as a consequence of the war. As a result, the TPD was triggered for the first time in its history.

From that moment on, it is quite impressive the high degree of solidarity shown by the EU to Ukrainian refugees. Something previously unexperienced, mainly thanks to the fundamental rights granted by the TPD.

Beneficiaries are entitled to residence, access to healthcare systems, to the job market and to the education system for minors, as well as the right to free movement within the Union for 90 days over a period of 180 days. These and many other advantages are envisaged to have an annual term (hence, until 4th March 2023), but the protection will be automatically extended for one year if the situation won't improve, and eventually for another year with a decision of the Council (on proposal of the Commission).

Although the relevance of this directive is paramount *per se*, showing the firm political will to welcome TCNs in difficulty, its effectiveness could have been frustrated. As a matter of fact, the precondition to grant such extended rights to the [7.2 millions of people](#) fleeing the war was to have efficient refugee reception and regularisation operations. Such efficiency has been achieved thanks to some European agencies, which are one of the principal factors of discontinuity from the previous reactions to emergencies described before.

EU agencies have been growing in number and competences since the 70s, pursuing a process of decentralisation of decision making in delicate fields (like migration, patents, pharmacy, etc). Their involvement in the Ukrainian crisis shows an evolution of these bodies which can now be seen as "vehicles of solidarity" and not just "administrative" entities deprived of any political nature.

On the 7th March, nine agencies working on freedom, security and justice in the EU issued a Joint Statement on Ukraine. The text witnessed the existence of a multilateral European solidarity, encompassing its political and bureaucratic areas of competence.

However, the most important proof of this moral upheaval regards the Council's Decision of 4th March. Frontex and EUAA (European Agency for Asylum)- despite not being mentioned in the TPD- were included into its text as partners of member states' personnel during the hosting operations.

Being vested by the EU with cooperative duties, EUAA and Frontex are experiencing peculiar shifts in their contribution to European international action and image. Remarkably, EUAA didn't even exist before 2021, when it substituted the European Asylum Support Office. Frontex has been helping member states "addressing migratory challenges and potential future challenges and threats at the external borders" since 2004. In the past, how Frontex was perpetrating its mission has been subject to human rights concerns. As claimed by Human Rights Watch, during 2011, 2016 and 2020, "Frontex has repeatedly failed to take action when allegations of human rights violations are brought to its attention".

Conversely, both Frontex and EUAA have signed unprecedented operational plans with Moldova in order to help curb the pressure imposed by almost 600.000 who have passed the border of the eastern European republic.

These plans have the same legal basis of the ones existing between the Agencies and European Member States like Romania. Therefore, Moldova, only with regard to this international agreement signed to activate the operational plans, is now being treated as a member of the Union. This shows that the solidarity conveyed by the EU with the approval of the TPD went forward the communitarian borders, in order to better meet the needs of those who have been displaced.

One might ask why *this* time the European Union intervened so differently. Starting from the premise that the reasons will be analysed more deeply by political scientists, we will mention the ones which seem more evident to us.

- First of all, there is a clear political dimension to be taken into account: Ukraine is in between the EU (and of course, NATO) and Russia.

- Secondly, a large part of the Ukrainian population is socially and culturally close to the EU and its values: just think of the European feeling which emerged during the so-called Maidan Revolution of 2014.

- Moreover, there are also economic interests at stake: EU is Ukraine's largest trading partner, with a commercial relation amounting to €52.4 billion in 2021.

- Lastly, being the country close to the European borders, it is quite obvious that those fleeing the war were-and are- mainly directed to the EU.

With regard to the latter point, it's important to stress the fact that Ukraine, albeit not being part of the Schengen area, is a visa-free country since 2017: this means that Ukrainians can travel within the EU for up to 90 days in any 180-day period, with the only requirement of having a biometric passport.

In conclusion, it is disputed whether the EU is adopting a double standard. On one hand, it seems that member states have been very egoistic in sharing resources with immigrants, fearing to lose the control over their welfare system. On the other hand, when the conflict started, the internal egoism became external solidarity towards those fleeing the war. However, as we have analysed, this is not the first humanitarian crisis the EU has faced, but rather the first to be faced *that way:* finally, member states' egoism seems to have been overcome. The solidarity the EU is demonstrating is conveyed also through its agencies, which therefore could be seen as an authentic "vehicle of solidarity". Behind the formal words of "operational plans" and "international agreements" are hidden qualified men and women who are helping member states and third countries- and first of all, civilians- to handle this terrifying situation. One question arises: will this dramatic experience teach to member states the fundamental value of solidarity, to be practised every day, both internally among them and externally towards third country nationals?

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