

# THE REFUGEE CRISIS IN THE EUROPEAN UNION

ISSN: 2386-2491

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## RESUMEN:

El objetivo de este artículo es ofrecer una crítica positiva y constructiva partiendo de las deficiencias de la Unión Europea a la hora de abordar la crisis de los refugiados. El análisis se divide en tres partes: 1) Una visión crítica de las medidas anteriores emprendidas por la Unión Europea hasta la fecha, incluida la política española sobre la crisis de los refugiados. 2) Un análisis de los fondos y la gestión de la Unión Europea para abordar la afluencia de refugiados. 3) Una perspectiva global sobre los factores endógenos y exógenos que afectan el desarrollo futuro de las políticas de la Unión Europea sobre este tema.

## ABSTRACT:

This article aims to provide a positive, constructive critique of the European Union's shortcomings in addressing the refugee crisis. The analysis is divided into three parts: 1) A critical overview of past measures undertaken by the European Union to date, including Spanish policy concerning the refugee crisis. 2) An analysis of the European Union's funding and management to address the influx of refugees. 3) A global perspective on both the endogenous and exogenous factors that affect the further development of the European Union policies on this issue.

**PALABRAS CLAVE:** *Refugiados, Unión Europea*

**KEYWORDS:** *Refugee, European Union*

## LA INTRODUCTION

Since 2015, hundreds of thousands of refugees have reached the territory of the European Union, driven from their homes by war, famine, and poverty. The refugee crisis has taken on a dimension much larger than expected, which has led the EU and Member States to improvise measures to both deter more refugees from coming and resettle those refugees granted asylum. The measures undertaken might be short-term, but the legal and philosophical implications are profound. I will try to make a positive and constructive critique of the European Union's handling of the Refugee crisis.

In this article, I will address three topics:

- 1) First, I will give a critical overview of what the European Union has done until now. I will briefly cover Spanish policy on the refugee crisis.
- 2) Second, I will analyze the European Union's economic outlays to address and manage this problem.
- 3) Third, I will consider the main challenges for the EU in the near future.

## 1. THE CURRENT SITUATION

### 1.1. WHAT HAS THE EUROPEAN UNION DONE UNTIL NOW?

Even though a migratory crisis cannot be reduced to mere numbers, a proper analysis requires a review of the facts. Let me describe here briefly the main policies that

the European Union has applied since the beginning of the refugee crisis in 2015:

**A) Policies to reduce pressure and avoid systemic collapse in peripheral countries.**

In 2015 75% of all asylum requests were registered in just 5 countries: Germany, Austria, Hungary, Sweden, and Italy. Faced with an onslaught of refugees, Germany decided to reinstate border controls, which were subsequently also adopted by France, Belgium and Poland. Such measures stand in stark contrast to two decades of free movement within the Schengen area. Other countries like Austria, followed soon by Finland, the Netherlands, Slovakia and the Czech Republic, sent thousands of soldiers to man their borders as the countries stepped up checks.

Going beyond these measures, Hungary built fences on the Serbian and Croatian border and passed laws in 2015 imposing harsh penalties for entering Hungary illegally.<sup>1</sup> A second, 150-kilometer-long fence on the Serbian border equipped with motion and heat sensors and other surveillance tools is planned to be completed by May 1, 2017.

**B) Policies to develop safe routes and reduce both deaths at sea and human trafficking.**

The years 2015 and 2016 stand out for each setting a new record for the number of persons dead or missing at sea. One of the stated goals of the agreement between Turkey and the EU, signed in March 2016, is to reduce the number of such deaths by interdicting the passage of refugees from the

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<sup>1</sup> Some 400,000 migrants passed through Hungary that year before the fences were in place, most on their way to Germany and other destinations in Western Europe.

Near East through the Mediterranean.<sup>2</sup> Furthermore, the EU is strengthening the role of the European Border and Coast Guard, based on an agreement reached between the Council, Parliament and Commission on June 21st, 2016<sup>3</sup>, whose stated aim is to help save lives, while still reinforcing the respect of fundamental rights of refugees. The key goal of these measures is to “ensure effective control of our external border and stem illegal flows into the EU”, as proclaimed in a communiqué from the recent EU Summit in Malta.

The new border controls in the Balkan states leave refugees stranded in Greece. As a consequence, the number of new migrants coming to the EU from Turkey has gone down significantly, also thanks to the European Union-Turkey agreement. In exchange for EU largesse, Turkey is urged to take any necessary measures to prevent new sea or land routes for irregular migration opening from Turkey to the EU.

