Chapter 3
Tightening Asylum and Migration Law and Narrowing the Access to European Countries: A Comparative Discussion

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3.1 Detecting Patterns of Convergence on Immigration Policies Across EU Member States

Migration has not ceased to occupy a prominent role in the EU agenda over recent years, even if numbers of arrivals and asylum applications have considerably reduced. Indeed, in 2018, 141,472 arrivals were recorded, with a steady drop compared to the flows of foreigners approaching European coasts between 2014 and 2017.[1] The so-called 'refugee crisis',[2] or at least its most acute peaks, seems to belong to the past – and yet political discourses on migration show no sign of quieting down. Discussions about the entry and stay of foreigners continue to enflame public debate on both European and domestic levels, informing policies and triggering packages of legislative reform (Green-Pedersen and Otjes 2017; Meyer and Rosenberger 2015; Maggini in this volume).

What may appear as a kind of political schizophrenia, as yet another symbol of institutional detachment from reality, instead unfolds the tight and mutual

[1] See UNHCR, Mediterranean situation, available at https://data2.unhcr.org/en/situations/mediterranean. Data includes refugees and migrants arriving by sea to Italy, Greece, Spain, Cyprus and Malta and refugees and migrants arriving by land to Greece and Spain.

[2] The use of the expression should not be intended as an adherence to the emergency discourse spread both in the political and media spheres. Conversely, coherently with the theoretical frame presented below, in this contribution, the expression 'refugee crisis' aims to underline the complex web of relationships linking international migration and how it has been perceived and understood by the main actors of the management of migration (Triandafyllidou 2018).

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V. Federico, S. Baglioni (eds.), *Migrants, Refugees and Asylum Seekers' Integration in European Labour Markets*, IMISCOE Research Series,
https://doi.org/10.1007/978-3-030-67284-3_3

relationships intertwining international migration debates and perceptions of policies that aim to regulate the entry and stay of foreigners.

People do not move in an empirical or legal vacuum. How international movements are perceived, comprehended and managed also depends on the intricate web of institutional, normative, social narratives and labels that are produced on migration by the 'hosting countries' (Geddes 2005). Against the understanding of international migration as an independent variable that challenges states, it is important to underline that migration "acquires meaning when it meets the borders (territorial, organisational and conceptual) of destination states" (Geddes and Scholten 2016: 4).[3] Policies, legislative acts and even case law attribute a specific quality, value and scope to international migration. Narratives generated by the policies and legislative acts on migration, but also case law, contribute to conditioning and shaping the identity, scope and character of international migration. Analysing these factors may help us to intercept some of the complex dynamics surrounding migration and its governance, while advancing our understanding of this complicated subject.

Against this heuristic backdrop, our contribution aims to analyse how selected EU states (namely the Czech Republic, Denmark, Finland, Greece, Italy, Switzerland, the UK, hereinafter also SIRIUS countries) respond to post-2014 migration flows. The purpose of the chapter is to compare and contrast how immigration laws are discussed and elaborated in these countries, through which tools and with what objectives.

The chapter thus departs from evidence provided by national reports within the SIRIUS research project. These data are adjourned, analysed and complemented by statistics, reports, research and specialist literature, in line with the multidisciplinary and socio-legal approach of this contribution. While acknowledging the peculiarities of each national context, discussed thoroughly in this book, the analysis here focuses on the main trends managing international migration.

The comparative analysis of migration governance presents multiple challenges. Amongst them are the dynamism and continuous changes that affect the institutional and normative framework over time (Menski 2006; Scarciglia 2015); the flexibility of categories used across national legislations (Zonca 2016); and the multiple levels of governance involved in the management of migration (Zincone and Caponio 2006). Being aware of these difficulties, the current contribution wants to avoid standard and definitive schemes to conceptually organize what is a complex reality. Instead, the research adopts an inductive strategy, departing from the observation of empirical data to identify tendencies and patterns of convergence across European countries. In using a flexible methodological approach, this comparative study attempts to grasp the main trends in legal and political responses to migration, while acknowledging the dynamism of the multifaceted processes that surround the phenomenon (Amico di Meane 2018).

[3] Further analysis should be conducted to better understand how migration governance affects migration, in particular the decision to integrate the perspective of third country nationals (Kraler 2006; Federico and Pannia 2018).

The chapter begins by giving an account of political representations and legal categorizations on migrants and asylum seekers produced by SIRIUS countries in the aftermath of the 'refugee crisis' and beyond. Relying on narratives that question the sincerity of asylum claims, and that criminalise migration and humanitarian assistance, restrictive measures are enacted in most SIRIUS countries. The legislative landscape of the countries under scrutiny is populated by symbolic laws that downgrade foreigners' rights and weaken standards, explicitly aiming to dissuade migrants from coming to the respective countries. The analysis then turns to look at international protection. The recourse to push-back operations, and/or, more blatantly, the construction of physical walls or fences, are not the only measures that prevent third country nationals from lodging an asylum claim. Indeed, restraining access to protection is also the consequence of a sophisticated procedural toolbox intended to streamline the refugee status determination procedure (i.e. hotspots and accelerated and fast-track procedures), often at the price of severe violations of fundamental guarantees, such as the right to defence. Final observations are devoted to the restraining tendency enacted by SIRIUS countries in the field of economic--related migration. Here, state power to select and control who can enter and stay in a country is exercised even more openly, in an attempt to respond to domestic electoral consensus-building while welcoming foreigners who cannot represent a burden to the national welfare system.

3.2 Gathering the Interplay Among Narratives on Migration and Asylum and the Restrictive Turn of Policies and Legislations

The right to asylum is explicitly entrenched in the Constitution of the Czech Republic, Italy and Finland, although to different degrees.[4] All countries discussed in the volume have signed the 1951 Geneva Convention and its additional protocols, they are bound by the EU *acquis* aimed at the creation of a Common European Asylum System, with the exception of Switzerland which is not a EU Member State,[5] of Denmark, which opted out,[6] and the UK, which only abides by the first

[4] The right to asylum is also entrenched in art. 18 of the EU Charter on Fundamental Rights. For a panorama of law references of this right on EU Member States' national constitutional law see the following web page: https://fra.europa.eu/en/charterpedia/article/18-right-asylum. The Switzerland Constitution also mentions the right to asylum. However, this right is not proclaimed, but only regulated in its main aspects. The Switzerland Constitution can be consulted here: https://www.admin.ch/opc/en/classified-compilation/19995395/201809230000/101.pdf

[5] Switzerland is bound by the Return Directive (Directive 2008/115/EC), the Dublin III Regulation (Regulation (EU) No 604/2013 of 26 June 2013) and Eurodac Regulation (Regulation (EU) No 603/2013 of 26 June 2013). Full titles of legislations are mentioned in the list of legislations below.

[6] Denmark only abides Dublin III Regulation and Eurodac Regulation.

phase of the Common European Asylum System[7] as a result of its opting out from the 'Asylum Recast Package'. Finally, most of the SIRIUS countries, such as Denmark, Finland and Italy, have incorporated the European Convention of Human Rights, together with its principle of protection against torture or inhuman or degrading treatments (art. 3 ECHR), in their Constitutions.

Despite these national, regional and international obligations, an overall restrictive approach can be observed among the surveyed countries, where the tightening of migration law conflates with both a discourse and normative categorizations that label migration and asylum as a threat.

