



An Actor on Multiple Stages: the EU as a Local, Regional and Global Power

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Tbilisi State University
Institute of European Studies
PHD student
Tatia Tavkhelidze

**Refugee Relocation in the European Union: Utopia of solidarity and fair
sharing**

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Introduction

The dynamic of European integration led European Union being important actor at multiple stages, but can the Union be always effective change maker? That is a question stipulating current research. Nothing questions the effectiveness of EU actions more than current asylum crisis.

In order to cope with an emergency situation characterized by a sudden inflow of third country nationals in Europe and to strengthen the cooperation between Member States for balancing out the asylum burden amongst them, the Common European Asylum System (CEAS) has been evolved, which is a legislative framework established by the EU, based on the Vienna Convention relating to the Status of Refugees. However, ongoing asylum crisis revealed that the system has flaws. In practice, asylum burden varies dramatically between Member States. According to the Eurostat information, Germany Italy, France and Greece are the main destination counties, but asylum burden is heavier in case of Italy and Greece due to their low national capacities to receive and accommodate that amount of asylum seekers in accordance with the conditions listed in the directive laying down standards for the reception of applicants for the international protection (Asylum quarterly report, 2017).

With the aim to remedy the situation European Council adopted decision regarding to the relocation of refugees from Italy and Greece into the other Member States.

''The Council noted the willingness and readiness of Member States to take part, in accordance with the principles of solidarity and fair sharing of responsibility between the Member States, which govern the Union policy on asylum and migration, in the relocation of [...] persons in clear need of international protection'' [European Council, 2015, p. 82].

Despite the legal obligation, Member States were reluctant to meet the requirements of the Council decision. The relocations carried out by each Member State are less likely to lighten the asylum burden of Italy and Greece. E.G. Hungary and Poland have not even relocated a single refugee seeker on their territory (European Commission, 2017). That means EU's attempt to remedy the situation has failed and the adopted provisional measure was not effective to ensure fair sharing of asylum burden.

It is the objective of the current research to comprehend the causes of the failed refugee relocation scheme and to explain the utopistic character of such measure aimed at ensuring solidarity and fair sharing of asylum burden in the EU. However, what is meant under the notion of burden-sharing this is a critical question. There are two different kinds of pressures on the Member States: First, costs of the reception of asylum seekers, including housing and possible return; and second, relative measures of capacity, particularly with regards to numbers of asylum applicants (European Parliament, 2010). With respect to the principle of solidarity, burden-sharing means that each Member State contributes to the CEAS in accordance to their national capacity. Though burden-sharing comprises different aspects, the research is limited with the physical allocation of asylum seekers in the EU that maintains focus on the most critical and debatable point of on-going asylum crisis.

Debates on the solidarity and fair sharing reached its critical point after the failure of refugee relocations. Scholars have criticized the Union for being ineffective and insufficient player at that level. According to Orsini and Roos, the ill-designed EU relocation mechanism could not undo the failure of Dublin. The authors saw two major flaws within the mechanism: First, relocation criteria only referred to the few nationalities and the majority of applicants have been the concern of Italy and Greece. The second problem lies with the implementation of the law. As a result of Member States' reluctance to relocate asylum seekers on their territories, a small number of carried out relocations could not balance out the refugee burden amongst states (Orsini & Roos, 2017).

The "non-binding character" of relocation mechanism is another weakness of the law. The asylum seeker and the recipient country both have to agree about the relocation. Emphasizing this, some scholars believe that a "double-volunteerism" makes EU relocation mechanism less effective and fades the principle of solidarity (Jones, Menon, & Weatherill, 2012, p.819). However, it is also arguable whether the decision to relocate refugees was on voluntary basis. Since EU court dismissed complaints by Hungary and Slovakia over refugee quotas to annul the Council Decision, it emphasized the binding character of the law on refugee relocation featured with the principle of "obligatory volunteerism" (Slovakia & Hungary V. Council, 2017).

The other question is whether obligatory character of relocations can remedy the situation as far as the nation states are reluctant to fully comply with the legal obligation imposed by the Council

Decision. There are a few experts, who discuss this issue from the different point of view. Grigonis assumes that making Member states obliged to relocate refugees on their territories diminishes the idea of state sovereignty (Grigonis, 2016).