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<sup>2</sup> In order to stop the human trafficking and to offer an alternative to risking their lives for migrants, the EU and Turkey have decided to put an end to the irregular migration from Turkey to the EU in March 2016. All new irregular migrants crossing from Turkey to the Greek islands as of 20th March 2016 will be returned to Turkey. For every Syrian being returned to Turkey from the Greek islands, another Syrian will be resettled to the EU.

<sup>3</sup> This measure had been announced even earlier, in September 2015 within the framework of the European Agenda on Migration, and was supposed to provide support to all Member States, identifying and intervening to address weaknesses in local border controls in advance, and not when it is too late. The agreement has the primary objective to ensure and implement, as a shared responsibility, the European integrated border management at the external borders, manage migration effectively, and ensure a high level of security within the EU, while safeguarding EU-internal free movement and maintaining full respect for fundamental rights.

The EU-Turkey deal has shifted the focus back to the Central Mediterranean route for refugees and asylum seekers from Africa. .

In 2016 alone, 181.000 migrants and refugees reached Europe irregularly with the help of traffickers operating out of war-torn Libya and other countries including Egypt. Many died while making the perilous crossing.

### **C) Measures to provide refugee with suitable living conditions upon arrival.**

Although the EU provided 90 million Euros to Greece to improve the refugee camps and make them suitable for winter conditions, camps are overcrowded, access to water and electricity is limited, and heating was lacking in the winter time. This left refugees feeling unsafe and vulnerable. Just around 15.000 refugees were moved to camps prepared for low temperatures.

As an example, in Moria, (a camp on the island of Lesbos), designed to house 1.500 people, three times that number (4.500 people) are living in overcrowded conditions in thin summer tents. In this camp, 3 men died. When Pope Francis visited the Moria refugee camp, in April 2016, he said “We hope that the world will heed these scenes of tragic and indeed desperate need, and respond in a way worthy of our common humanity (...)”<sup>4</sup>

Many organizations, including the International Rescue Committee, have denounced the situation in the camps, claiming that they do not meet international humanitarian standards. Along with other NGO observers, they have documented long queues for food and water, and a lack of schooling and opportunities for work.

<sup>4</sup>

<http://www.romereports.com/2016/04/18/pope-francis-full-speech-in-moria-refugee-camp-lesbos>

### **D) Policies to accelerate relocation and mitigate the despair of delay in refugee camps.**

The temporary emergency relocation scheme was established in two Council Decisions in September 2015, in which Member States committed to relocate persons in clear need of international protection from Italy and Greece by September 2017.

Since the presentation of its first report in March 2016, the Commission reports on the implementation of the relocation and resettlement schemes on a monthly basis. According to the tenth Report on Relocation and Resettlement,<sup>5</sup> while progress has been promising on resettlement, Member States need to renew their efforts to deliver on their relocation commitments.

Although there has been a progressive increase in the pace of relocations with 13.546 persons relocated as of February 28th, 2017 (9.610 from Greece and 3.936 from Italy), at the current pace, the total number of persons relocated will fall short of meeting the obligations set for September 2017.

According to the European Commission, up until February 7<sup>th</sup> 2017, Member States had relocated only 7% of the 160.000 asylum seekers that they promised to accept in their countries from Greece and Italy.

<sup>5</sup> European Commission. Brussels, 2.3.2017 COM(2017) 202 final Report from the Commission to the European Parliament, the European Council and the Council and the Tenth report on relocation and resettlement. [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170302\\_tenth\\_report\\_on\\_relocation\\_and\\_resettlement\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170302_tenth_report_on_relocation_and_resettlement_en.pdf)

According to the Fifth Progress Report on the EU-Turkey Statement,<sup>6</sup> following almost a year of implementation of the Agreement, continued efforts are needed from Greece, Turkey and all EU Member States to accelerate the implementation of the Statement and to ensure results.

The data on relocations reveal a lack of responsible engagement in putting this European policy into practice. In the last Report, from March 2nd, 2017, the Commission has called for renewed efforts in implementing solidarity measures under the European Agenda on Migration.<sup>7</sup>

**E) Policies to provide the relocated refugees with the same conditions regardless of the host country.**

The status and rights given to resettled refugees vary depending on the host country. Resettled refugees arriving in Belgium, the Czech Republic, France, Finland, Ireland, Portugal, Sweden and the UK receive a permanent residence permit.