3.2.1 Questioning the Authenticity of Asylum Claims

Throughout most of the SIRIUS countries, the regressive approach taken in the field of migration and refugee law seems to rely on a specific political construal of the 'bogus asylum seeker' or the 'illegal asylum seeker' (Lynn and Lea 2003; Zetter 2007; Squire 2009; Gabrielatos and Baker 2008).[8]

Illustrative of this tendency is the so-called 'deport first, appeal later' provision, introduced in the UK with the Immigration Act 2014. In the words of the Home Office, the new measure provides the power to deport foreigners pending their deportation appeal, and allows halting foreigners' "opportunity to launch spurious claims under the Human Rights Act or falsely claim asylum" (Home Office and the Rt Hon James Brokenshire MP 2015). In 2017, the Supreme Court declared that deportations issued under this scheme were unlawful, they contravene the right to family and private life entrenched in article 8 of the European Convention of Human Rights, and undermine the right to an effective appeal (R (on the application of Kiarie) (Appellant) v Secretary of State for the Home Department (Respondent) [2017] UKSC 42). Meanwhile, research shows that, in the UK media-based public sphere, migration is reduced to an issue of border controls or political management (Montgomery et al. 2018).

As the 'detention fast track procedure' exemplifies, discourses that surreptitiously associate asylum seekers with economic or illegal migrants instil doubts

[7] Namely the 'Refugee Qualification Directive' (2004/83/EC), the 'Asylum Procedure Directive' (2005/85/EC) and the 'Asylum Reception Conditions Directive' (2003/9/EC).

[8] The terms 'bogus asylum seeker' and 'illegal asylum seeker' are often used in the political and media discourse and carry varied connotations depending on the context. The term 'bogus asylum-seeker' is often used in opposition to the term 'genuine asylum seeker'. Instead, the term 'illegal asylum seeker' often refers to people who arrive by boat without documents and express the will to apply for protection. Nonetheless, as UNHCR (2018b) has pointed out, "There is no such thing as a bogus asylum seeker or an illegal asylum seeker. As an asylum seeker, a person has entered into a legal process of refugee status determination. Everybody has a right to seek asylum in another country. People who don't qualify for protection as refugees will not receive refugee status and may be deported, but just because someone doesn't receive refugee status doesn't mean they are a bogus asylum seeker".

about the truthfulness of asylum seekers' protection needs. In turn, this provides the theoretical framework to speed up and simplify the refugee status determination (hereinafter also RSD) procedures, sometimes in breach of procedural guarantees and the quality of assessment. Governments try to dispel doubts by immediately distinguishing the 'bogus asylum seeker' from the 'true' one. Therefore, when the authenticity of a foreigner's asylum claim is regarded as suspicious, his/her rights and guarantees are also questioned. Sometimes, legal presumptions and categorizations that inhabiting the refugee law of SIRIUS countries serve the same end. The concept of 'vulnerability' used in the frame of resettlement programs offers a good illustration of this trend (AIDA 2017; Peroni and Timmer 2013).

As a long-term, durable solution,[9] resettlement undoubtedly represents a fundamental tool to provide refugees with sound legal protection and guarantees. Although the number of people effectively resettled is much lower than pledges made by European states, in 2017 more than 26,400 refugees were resettled to Europe, the majority of whom were transferred to the UK. Although contributing to a lesser extent, Finland and Switzerland also provide active resettlement programs (UNHCR 2018a: 17), while Denmark declined to receive the UN refugees quota under the resettlement pact in 2016, and further extended the suspension to 2017 and 2018 (Wallis 2019).[10]

Nonetheless, it has been observed that the UK applies the label of 'vulnerable' to refugees in order to qualify those eligible for its resettlement programs. Among the resettlement programs put in place by the UK Government, three explicitly target the most vulnerable: the Syrian Vulnerable Persons Resettlement Scheme (VPRS), the Vulnerable Children Resettlement Scheme and children relocated under the 'Dubs amendments'. Whereas the latter programs address children specifically, the former scheme concerns vulnerable Syrian refugees, including the elderly, the disabled, persons who have experienced trauma, children, orphans and minorities (Home Office 2018). However, this may send the message that the general refugee population is either not vulnerable, or else not vulnerable 'enough' to deserve resettlement. Indeed, the approach favours the creation of two categories: the more deserving and the less deserving refugees. Only the former are protected and taken in charge by the state (Hirst and Atto 2018). Similarly, the EU relocation program,[11] which has realized the transferral of almost 22,000 asylum seekers from Greece and about 12,700 from Italy across Europe (EU Commission 2018), has reproduced the same rationale, considering as 'vulnerable' and therefore eligible only those asylum-seekers of nationalities with an average recognition rate of 75% or higher at EU level.

[9] A 'durable solution' is one that enables refugees to 'rebuild their life' (UNHCR 2003).

[10] In 2017, an amendment to the Aliens Act also left the decision on resettlement refugees to the Minister of Immigration and Integration alone, so potentially put an end to resettlement programs to Denmark. However, the new government, led by a different political party (social democratic) and in place since June 2019, might decide to again join the UN resettlement program.

[11] The relocation programme was a two year scheme provided by the 'Provisional measures in the area of international protection for the benefit of Italy and Greece' adopted by the European Council in 2015, aimed to reduce the migratory pressure on frontline states (Italy and Greece).

This 'fractioning' of the refugee label (Zetter 2007; Costello and Hancox 2015) creates a quasi-hierarchy among refugees. On the one hand, it reduces or slows access to international protection, while on the other, it regulates access according to reasons of social acceptance rather than the right to asylum.

3.2.2 The Criminalization of Migration and Humanitarian Assistance

Closely related to the narrative presented above, we can observe the tendency to merge the status of the 'protection seeker' with a condition of 'illegality' or 'irregularity', or to juxtapose migration to security concerns. Following this pattern, and increasingly frequently, governmental authorities deploy the punitive arsenal of the criminal law against migrants in an attempt to manage and control migration. Consequently, the distinction between criminal law and immigration law is progressively blurring. This may not only entail dangerous consequences for foreigners' human rights, but also contributes to throwing a negative light on social perception about them (Council of Europe, Commissioner for Human Rights 2010).

Evidence of the above scheme is analysed and theorized into what has been called the 'crimmigration law' (Stumpf 2006). Concrete manifestations of this understanding of migration are found in all the countries under scrutiny. Indeed, all SIRIUS countries consider unauthorised crossing of the border a criminal offence, punished with imprisonment and/or fines or with fines only (FRA 2014). Meanwhile, narratives that portray immigrants as a threat to national security and social welfare flourish across EU states. In both Greece (Bagavos et al. 2018) and Italy (Chiaromonte et al. 2018), the stereotypical correlation 'immigrant-criminal' is widely promoted by policymaking, and echoed by the media.

Similar criminalization processes may also affect people who enter Europe to seek protection. For instance, in the UK, according to section 2 of the Asylum and Immigration Act 2004, asylum applicants who cannot provide identification documents may be charged with a criminal offence, punishable by a prison sentence of up to 2 years. As Hirst and Atto report: "In the first 6 months since s2 of the Act came into force, at least 230 asylum seekers were arrested, and 134 convicted of this new offence. Multiple asylum seekers have received jail sentences" (2018: 854).

The 'criminalization trend' targets not only migrants, but also members of civil society who provide humanitarian assistance to foreigners' entry into Europe, including NGOs and volunteers involved in search and rescue (hereinafter also SAR) at sea. In 2018, more than 2000 people lost their lives crossing the Mediterranean, the death rate for numbers of arrivals almost triplicated compared to 2017 (UNHCR 2019). In this context, NGOs' intervention proved crucial in saving lives (Italian Coast Guard 2017), due also to the reduction of states-run SAR

operations at sea (Council of Europe Commissioner for Human Rights 2019). Nonetheless, this did not prevent some policy-makers from running a delegitimization campaign focused on the media-based public sphere, and approving measures to restrict and criminalize NGO activities. In this regard, Italy is a quite paradigmatic case.

