

Joana ABRISKETA URIARTE (dir.). *Políticas de asilo de la UE: convergencias entre las dimensiones interna y externa*, Aranzadi, Pamplona, 2022, 396 pp. (Ebook available)

Migration and asylum policies encompass both an internal and an external dimension. The former concerns the reception of migrants and asylum seekers, and deals with how the arrival and protection system operates, under what conditions foreigners remain and reside in the territory, and what rights are recognized for them. The latter, the external dimension, is related to the governance of people on the move while they are still on the other side of the border, outside the territory under State sovereignty. This dimension includes the “management” of migratory flows in transit, through different mechanisms such as operations of national authorities in third countries or international zones, immigration control tasks at origin by private transport agents on the travellers they carry, and cooperation with third countries authorities through financing or training them to prevent irregular departures.

Since the beginning of the 21st century, the external dimension has multiplied its mechanisms. Contrary to the ideal of border liberalization in a globalized world, borders have changed their forms and expanded beyond the territory. Migration control is delocalized and carried out by several public and private agents, before departure and during transit. The increasingly common practice is the externalization of border and migration control, through agreements with third countries or obligations enforced upon transportation companies. Externalization policies aim to preclude irregular arrivals of migrants who do not meet the conditions of entry, and whose rights will be denied in the internal dimension.

Consequently, the internal and external dimensions are closely related. Even more so in the European Union (EU), due to the particularities of its border and free movement common system. The book under review, *Políticas de asilo en la UE: convergencias entre las dimensiones interna y externa* (in English: *EU Asylum Policies: convergences between the internal and external dimensions*), addresses in depth the interconnection between the inside and outside realms. Coordinated by Professor Joana Abrisketa Uriarte, the book makes a valuable contribution to the theoretical analysis of the latest proposals for reforms of EU migration, asylum, and border policies. One of its main inputs is warning about the strong intertwining between each of these areas and, in particular, how the reinforcement of the external dimension -without signs of progress in the internal one- reduces the scope of rights protection. The negative impact operates mainly in the area of asylum. Thus, the exclusionary effect of the border is exacerbated on protection seekers.

The book is the result of a research project entitled the same name, funded by the Spanish Ministry of Economy and Competitiveness and the European Regional Development Fund (ERDF). The project, directed by Professor Abrisketa Uriarte, was carried out by a team of 14 researchers from the University of Deusto and other Spanish and European universities. All of them have extensive and well-recognized experience in the field of EU Law, International Law and, in particular, in borders, migration, and asylum studies. The high-quality of the research team is reflected in this final outcome.

Each chapter is a fundamental piece in itself, but complementing each other perfectly, and together allow a comprehensive analysis of this problematic.

This research project covers the entire migration route, including containment policies in countries of origin and transit, the absence of legal paths for asylum seekers, the management of irregular arrivals at borders, the detention and classification of people in hotspots and other migration centres, and the shortcomings in the solidarity and reception mechanisms in the Common European Asylum System (CEAS). The book addresses all these issues from a human rights perspective, to determine the compatibility of EU Law and International Law, as well as the paradox of European policies as accountable for human rights violations.

The study critically examines the New European Pact on Migration and Asylum, proposed by the European Commission in September 2020. After an introductory chapter that presents the work, its objectives and structure, the book presents 14 analytic chapters:

Chapter 1, by Espelth Guild, asks *Why asylum is such a contentious issue in the EU?* (¿Por qué el asilo es un tema tan polémico en la UE?). Guild warns about the close connection between asylum and borders. Therefore, the final result of the CEAS is not refugees' protection but the preservation of the Schengen Area. As a strong evidence of the merging between external and internal dimensions, the author states that "the asylum seeker will carry the external border on his or her back even when he or she finds him or herself in the heart of the EU" (p. 32).

Chapter 2, by Cristina Churruca, focuses on *The humane and efficient management of migration: hotspots - detention spaces at the external borders of the EU* (La gestión humana y eficiente de la migración: los *hotspots* – espacios de detención en las fronteras exteriores de la UE). This chapter points out the tragic combination between humanitarian and security discourses, which produces a double and contradictory result between protection and violation of human rights by EU policies themselves.

Chapter 3, by Felipe Gómez Isa, analyses *The influence of far-right populisms on the EU's stance on the Global Compact for Safe, Orderly and Regular Migration* (La influencia de los populismos de extrema derecha en la postura de la UE respecto del Pacto Mundial para la migración segura, ordenada y regular). Gómez Isa examines how far-right European political parties and governments are hindering progress on migrant protection through xenophobic propaganda solely for their political gain.

Chapter 4, by Steffen Rasmussen, examines *The securitization of international migration: a challenge for EU ontological security* (La securitización de la migración internacional: un reto para la seguridad ontológica de la UE). The author answers the question about the relationship between migration and ontological security in EU policies. This combination is posed as one of the reasons for the partial agreement on strengthening the external dimension.

Chapter 5, by Sergio Caballero, is entitled *Thinking critically about borders and security in South American regionalism: a view from the Triple Frontier* (Pensando críticamente las fronteras y la seguridad en el regionalismo sudamericano: una mirada desde la Triple Frontera). The chapter analyses the dynamics between security and borders from a critical perspective far removed from Eurocentrism. It compares the concept of security

in European and Latin-American regional integration processes, focusing on the shared border between Paraguay, Argentina and Brazil as a case study.