In contrast, refugees resettled to Denmark, Germany, Iceland, the Netherlands, Norway, Romania and Spain receive a temporary residence permit, and are able to apply for permanent residency after a specified period

<sup>6</sup> European Union: European Commission, *Fifth Report on the Progress made in the implementation of the EU-Turkey Statement*, 3 March 2017, COM(2017) 204, available at: <http://www.refworld.org/docid/58b98ba54.html> [accessed 11 April 2017]

<sup>7</sup> EUROPEAN COMMISSION: EUROPEAN AGENDA ON MIGRATION: COMMISSION PRESENTS NEW MEASURES FOR AN EFFICIENT AND CREDIBLE EU RETURN POLICY. BRUSSELS, 2 MARCH 2017. [HTTP://EUROPA.EU/RAPID/PRESS-RELEASE\\_IP-17-350\\_EN.HTM](http://europa.eu/rapid/press-release_IP-17-350_en.htm)

of legal residency (the number of years varies by country) and subject to satisfying a number of conditions related to language, civic knowledge, financial independence and good conduct (conditions also vary by country).

All European countries provide a pathway to citizenship for permanent residents, again after varying periods of legal residency and subject to satisfying varying conditions.<sup>8</sup>

**F) Investment in integration programs to fight against discrimination and intolerance.**

Two approaches to integration exist: the first supports a framework of cosmopolitan generosity that entrusts to the population the mission of “imagining”, both spontaneously and generously, other people, and doing such as a matter of course; the second tries to resolve the problem of human ‘differences’ through constitutional design and radically eliminating the structurally unfavorable position of ‘foreignness’.<sup>9</sup>

From my point of view, these two approaches are not mutually exclusive, but rather form complementary perspectives, both of which are needed to resolve the issue affecting so many persons in Europe.

In my opinion, successful refugee policies of EU Member States, both as members of the whole and separately, depends not only whether demographic problems<sup>10</sup> can be

<sup>8</sup> <http://www.resettlement.eu/page/resettlement-relocation-or-humanitarian-admission-we-explain-terminology>

<sup>9</sup> E. Scarry, “La dificultad de imaginar a otras gentes”, in Martha C. Nussbaum, *Los límites del patriotismo. Identidad, pertenencia y ciudadanía mundial*, (Paidós, Barcelona, 1ª ed. 1999, cit. by ed. 2013), 129.

<sup>10</sup> M. Pachocka, “Population Matters? European Integration Process During a Demographic

solved or sustainable economic development can be achieved, but also on whether they can solve the important problems of social cohesion. We should be reminded that “cultural integration” is a key element of the migrant’s life in their new homeland. Such a need is only too often met by indifference by policy makers and the general population, however. We need a paradigm change to counter the “globalization of indifference”.<sup>11</sup>

Let us review the common basic principles for immigrant integration policy in the European Union, as summarized in a “Handbook on Integration for policy-makers and practitioners” :

- 1) “Integration is a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States.
- 2) Integration implies respect for the basic values of the European Union.
- 3) Employment is a key part of the integration process and is central to the participation of immigrants, to the contributions immigrants make to the host society, and to making such contribution visible.
- 4) Basic knowledge of the host society’s language, history, and institutions is indispensable to integration; enabling immigrants to acquire this basic knowledge is essential to successful integration.
- 5) Efforts in education are critical to preparing immigrants and particularly their descendants, to be more successful and more active participants in society.
- 6) Access for immigrants to institutions, as well as to public and private goods and services, on a basis equal to national citizens and in a non-discriminatory way is a critical foundation for better integration.
- 7) Frequent interaction between immigrants and Member State citizens is a fundamental mechanism for integration. Shared forums, inter-cultural dialogue, education about immigrants and immigrants culture, and stimulating living conditions in urban environments enhance the interactions between immigrants and Member States citizens.
- 8) The practice of diverse cultures and religions is guaranteed under the Charter of Fundamental Rights and must be safeguarded, unless practices conflict with other inviolable European rights or with national law.
- 9) The participation of immigrants in the democratic process and in the formulation of integration policies and measures, especially at the local level, supports their integration.
- 10) Mainstreaming integration policies and measures in all relevant policy portfolios and levels of government and public

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Change”, in *How Borderless is Europe. Multi-disciplinary approach to European Studies*, István Tarrósy (ed.), (Jean Monnet Centre of Excellence, University of Pécs, Pécs, 2015), 61-72.

<sup>11</sup> C. Hermida, “Positive tolerance and solidarity. A paradigm change to counter the ‘globalization of indifference’”, in *Polish Law Review*, Vol. 2(2), 2016.

services is an important consideration in public-policy formation and implementation.