Despite a wide range of theoretical assumptions regarding this topic and the significant findings of existing literature, discussions have been limited with the main flaws of EU refugee relocation, but their scope does not fully explain the essential reasons for the failure of those provisional measures to remedy the uneven allocation of asylum burdens. The key point of the discussions is that neither the content of law and nor the commitments of the Member States support to the principle of solidarity and fair sharing which is retained in the Lisbon Treaty (TFEU, art.80). Although there is a little evidence of inter-state solidarity in CEAS, considering the financial aspects of burden sharing, the failed refugee relocation scheme supports to the assumption about the utopia of fair sharing of asylum burdens.

Though the main research question remains the same, the current research intends to look the reasons for the failed refugee relocation behind the discussed contextual flaws of law and the less desire of the Member States to meet their legal obligations. The question is why Member States showed reluctance to relocate refugees on their territory and why the Union instilled the elements of volunteerism in the legally binding document. Explaining these reasons can provide the answer to the research question: Why did EU refugee relocation plan to ensure solidarity and fair sharing amongst Member States fail?

This article intends to analyze the weak points of EU refugee relocation in the broad theoretical framework and suggests in-depth study of the problem. It takes the approach that the reason for failed law is to be found in the ineffectiveness of law. In 1981 when Anthony Allot formulated the theory of "Effectiveness of Law", he assumed that the ineffectiveness of law "lies in the possible conflict between the aims of the legislator and the nature of the society in which he intends his law to operate" [Allot, 1981, p. 237]. In the European Union despite the high degree of integration, states still stay loyal to their national interests, which in certain cases collide with the Union's goals. As a result of Allot's theory, the article takes hypothetical approach that the idea of refugee relocation was doomed to fail at the initial stage. It aims to prove the utopia of the refugee relocation as a remedy for the uneven distribution of asylum seekers in the EU, whereas the Union consists of nation states following their national interests.

This theoretical ramification stipulates formulating the following research hypothesis: Their different priorities prevent Member States to ensure high degree of solidarity through the fair allocation of asylum seekers in the EU.

To explain the failure of EU refugee relocation and to prove the utopistic character of such law the research requires a combination of effective research methods. Hence, the article applies the method of qualitative content analysis for the actions of Member States supporting and opposing this provisional measure. It is also an effective method to interpret the wording of the legal text which provided the legal bases for the refugee relocation. Since EU states have differently responded to the legal obligation, the research applies multiple case studies. Cases of Germany, Austria and Poland illustrate the overall reaction of states towards relocation mechanism, which at the end, sums up the utopia of ensuring solidarity in the allocation of asylum seekers. At this level, a tool of relational content analysis enables researcher to make semantic, relational study of concepts of solidarity and national priorities in the speeches and official documents produced by the Member States' governments referring to the application of the EU law on the refugee relocation (Willson, 1993).

The research is significant for the following reasons: First, solidarity plays a key role in shaping the trajectory of European integration; and 'burden sharing' is the core reason why EU does not fall apart; hence the problem regarding to the uneven distribution of asylum seekers amongst Member States and the failed refugee relocation are worthy of comprehensive legal analysis. Second, existing literature keeps discussion on the flaws of asylum law in narrow scope and overlooks their initial cause. Current research can create the additional knowledge with this regard. Based on the hypothesis which has to be tested, the research anticipates that national interests of the Member States are not in colliding relationship with the principles of solidarity and fair sharing, but they have different priorities, which results in the utopia of refugee relocation. This factor gives research an important practical value as it underlines the reality, where the degree of European integration varies between the Union's goals and the national priorities of its Member States. Furthermore, based on the main findings the research will recommend a better remedy for the uneven distribution of asylum burdens.

The foreseen research findings may have a great practical value for the refinement of the Common European Asylum System (CEAS) and it will enrich the literature on this topic. It also

elucidates the problem regarding to the ‘change-making’ power of the Union and leads discussion to the advanced level, whether Union needs more exclusive competence to be effective actor on the stage, or the dynamic of European integration faces stagnation that conditions the deficient EU performance.

