

ARENAS HIDALGO, Nuria, *La reubicación y el principio de solidaridad y reparto equitativo de la responsabilidad en la política europea de asilo*, Aranzadi, Madrid, 2025.

‘Solidaridad para la acogida’/‘Solidarity for reception’ by Nuria Arenas Hidalgo aims to address one of the major issues that remained unregulated in the first and second phases of the Common European Asylum System (CEAS), namely solidarity and the fair sharing of responsibility in European asylum policy. Similarly the universal system of international protection, whose pillars are the 1951 Geneva Convention on the Status of Refugees at the regulatory level; and the United Nations High Commissioner for Refugees (UNHCR) at the operational level, has not yet managed to resolve this issue in a fair and equitable manner for all stakeholders in its more than 75 years of history. Alongside with the routes of entry to a safe place and the relationship between asylum and refuge, these are the most significant outstanding issues in the field of international protection.

The CEAS is the regulatory part of European asylum policy that contributes to the achievement of the final major objective of European integration, namely the Area of Freedom, Security and Justice (AFSJ). Since its inception, the policies designed to make this a reality have been developed on the basis of security, which has been reinforced over the last ten years by various crises caused mainly by international terrorism and migratory pressure on Europe’s eastern and southern borders. From the outset, the CEAS resolved the issue of asylum as an instrument of territorial protection to which only refugees were entitled (formally disregarding asylum on humanitarian grounds for other persons in need of protection), but it did not resolve the absence of regular entry routes for asylum seekers or the sharing of responsibility among Member States. The latter issue has proved particularly problematic in recent years because the Dublin system is a component of the CEAS whose operation increases the unequal distribution of refugees among European states and the unequal treatment of applicants, which sometimes leads to violations of European human rights standards.

Professor Arenas therefore devotes her monograph to the study of a pressing issue that has only recently been addressed in two regulatory instruments that will come into force in June 2026 and are based on the New Pact on Migration and Asylum adopted by the European Council in December 2023. Nuria Arenas identifies in the title the central element of the problem, which is solidarity ‘for reception’, although this principle and the principle of equitable sharing of responsibility are projected across the whole of European asylum policy. The main title of the study, as well as the titles of the chapters and sections, show particular care in accurately expressing the content and thus establishing a clear structure.

In her monograph, Dr Arenas revisits, two decades later, the subject of the last chapter of the volume that brings together the main contributions of her doctoral thesis. In it, she considered that the statute of rights of the Temporary Protection Directive was due ‘largely to its temporary nature and the solidarity mechanism’ and that its viability

depended 'heavily on the agreement of the States on the distribution of responsibility (it could be said that the greater the willingness of States to accept refugees, the greater the chances of the mechanism being activated)'. Indeed, the Temporary Protection Directive was never activated in its twenty years of existence until Russia's armed aggression against Ukraine led to a large-scale flight of people from that country to safe European neighbouring countries, being four of which EU members (Poland, Slovakia, Hungary and Romania). The willingness of these Eastern European states to take in the Ukrainian diaspora caused by the conflict facilitated the unanimous activation of the Directive, although it was not necessary to establish a specific distribution mechanism. This monograph is the result of a calm, measured and contrasted analysis, which is welcome in times of hasty bibliographic overproduction. The author offers a mature and profound reflection, which is only possible when one has a broad, solid and long-term view of the subject matter.

Two lengthy quotes (from Elianor Sharpston in the conclusions of the *Commission v. Poland, Czech Republic and Hungary* case; and from Ursula von der Leyen in the 2022 State of the Union Address) at the beginning of the book set the tone: the European project involves assuming responsibilities that go beyond a time-bound analysis of costs and benefits; and since border controls are carried out on behalf of everyone, states should be consistent with the value of solidarity that lies at the heart of the Union.

The monograph is rigorous, precise and concise, yet provides an appropriate level of detail for each issue, and is structured in three chapters, with an introduction and final conclusions. It also includes a section on abbreviations and, at the end, references to the bibliography used.

The first few pages provide interesting clarifications on the evolution of the discourse on burden-sharing or responsibility-sharing, as well as on the notion of solidarity as a combination of common but differentiated commitments. From the outset, the book takes as its starting point the EU's prolonged inability to collectively assume the mandate of solidarity enshrined in primary law, but its approach is not to dwell on the shortcomings of European asylum policy from the perspective of solidarity or the overcoming of particular interests. For the author, solidarity is not an abstract ideal but 'an operational principle essential to the viability of the CEAS and to the cohesion of the European project as a whole' (at 25) and therefore focuses on relocation as an instrument of solidarity for reception, which involves sharing the care of forced migrants among states.