- 11) Developing clear goals, indicators and evaluation mechanisms are necessary to adjust policy, evaluate progress on integration and to make the exchange of information more effective".<sup>12</sup>

The problem herein is that the States do not respond to ethnic diversity in the same way. "For the 'Ethnic' model, belonging to the nation means sharing common descent, language and culture. For the 'Republican' or 'Civic' model it means a willingness to accept political rules and to adopt the national culture. For the 'Multicultural' model it means adherence to political rules, but with the ability to maintain cultural differences and to form ethnic communities and associations. These models should be regarded as "ideal types" because, in practice, elements of all three may be identified in most states".<sup>13</sup>

'Multi-ethnic' and 'multicultural' are not synonymous concepts. As Bodonyi said: "they may overlap each other and may differ, but anyway, both are related to the regulation of individual and collective rights inside a given country. The characteristics and relevance of problems, caused on one hand by historical minorities, and on the other hand by immigrant communities, are very different in different EU countries; partly because of historical reasons, partly because

of actual political and economic reasons".<sup>14</sup> Seeing this variation, it is important to apply new techniques for living together and problem solving. From my point of view, we need to develop a personal attitude and a public norm of tolerance towards other, of friendly and supportive behavior towards immigrants and of a liberal and democratic attitude, based in part on learning from the errors and fatal consequences of nationalism, chauvinism, forced assimilation and ethnic persecution.<sup>15</sup>

Also, it is important to have a positive attitude towards minority rights, and towards the freedom to congregate, worship and to speak one's own language. To achieve this goal, we need a broader discourse on identifying the structural factors that underlie discrimination and creating policies to facilitate equality of opportunity and outcome.

We need more of a concept that I have called "positive tolerance", which is more ambitious than mere "negative tolerance". Positive tolerance starts from the precept that tolerance allows us to contrast our ideas with other thoughts, other ways of being and acting and other cultures distinct from our own. This stance maintains that this contrast can enrich our own conceptions of the world. In this manner, the thinking, conduct, or culture that is tolerated, even though different, can help us discover and eliminate "cultural prejudices" and fallacies, and serve to complement and improve our points of view. In effect, it reflects an attitude that is more open, critical and skeptical than that of negative tolerance, even though it is more complex and difficult. I believe that we can accept, without a doubt, that the advantages of positive tolerance, resolutely defended by

<sup>12</sup> *Handbook of Integration for policy-makers and practitioners* (2004 November). [http://acidi.gov.pt.s3.amazonaws.com/docs/Publicacoes/Handbook\\_integration.pdf](http://acidi.gov.pt.s3.amazonaws.com/docs/Publicacoes/Handbook_integration.pdf), 160.

<sup>13</sup> D. Turton – J. González, *Ethnic Diversity in Europe: Challenges of the Nation State*, University of Deusto, 18. <http://www.deustopublicaciones.es/deusto/pedfs/hnet/hnet03.pdf>

<sup>14</sup> I. Bodonyi, "Immigrants and Minorities. The Contradictions and Barriers of the Cultural Integration", in *How Borderless is Europe. Multidisciplinary approach to European Studies*, op. cit., 79.

<sup>15</sup> *Ibidem*, 82.

Francisco de Vitoria and other thinkers, outweigh those of negative tolerance for the development of knowledge and a life and culture that is freer and more equal.

In my opinion, solidarity is the other great virtue that is essential to constructing a strong European Union, and, as such, its reach should be global. As Fücks, Steenblock and Pütz said: “We understand European *solidarity* not just in terms of internal operations but also as an aspect of international policy geared to global justice (...) Solidarity has been –and remains– a motor for European integration”.<sup>16</sup>

We should not ignore the fact that “European solidarity is a prerequisite for the inner cohesion of the EU, and strength is required to preserve the ‘European way of life’ in a globalized world with its rapidly changing balance of power. Cohesion within the Union and the capacity to engage with the outside world are intimately connected”.<sup>17</sup>

It is the responsibility of everyone within the context of today’s democratic Europe to fight for tolerance, respect, and full recognition of all the social, sexual, cultural, national, religious, political particularities that the diversity of free human beings express and do not deeply undermine the values and rules that form the basis of its unity and the conception, as Francisco de Vitoria would have put it, of “common justice”.<sup>18</sup>

<sup>16</sup> R. Fücks – R. Steenblock – C. Pütz, “Solidarity and Strength: The Future of the EU”, *Solidarity and Strength. The Future of the European Union*, (Heinrich Böll Stiftung, Publication Series on Europe, Vol. 6, Berlin, 2011), 8.

<sup>17</sup> R. Fücks – C. Pütz, “Preface”, *Solidarity and Strength. The Future of the European Union*, op. cit., 6.

<sup>18</sup> C. Hermida, “La aportación del pensamiento de Vitoria ante el fenómeno de la globalización y la realidad migratoria actual”, *New Perspectives on Francisco de Vitoria. Does International Law lie at the heart of the origin of the modern World?*, José María

## 1.2. AND SPAIN?

Compared to other Member States, Spain is still far from building a coherent and effective policy to relocate refugees. Spain has admitted just 744 refugees since the beginning of the crisis, making it the sixth country in the European ranking of accepting refugees. This represents just 5% of what the Spanish government promised to admit.