Chapter I

Literature review

The issue of failed refugee relocation has been addressed from the different points of view amongst modern scholars. There are three major ramifications of the problem: An interpretive content of the law, passive role of the EU institutions to ensure Member States abidance by the law and the reluctance of the Member States to contribute to the equitable allocation of asylum burdens.

1.1. Interpretivism in the law on refugee relocation: EU made law in the field of asylum turns out to suit the interests of the Member States. Hailbronner and Thym justified this statement from the perspective of the EU legal nature.

’’As a shared competence between EU and its Member States, legislation on asylum must comply with the principles of subsidiarity and proportionality that oblige the EU legislature to limit their action to initiatives that cannot be sufficiently achieved at national level and remain limited, in terms of regulatory intensity, to what is necessary to achieve legitimate policy objectives’’ [Hailbronner &Thym, 2016, p.1030].

However, this argumentation does not justify the fact that the law on refugee relocation falls within the long established practice of legal interpretivism, since it means that the content of law remains the subject of interpretation amongst Member states, which creates the space for voluntary abidance and does not stipulate a uniform application of the law. This assumption has been supported amongst several scholars. Orisini and Root discussed this feature as a main flaw of the EU law on refugee relocation. The major problem is that the two Council decisions on

relocation (Council Decision (EU) 2015/1523 of 14 September 2015 and Council Decision 2015/1601 of 22 September 2015) both contained the principle of voluntarism, which grants Member States the possibility to apply the Council decision according to their asylum profiles (Orisini & Root, 2017). Likewise, an academician Esin Küçük believes, that the principle of solidarity became a key interpretative criterion of relocations. The provisional measure adopted in favor of Italy and Greece has been constructed in the light of article 80, but the application of its provisions can be enforced in different ways. Hence, it resulted in the actions of Member States that gave effect to the principle of solidarity and fair sharing of responsibility according to their interpretation (Küçük, 2016).

It is not an intention of this article to argue the assumptions about the interpretive EU law, but the latest decision of the Court has proved that the legal interpretivism is also a tool of European Union to put its priorities above the particular needs of the Member States. Such flexibility of the EU law supports to the assumption that the fulfillment of EU legal obligation is a matter of priorities.

1.2. The role of the EU Commission: When the failure occurs in the process of legal enforcement, Anthony Allott explains it with a lack of sufficient implementing norms, orders, institutions, or processes incorporated in the law (Allott, 1981). Though the content and the vagueness of norms in the EU law on refugee relocation do not create a strong basis for the actions to be carried out by the EU institutions in case of legal disobedience by Member States, the partial blame for a such failure still goes to the Commission since it is a "watch dog" of this process and this is its obligation emphasized in the Maastricht Treaty.

"The Commission shall [...] ensure the application of the Treaties, and of measures adopted by the institutions pursuant to them. It shall oversee the application of Union law under the control of the Court of Justice of the European Union" [TEU, art. 17, par.1].

There have not been the sharp discussions amongst modern scholars, whether EU Commission had to play more active role in the implementation of refugee relocation scheme, they unanimously agreed that the Commission also failed to fulfill its duty. According to Steve Peers and his co-authors the Commission remained passive limiting itself with reporting on the process when it could use a power guaranteed by the EU treaty to guard the principle of solidarity and fair sharing (Peers & Bernard, 2017). Likewise, Lax considers that the Commission had to

exercise its powers in a more efficient way to support the burden sharing, since it was acknowledged that relocation results have not measured up to the calls by EU authorities (Lax, 2016).

On the contrary, it is interesting that Commission considered Relocations to be successfully implemented by member states. It emphasized that setting up the relocation mechanism was decided by Member States in legally binding Council decisions and "almost all Member States have respected their legal obligations with regular pledges and relocations" [Commission, 2017]. According to the Commission, only Czech Republic, Hungary and Poland are the only exceptions who failed to meet their obligations and it has therefore been launched infringement procedures against them. This statement complicates the research, since there is a Commission on the one hand, insisting that relocations were successful and on the other had, it stands modern scholars and the statistical data of Eurostat which indicates that all Member States failed to meet fully to the Obligation imposed upon them. At this point it is obvious, that EU institutions remained passive and besides, they consider those relocations which was carried out by Member States as a sign of successful cooperation which consequently reflects in the high level of solidarity.

