

## **To adopt refugee quotas or not: Is that the question?**

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**T**hroughout the past month, the refugee crisis has dominated discussions across the EU. European leaders have been under immense pressure to respond to the horrific suffering of refugees fleeing war and seeking asylum in the EU. One of the most controversial initiatives has been a provisional EU relocation system, aimed at the distribution of 120,000 asylum-seekers from Greece and Italy.

This 'refugee quota plan' has been strongly criticised by several EU member states, in particular by Hungary, the Czech Republic, Romania and Slovakia, ever since the Juncker Commission first proposed it last May. Still, the EU member states' Ministries of Justice and Home Affairs found the necessary majority to give the initiative the green light on September 22nd.

Why has the EU relocation system been so controversial? Its new distribution of responsibility model constitutes a temporary derogation of the current sacrosanct rule of the EU Dublin system, which designates the first state of entry as the responsible authority for assessing an asylum-seeker's application.

The new relocation model will mean the application of new distribution criteria, to include: the population, the GDP, the average number of past asylum applications and unemployment rates of the destination country. Personal and family links as well as the 'integration potential' of the applicants will also be considered in the new model.

On a purely practical level, it is difficult to understand why countries like Slovakia and the Czech Republic could not receive approximately 800 and 1,600 asylum-seekers, respectively. The numbers are far from disproportionate in light of their populations. The personal scope will also be limited. Beneficiaries of the new programme will only include nationals from countries in which the proportion of positive decisions has been 75% or more, according to Eurostat data.

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But the processing of asylum applications is not only a question of numbers. We are in fact talking about human lives. While the new EU relocation system does not grant full freedom for asylum-seekers to go wherever they wish once they have arrived on EU soil, it does require national authorities to take into account the reception and material support that an applicant can expect to be extended by their new home state. Accordingly, their language skills and family, cultural or social ties will also have to be considered in any decision.

This is a positive development in comparison to the current Dublin system, which takes no account of these factors. A proper application of these new distribution (relocation) criteria, which should be closely monitored, may challenge the conventional wisdom that asylum-seekers will only wish to relocate in Germany.

The most critical issue in the current debate over refugees, however, is not mainly related to the pros and cons of the quota system under the newly adopted EU relocation system, but rather the reluctance of many EU institutions to shoulder their responsibility to address the main challenges at the root of this so-called 'refugee crisis'.

The reason why the current Dublin system no longer works is the systemic failure in reception conditions for asylum-seekers in several EU member states. Therefore, the EU should give priority to correcting the administrative and judicial incapacities that prevent a humane, fair and efficient EU asylum system from operating. Towards this end, the European Commission should more vigorously enforce EU asylum law protection standards and the implementation of the EU reception conditions Directive 2013/33.

Another shortcoming of the Dublin system is its failure to properly consider the personal preferences, skills and family/private links of the applicants for international protection. The EU relocation model is a step forward (yet a timid one) towards a more person-centric approach to the distribution of responsibilities between EU member states. However, in addition to the newly proposed distribution criteria, any new relocation system should take asylum-seekers' preferences into account as far as possible. Greater attention should also be paid to facilitating access by asylum-seekers and refugees to EU labour markets.

If these challenges at the root of the crisis are not urgently addressed, the effectiveness of any new proposal is at risk.

Moreover, member state actions that have the effect of constructing physical or symbolic walls against asylum-seekers are not acceptable. EU governments cannot evade their human rights responsibilities and deny access to international protection by persons in need. Erecting walls against refugees also violates the Schengen rules and the rule-of-law principles that are a fundamental pre-condition for EU membership. Instead, more legal avenues allowing refugees to safely reach Europe should be developed.

It is precisely at such critical moments as now that the EU can demonstrate its added value and strengthen its legitimacy. The creation of a new European Asylum Service, responsible for examining asylum applications and implementing the new distribution criteria, would be a crucial step in that direction. The feasibility, impact

and specific features of the new Service should be independently examined. What is clear, however, is that the Dublin system must be fundamentally revisited and the reception conditions and national incapacities significantly upgraded.

The EU should not shy away from changing rules that do not work, fearlessly enforcing EU legal commitments and tackling head-on any threats to its foundational rule of law and fundamental rights principles.