Let me try to put this number into the context of Spanish public opinion and the role Spain plays within European institutions, which gives us grounds for optimism, despite the slow progress.

Spanish society has reacted remarkably to this crisis by pressuring authorities to make the relocation and resettlement process more effective, as well as showing solidarity, concern and empathy through demonstrations, social network activity and by creating NGOs and associations both in Spain and in receiving States such as Greece.

I should like to highlight the work done by the Spanish Committee to Help Refugees (CEAR in Spanish), which has helped the asylum procedures since 1979. Its campaigns to heighten awareness have increased since the beginning of this crisis.

From my point of view, Spanish society’s empathy may be indebted to its history. During the Spanish Civil War (1936-1939), at least 440.000 Spanish refugees lived in camps under very hard living conditions in France. Latin America also played a role in accepting us as refugees: 20.000 in Mexico, and lower numbers in Colombia, in Cuba and in Argentina.

## 2. THE COST OF A REFUGEE

There are two opposing strategies to manage the refugee crisis. The first is to reinforce the external EU borders to keep refugees out.

Beneyto y Carmen Román Vaca (eds.), (ebook, CEU, Madrid, 2014), 210-238.

The second is to admit refugees and integrate them with good procedural guarantees. Both positions are associated with a cost.

We can compare the real cost of letting refugees come into the European Union, starting from the cost of refugee camps and ending with the cost of relocation in a Member State; on the other side, the total budget invested to stop the massive influx of arrivals into the EU by paying neighboring countries to control the borders more effectively.

The Facility for Refugees in Turkey:

“The Facility for Refugees in Turkey provides for a joint coordination mechanism for actions financed by the EU budget and national contributions made by the Member States, designed to ensure that the needs of refugees and host communities are addressed in a comprehensive and coordinated manner. The resources of the Facility come from the EU budget and from EU Member States over 2016 and 2017, making a total so far of €3 billion over two years”.<sup>19</sup>

Funding under the Facility for Refugees in Turkey supports refugees in the country - it is

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<sup>19</sup> As showed in the first Annual Report on the Facility published by the Commission on March, 2nd. 3 2017, “of the €3 billion, €2.2 billion has so far been allocated, for both humanitarian and non-humanitarian assistance. Of the €2.2 billion allocated, contracts have been signed for 39 projects worth €1.5 billion. Of this €1.5 billion, €750 million has been disbursed to date. The contracts signed represent half of the €3 billion total for 2016-2017 and are testimony to the swift and efficient implementation of the Facility. The humanitarian actions planned for agreement at the next Steering Committee in March will bring total allocation close to the €3 billion. Vid. Brussels, 2.3.2017 COM(2017) 130 final Communication from the Commission to the European Parliament and the Council. First Annual Report on the Facility for Refugees in Turkey.

funding for refugees and not funding for Turkey. The support seeks to improve conditions for refugees in Turkey as part of the EU's comprehensive approach to addressing the refugee crisis inside and outside the EU”.<sup>20</sup>

Valletta Action Plan:

On 12 November 2015, the European and African leaders signed the Valletta Action Plan<sup>21</sup> an agreement to set up an Emergency Trust Fund to help development in African countries as well as to encourage those countries to take back migrants who arrived in Europe. The underlying objective of the Plan is to stabilize the countries and make them able to control their borders, fight against smugglers and build refugee camps in suitable conditions.

Taking into account that the number of refugees who arrived through this route totaled more than 180.000 in 2016, European leaders wanted to stop a renewed massive influx and to instead promote regular migration channels and implement policies for integrating migrants into the EU society. The fund pledged €1.8 billion in aid, with other development assistance of €20 billion every year.

Members of the European Council issued the Malta Declaration, dated February 3<sup>rd</sup>, 2017, on the external aspects of migration. At this summit, the President of the EU Council Donald Tusk promised the closure of the Central Mediterranean migration route into

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<sup>20</sup> Vid. March 2nd, 2017, European Commission Report, which asks: What is the state of play as regards the implementation of the Facility for Refugees in Turkey?

<sup>21</sup> “*Valletta Conference on Migration (Malta, 11–12 November 2015) – Orientation debate*” (PDF). *statewatch.org. Council of the European Union. 30 June 2015*. Retrieved 12 November 2015.



Europe, lending his support to a memorandum of understanding between the Italian and internationally-recognized Libyan government.

This new agreement has been compared to the 2016 EU-Turkey deal, but if the agreement with Turkish President Recep Tayyip Erdogan raised some questions over the respect of the human rights of migrants, in Libya's case continued violations of basic rights are almost certain, making the doubts about implementation of any agreement more than legitimate.