The indication of Commission's passive role and its attitude towards the law implementation are an important impetus for the current research, since it once again supports to the hypothesis that the implementation of EU law depends on the priorities, but limiting the discussions with the institutional framework creates a gap in the existing literature. Passive role of the EU institutions as well as interpretive character of the EU legal documents is the end result of the different phenomenon which refers to the issue of priorities.

1.3. Colliding EU and National interests: The key issue in the implementation process of the EU law is whether states are willing to implement it. Though Commission sees it differently, the relocation scheme failed, because of the Member States reluctance. However, the question is: What is the reason of such actions? According to Bacic, states tend to follow their own national interests and though the "Union has been granted power to ensure better protection of asylum seekers by the "real actors of asylum policy: Member States," when it does not suit to their national interests, EU actions are less probably to bring the change (Bacic, 2012, p.58). It is

significant that the author formulated this statement earlier than the relocation mechanism was even designed, but after these years it still explains the reasons of EU failures, which means, EU has a tradition of being ineffective in legal enforcement when its actions and Member states interests clash. Furthermore, the modern scholar Stewart is in line with the assumptions of Bacic. He believes that the reform of entire asylum system is only a hypothetical remedy for the existing problem, as far as exercising EU competencies to some extent in the field of asylum collides with the sovereignty of the Member States, EU made laws are always doomed to fail (Stewart, 2015).

The discussion on the colliding character of the EU and Member States' interests is a useful way to explain the failures of EU actions and non-implementation of its law on the refugee relocation, but at this point it is still unclear what is the national interest of each Member State and since their interests always vary, then how European integration succeeded at all. Approaching this topic from different perspective identifies that the previous discussions contain flaws. When the principle of solidarity has been inherited in the main treaty, it was obvious that burden-sharing is in the best interests of the Member States. With this regard, arguing that EU interests collide with the interests of its Member States is vague, because the Union was established to serve for the best interests of its members and solidarity is the impetus that keeps EU in motion. This is a reason why current research seeks for the deeper understanding of the reasons that caused a failure of refugee relocation schemes and it proposes to comprehend this problem at the level of priorities and not based on the broad understanding of national interests.

Chapter II

Theory and Methodology

The theory and the research methods presented in this chapter has great importance for better understanding of the problem and the direction research takes to answer the main question. It discusses the theoretical assumptions and the methods of data collection and analysis.

2.1. Theory of ineffective laws: The research subsists on the theory of Anthony Allott, who formulated the possible reasons of ineffective law decades ago, but it still explains the legislative failures in the modern society. He emphasized that the compliance with a law may be intentional which means, the subject is aware of the norm, and conforms his behavior to it. Since EU Member States were indirectly involved in the law making process regarding to the relocation of refugees from Italy and Greece on the territories of other European countries it has to be their intention to comply with the legal obligation. However, the law still failed due to the ineffectiveness, which has been already discussed amongst modern scholars, but Allott suggests a deeper analysis of such failures. According to his theory, the first reason lies at the "originating or transmitting end, in the equipment which formulates and "emits" a norm" [Allott 1981, p. 236]. It means that all verbal formulations, legal as well as non-legal, are subject to the defects of every linguistic message. The problem is to find a way of the efficient formulation of a legal message. This flaw is related to the interpretive content of the EU law on refugee relocation, when EU legislators failed to send the clear legal message to the Member States that could stipulate their full compliance with the law.

The second reason for ineffectiveness of laws lies in the possible conflict between the "aims of the legislator and the nature of the society in which he intends his law to operate." In many instances propositions for new laws only take effect after they have been put to and accepted by those who will be subject to them [Allott, 1981, p. 237]. At this point, EU Member States are to be kept under focus, since they are the subject of the EU made laws. Apparently, they could not accept the decision on refugee relocation, but the question is why. To assume that it is not in the nature of Member States to follow the EU laws will be wrong as their commitment towards Union and its rules resulted in the successful integration. Thereafter the problem is why this particular law was neglected by the Member States. This is the main question that drives entire research and the answer lies beyond the theoretical framework suggested by Allott.