In 2017, the Italian Ministry of the Interior in consultation with the European Commission issued a 'code of conduct' for those NGOs operating in the rescue of migrants at sea, aiming to regulate the search and rescue operations in the Mediterranean conducted by non-governmental actors. Under the code, measures such as the presence of law enforcement officers on board, the prohibition from entering Libyan territorial waters and collaboration in the fight against smugglers were imposed on NGO vessels (ASGI 2017; MSF 2017). In 2018, since taking office as Minister of Interior, Mr. Salvini has restricted the entry of NGO vessels into Italian ports on several occasions, inaugurating a policy of 'closing ports' which significantly delayed migrants' disembarkation as well as their access to succour, reception and asylum procedures. In June 2019, an emergency decree was approved, establishing, among the other provisions, hefty fines (from 150,000 to 1,000,000 euro) on any boat entering the Italian sea without permission, with the possibility of suspending or revoking their licences in case of reiterated contraventions of the ban (arts. 1 and 2).[12]

Furthermore, as shown by the report released by the Fundamental Rights Agency of the European Union, since 2018, in both Italy and Greece, NGO ships have been seized and subjected to administrative and criminal proceedings. None of these procedures has resulted in conviction.[13] Meanwhile, numerous allegations that NGOs collaborate with smugglers are denied by the NGOs involved (del Valle, 2016) and dismissed by public institutions (Italian Senate, 2017). Empirical research also demonstrates that claims portraying NGOs as a 'pull factor', somehow encouraging people to migrate to Europe, are unsubstantiated (Cusumano 2017).

Despite concerns expressed by the UN and the Council of Europe in recommendations and official letters, this trend, which obstructs and criminalizes humanitarian acts, does not seem to stop. As a result, only a few NGOs currently operate in the Mediterranean, leading to a drastic reduction in the possibility of saving lives at sea.

[12] Law-Decree No. 53, 14 June 2019 'Urgent dispositions on order and public security', converted with amendments by Law No. 77, 8 August 2019.

[13] The list of current legal proceedings in the EU against private entities involved in SAR operations in the Mediterranean Sea is provided by the European Union Agency for Fundamental Rights. The list, up-to-date until 1 June 2019, is available here: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-ngos-search-rescue-mediterranean-table-2_en.pdf

3.2.3 *Law as Communication: Normative Provisions Aiming to Create a 'Hostile Environment'*[14]

Over recent years, this restrictive trend in migration policies and legislations across Europe has is also expressed through progressive curtailment of foreigners' rights and guarantees. The explicit aim is to dissuade new arrivals, while at the same time catering to (some) natives' fears about migrants, thus making European states a 'less attractive' destination.

Denmark offers a paradigmatic example. In February 2019, the government passed a new immigration bill announcing a 'paradigm shift' from integration to repatriation. Indeed, Law L140 substantially amends residence rules, allowing permit renewals only when conditions in home countries are deemed unsafe, or else in the case of strong family attachment. Following the reform, the degree of integration into Danish society has ceased to have any relevance when it comes to allowing the stay of international protection holders. It is difficult to predict the concrete effects of this paradigm shift. However, the message conveyed by the law is clear: refugees' stay in Denmark should only be temporary. Even if a softer agenda on migration were adopted by the new government, the idea that refugees will *not* become permanent residents has been recently reiterated by the new Prime Minister, Mette Frederiksen: "When you are a refugee and come to Denmark, you can be granted our protection. But when there's peace, you must go home" she stated in June (Wallis 2019).

Although challenged by scholars who demonstrate that stricter rules do not stem migrant flows (Thielemanne 2004; Mayblin and James 2016), the proposition of stricter rules to staunch the flow of asylum seekers has found wide support among SIRIUS countries, where policies and legislation have led to the progressive downgrading of foreigners' fundamental rights and guarantees. Within these measures, the right to family reunification has been significantly eroded. This is again the case of Denmark. Here, over recent years, the steady reduction of integration benefits and the limited access to family reunification given to refugees serves the stated aim "to make sure that it is not attractive to come to Denmark", as declared by the previous immigration minister, Inger Støjberg (Walter-Franke 2019: 3). Coherent with this rationale, the new law L140 allows the minister to activate a limit over the number of family reunifications in the event "asylum applications 'increase significantly over a short period', – without specifying what a significant increase would mean" (FRA 2019a: 4). Meanwhile, complicated bureaucratic procedures and the caseload in immigration services cause waiting times of up to 2 years, which severely affects refugees' right to reunite with family members (Bendixen 2019).

Similarly, in Greece, due to persistent administrative shortcomings, in 2018 only a few refugees were able to trigger a procedure for family reunification (Council of

[14] The expression appears in the speech that Theresa May gave on 10th October 2013, accessible at: https://www.theguardian.com/politics/2013/oct/10/immigration-bill-theresamay-hostile-environment

Europe Commissioner of Human Rights 2018). Beyond this, in a highly symbolic way, the Labor and Social Affair Minister of the newly (August 2019) installed Greek government cancelled a circular concerning the issuing of social security numbers (AMKA) to migrants, refugees, asylum seekers, unaccompanied refugee children and non-EU nationals. As observed, the circular "actually codified a law passed under the New Democracy government in 2009" (Lefkofridi and Chatzopoulou 2019). Nevertheless, this measure makes it difficult for foreigners to access social rights, being the AMKA essential to access services in Health, Education and Labor. A very similar provision was approved by the Italian government in 2018, when 'Security Decree' No. 113/2018 stipulated that the asylum applicant status would not anymore allow enrolment on the Civil Registry or obtaining a residence card (art. 13). This has severe implications for the recognition of social rights and benefits, with foreigners increasingly turning to the Court to claim the right to be enrolled on the Civil Registry. Finally, in August, the Tribunal of Milan questioned the constitutional legitimacy of art. 13, referring the case to the Constitutional Court (referral order of 16.08.2019).

In Finland, since normative changes introduced in 2016, refugees and those beneficiaries of subsidiary protection who want to apply for family reunification must demonstrate they have sufficient means to cover family expenses (Law 43/2016). The purpose of the reform is "to make sure that the society does not have to pay for foreigners residing in Finland" (Bontenbal and Lillie 2018: 206). Under these measures, the requirements for family reunification became extremely difficult for many to meet.

Sometimes, messages are conveyed through symbolic legislation, such as the so-called 'jewellery law' approved in Denmark in 2016 (Bill No. L 87). According to this controversial normative provision, police officers have the power to search and confiscate asylum seekers' assets with a minimum value of 10,000 Dkk (€ 1.340), as a contribution to the expenses related to their stay in Denmark. Denmark is not an isolated case among SIRIUS countries. Indeed, similar provisions are currently also in place in Switzerland, where asylum seekers are required to declare all their valuables on arrival, and anything which is worth more than € 900 can be taken away by immigration authorities.[15]

The real impact of these laws seems, so far, modest. In Switzerland a total amount of € 200,000 has been collected from 112 individuals (Hartmann and Feith Tan 2016), whereas in Denmark, a car and about €24.000 have been confiscated (Barret 2019). Nonetheless, the anti-migrant signal sent by these manifesto-laws (laws adopted for their symbolic meaning rather than to effectively regulating the issue at stake) is powerful, and it can realise multiple aims. Indeed, these legislations, intended to discourage asylum seekers from coming to the country, may trigger a race to the bottom among SIRIUS countries and beyond insofar as they try to become the most 'unattractive destination'. Meanwhile, such measures

[15] Unlike the Danish case, the Swiss law provides the return of asylum seekers' confiscated assets, if they decide to leave the country (Hartmann and Feith Tan 2016).

symbolically construct asylum seekers as 'abusive individuals' who threaten the welfare state. Relying on these narratives, states may more easily neglect protection seekers' claims and weaken their legal status, in breach of international conventions.