The memorandum does not truly constitute an EU-Libya deal, rather it reflects the EU endorsement of a bilateral memorandum of understanding between Italy and the Presidency Council of Libya headed by Faiez Serraj. The memorandum contains three main elements:

First, it restarts full implementation of the 2008 Friendship Treaty between Italy and Libya, which already included a major chapter (and funding) on migration containment;

Second, it boosts support to the Libyan Navy and Coast Guard in order to rescue as many migrant boats as possible in Libyan territorial waters;

Third, it provides funds to improve health care in the detention centers where migrants are kept once they are rescued by the Libyan Coast Guard.

The memorandum does not mention respect of international conventions (it only refers to International Customary Law), nor does it establish an independent monitoring mechanism.<sup>22</sup>

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<sup>22</sup> Libyan law does not distinguish between migrants and asylum-seekers as Libya is not a party to the Geneva Convention. According to the laws approved under former Libyan leader

Some groups accuse the EU of making Libya seem safe and abandoning humanitarian values. They report bad conditions in refugee camps and continuing dangers faced by migrants. The most troubling report comes from the German embassy in Niger on the systematic abuse of human rights, including executions, in Libyan Camps.<sup>23</sup>

The new President of the EU Parliament Antonio Tajani has called for refugee camps in Libya and a billion-dollar "Marshall Plan" for Africa. "Either we are acting now, or millions of Africans are going to Europe in the next 20 years," he warned.<sup>24</sup>

Emergency funding for Greece:

The European Commission has awarded an additional €3.9 million in emergency funding to Greece under the Internal Security Fund (ISF) to help improve reception conditions for migrants on the Greek islands. This is to further support EU financed actions carried out by the Ministry of Defense to provide catering, accommodation, transportation to the migrants on the islands, and for emergency accommodation solutions, such as temporary accommodation in ships.

With this award, the overall amount of emergency assistance from the Home Affairs Funds made available for Greece since 2015 amounts to €356.8 million. This emergency

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Muammar Gaddafi, all individuals arriving without a permit are deemed illegal migrants and jailed.

<sup>23</sup> Conditions for migrants and refugees in Libya are worse than in concentration camps, according to a paper sent to the German foreign ministry by its ambassador in Niger.

Similar evidence of atrocities in Libya has emerged from a court case in Milan brought by the Italian state against a leading smuggler.

<sup>24</sup> "German and Austrian leaders call for European Union to close ranks". <http://www.dw.com/en/german-and-austrian-leaders-call-for-european-union-to-close-ranks/a-37733811>

funding comes on top of the €509 million allocated to Greece under the national programs for 2014-2020. In total, the Commission has made available over €1 billion in support for Greece since 2015 to support the country with migration and border management.

We could also add the costs the Member States may face if they continue imposing temporary border controls. In this way, the Commission has estimated that a full re-establishment of border controls within the Schengen area would generate immediate direct costs of between €5 and €18 billion annually.<sup>25</sup>

The EU has also allocated funding to Member States for the last step in migration, namely relocation. According to the Council Decision 2015/1601, host States would receive 6000 € for each person that they admit in their countries and at the same time, the sending states, Greece, Italy and Hungary, will receive 500 € to cover the expenses of transport for each person who is relocated from them.

### 3. MAIN CHALLENGES FOR THE NEAR FUTURE

This part will cover some of the main challenges in the near future for finding a global approach to migration.

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<sup>25</sup> Member States such as Poland, the Netherlands or Germany would face more than €500 million of additional costs for the road transport of traded goods; Spain or the Czech Republic would see their businesses paying more than €200 million in additional costs; border controls would cost the 1.7 million cross-border workers between €1.3 and €5.2 billion in terms of time lost; at least 13 million tourist nights could be lost, with a total cost of €1.2 billion; between €0.6 and €5.8 billion of administrative costs would have to be paid by governments due to the need for increased staff for border controls. Vid. [http://europa.eu/rapid/press-release\\_IP-16-585\\_en.htm](http://europa.eu/rapid/press-release_IP-16-585_en.htm)

#### Geopolitically:

We refer here to both the exogenous and endogenous political factors that may affect European decisions. It would be a mistake for European countries to seek individual answers to current challenges, rather than EU-wide solutions.

We are witnessing a new delineation of the world, as the Germany's foreign minister, Sigmar Gabriel said. Donald Trump and Russia openly attempt to weaken the EU. In fact, Austria's chancellor, Christian Kern, has said recently that the US and Russia were openly trying to destabilize the EU. Both Sigmar Gabriel and Christian Kern called for European Union (EU) members to close ranks in the face of pressures from the new US administration and from Russia.