Lastly, the author noted that the failures in implementation of laws happen very often when there are no sufficient implementing norms, orders, institutions, or processes incorporated in the law. This triggers an assumption that the EU also lacks an effective implementing mechanism which contains strong incentives for legal abidance. On the other hand, the reviewed literature has proven that EU legal power and its institutional framework is sufficient to create the ground for

legal abidance. Hence, the problem is more complicated and the initial cause of failed refugee relocation has to be looked for deeper in the nature of Member States and their priorities.

2.2. Methodology: The Allott's theory about the ineffective law explains the phenomenon of failure to comply with the law in general, but to understand the reason for the disobedience of Member State towards the law on refugee relocation it requires deeper understanding of this problem.

The proposed hypothesis directs the research at the basic level where solidarity can be in the interests of each member states but not the priority for that moment. That means the degree of solidarity which is a dependent variable has been defined by the different priorities of the member states being the independent variable in the research. However, those concepts of "degree of solidarity" and "priority" require further conceptualization.

When the principle of solidarity was inherited in the Lisbon Treaty, which means that each Member State has to take the asylum burden equal to its national capacity, the legislators could not assume that the solidarity has degrees. On the contrary, actual relocations have proven that majority of Member States accepted only few asylum seekers from Italy and Greece, which is a lowest degree of solidarity they achieved. The full degree of solidarity would be established if each of them could meet the commitments imposed on them by the law. According to the Commission report, there were certain Member States which did not relocate even a single asylum seeker on their territories, which means that they showed no solidarity at all (Commission, 2017). Thereafter, the degree of solidarity is an ordinal variable which varies according to high and low levels or no solidarity at all.

On the other hand, it is more difficult to conceptualize the variable of priority. It refers to the condition of being regarded or treated as more important than others. Hence it could have a ordinal character, but in the particular case it is a nominal variable which consists of following attributes: EU interest and national interest. The determinant of EU interest is ensuring the solidarity through abidance with the relocation scheme, but on the contrary, Member States prioritized their national interest to avoid arrival of asylum seekers on their territories.

In order to measure what is the effect of Member States priorities on the degree of solidarity in the EU for the allocation of asylum seekers, the research applies the Method of multiple case studies. It enables researcher to achieve more robust results in the understanding of reasons for

a failed relocations scheme. For this reason the research focuses on the actions of Germany, Austria and Poland to comprehend the research problem. All three cases did indeed involve the same syndrome of law failure, but their commitments towards solidarity indicate three different trends and not same results are to be obtained. It is important that if the outcome will be according to what was predicted the cases together can provide compelling support for the initial hypothesis (Bengtsson, 1999).

At each level of the case study the research applies the method of relational content analysis that enables researcher to make semantic, relational study of concepts of solidarity and national priorities in the speeches and official documents produced by the Member States' governments referring to the application of the EU law on the refugee relocation (Willson, 1993). This method is more sophisticated in the process of analysis, since focus is made on concepts rather than words, and on semantic relationships rather than just the mere presence of certain words (Stan, 2009). This method is an effective tool to comprehend the specific content of the EU law on refugee relocation and prioritized implementation of relocation scheme by the Member States.

Chapter III

The parity of priorities within the EU asylum policy

The analysis of EU law on refugee relocation and the commitments of Member States require a deep understanding of EU general legal framework on Asylum. It has to be emphasized that asylum have not always been an EU competence. The conclusions of the Tampere European Council in 1999 marked the beginning of EU policies in this field. Later on, based on the 1951 Geneva Convention on the status of refugees, a Common European Asylum System (CEAS) has been set up, which remains as shared competence between the EU and its Member States (Helldorf, 2015). This is a significant component which should be taken into consideration while analyzing the problem of refugee relocation, because final decision belongs to the Member States

in this area. On the other hand, when law is drafted and adopted, Member States are obliged to abide it and EU decision on the relocation of refugee seekers from Italy and Greece fall within legally binding obligations.