The creation of a 'hostile environment', often the stated aim of legislative reforms, is mirrored by the complex and hypertrophic legal milieu featuring SIRIUS countries in the field of migration and asylum. Indeed, national legislations have been modified continuously, and not necessarily coherently, often in the aftermath of a change in government.[16] This is consistent with other evidence: over recent years, migration has become a salient argument that often dominates elections and referendum debates at both European and national level. In the UK, for instance, the 2016 EU referendum can be considered a paradigmatic case, since the Leave campaign mostly revolved around anti-migration discourses. The same can be said for arguments used by the UK Conservative Party in the last elections (Calò et al. 2018).

Overt manifestations of the labyrinthine landscape currently governing migration and asylum can be found in almost all the SIRIUS countries. For instance, in the UK, 12 Acts of Parliament regulating immigration issues have been approved in the last 20 years (Hirst and Atto 2018). In Italy, the Consolidated Law on Immigration is the result of multiple, fragmentary normative stratifications that jeopardise internal consistency and effectiveness. The same complexity and rapid evolution is seen in the legal frameworks of Greece, Switzerland and Denmark, too. With respect to Demark, it is noteworthy that from 2002 to 2011 the Aliens Act, one of the main laws regulating immigration, was changed 57 times – and since 2015, more than 85 times (Sen et al. 2018). The same also applies to the Czech Republic, where, due to the numerous amendments, Act No. 326/1999 regulating the residence of foreigners became a chaotic and confusing law (Čada et al. 2018). Paradigmatically, in 2018 and 2019 changes occurred in the legal framework of all the surveyed countries, whereas further legislative amendments have been announced in Denmark and Finland by those governments established in 2019.

To add further complexity, in most SIRIUS countries the acts of primary legislation only provide for the general framework, while specific immigration issues are *de facto* regulated in detail and implemented by a congeries of acts of secondary legislation (by-laws, regulations, ministerial circulars, administrative rules, etc). This trend is particularly relevant in the UK, where a number of secondary immigration laws had been rushed through Parliament once a month on average (Clayton 2016). Between 2014 and 2016, reportedly, "two primary provisions were enacted (Immigration Act 2014 and 2016), while 79 orders and rules were promulgated" (Calò et al. 2018: 465). This not only makes the legal framework difficult to access and navigate, but also divorces a significant part of immigration regulation from democratic control. Indeed, secondary acts are rarely subjected to Parliamentary

[16] Finland seems to constitute an exception to this trend. Indeed, according to research carried out so far and the opinion of some interviewed experts, since the peak of arrivals in 2015, Finland has not experienced changes in legislations, but a trend of more restrictive interpretation of the legal framework already in place (Bontenbal and Lillie 2018).

debate. Hence, away from any adequate parliamentary control, governments retain considerable spaces of discretion and room of manoeuvre in the regulation of migration issues.

3.3 Preventing or Restraining Access to International Protection

Focusing on the legislation governing international protection, this section discusses the tendency of most SIRIUS countries to narrow and sometimes even to obstruct access to the international protection process. SIRIUS countries have designed and deployed a sophisticated toolbox, including both physical and procedural barriers.

Concerning physical barriers, during the timeframe 2011–2017, all over Europe migrants were physically prevented from accessing territory and consequently submitting their asylum claim through the systematic recourse to push-back operations, and/or, in a more blatant way, by building actual walls or fences. Greece is maybe the most typical case of restricting analysis to a SIRIUS country. In 2012, in the Greek-Turkish border of the Evros area, a 12 km wall was built to impede access to the country by land. At Evros, multiple complaints about push-backs were reported in 2017, 2018 and 2019 by both NGOs and governmental institutions (Strik 2019; Greek Council for Refugees 2019). Meanwhile, extreme difficulties in lodging an application for international protection are observed in Greece, as a result of illegitimate practices. As recorded by the Greek Council for Refugees, in 2018, there were cases of people who, after several attempts to lodge an asylum application, were arrested due to being found "in the lack of legal documentations" and then detained, in view of removal (FRA 2019a: 12).

However, in the majority of cases, SIRIUS countries have not resorted to the aforementioned practices. Instead, restraining access to international protection has resulted from the implementation of tools and procedures already provided by the EU asylum *acquis*. Among them, the hotspots approach and procedures enacted in line with the recast Asylum Procedures Directive can be regarded as some of the main tools, making part of an overall European strategy of controlling access to the state, and more broadly, to Europe.

On this legal basis, extensive reforms involve the legal frameworks of SIRIUS countries, reshaping domestic asylum proceedings. However, as discussed later in this chapter, asylum policies and legislations intended to speed up the procedure are often oriented more towards deterrence than efficiency.

3.3.1 The Hotspots Approach

First presented in the European Agenda on Migration (EU Commission 2015), the 'hotspot approach' was intended to assist frontline Member States facing an exceptional migratory pressure at the EU external border. Hotspots identify a geographical space. At the same time, hotspots identify an approach where the European Asylum Support Office, Frontex and Europol "work on the ground with frontline Member States to swiftly identify, register and fingerprint incoming migrants" (EU Commission 2015: 6).

As pointed out by the EU Court of Auditors, hotspots have been found effective in improving operations of identification, registration and fingerprinting. Considering the whole of 2016, Italy could count for a 97% registration and fingerprinting rate (this was 60% in the first half of 2015). Greece witnessed a significant increase in the rate of registration of incoming migrants as well, with 78% of migrants registered and fingerprinted, compared to the 8% registration rate of September 2015. Thereby, "in this respect the hotspot approach contributed towards an improved management of the migration flows" (European Court of Auditors 2017: 38–39). However, as the EU Court of Auditors further observes, the effectiveness of the hotspot approach is strictly linked to the proper functioning of the follow-up process, namely asylum, relocation and return. But the "implementation of these follow-up procedures is often slow and subject to various bottlenecks, which can have repercussions on the functioning of the hotspots" (European Court of Auditors 2017: 7; 40–44).

More specifically, the state of play of hotspots in Greece has been dramatically affected by the EU-Turkey statement of 2016, which aims to curtail the migratory flow to the Aegean Sea. Indeed, initially intended to channel newly-arrived migrants into procedures of international protection or return, after March 2016, hotspots were substantially transformed into closed centres of detention to implement returns to Turkey (Guild et al. 2017). This reportedly led to collective expulsion and push--backs (ECRE 2016). Harshly criticized by national and international organizations (UNHCR 2017a), the detention of migrants has been substituted by an order of blanket geographical restriction imposed to newly arrivals, who are obliged to reside in the identification and reception centre for an indefinite period of time (AIDA Country Report: Greece 2018). Meanwhile, running short of staff, the Greek Asylum service experienced significant difficulties in handling the high number of asylum applications, which significantly raised after 20 March 2016. As a result, in September 2016, "the majority of migrants who arrived after 20 March had still not had the opportunity to lodge an asylum application" (European Court of Auditors 2017: 41).

In Italy, according to the Consolidated Law on Immigration, undocumented foreigners intercepted within Italian territory and helped during rescue operations at sea are conducted to hotspots, where they are fingerprinted and receive information on international protection, relocation and assisted voluntary return (art. 10 ter of the Consolidated law on Migration). However, in 2016, fewer than one third of

incoming migrants were identified in hotspots, while others were registered in other ports of arrival. Undoubtedly, the crucial part of the identification procedure is pre--registration, a phase in which migrants are qualified as either 'undocumented' or 'asylum seekers'. In this regard, there have been allegations of migrants who have been delayed or denied access to international protection (UNHCR 2017b). In 2016, the Italian government put in place a comprehensive training program for police authorities responsible for receiving asylum applications. Nonetheless, several scholars have reported practices such as "profiling on grounds of nationality, treating arrivals from non-relocation countries directly as 'non-refugees', selectively (mis-)informing them about their options and swiftly expelling them" (Guild et al. 2017: 47).