Chapter 6, by Carmen Pérez González, addresses *The role of the EU in the implementation of the Global Compacts on Migration and for Refugees: The legal security of migrants as a global public good?* (El papel de la UE en la implementación de los Pactos Mundiales sobre migraciones y para los refugiados: ¿La seguridad jurídica de las personas migrantes como un bien público global?). The author explores the possibilities for the EU to reach a European pact that includes safe channels and legal procedures of access for migrants and eventual international protection seekers.

Chapter 7, by Paula García Andrade, focuses on *The external dimension of EU asylum policy from a competence perspective* (La dimensión exterior de la política de asilo de la UE desde una perspectiva competencial). The analysis clarifies the ambiguity of Article 78.2.g TFEU when it refers to the competences of the Union to collaborate with third countries on international protection matters, as a key part of the external side of asylum policy.

Chapter 8, by Violeta Moreno-Lax, analyses the *Mutual (dis)trust in the common European immigration and asylum system: the exceptionalization of fundamental rights* ([Des] Confianza mutua en el sistema europeo común de inmigración y asilo: la excepcionalización de los derechos fundamentales). Moreno-Lax explains how a double dynamic operates in EU migration and asylum policies. According to it, the recognition of restrictive measures is fluid, almost automatic and unconditional, while the recognition of positive measures extending the rights of third-country nationals is practically null.

Chapter 9, by María Nagore Casas, examines *Training agreements with third States for the containment of migration: new developments in the concept of jurisdiction in human rights treaties* (Los acuerdos de capacitación a terceros Estados para la contención migratoria: nuevos desarrollos en el concepto de jurisdicción de los tratados de derechos humanos). The chapter discusses the challenges that training agreements entail for the proper determination of the exercise of jurisdiction as a key element in the extraterritorial enforcement of human rights treaties.

Chapter 10, by Silvia Morgades Gil, is entitled *Between visa and humanitarian: a twist on the concepts of competence and jurisdiction in EU and European human rights law* (Entre visado y humanitario y : a vueltas con los conceptos de competencia y jurisdicción en el Derecho de la UE y europeo de los derechos humanos). The chapter includes an analysis of the EU regulation of humanitarian visas, the absence of legal entry channels into a safe country and its negative impact on the protection provided by the CEAS.

Chapter 11, by Javier González Vega, analyses *Rescues at sea and the role of NGOs: Solidarity vs. international legal order?* (Los rescates en el mar y el papel de las ONG: ¿Solidaridad vs. orden jurídico internacional?). It identifies the inadequate implementation of the International Law of the Sea in cases of rescue operations of migrants carried out by NGOs. One of the major paradoxes of EU law operates in this area, due to the criminalization of these activities to the detriment of the protection of both civil society and migrants in distress.

Chapter 12, by Joana Abrisketa Uriarte, delves into *The European Pact on Migration and Asylum: towards an even more complex legal framework* (El Pacto Europeo sobre Migración

y Asilo: hacia un marco jurídico aún más complejo). The author determines to what extent the European Commission's proposals are sufficient to resolve the impasse of the third phase of the CEAS. In particular, the work shed light to the new solidarity mechanisms -now mandatory but flexible- proposed in the European Pact, focusing mainly on how they affect the Mediterranean States.

Chapter 13, by José Ramón Intxaurbe Vitorica, focuses on *The consolidation of the law of the border: an analysis of the endorsement of the European Court of Human Rights (ECtHR) and the Spanish Constitutional Court to the hot returns in Ceuta and Melilla* (La consolidación de la ley de la frontera: un análisis del aval del TEDH y el TC a las devoluciones en caliente de Ceuta y Melilla). The chapter focuses on the special legal framework of border rejections in Ceuta and Melilla, the only EU land borders on the African continent. It examines in depth the reasons and contradictions of the judgments of the Strasbourg Court and the Spanish Constitutional Court on the legality of "hot returns".

Chapter 14, by Encarnación La Spina, studies *The Reception Conditions Directive and its reform in fieri: the tip of the iceberg of the European asylum system* (La Directiva de las condiciones de acogida y su reforma *in fieri*: la punta del iceberg del sistema europeo de asilo). La Spina warns of the absence of meaningful proposals in the European Pact on Migration and Asylum related to the reception system or reception conditions. This is seen as further evidence of the strengthening of the external dimension, which hampers and reduces the protection capacities of the internal dimension.

Ultimately, the book becomes an essential tool for understanding the current functioning of the EU in the areas of borders, migration and asylum. It provides high-quality lenses for identifying the next direction of common policies in these areas. The research team finds that the latest reform proposals once again focus on strengthening the external dimension, to the detriment of the protection of rights that should characterize the internal dimension. The problem is particularly acute in the case of asylum seekers and refugees. Thus, the European Pact does not seem to offer new and different solutions. In the arena, tensions remain unresolved between multilateralism and traditional sovereignty, between the security of rights and the security of states, between borders conceived as fences or as bridges, between protection as a discretionary power or as an actual human right.

Gustavo DE LA ORDEN BOSCH

Institute of Human Rights Pedro Arrupe

University of Deusto