Another matter of concern is the electoral calendar in several European countries, including the elections in France or Germany, has fuelled populist parties who stoke fears of migrants.

In the case of Germany, Angela Merkel prepares for crucial elections this September 2017. For many voters, Merkel's tenure is associated with the record number of 900.000 refugees that came to Germany in 2015 (another 280.000 arrived in 2016). The chancellor is under pressure to keep the promise she made late last year: "A situation like we had in the late summer of 2015 can, should and must not repeat itself."

This promise was Merkel's answer to the charge levied against her by critics from within her own party and the far-right Alternative for Germany (AfD) that Merkel had "lost control" of the situation.

Political leaders in Germany and beyond have realized that only if the EU can demonstrate to its citizens that it is in control of its external borders, the Schengen passport-free

travel zone, one of the key achievements of European integration, can survive.

*Controlling borders is a precondition for sustaining open societies in Europe.* The need for control is an assessment widely shared across the political spectrum in Germany.

The idea is for asylum requests to be handled by EU authorities in North Africa. This would allow the EU to return migrants rescued by EU member state authorities in the Mediterranean to North Africa, thereby making illegal crossings less attractive and destroying the traffickers' business.

Cooperation with North African countries will remain the centerpiece of trying to reassert control. Indeed, the need to protect external borders and control migration flows is what unites all EU governments, from Germany to Hungary. What divides them is how they deal with the issue of refugees and migrants - especially of Muslim origin - domestically.

We should not forget that the European solidarity is a prerequisite for the inner cohesion of the EU, and strength is required to preserve the 'European way of life' in a globalized world with its rapidly changing balance of power.

In this context we need to reflect about the Brexit decision in United Kingdom. In my opinion<sup>26</sup>, if we wish to construct a Europe of solidarity we need to strengthen the ties between the Member States of the European Union and empathize with those who are in a worse situation, lending credibility to the

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<sup>26</sup> C. Hermida, <<The consequences of the United Kingdom's referendum on leaving the European Union>>, *Aktualne Problemy Referendum*, Edit. by Beata Tokaj, Anna Feja-Paszkiwicz, Bogusław Banaszak, (Krajowe Biuro Wyborcze, Varsovia, 2016), 203-212.

postulates of the Treaty of Lisbon.<sup>27</sup> There is no room for half-measures. The European Union has the opportunity now to demonstrate that the treaties that have cost so much effort and compromise and form the backbone of its organizational power, given legal backing, have not been written in sand.

Europe needs to display more solidarity, but also more tolerance. Let us hope that, during Theresa May's leadership, the United Kingdom hews to these two values, in the knowledge that it cannot grow as a country simply based on self-sufficiency. We all need each other, both at the individual and group level. The ideas, conduct, or culture that we tolerate, even if it is different from our own, can help us to discover and eliminate "cultural prejudices". The principal advantage of defending the virtues and solidarity in the European Union is that this provides the basis for achieving a life that is more free and equal.

#### Legislatively:

The precarious development of Asylum Law within the European Union and the lack of a real strategy to guide the Member States to adopt a common policy, have led to palliative decisions<sup>28</sup>. For this reason, we need:

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<sup>27</sup> J.C. Piris, *The Lisbon Treaty. A Legal and Political Analysis*, (Cambridge University Press, 2010, New York, 4th printing 2011).

<sup>28</sup> ACNUR (1992): Manual de procedimientos y criterios para determinar la condición de refugiado en virtud de la Convención 1951 y el Protocolo de 1967 sobre el Estatuto de los Refugiados.

Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status. *Official Journal of the European Union* L 326/13, 13.12.2005.

Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless

- Laws to guarantee safe routes.
- Common rules of protection of fundamental rights for the beneficiaries of international protection.
- Harmonization in the living conditions for refugees among the Member States.

With such proposals, the Commission expects to simplify the asylum procedures as well as the decision processes and hopes to discourage asylum seekers from secondary movements from one Member State to another and promote the integration perspectives of those with the right to be granted international protection.

The ultimate goal is to achieve a common, efficient, coherent asylum strategy, based on harmonized norms and mutual trust among the Member States of the EU, in accordance with international rights and mechanisms.

#### Socially:

Citizens are divided: some go to demonstrations to pressure their governments to open their borders and ask for more safe routes to reach European territory, to increase resettlements, guarantee suitable conditions for refugees both in camps and in reception States. Others are reluctant to accept migrants, reacting with fear and intolerance, which has supported the growth of populist parties.

