

THE EU'S MIGRANT STRATEGY: A WELCOME NEW IMPETUS

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The publication of the Commission's agenda on migration comes at a difficult time in humanitarian and political terms. In this context, the Juncker Commission faced a sensitive challenge because it needed to act quickly but had only limited room for manoeuvre. There are three aspects to the agenda worth highlighting: its innovation, its confirmation, and its long-term vision.

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The publication of the Commission's agenda on migration comes at a difficult time: first and foremost in humanitarian terms on account of the recurrent and intolerable tragedies taking place in the Mediterranean, which demand a rapid response; and secondly, in political terms, if we consider both the economic situation (the crisis) and the political situation (the rise of far-right and anti-European parties) which makes all debate and action in this field rather tricky.

In this context, the Juncker Commission faced a sensitive challenge because it needed to act quickly but had only limited room for manoeuvre. While certain guidelines had already been revealed at the European Council meeting on 23 April, the publication of the agenda has provided the Commission with an opportunity to recall and to specify the actions it wishes to undertake in the immediate, medium, and long terms. There are three aspects to the agenda worth highlighting: its innovation, its confirmation, and its long-term vision.

1. Solidarity by constraint: an innovative and politically active agenda

The first innovative aspect concerns the measures announced in connection with the "relocation" and "resettlement" of people seeking or currently receiving international protection. This European jargon describes a new form of "solidarity" both among the EU's member states and towards third countries.

Relocation, broadly covered by the term "European quotas," consists of setting up a mechanism for sharing out among member states those asylum-seekers who have made it onto EU soil (primarily the soil of those countries situated in the frontline). This is particularly relevant for Italy, whose capacity for taking in an increasingly large

number of asylum-seekers (up 143% in 2014 over 2013¹) has become saturated.

Faced with member states' reluctance to afford Italy any concrete assistance, the Commission has swung into action and decided to submit a mechanism for compulsory relocation among the EU's member states at the end of May. The proposal will rest on a temporary mechanism for redistributing individuals in clear need of international protection. Asylum-seekers are to be shared out among member states on the basis of objective criteria concerning the population (40%), GDP (40%), the unemployment rate (10%), and the proportion of asylum-seekers granted asylum and refugees resettled per million inhabitants between 2010 and 2014 (10%).

If anyone ever questioned the Juncker Commission's "political" nature, they can think again. Because this is a genuine feat of strength pulled off in application of Article 78.3 in the TFEU. This legal basis is important in two ways. First, it allows the United Kingdom, which is opposed to the mechanism, to resort to its opt-out clause, which it has already said it plans to do. And second, it requires a qualified majority for its adoption. Hence member states hostile to the project, such as Hungary, are going to have to put together a blocking minority if they wish to scuttle the proposal.

Negotiations over the proposal's content, however, are set to be tough. On the one hand, the distribution criteria are in danger of being bitterly disputed, and indeed as they are envisaged today they may yet change. On the other hand, several aspects have yet to be defined, such as the legal remedy and grounds with which individuals will be able to appeal against a relocation decision, or the measures to adopt in order to ensure that relocated individuals remain in the designated member state.

The announced adoption of a recommendation on a resettlement mechanism is the other remarkable

innovation. In this case it is a matter not only of displaying solidarity with third countries that take in considerable numbers of refugees, but also of organising the arrival and distribution of vulnerable individuals from those third countries towards member states. Based on distribution criteria akin to those adopted for relocation, this currently non-binding mechanism provides for the resettlement of 20,000 people a year until 2020. The Commission has stressed that this first initiative may be completed, if necessary, by a compulsory resettlement mechanism. Here again, the voluntary nature of the measure is in danger of showing its limits and of prompting the Commission to enforce solidarity by decree.

The innovation that the Juncker Commission has displayed is a testament to its will to respond to the humanitarian emergency, forcing the member states' hand in the sphere of solidarity if necessary. At this juncture the ball is in their court. While the negotiations over the relocation system will reveal their degree of internal solidarity, the number of refugees effectively resettled out of the figure of 20,000, at a time when millions of people are fleeing conflicts and live in the Middle East or in North Africa, will reflect the extent of their external solidarity.

2. Confirming the existing situation: a pragmatic agenda

The first issue here is the trebling of the budget allocated to Operations Triton and Poseidon for 2015 and 2016. As the Commission has pointed out, this will allow the FRONTEX agency to extend its support for member states under pressure, particularly in connection with border surveillance and with search and rescue operations². This decision is undoubtedly going to be criticised by certain countries for its alleged "pull factor" (which has in any case yet to be proven), but it is necessary if we truly do wish to prevent people from dying at sea.

Second, the Commission's agenda confirms a trend involving, on the one hand, the need to implement existing legislation and, on the other, the need to improve operational coordination. These issues are addressed in the second part of the agenda dealing with the actions to be implemented in the four areas of migration policy (illegal

immigration; border management; asylum; and legal immigration).

Some people may argue that the proposals "lack breadth" both in terms of content and in terms of cooperation between the Commission's services. But endeavouring to implement existing rules while improving their effectiveness is a tricky business and deserves attention. In addition, the current political context is not conducive to more sweeping action.

3. The long-term vision: an agenda usefully expanding the debate on migration

The final part of the agenda, introducing measures for implementation in the longer term, contains the breadth that is missing in the second part. The Commission here introduces those guidelines which, while not yet enjoying the member states' backing, it would like to debate or even to implement.

Where asylum is concerned, the Commission introduces three areas for debate, namely an "asylum code," the mutual recognition of asylum decisions, and the establishment of a single asylum decision process, while attempting to remedy the current shortcomings in the Common Asylum System and the limitations in the rationale underpinning the Dublin Regulation.

Where border management is concerned, the Commission envisages a strong mutualisation of resources and the creation of a European coast-guard corps. And finally, it would like to see a debate on the establishment of a system inviting employers to identify priority applicants from a pool of migrant candidate workers.

While these proposals are only points on which the Commission would like to work, they have the immense merit of imparting a fresh thrust to the crucial debates on legal immigration and integration, the need for a labour migration and mutual trust among member states.

The agenda submitted by the Commission may - and undoubtedly will - receive criticism. Yet we have to give the European executive the credit for displaying political commitment and determination in a context which does not necessarily lend itself to such a display.

1. Eurostat, "The number of asylum applicants in the EU jumped to more than 625 000 in 2014", Press release 53/2015, 20.03.2015.

2. In connection with this latter issue, Regulation 656/2014 specifies in Article 9, Paragraph 1 that "member states shall observe their obligation to render assistance to any vessel or person in distress at sea and, during a sea operation, they shall ensure that their participating units comply with that obligation, in accordance with international law and respect for fundamental rights".