Another question is what caused the need for CEAS to be set up. The answer is simple as it was derived from the interest of EU internal security, which could be achieved better at Union level. Following this discussion, it is obvious that EU stability guarantees the security of each Member States. Then it seems difficult to understand why states prefer not to cooperate and fail to comply with the relocation obligation. The hypothetical answer lies with the different priorities of the Member States which indirectly indicates that at some extent following to the EU internal security interest comes in contradiction with the national security interests and that time Member States priorities their national security. This assumption is simply to be proved based on the content of adopted law, which had a voluntary character, but since member States used it to suit their national priorities and relocation scheme was to be failed, the court interpreted the voluntarism as obligatory.

3.1. Obligatory Voluntarism: The provisional measures adopted by the Council in 2015, were intended to relieve the significant asylum pressure on Italy and Greece, in particular by relocating a significant number of applicants in clear need of international protection. The decision referred to the exact amount of refugees, who had to be relocated based on the overall number of third-country nationals including those who have entered Italy and Greece irregularly in 2015, totally 120 000 applicants in clear need of international protection (Council Decision 2015). Though the objectives of the decision were clear, the implementation measures remained the subject of interpretation.

The interpretive character of the law, which was discussed in the previous chapter, automatically serves for the interests of the Member States to avoid the legal commitments. In particular, the Union adopted measures to reinforce internal solidarity and responsibility and to invoke European countries to commit themselves to "increasing emergency assistance for the frontline states and to considering options for organizing emergency relocation between Member States on a voluntary basis" [Council Decision 2015, par. 4]. What the voluntarism means contained in the decision is debatable. Apparently, Member States took it as a decision to remain it under their authority to decide who will be transferred on their territories. Hence, they found an excuse to

relocate less asylum seekers than they were obliged to receive. However, in its judgment, the EU Court gave the law on refugee relocation different interpretation and it made obligatory for the Member States to abide the measures adopted in the decision. The actions brought by Slovakia and Hungary have been dismissed in their entirety (Slovakia & Hungary V. Council, 2017). Though this research did not analyze the decision of Court in depth due to its non-compliance with the main objectives of the article, based on the the ruling of Court it may be concluded that voluntary relocation of refugees from Italy and Greece were obligatory. With this regard, case law of the EU is a tool of clarification what legal message the text EU legal documents contain. At this extent, it is important that the Court of Justice of the European Union has also published the actions brought by the European Commission against Poland, Hungary and the Czech Republic for failing to fulfill their obligations under the Council Relocation Decisions (ECRE, 2017). This is the next stage of the legal interpretation and the outcome can only strengthen the meaning of "obligatory voluntarism".

However, in the law it still remains the aspect of national security as a tool for avoiding "unwilling" relocations by Member States. It is written in the text of the decision that "national security and public order should be taken into consideration throughout the relocation procedure, until the transfer of the applicant is implemented [...] where a Member State has reasonable grounds for regarding an applicant as a danger to its national security or public order, it should inform the other Member States thereof" [Council decision 2015 par. 32].

Following to the current discussion, the question is why these findings matter for the research. Since the hypothetical explanation of the failed refugee relocation is Member States' priority to ensure their national security and therefore relocate less number of refugees on their territory, it is obvious that this principle have been balanced in the law and the case law of the EU. The modern scholars criticizing the EU and its institutions for being passive in the implementation process overlooked the incentives of the court decision and active role of commission with this regard, but those assumptions were not entirely wrong. At this point it is clear that only those states who failed to relocate even a single refugee seekers have been considered as disobedient, but on the other hand, Member States who relocated not all applicants they were obliged to, but at least certain number of refugees, it has been considered as successful implementation of the law. This means EU established the parity between its priorities and the priority of the Member

States. In other words, relocations have not been fully implemented and it has been carried out on that extent that was available for the states with respect of their national security interests, but still they succeed to achieve a certain degree of solidarity.

3.2. Multiple case studies: The priorities of Member States vary according to the needs for their national security. Hence, the issue of failed refugee relocations cannot be analyzed from a single state's perspective. For this reason, to comprehend the phenomenon of failed refugee relocations the research selected three cases of Germany, Austria and Poland to illustrate the overall reaction of states towards relocation mechanism. The great advantage of such method is that it aims at holistic analysis of a phenomenon in its context and comparability across cases (Yamashita & Moonen, 2014).

