

## Asylum Policies in the European Union: Convergences Between the Internal and External Dimensions: An Introduction

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The research project, titled EURASYLUM, is administered by the Pedro Arrupe Human Rights Institute at the University of Deusto. The institute is affiliated with both the Faculty of Law and the Faculty of Social and Human Sciences. The research group of the Human Rights Institute, recognized by the Basque Government as 'Derechos Humanos y Retos-socioculturales en un mundo en transformación' is led by Dr Dolores Morondo, Head Researcher of the Institute as well as the Jean Monnet Chair EU Economic and legal Integration for People, represented by Professor Laura Gómez, are cofunders of this project.<sup>2</sup>

The research team of the EURASYLUM project is comprised of Professor Javier Andrés González Vega from the University of Oviedo; Professor Paula García Andrade from the University Pontificia of Comillas; and the following professors at the University of Deusto: Laura Gómez, Felipe Gómez, Steffen Rasmussen, Sergio Caballero, Cristina Churrua, and José Ramón Intxaurre. The work team is composed of various researchers including Professor Elspeth Guild (Radboud University), Thomas Gammeltoft (University of Aarhus), Violeta Moreno-Lax (Queen Mary University), Silvia Morgades (Pompeu Fabra University) and Carmen Pérez González (University Carlos III de Madrid) as well as by Professors María Nagore and David Fernández Rojo. The main researcher is Joana Abrisketa Uriarte, Professor at the University of Deusto.

The project originated from the premise that an assessment of EU asylum policies and their eventual reform, would become of particular interest. The arrival of over a million refugees during 2015 and 2016, together with the migrants at risk at sea and the disembarkation debate, revealed legal vacuums which led to European institutions and governments having to address the phenomenon both in short-term and

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<sup>1</sup> 'Las políticas de asilo de la Unión Europea: confluencias entre las dinámicas interna y externa' (DER 2017-82466-R, 2018-2020), Spanish Ministry of Economy and Competitiveness (MINECO) and the FEDER funds.

<sup>2</sup> Research Team 'Derechos Humanos y Retos-socioculturales en un Mundo en Transformación' (IT1224-19) (2019-2021), Vasque Government, Department of Education, Call for the Recognition of Research Groups of the Basque University System, 2018 and Jean Monnet Chair EU Economic and Legal Integration for People, EAC/A03/2016 (2017-2020).

long-term perspectives. It was, therefore, appropriate and timely to examine the application of the asylum processes of the EU in its internal and external dimensions.

This perspective was confirmed by the newly elected European Commissioner, President Ursula von der Leyen on the 10 September 2019, when she called for a 'New Pact on Migration and Asylum'. She highlighted that this should involve a comprehensive approach, looking at external borders, the asylum and repatriation systems, the Schengen Area of Free movement and working with partners outside the EU. She made the call in a letter to the future Commissioner for Home Affairs Ylva Johansson. Asylum and migration will inevitably remain at the centre of EU politics during the next mandate<sup>3</sup>.

In this context, the global trend of international policies on the control and deterrence of migration and its reflection in EU asylum policies are analysed in the present Agora. The internal dimension of the EU's asylum policy is examined, as are the instruments used by the EU and its Member States concerning third States.

The CEAS reform proposal launched by the European Commission between May and July 2016 shows that the criteria set forth in the Dublin III Regulation are so entrenched that it will be difficult to change them. The difference between the Dublin III Regulation currently in force, and the proposal for its reform, lies in the fact that the proposal defines an overarching policy framework. It emphasizes that protection in the region and resettlement from there to the EU should become the model for the future. The system for allocation of asylum seekers in the EU, is presently conceived as a broad strategy to end irregular migration flows into the EU.

Furthermore, an intergovernmental approach has become the most preferred method of the EU frontier Member States. On 23 September 2019, France, Germany, Italy and Malta drafted a joint declaration of intent on a controlled emergency procedure through which Member States would assume voluntary commitments for a predictable temporary solidarity mechanism. This practice, justified in the context of disembarkation not only undermines the CEAS, but also weakens the significance of the Geneva Convention of 1951 on the Status of Refugees and the EU integration project. The Joint declaration appears primarily designed to address the 'disembarkation crisis' in the Central Mediterranean. However, collective and integrated responses are also urgently needed.

In the context of the current legal framework, by which legal entry is severely restricted, refugees and people in search of protection still arrive thorough irregular channels. EU law and policies on borders and visas do not expressly address the situation of refugees trying to access protection. The Schengen Borders Code bound European States by the principle of *non-refoulement*, in the sense that the regulation applies to any person crossing the internal or external borders of Member States regardless of whether they entered irregular or not. This principle encompasses a preventive protection, involving refugees or people in need of protection benefitting from a right of entry if a refusal would directly and unavoidably lead them

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<sup>3</sup> Von der Leyen, U., [Mission letter](#), 10 September 2019, (accessed 27 November 2019).

to treatments contrary to their human rights. Precisely, humanitarian visas would serve as an instrument which would permit entry due to the application of the principle of *non-refoulement* (see Silvia Morgades's article in this Agora).

Finally, the current mechanisms enshrined in CEAS do not correspond either to the principle of solidarity or to the guarantee of rights, and the current reform of the CEAS does not remedy this orientation. The stalemate in the negotiations on the reform of the CEAS over the past three years demonstrates the difficulties of the European Union Member States to find common grounds on asylum policies. However, if this stalemate allows the institutions to begin with fresh ideas and a new approach, it can be seen with certain optimism.