Although numbers of arrivals significantly dropped, resulting in a general improvement of hotspot conditions,[17] some shortcomings persist. February 2019 saw allegations that 32 foreigners detained in the hotpots of Messina, Italy, had their access to the procedure of international protection unlawfully delayed while their legal status remained indefinite for long time, pending the negotiation of their resettlement to another EU state.[18]

3.3.2 The Proliferation of Asylum Procedures

Beyond hotspots and tightening borders, the narrowing and slowing down of access to international protection has also been the (secondary) effect of procedural tools intended to streamline the RSD process. The growing number of arrivals and asylum applications from 2011 to 2017 placed a strain on the asylum system of EU states, which responded, inter alia, with legislative reforms to boost the efficiency of RSD procedures.

Indeed, building on the set of rules and procedures provided by the recast Asylum Procedure Directive, all SIRIUS countries introduced procedural tools in their domestic asylum system to determine who should and should not have protection, without examining the merit of the asylum claim. Specifically, domestic legislations could rely on procedures provided by the recast Asylum Procedures Directive (hereinafter also APD) with the aim to streamline the RSD process, namely:

> a) an 'admissibility procedure' which does not examine the merit of asylum claims protection needs, for asylum seekers who may be the responsibility of another country or have lodged repetitive claims (arts. 33 and 34); b) an 'accelerated procedure' to examine protection needs of ostensibly unfounded or security-related cases (art. 31(8)); and c) a 'border

[17] However, as FRA reports, "As the hotspots are underused, it is difficult to assess whether the system is equipped to handle future fundamental rights emergencies adequately, should arrivals increase again" (FRA 2019b: 7).

[18] The letter that a number of NGOs sent to the Ministry of the Interior, the Prefect of Messina and the Police Headquarters of Messina, urging them to clarify these foreigners' legal status can be consulted here https://www.asgi.it/allontamento-espulsione/immigrazione-hotspot-messina/

> procedure' to speedily conduct admissibility or examine the merits under an accelerated procedure at borders or in transit zones (art. 43). (AIDA 2016: 8)

Among the procedures mentioned above, the 'Accelerated Procedure' raises multiple concerns in reference to asylum applicants' rights and procedural guarantees. By way of example, the short time limits featuring this specific procedural regime end up with severely limiting the right to effective defence. Recital 20 of the recast APD states that,

> In well-defined circumstances where an application is likely to be unfounded or where there are serious national security or public order concerns, Member States should be able to accelerate the examination procedure, in particular by introducing shorter, but reasonable, time limits for certain procedural steps, without prejudice to an adequate and complete examination being carried out and to the applicant's effective access to basic principles and guarantees provided for in this Directive.

Although the recast APD does not offer a definition of the 'manifestly unfounded claim', art. 31(8) lays down the grounds upon which Member States may provide an accelerated procedure. Currently, following reforms mainly intervened in 2015, all SIRIUS countries apply the accelerated procedure. However, significant divergences can be observed concerning the various aspects of the accelerated procedure, such as the grounds on which the procedure is initiated, the time-frame within which the procedure should be conducted, the determining authorities.

Despite the difficulty in conducting a considered comparison, a convergence can be pointed out: all SIRIUS countries applying the accelerated procedure incorporate the notion of 'safe country of origin' in their domestic legislation. Based on this concept, asylum applications of migrants from a list of countries are presumed to be manifestly unfounded, unless applicants prove otherwise.

Among the accelerated procedures, the one approved in Switzerland has produced opposite reactions. Triggered by a referendum in 2016, after a 4-year testing phase in Zurich, the reform entered into force in 2019, mainly aiming to expedite the asylum procedure, with a strict timeline and defined steps. Indeed, according to the new law, asylum procedures are expected to be completed within 140 days, down to 100 days in case of accelerated procedures, intended to deal with the so--called 'easy cases'. From registration until the end of the first instance procedure, asylum applicants are provided with free legal assistance, including during the 21-days preparatory stage, when the applicant's file is prepared and channelled into the accelerated or the extended procedure. The accelerated procedure imposes a particularly pressing timeline: the decision is taken in eight working days, with an extra deadline of seven working days to lodge an appeal.

The new measures are enthusiastically supported by the Swiss Refugee Council, which highlights the many advantages stemming from: "the acceleration of procedures, along with fairness for asylum seekers, quality of decisions, suitable accommodation, efficient integration and return procedures" (Hruschka 2019). However, in contrast, some NGOs express concerns about the consequences of the contracted timescale on the quality of the refugee status determination. Hence, it has been

contested that the very purpose of the reform was to speed up returns, as opposed to procedures (OSAR 2017).

3.4 Is Europe a Fortress or an Exclusive Club? Selecting Migration Legal Pathways

Although 'a new policy of legal migration' has been presented as the third pillar of the 2015 EU Agenda for Migration (EU Commission 2015), few steps have been taken so far to enhance the creation of legal channels for labour migration (EU Commission 2019a). However, these failures do not target all third country nationals in the same way. The Legal Migration Fitness Check, released by the EU Commission in March 2019, reveals a number of gaps between objectives and needs, which together undermine a comprehensive EU migration policy. This mainly results from the sectorial approach of the EU *acquis*, whose scope fails to cover some category of third country nationals, such as non-seasonal low- and medium-skilled workers (EU Commission 2019b).

Against the lack of EU legal labour migration policies, immigration for economic purposes remains an almost exclusive domain of national states. Indeed, the decision about who should be admitted in the state territory and with what entitlements is still one of the main prerogatives of modern, post-Westphalian, statehood. This prerogative is somewhat exacerbated for people who migrate for economic--related reasons, in respect to which fewer limitations to national sovereignty are brought in by EU membership and international obligations (Joppke 2005; Sohn 2014).

Hence, immigration on economic grounds can be considered a breeding ground for enacting restrictive policies to deliver government pledges to curtail overall net immigration. This was the case in the Czech Republic, where, in 2010, in the aftermath of the economic crisis, restrictive measures on migration were enacted, targeting mainly economic migrants and the issuance of employment permits. For instance, labour offices "were asked not to issue employment permits to foreigners for such job positions that can be filled by persons with free admission to the Czech labour market. The length of the stay or the level of integration of individual foreigners was completely disregarded." (Čižinský et al. 2014: 47).

However, more often, most of the SIRIUS countries have laid down policies to screen and accept potential migrants based on certain characteristics, such as sectors of labour shortage, short-term work, income and skills, so as to align immigration with the country's economic and political interests and needs. Following this trend, the traditional image of Europe as an impregnable fortress appears less fitting. Indeed, this fortress has some drawbridges, available only to those who are considered eligible due to their economic resources or talent.

In this regard, across the SIRIUS countries, several policies have been put in place to favour labour market access for two categories of economically suitable

migrants: high-skilled foreign workers and international students. In Denmark, the immigration of third country nationals for work purpose is mostly limited to high--skilled professionals. In the UK, the 'Highly Skilled Migrants Programme', replaced by Tier 1, has allowed exceptionally talented foreigners to enter and settle in the UK, without the obligation to prove an offer of employment before arrival. Another programme (the 'International Graduate Student Scheme') was also launched to attract international students, allowing them to work in the UK for one year after completing their course of study. In recent years, the number of highly skilled workers has significantly increased, while international students' enrolment in UK universities grew by 92% between 2000 and 2014 (Hirst and Atto 2018). Beyond these specific programmes, the selectivity of the UK immigration policy is unveiled also by the so-called points-based system (PBS), a comprehensive system based on the accumulation of points across different categories (e.g. level of English language or amount of savings) which determines the success of foreign visa applications. As Hirst and Atto reports (2018), the PBS is complex and expensive and it "is also subject to rapid change, with work visa categories regularly being established and discontinued, reflecting the Government's attempts to both limit immigration, and be responsive to employer demands to have the skilled employees they need" (2018: 863).

