

Critique of EU Refugee Crisis Management: On Law, Policy and Decentralization

The ongoing refugee crisis in Europe, the biggest one this world has seen in decades, has been subject to much debate - both in public, through the eyes of the media, but also in the sphere of politics. What still seems to still be lacking, however, is a coherent critique of the crisis' legal setting. In other words, what has the European Union actually done pursuing its legislative and operative agenda for managing mass inflows of refugees, as compared to what other legal avenues were available?

This article would aim to uncover the legal background behind the European Union's response to the refugee crisis. Pursuant to its Agenda on Migration, the EU has implemented a wide set of legal, financial and operative measures to face the challenges of the mass inflows of refugees onto its territory. Some of those measures aim to respond to what was classified as most pressing duty of saving lives at the Mediterranean and strengthening EU external borders. Others aim to uphold EU's international obligations and values by assisting third countries most affected. A core set of measures was then introduced to repair the existing EU legal framework on asylum, proven as dysfunctional when faced with the unprecedented pressures of incoming refugees. These measures came about in the context of an already deficient Common European Asylum System, yet the Union still decided to place the Dublin Regulation as a starting point to all operative plans of dealing with the refugee crisis within the Union territory.

Although the Dublin Regulation was not envisaged to function in a time of crisis, all EU measures introduced were in effect merely exceptions to that inherently inefficient system, as the author will try to prove. On the other hand, a true emergency mechanism was not something the Union was unequipped with during the crucial moments of creating the operative plan for the Agenda. The existing Union framework on asylum creates two quite different concepts for determining the Member State responsible for providing international protection to refugees – one for regular asylum procedures in the Dublin Regulation, and another one which is specifically envisaged for emergency situations. By choosing the former instead of the latter, the EU went for the wrong option.

The author's position is that the Union in its centralized capacity failed to activate an efficient legal framework to respond to a crisis of the present magnitude, thus creating a perfect ground for individual Member States to become the main actors of the crisis management, each invoking its own political particularities and national interests.

The outcome was polarization of the Member States every day going further away from the ever-closer Union. By refusing to confront these issues, the EU avoids admitting that the ideal Union integration is currently facing its ultimate identity crisis; that political particularities of individual Member States still condition the core selective unity for peoples of Europe.