At the beginning of March 2017, Hungarian Prime Minister Viktor Orban called for “preserving ethnic homogeneity”. Orban has consistently stoked fears of Muslim

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persons as refugees or as persons who otherwise need international protection and the content of the protection granted. *Official Journal of the European Union* L 304 , 30.09.2004, 12–23.

Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers. *Official Journal of the European Union* L 31, 06.02.2003, 18-25.

immigration, as a source of terrorism and a threat to Europe’s cultural heritage, in order to consolidate his power.

Other governments, such as Poland, have used similar language, which has also been echoed by the right-wing AfD in Germany. The fight between the Orban-type ethnic nationalists and advocates of an inclusive nationalism is a decisive battlefield for preserving open societies in Europe.

In the eyes of Viktor Orban, migrants are a “Trojan horse of terrorism,” which put his country under siege. He considers the migrants, many of whom are Muslims, as a threat to Europe's Christian identity and culture. While Orban has said often that Hungary will apply its Christian values to take in asylum-seekers, very few achieve protection in Hungary and only around sixteen a day are now allowed to apply for asylum at the border transit zones.

According to a recent report of the Government of Hungary (05-03-2017), “The number of illegal immigrants and asylum seekers in Hungary decreased last year, but we cannot uphold the illusion that the problems will be solved”, said Zsuzsanna Végh, Director General of the Immigration and Asylum Office, at a press conference in Budapest on 7.03.2017<sup>29</sup>.

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<sup>29</sup> “29.432 people were registered as asylum seekers and 18.236 as illegal migrants”, Ms. Végh said. “It looks like the European Union may be ‘waking from its Sleeping Beauty dream’ and has begun debating several European refugee systems”, she pointed out, adding that we should not sustain any illusions about the fact that the required legislation will be adopted this year. Acts of terrorism and the crimes committed by immigrants have forced Member States to concentrate more on security and become more cooperative than previously was the case, she explained.

Hungary is still fifth with regard to the number of asylum seekers per 1000 citizens, with a ratio of 2.93, although it was in first place in 2015. Syria, Iraq, Pakistan and Iran continue to be the leading source countries in the EU as a whole, although the number of migrants arriving from Kosovo and Albania fell.

With regard to the situation in Hungary, Ms. Végh told reporters that while in 2015 over 400,000 illegal immigrants arrived in the country and 177,000 people submitted requests for asylum, the trend was reversed in 2016 and there were more asylum seekers than illegal immigrants.

In addition to international developments, the measures introduced by the Hungarian Government, such as the reinforcement of external border security, the amendment of regulations on detaining refugees, or the establishment of the so-called 8-kilometre rule, also played an important part in reducing the numbers of asylum seekers, she highlighted<sup>30</sup>.

In my opinion, the EU should focus more on the most vulnerable members of society, and on delivering prosperity to all. The situation has become more complicated given a recent decision of the European Court of Justice (7.03.2017) that held that EU member states have the right to deny so-called “humanitarian visas” to asylum seekers.<sup>31</sup>

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<http://reliefweb.int/report/hungary/almost-30-thousand-asylum-requests-were-submitted-last-year>

<sup>30</sup> In 2016, Hungary accepted 425 asylum-seekers, while registering 29.432 asylum claims. In 2015, 502 asylum-seekers were granted protection. Germany took in 890,000 asylum-seekers in 2015 and 280,000 in 2016.

<sup>31</sup> The EU court ruled against an Orthodox Christian Syrian family with three children from Aleppo who had applied for a visa at the Belgian embassy in Beirut last October. They planned to

## 4. CONCLUSIONS

Failure by the Member States of the EU to cooperate leads to a lack of effective measures and makes it difficult to arrive at a common operational asylum strategy. But there is, above all, a clear lack of shared responsibility. In conclusion, there are four goals that we should set:

- 1) EU members need to restore the promise of prosperity as a primary issue and to transform the internal market into a social market economy.
- 2) It is worthwhile to invest in integration programs to fight against discrimination and intolerance. We need a paradigm change to counter the “globalization of indifference”.
- 3) We need what I have called “positive tolerance and solidarity” to construct a strong European Union. Both concepts should have a global reach.
- 4) Increasing cohesion within the Union will enhance the capacity to engage with the outside world.

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travel to Belgium and apply for refugee status once there.

One member of the Syrian family claimed to have been abducted, beaten and tortured by an armed group and later released after paying a ransom.

Belgium refused to issue the “humanitarian visa” and claimed the right to refuse entry to the family. The Belgian authorities said that the links of the family to Aleppo were too tenuous and that they were not obliged to grant entry to everyone coming from Syria.

The European Court of Justice ruled in favor of Belgium.

Human rights activists and the European Parliament have pushed for humanitarian visas in order to stop human trafficking and provide a legal route for refugees to come to Europe.