In other countries, such as Italy and Switzerland, the control and selection process on economic-related migration has been enacted by introducing national numerical migration limits or other systems, which give priority to national jobseekers. Through these tools, states may easily cap the number of migrants allowed to enter the domestic labour market and target candidates for immigration according to economic necessities and social acceptance. Thus, in Switzerland, in July 2018, new measures entered into force aiming to support the domestic workforce in jobs and sectors with high rates of unemployment compared to the national average (art. 21a Foreign National Act). In these cases, job offers are announced, as a priority, to unemployed persons registered at the Regional Unemployed Office. This de facto entails giving precedence to Swiss nationals, who can more easily fulfil the requirement of registration (Moreno Russi and Nicole 2018). In Italy, since 2011, also due to the economic crisis, the government has decided to limit the entry quota only to few foreigners: mainly high-qualified workers, rich entrepreneurs and 'seasonal workers' in the field of agriculture and tourism (Chiaromonte et al. 2018). Following this trend, in Italy, Law No. 232 of 2016 (2017 Budget Law) modified the Italian Consolidated Law on Immigration, granting foreign investors entry and staying 'out of quota' (art. 26 bis of the Legislative Decree No. 286 of 1998). Beyond Italy, among SIRIUS countries, also Greece, the Czech Republic, Switzerland and the UK provide programmes that offer residence permits to investors (Dzankic 2019).

As this overview shows, access to national job markets is increasingly reserved for specific categories of third country nationals, with European states devoting their efforts to becoming more attractive to investors, entrepreneurs, talented students and professionals. After all, the promotion and development of a common space for research, scientific knowledge and technology was one of the main objective of the EU, as already stated in the 2009 Lisbon Treaty, (see in particular Title XIX). However, in countries where the domestic workforce has reached high levels

of education and aspires employment in medium and high-skilled positions, many low-wage jobs such as the care of children and the elderly, construction and agriculture, remain performed by immigrants (Newland and Riestrer 2018). Nonetheless, given the almost complete unavailability of legal migration avenues, both employers and low-skilled migrants often turn to informal employment, as analysis of Italy's and Greece's labour market displays. Within the extra-legal pattern, migrants are exposed to various forms of exploitation, subjected to risks of sanctions, and/or detention and excluded from basic rights and legal guarantees.

3.5 Concluding Remarks

The entangled interplay of political discourses, policies and legislations in the field of asylum and immigration is a common thread running across all the SIRIUS countries.

As observed earlier, immigration, asylum and security concerns have become increasingly fused in the public discourse, triggering a number of measures that try to criminalize both migration and humanitarian assistance. The narrative of 'bogus asylum seekers', together with open discourses of deterrence, have underpinned reforms which curtail foreigners' guarantees, rights and social benefits, and also with the purpose of making European countries unattractive to certain types of migrant. The tightening of migration law, together with the increasing politicization of the 'refugee crisis', have contributed to creating a 'hostile environment' for migrants. Meanwhile, SIRIUS countries' legal and institutional frameworks on migration and asylum are extremely difficult to navigate. This is mainly the result of a complex and rapidly evolving legislation and of a fragmented legal framework, difficult to be correctly and consistently implemented and duly interpreted and applied.

Furthermore, an overall restriction of access to international procedure features in all SIRIUS countries. This is pursued through physical restrictions (i.e. push-backs and the construction of fences), and procedural measures (including hotspots, acceleration procedures, the concept of 'safe countries of origin') to streamline the RSD procedure. However, procedural simplification is often realized at the expense of the principles of transparency and predictability, through the introduction of restrictions of rights and procedural guarantees, such as the right to effective defence. Meanwhile, access to Europe is narrowed for third country nationals who migrate for economic reasons, reserving permits to entry and stay to those who are deemed good for the economy, such as high-skilled workers, investors or rich entrepreneurs.

The restrictive approach that permeates narratives, policies and legislation risks becoming a 'logic trap' that effects not only on migrants but society as a whole. The anti-immigrant attitude of politicians, together with hostile public sentiment, mutually reinforcing each other, create a toxic environment. However, cultivating a culture of fear and defensiveness not only affects prospects of encounter and socialization for migrants who are already in the country, but also prevents governments from enacting reforms that would allow the country to benefit from migrants'

presence and support their active engagement. The lack of legal migration pathways able to fill the demand for labour at all skills levels can be regarded as one of the most indicative implications of this blind and counterproductive 'policy of fear' which is taking over (and replacing) migration policies in Europe.

References

AIDA. (2017). *The concept of vulnerability in European asylum procedures*. http://www.asylumineurope.org/sites/default/files/shadow-reports/aida_vulnerability_in_asylum_procedures.pdf

AIDA. (2018). *Country Report: Greece*. https://www.asylumineurope.org/reports/country/greece

AIDA (Asylum Information Database). (2016). *Admissibility, responsibility and safety in European asylum procedures*. https://www.ecre.org/wp-content/uploads/2016/09/ECRE-AIDA-Admissibility-responsibility-and-safety-in-European-asylum-procedures.pdf

Amico di Meane, T. (2018). Beyond the pedagogical beauty of dichotomy. Comparative Law methodology in liquid times. In K. Topidi (Ed.), *Normative pluralism and human rights. Social normativities in Conflict* (pp. 9–60). New York.

ASGI. (2017). *Position paper on the proposed "Code of conduct for NGOs involved in migrants' rescue at sea"*. https://www.asgi.it/wp-content/uploads/2017/07/Draft-ASGI-Position-Paper_Final_EN.pdf

Bagavos, C., Lagoudakou, K., & Xatzigiannakou, K. (2018). Greece. In V. Federico (ed.) *WP2 Report – Legal Barriers and Enablers* (pp. 243–303). https://www.sirius-project.eu/sites/default/files/attachments/WP2_D2.2.pdf

Barrett, M. (2019, January 24). Three years after Denmark's infamous 'jewellery law' hit world headlines, not a single piece has been confiscated. *The Local*. https://www.thelocal.dk/20190124/three-years-after-denmarks-infamous-jewellery-law-hit-world-headlines-not-a-single-piece-has-been-confiscated

Bendixen, M. C. (2019, January 29). New restrictions for refugees in the Finance Act. *Refugees Welcome*. http://refugees.dk/en/news/2018/december/new-restrictions-for-refugees-in-the-finance-act-2019/

Bontenbal, I., & Lillie, N. (2018). Finland. In V. Federico (Ed.), *WP2 report – Legal barriers and enablers* (pp. 193–242). https://www.sirius-project.eu/sites/default/files/attachments/WP2_D2.2.pdf

Čada, K., Hoření, K., & Numerato, D. (2018). Czech Republic. In V. Federico (Ed.), *WP2 report – Legal barriers and enablers* (pp. 98–128). https://www.sirius-project.eu/sites/default/files/attachments/WP2_D2.2.pdf

Calò, F., Montgomery, T, Baglioni, S., Biosca, O., & Bomark, D. (2018). United Kingdom. In V. Federico (Ed.), *WP2 report – Legal barriers and enablers* (pp. 439–497). https://www.sirius-project.eu/sites/default/files/attachments/WP2_D2.2.pdf

Chiaromonte, W., Pannia, P, Federico, V., D'Amato, S., & Maggini, N. (2018). Italy. In V. Federico (Ed.), *WP2 report – Legal barriers and enablers* (pp. 304–370). https://www.sirius-project.eu/sites/default/files/attachments/WP2_D2.2.pdf

Čižinský, P., Čech, V. E., Hradečná, P., Holíková, K., Jelínková, M., Rozumeka, M., & Rozumková, P. (2014). *Foreign workers in the labour market in the Czech Republic and in selected European countries*. Prague: Association for Integration and Migration, Organization for Aid to Refugees, Multicultural Center Prague. https://www.migrace.com/docs/141115_simi-zamestnanci-ennahled.pdf

Clayton, G. (2016). *Textbook on immigration and asylum law*. Oxford: Oxford University Press.