3.2.1. Case of Germany: The commitment of Germany towards refugee relocation is significant, since it is the second country after France that has relocated the largest number of applicants (Commission, 2017). However this case falls within the dilemma whether the glass is half full or empty. According to the statistical data, the number of actual relocations is much less than it was foreseen for Germany, but above discussed issue of legal flexibility does not leave much space for the criticism. If we take the perception of half empty glass, then Germany also failed to fully abide the Decision. The next question is the reason behind Germany's such performance in the refugee field. In the interview with German online journal the Interior Minister emphasized that far fewer people fulfilled the criteria for relocations, this is why Germany could not accept all refugees (Seehofer January 29, 2018). It is difficult to understand what is meant under unfulfilled criteria since it is the tool of Member States to justify the ignorance of legal message contained in the Council decision. Despite this vagueness, unfulfilled criteria can be interpreted as the person poses problem for the state. Hence, the reason always is state interests at the end. This explains that the gap between the obligation and the commitment of Germany coincides with its national interests to secure own stability. So, the parity of EU and national priorities follows the line of national interests.

Another question is why Germany is the locomotive of cooperation and more loyal to the principle of solidarity compared to some other countries. This is the best case to understand that EU priorities can also coincide with the national priorities. Chancellor of Germany has emphasized after the meeting with EU Commissioner for Refugees, Dimitris Avramopoulos that

Germany looks for the way to legalize irregular immigration of refugees. For this reason the country is ready to accept over 10,000 migrants and refugees from North Africa and Middle East as the part of relocations (Merkel, press release, April 19, 2018). This statement elucidates that the solidarity Germany shows for asylum crisis at the EU level is derived from the national priority which is the internal security interest. Without relocation mechanism which is a legal way of managing irregular migration and the influx of asylum seekers, Germany would have to cope with the secondary movements of refugees arriving at the Mediterranean border of the EU which could put its public security in danger.

To sum up, Germany's commitment towards refugee relocations is the implementation of its own national interest which remains as the main priority and beyond that extend where abidance towards the EU law does not suit its interest, the country fails to abide.

3.2.2. Case of Austria: Unlike Germany, Austria considered the decision on relocation of refugees from Italy and Greece to be the wrong approach towards the crisis. When some Member States were active in pledging and relocating refugees regularly, Austria alongside with Poland and Romania remained the only Member States that have not relocated a single person, which is in breach of the legal obligation to take commitments towards Greece and Italy and the fair sharing of responsibility. As a result of Commission's actions insisting from Austria to abide the law, only formally has been pledged to relocate 50 persons from Italy (Commission, 2017).

In the case of Austria relocation mechanism has definitely failed, there are two factors to be taken into consideration: First, there have been no infringement proceedings brought against it and even formal pledge of 50 persons have been accepted by the Commission as a sign of solidarity, which once again proves that everything else has been adjusted to the national priorities of such Member States. Secondly, though Austria itself has a significant number of asylum seekers to cope with, it falls back with Germany and France according to the influx of refugees and unlike eastern countries it has better capacity to receive the asylum seekers (AIDB, 2018). Therefore, the reason of Austria's failed commitment towards refugee relocations has to be found in the classification of priorities.

According to the former foreign minister and current chancellor of Austria, European Union acts as a human trafficker and relocations only bring refugees in the heart of Europe, which threatens

the internal security of Member States. He sees the solution in restoring the Dublin agreements (Kurz, July 17, 2017). As a result of analysis, it has been indicated that Austrian Government has prioritized national security over the principle of solidarity. Also as foreign Minister Kurz emphasized several times that Austria was not ready to accept refugees from Italy and Greece, since it had to manage the asylum inflow on its own territories (Kurz, October 2, 2016).

Compared to Germany, Austria has been less interested in solidarity to ensure the common European stability since it found no priority in such approach, whereas Germany perceived relocations as a legal way of managing irregular migration which at the end would benefit its national stability. Despite of this, both cases supports to the hypothesis that the initial reason of failed relocation mechanism is the security interest as a national priority.