The first two chapters are devoted to a comprehensive overview of the state of the art with regard to the subject of the monograph. Thus, the first chapter explains the meaning of the principle of solidarity and the fair sharing of responsibility in European asylum policy, and how they are positioned in the TEU and the TFEU. This chapter devotes a fairly long section to examining Article 80 TFEU as a 'turning point', an expression of an 'island of solidarity', and a 'means of achieving the objectives of the Treaties' (at 41-63). This chapter demonstrates a great ability to identify, unravel and

¹ N. Arenas Hidalgo, *El sistema de protección temporal de desplazados en la Europa comunitaria* (Servicio de Publicaciones, Universidad de Huelva, 2005) at page 343.

offer useful comparisons of complex concepts that are often confused, such as the relationship between solidarity between states and fairness towards foreigners. It argues that, following the Treaty of Lisbon, the principle of solidarity is legally binding in terms of its meaning, scope and legal implications, even though there is a certain vagueness and indeterminacy and a high degree of controversy. The author lucidly describes the shift in the discussion on solidarity, which somewhat neglects the substantive dimension of people's rights; the unfair allocation of responsibility resulting from the Dublin system, which cannot be resolved with partial reactive mechanisms; and the need for solidarity to be made effective through an equitable distribution of responsibility which, taken together, implies specific obligations of result. The author's narrative style is particularly impeccable in this chapter, perhaps the most complex. The study in general, and this chapter in particular, are very rich in terms of the use of primary and secondary sources, with profuse use of quotations and footnotes (sometimes too long, which operate as an almost alternative text but which reflect an enormous task of documentation and analysis).

The second chapter analyses in detail the specific practical experience of fragmented and reactive solidarity (*ad hoc* and *ex post*), which has proved insufficient to address structural imbalances. First, it analyses the EUREMA experiences and the difficulties of implementing a voluntarist model. It then describes in great detail the relocation mechanism established after the 2015 crisis in the management of migration across the Mediterranean, which was provisional but binding. A clear diagnosis of the reasons for its limited success is provided, and the idea that the CEAS needs to recognise asylum seekers as subjects with agency in order to move towards a system that is equitable for states and fair for individuals is clearly developed. Thirdly and fourthly, the bilateral and multilateral intergovernmental approach to responding to recent crises is analysed, and it is argued that 'another approach to solidarity is possible' (at 141), such as the Temporary Protection Directive, which was activated a few days after the armed aggression in Ukraine and is based on the free choice of the host state.

Chapter Three examines the changes that will come with the New Pact on Migration and Asylum, following the approval of the legal instruments that transform it into rules already in force but with implementation dates deferred to June 2026. Despite the uncertainty surrounding how it will actually work, it appears to be a complex system of solidarity that depends on implementing acts by the Commission and the Council and on annual commitments by Member States. After almost ten years of negotiations since the first proposals for reform of the CEAS in 2016, the approved system results in mandatory but flexible solidarity that reflects the disagreements between states within a common framework, which applies to all migration management with a 'comprehensive approach to build trust in the system' (at 161). The author explains how, although solidarity is normalised, the responsibilities of first arrival states are increased, which means that solidarity can once again be analysed as compensating for imbalances in the system of responsibility attribution and does not fit with her interpretation of solidarity, permanent and *ex ante*, as set out in Article 8o of the TFEU.

The last part of the chapter is devoted to explaining solidarity governance and asymmetric contributions, and suggests that flexibility serves the purpose of avoiding relocations. This appears to have been confirmed by the Council's decision of 8

December 2025 regarding the solidarity reserve for the 2026 annual cycle. This decision concerns relocation figures and financial contributions that are below the minimum reference values set out in Regulation (EU) 2024/1351 of the European Parliament and of the Council of 14 May 2024 on asylum and migration management (OJ L 22.5.2024, Article 12).

The monograph concludes with conclusions grouped into three sections. Of particular note are the criticisms regarding the loss of centrality of relocation as a means for achieving solidarity, which is due to the wide margins of discretion afforded to states; and the 'state-centric, bureaucratic and coercive' nature of solidarity in the European policy on asylum that continues to relegate applicants for protection to a passive role and fails to correct the structural deficiencies of the Dublin system.

Professor Arenas' monograph has the merit of analysing a slippery and malleable concept, which is as much a principle or value as it is a criterion for distributing responsibility among member states and ensuring equity towards third states. It also serves to protect assets of international public interest such as the protection of human beings. Undoubtedly, one of the study's greatest merits is that it manages to unravel a vague and widely controversial principle, offering its essential meaning and restoring its significance as a binding and potentially operational guiding principle in the field of European asylum policy. This field is characterised by its heterogeneity and the combination of technical and political elements, the latter of which tend to overshadow the former. This field is central to the Union's credibility as an internal and international benchmark for values such as the protection of universal human rights.

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