Costello, C., & Hancox, E. (2015). The recast Asylum Procedures Directive 2013/32: Caught between the stereotypes of the abusive asylum seeker and the vulnerable refugee. In C. Vincent, P. De Bruycker, & F. Maiani (Eds.), *Reforming the common European Asylum system: The new European Refugee Law* (pp. 375–445). Leiden: Martinus Nijhoff.

Council of Europe Commissioner for Human Rights. (2010). *Criminalisation of migration in Europe: Human rights implications*. Issue paper, 4 February. https://www.refworld.org/docid/4b6a9fef2.html

Council of Europe Commissioner for Human Rights. (2018, November 6). *Report of the Commissioner for Human Rights of the Council of Europe Dunja Mijatović following her visit to Greece from 25 to 29 June 2018*. https://reliefweb.int/report/greece/report-commissioner-human-rights-council-europe-dunja-mijatovi-following-her-visit

Council of Europe Commissioner for Human Rights. (2019). *Lives saved. Rights protected. Bridging the protection gap for refugees and migrants in the Mediterranean*. https://rm.coe.int/lives-saved-rights-protected-bridging-the-protection-gap-for-refugees-/168094eb87

Cusumano, E. (2017). Emptying the sea with a spoon? Non-governmental providers of migrants search and rescue in the Mediterranean. *Marine Policy, 75*, 91–98.

Del Valle, H. (2016). Search and rescue in the Mediterranean Sea: Negotiating political differences. *Refugee Survey Quarterly, 35*, 22–40.

Dzankic, J. (2019). *The global market for investor citizenship*. London: Palgrave Macmillan.

ECRE (European Council on Refugees and Exiles). (2016). *The Implementation of the hotspots in Italy and Greece: A study*. www.refworld.org/docid/584ad1734.html

EU Commission. (2015, May 13). Communication from the commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. *A European Agenda on Migration*. https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf

EU Commission. (2018, 30 October). *Member states' support to emergency relocation mechanism*. https://goo.gl/HfbF8H

EU Commission. (2019a, March 6). Communication from the commission to the European Parliament, the European Council and the Council. *Progress report on the Implementation of the European Agenda on Migration*. https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20190306_com-2019-126-report_en.pdf

EU Commission. (2019b, March 29). *Commission staff working document fitness check on EU legislation on legal migration*. https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/legal-migration/swd_2019-1055-staff-working-part1.pdf

European Court of Auditors. (2017). *Special report no. 06/2017: EU response to the refugee crisis: The 'hotspot' approach*. https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=41222

Federico, V., & Pannia, P. (2018). Migrants' legal statuses in contemporary Italy. First attempts of conceptualization. *Percorsi costituzionali, 1*, 17–37.

FRA (Fundamental Rights Agency). (2014). *Criminalisation of migrants in an irregular situation and of persons engaging with them*. https://fra.europa.eu/en/publication/2014/criminalisation-migrants-irregular-situation-and-persons-engaging-them

FRA. (2019a). *Migration: Key fundamental rights concerns – Quarterly bulletin 2*. https://fra.europa.eu/en/publication/2019/migration-overviews-may-2019

FRA. (2019b). *Update of the 2016 opinion of the European Union Agency for fundamental rights on fundamental rights in the 'hotspots' set up in Greece and Italy*. March 4. https://fra.europa.eu/en/opinion/2019/migration-hotspots-update

Gabrielatos, C., & Baker, P. (2008). Fleeing, sneaking, flooding: A corpus analysis of discursive constructions of refugees and asylum seekers in the UK Press 1996–2005. *Journal of English Linguistics, 36*(1), 5–38.

Geddes, A. (2005). Europe's border relationships and international migration relations. *Journal of Common Market Studies, 43*(4), 787–806.

Geddes, A., & Scholten, P. (2016). Analysing the politics of migration and immigration in Europe. In A. Geddes & P. Scholten (Eds.), *The politics of migration and immigration in Europe* (pp. 1–21). Los Angeles: SAGE.

Greek Council for Refugees. (2019). *Complaint on push-back incidents in the region of Evros during the months of April–June 2019*. http://www.statewatch.org/news/2019/jul/greek-council-for-refugees-Push-backs%20April-June%202019.pdf

Green-Pedersen, C., & Otjes, S. (2017). A hot topic? Immigration on the agenda in Western Europe. *Party Politics, 25*, 1–11.

Guild, E., Costello, C., & Moreno-Lax, V. (2017). *Study on the implementation of the Council Decisions*. European Parliament. http://www.europarl.europa.eu/RegData/etudes/STUD/2017/583132/IPOL_STU%282017%29583132_EN.pdf

Hartmann, J., & Feith Tan, N. (2016, January 27). The Danish Law on seizing asylum seekers' assets. *EJIL: Talk!*, https://www.ejiltalk.org/the-danish-law-on-seizing-asylum-seekers-assets/

Hirst, C., & Atto, N. (2018, May 1). *United Kingdom – Country report: Legal and policy framework of migration governance*. https://www.respondmigration.com/wp-blog/2018/8/1/comparative-report-legal-and-policy-framework-of-migration-governance-pclyw-ydmzj-bzdbn-sc548-ncfcp-5a657

Home Office. (2018). *Resettlement: Policy statement*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/730643/Resettlement_Policy_document_pdf

Home Office and the Rt Hon James Brokenshire MP. (2015, January 6). *'Deport first, appeal later' measures start to bite*. https://www.gov.uk/government/news/deport-first-appeal-later-measures-start-to-bite

Hruschka, C. (2019, March). Op-ed: How to Design Fair and Efficient Asylum Procedures in Populist Times?. *ECRE Weekly Bulletin*. https://www.ecre.org/op-ed-how-to-design-fair-and-efficient-asylum-procedures-in-populist-times/

Italian Coast Guard. (2017). *Maritime Rescue Coordination Centre Roma, SAR operations in the Mediterranean sea*, https://www.guardiacostiera.gov.it/attivita/Documents/attivita-sar-immigrazione-2017/Rapporto_annuale_2017_ENG.pdf

Italian Senate. (2017). *Inquiry on the contribution of Italian military forces to control migratory flows in the Mediterranean and the impact of NGOs activity*. http://leg17.senato.it/service/PDF/PDFServer/BGT/1023441.pdf

Joppke, C. (2005). *Selecting by origin: Ethnic migration in the liberal state*. Cambridge: Harvard University Press.

Kraler, A. (2006). The legal status of immigrants and their access to nationality. In R. Baubock (Ed.), *Migration and citizenship, legal status, rights and political participation* (pp. 33–66). Amsterdam: Amsterdam University Press.

Lefkofridi, Z., & Chatzopoulou, S. (2019, August 5). The symbolism of the new Greek government. *LSE EUROPP Blog*. https://blogs.lse.ac.uk/europpblog/2019/08/05/the-symbolism-of-the-new-greek-government/

Lynn, N., & Lea, S. (2003). A phantom menace and the new Apartheid': The social construction of asylum-seekers in the United Kingdom. *Discourse & Society, 14*(4), 425–452.