3.2.3. Case of Poland: Poland is amongst those countries which has not relocated any asylum seeker from Italy or Greece. However, contrary to the case of Austria, the European Commission launched infringement procedures against it as well as against Czech Republic and Hungary. The explanation of selective approach towards the countries failing to comply the obligation has been justified as the replies provided by Poland was not found satisfactory and for this reason, the Commission decided to move to the next stage and refer Poland to the Court of Justice of the EU in 2017 (Commission, 2017). On the other hand, Commission's selective attitude towards Austria and Poland indicates that the national interests of the certain Member States have more weight at the EU level than the interests of others. However, research objectives do not refer to this point and in order to answer the main research question, it focuses on the motives of Member States for the failure to abide the law on refugee relocation. At this point, Poland provides the research with clear answer to the question.

In 2015, Poland declared readiness to relocate asylum seekers from Greece and Italy, but according to the Polish Ministry of Interior and Administration, relocation procedures could not be implemented properly due to the incorrect functioning of the hotspots in Greece and Italy, as well as insufficient security procedures to verify asylum seekers' identity. This posed a threat to the national security, since the proper verification of the asylum seekers for safety reasons is especially important concerning the terrorist attacks in Paris and Brussels in 2015 and 2016 (Ministry of Interior of Poland, 2016). Polish officials presented some other reasons for the lack of relocation, which were also connected to the security issues, like possession of false

documents by the candidates to relocation, lack of direct access to the candidates in Italy; and insufficient level of verification of those asylum seekers who were to be relocated from Greece to Poland (Błaszczak, 2016). As a result of insecurities, the relocations of asylum seekers from Greece and Italy were cancelled.

Based on the method of content analysis, it was a simple task to comprehend interaction of failed refugee relocation on the one hand and the priority of Poland on the other hand. It has been clearly stressed, that Poland prioritized its national security over the EU stability goals in the field of asylum. This is why Polish authorities are against the mechanism of forced relocation of asylum seekers within Europe and therefore, Poland has not relocated even a single asylum seeker.

To sum up this chapter, the case studies of three different EU Member States indicated that they interpreted the law on refugee relocation and complied with it to that extent which suited their own national interests. At the end, Member States actions were derived from the priority of ensuring national security, which did not allow them to show greater solidarity in the allocation of asylum seekers at the EU level.

Conclusion

Refugee relocation in the European Union has failed and that has been taken granted in this article based on the existing literature review, but the open discussion regarding to the causes of such failure stipulated the current research. This article aimed to test whether different priorities of the Member States became a key problem in the implementation of the law on refugee relocation. There have been selected three countries: Germany, Austria and Poland for the case studies in order to comprehend the phenomenon of disobedience towards particular EU law. After the research applied the method of content analysis for the EU law on refugee relocation, Commission reports and the official statements of three Member States' government representatives, it led to the following findings: First, though academic scholars and experts discuss the refugee relocation scheme as a failure, European Commission consider it as a successful remedy for the asylum crisis, which can be regarded as a half empty glass dilemma. , it is difficult to prove whether e.g. Germany failed to meet its obligation, since the content of particular law is the subject of interpretation. However, the research considered that if states did not fully comply with their obligation it means they failed to follow it, because partial implementation is also the indicator of a failure. Despite this assumption, it has been indicated that this problem creates a gap in the literature and requires further research.

Second, the analysis of the official statements of the government representatives stressed the validity of the hypothesis, since their commitment towards the EU law on refugee relocation has been derived from their own national security interests. Germany considered that relocation of certain numbers of refugees was a legal way for managing the irregular immigration and at the same time Austria and Poland considered that relocation of a single refugee on their territory could harm their national security and public order. In each case, the degree of solidarity achieved at the EU level has been conditioned by national security interests of the Member States. Here is the answer to the main question, whether refugee relocation was failed or only partly failed, the denominator for such result was the different priorities of the Member States.

Finally, the research findings have proved that fair sharing of asylum burden is utopic, since Member States prioritize their national interests and in particular, their internal security. But here is another important point, that fair allocation of asylum seekers does not necessarily means the solidarity. Hence, for the recommendation, the EU and its Member States need to rethink the

meaning of solidarity and draft a realistic plan for achieving it in the field of asylum, because European integration is a dynamic process conditioned by the principle of solidarity.

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