Mayblin, L., & James, P. (2016). *Factors influencing asylum destination choice: A review of the evidence, University of Warwick*. https://asylumwelfarework.files.wordpress.com/2015/03/asylum-seeker-pull-factors-working-paper.pdf

Menski, W. (2006). *Comparative law in a global context*. Cambridge: The Legal Systems of Asia and Africa.

Meyer, S., & Rosenberger, S. (2015). Just a shadow? The role of radical right parties in the politicization of immigration, 1995–2009. *Politics and Governance, 3*(2), 1–17.

Montgomery, T., Calò, F., & Baglioni, S. (2018). Claims making and the construction of the refugee crisis in Brexit Britain (Research Report). In M. Cinalli (Ed.), *WP5 report – Integrated report on transnational solidarity in the public domain* (pp. 217–243). https://transsol.eu/files/2018/05/deliverable-5-1.pdf

Moreno Russi, P., & Nicole, O. (2018). Switzerland. In V. Federico (Ed.) *WP2 report – Legal barriers and enablers* (pp. 129–192). https://www.sirius-project.eu/sites/default/files/attachments/WP2_D2.2.pdf

MSF (Medici senza Frontiere). (2017). *Codice di condotta: la lettera di MSF al Ministro dell'Interno*. http://www.medicisenzafrontiere.it/notizie/news/codice-di-condotta-la-lettera-di-msf-al-ministro-dellinterno

Newland, K., & Riester, A. (2018). *Welcome to work? Legal migration pathways for low-skilled workers*. Washington, DC: Migration Policy Institute.

OSAR. (2017). *Restructuration du domaine de l'asile – modification de l'ordonnance 1 sur l'asile*. https://www.osar.ch/assets/asylrecht/stellungnahmen/171130-osar-stn-oa1-fr.pdf

Peroni, L., & Timmer, A. (2013). Vulnerable groups: The promise of an emerging concept in European human rights convention law. *International Journal of Constitutional Law, 11*(4), 1056–1085.

Scarciglia, R. (2015). Diritto globale e metodologia comparativa: verso un approccio verticale? *Diritto pubblico comparato ed europeo, 4*, 1012–1028.

Sen, S., Pace, M., & Bjerre, L. (2018). Denmark. In V. Federico (Ed.), *WP2 report – Legal barriers and enablers* (pp. 129–192). https://www.sirius-project.eu/sites/default/files/attachments/WP2_D2.2.pdf

Sohn, J. (2014). How legal status contributes to differential integration opportunities. *Migration Studies, 2*(3), 369–391.

Squire, V. (2009). *The exclusionary politics of asylum*. London: Palgrave Macmillan.

Strik, T. (2019, June 8). Committee on migration, refugees and displaced person. *The Pushback policies and practice in Council of Europe member States*. https://www.ecoi.net/en/file/local/2011497/pdf.aspx

Stumpf, J. (2006). The crimmigration crisis: Immigrants, crime, and sovereign power. *American University Law Review, 56*, 367–418.

Thielemanne, E. (2004). Why asylum policy harmonisation undermines refugee burden-sharing. *European Journal of Migration and Law, 6*, 47–65.

Triandafyllidou, A. (2018). A "refugee crisis" unfolding: "real" events and their interpretation in media and political debates. *Journal of Immigrant & Refugee Studies, 16*(1–2), 196–216.

UN High Commissioner for Refugees (UNHCR). (2003). *Framework for durable solutions for refugees and persons of concern*. http://www.refworld.org/docid/4124b6a04.html

UNHCR. (2017a). *Explanatory Memorandum to UNHCR's Submission to the Committee of Ministers of the Council of Europe on developments in the management of asylum and reception in Greece*. https://www.refworld.org/docid/595675554.html

UNHCR. (2017b). *Raccomandazioni dell'UNHCR per rafforzare la protezione e l'integrazione dei rifugiati in Italia* [UNCHR Recommendations to enhance refugees' protection and integration in Italy] https://www.unhcr.it/wp-content/uploads/2016/10/Italy-Recommendations-2017-ITA.pdf

UNHCR. (2018a). *Desperate journeys*. https://data2.unhcr.org/en/documents/download/63039

UNHCR. (2018b). *Asylum in the UK*. http://www.unhcr.org/asylum-in-the-uk.html

UNHCR. (2019). *Desperate Journeys: Refugees and migrants arriving in Europe and at Europe's borders: January–December 2018*. https://www.unhcr.org/desperatejourneys/

Wallis, E. (2019, July 8). Denmark's new government softens line on migration. *Infomigrants*. https://www.infomigrants.net/en/post/18031/denmark-s-new-government-softens-line-on-migration

Walter-Franke, M. (2019, March 14). Variable geometry risky for refugees: Example Denmark. *Jacques Delors Institute Berlin. Policy Brief*. https://www.delorsinstitut.de/2015/wp-content/uploads/2019/03/MWF-Denmarks-asylum-reform-final.pdf

Zetter, R. (2007). More labels, fewer refugees: Remaking the refugee label in an era of globalization. *Journal of Refugee Studies, 20*(2), 172–192.

Zincone, G., & Caponio, T. (2006). The multilevel governance of migration. In R. Penninx, M. Berger, & K. Kraal (Eds.), *The dynamics of migration and settlement in Europe. A state of the art* (pp. 270–304). Amsterdam: Amsterdam University Press, IMISCOE Joint Studies.

Zonca, E. V. (2016). *Cittadinanza sociale e diritti degli stranieri. Profili comparatistici*. Padova: Cedam.

List of Legislations and Cases

Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece. http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32015D1601

Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece.

Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers. https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:031:0018:0025:EN:PDF

Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted. https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:304:0012:0023:EN:PDF

Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status. https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:326:0013:0034:EN:PDF

Denmark – Bill No. L87 amending the Aliens Act. https://www.ft.dk/RIpdf/samling/20151/lovforslag/L87/20151_L87_som_vedtaget.pdf

Denmark – Law No. L140. https://www.ft.dk/samling/20181/lovforslag/l140/index.htm

Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF

Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted. https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:337:0009:0026:en:PDF

Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0032&from=en

Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0033&from=EN

Dublin III Regulation (Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person). https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0031:0059:EN:PDF

Finland – Law No. 43/2016. Hallituksen esitys eduskunnalle laiksi ulkomaalaislain muuttamisesta. https://www.finlex.fi/fi/esitykset/he/2016/20160043

Italy – Law-Decree No. 113, 4 October 2018, converted with amendments by Law No. 281, 1 December 2018. https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2018-10-04;113!vig=

Italy – Law-Decree No. 53, 14 June 2019 "Urgent dispositions on order and public security", converted with amendments by Law No. 77, 8 August 2019. https://temi.camera.it/leg18/provvedimento/d-l-53-2019-disposizioni-urgenti-in-materia-di-ordine-e-sicurezza.html

Italy – Legislative Decree No. 286, 25 July 1998, "Consolidated Act on provisions concerning the Immigration regulations and foreign national conditions norms". https://www.altalex.com/documents/news/2014/04/08/testo-unico-sull-immigrazione-titolo-ii

R (on the application of Kiarie) (Appellant) v Secretary of State for the Home Department (Respondent) [2017] UKSC 42. https://www.supremecourt.uk/cases/docs/uksc-2016-0009-judgment.pdf

Switzerland – art. 21a Foreign National Act, inserted by No I of the FA of 16 Dec. 2016 (Controlling Immigration and Improving Implementation of the Free Movement Agreements), in force since 1 July 2018. https://www.admin.ch/opc/en/classified-compilation/20020232/201903010000/142.20.pdf