

The European Security and Defence Union

Migration and Asylum
Making border security
efficient and more humane

Interview on migration, border security and asylum



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The EU needs humane border control through better cooperation

Migration, border security and asylum

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While the European Commission is proposing a fresh start on migration and asylum policy, striking a new balance between responsibility and solidarity of EU Member States, the current problems at the borders of the EU need to be tackled urgently. We invited Jean Asselborn, Luxembourg's Minister in charge of migration and asylum, and Gerald Knaus, a well-known expert on the Mediterranean region, to a two-way conversation on this subject.

Hartmut Bühl: *Minister Asselborn, Mr Knaus, we are grateful to you for having accepted our invitation to discuss these issues. May I ask Nannette to start our conversation?*

Nannette Cazaubon: *Minister, the urgency of the situation at the borders of the EU is clear for all to see: leaving aside the refugees rushing to Ceuta, people are still risking their lives crossing the Mediterranean, there are still overcrowded refugee camps in Greece, and the EU-Turkey statement is about to be put to the test again. Why is the European Union (EU) still so reluctant to propose ad hoc solutions?*

Jean Asselborn: Ad hoc solutions exist and are currently being implemented, like the "Valetta arrangements"¹ on solidarity after saving lives at sea or the ad hoc relocation after the Moria disaster. Unfortunately, these are only small examples of solidarity that cannot address the global issue of migration in Europe.

Nannette Cazaubon: *But we have known since 2015 that the EU needs a sustainable, holistic and fair migration policy....*

Jean Asselborn:yes, but Member States are deeply divided on the design of such a policy. Some do not want to receive

migrants at all, their leaders want to invest only in fortress Europe and are not afraid to advocate a system that allows for dissuasive pushbacks. Others stick to their international obligations, such as the 1951 Geneva Refugee Convention, and are prepared to share the burden in a spirit of solidarity.

Hartmut Bühl: *Could you sketch out the broader picture?*

Jean Asselborn: The South of Europe is looking for automatic and reliable solidarity. The East argues that their societies cannot integrate migrants. The North is, in reality, the chosen destination for most migrants and therefore is under pressure from secondary movements. All these groups expect the others to adjust their positions so that their interests are met. Violating EU law with impunity is no incentive to change one's position!

Hartmut Bühl: *Unfortunately, that is the reality! It was you, Mr Knaus, who suggested to German Chancellor Angela Merkel the idea of the EU-Turkey statement. Could you assess Turkey's current attitude towards this deal?*

Gerald Knaus: Let me start with the EU. When a boat sets out from Turkey to a Greek island, the government in Athens has three choices. Option one: the boat arrives, everyone is registered and is moved within days to the mainland. That was the situation in January 2016, before the EU-Turkey statement, when 67,000 people arrived from Turkey in one month. Option two: the Greek authorities use force and push back the boat and its occupants into Turkish waters. That is the situation now. In the first six months of 2021, only 1,300 people arrived on the Greek islands.

Nannette Cazaubon: *Violating EU law!*

Gerald Knaus: Yes, it is a violation of EU law, but it has also been effective and popular and so it continues. But there is a third option at sea: humane control in line with EU law and without pushbacks, through cooperation with neighbours like Turkey or Morocco. The goal is still to reduce irregular arrivals, but without illegal expulsions. For this, the EU must offer third countries credible incentives. To answer the question why Turkey, currently hosting 3,7 million Syrian refugees, has an interest in helping the EU.

Hartmut Bühl: *But the 2016 EU-Turkey statement pledged considerable financial support for four years, didn't it?*

Gerald Knaus: Yes, but when the promise of substantial help for refugees in Turkey was not renewed in early 2020, the arrangement broke down. Alas, the New Pact on Migration and Asylum, currently being discussed in Brussels, is largely silent on this central issue of what to offer neighbours like Turkey, Morocco or Tunisia in exchange for their essential cooperation in reducing irregular arrivals without violating the Refugee Convention.

Nannette Cazaubon: *Minister, I would like to take up Mr Knaus' remark on the new Pact on Migration and Asylum of September 2020. Does this pact really have a chance of being implemented?*

Jean Asselborn: Indeed, negotiations on the Pact risk failing again. Currently, the most disputed issues are the compulsory border procedures, rejected by the South, and the solidarity mechanism, including the new concept of return sponsorship, rejected by the Visegrad countries (V4+)². Their blocking positions, in combination with the need for consensus and the package approach, give no window of opportunity for the Pact.

Nannette Cazaubon: *What conceptual mistake has been made and how can the Union rectify it?*

Jean Asselborn: It was the European Council that made the mistake by asking for consensus and the package approach. Now, it is almost impossible to get individual instruments agreed for operational purposes. Frustration is accumulating in the Parliament because of blocking positions in the Council.

Hartmut Bühl: *Minister, you regularly intervene in favour of upholding the principle of non-refoulement and the implementation of a strong human rights monitoring mechanism at the external borders....*

Jean Asselborn: ...yes, but unfortunately, I feel more and more isolated!

Gerald Knaus: Indeed, the no-pushback position is on the defensive worldwide. Pushbacks have been a popular policy in Australia, Israel and the US under Donald Trump. Once democratic majorities conclude that the only choice is between control and the Refugee Convention, the latter will lose out.

There is, however, a third way that could work: humane control through cooperation.

Nannette Cazaubon: *Mr Knaus, both refugees and migrants have few chances of entering the Union legally. So, what kind of cooperative border regime should we have in the EU?*

Gerald Knaus: Humane borders are borders where thousands do not drown. 2016 was the deadliest year in history for irregular migrants crossing to the EU, with more than 4,500 dead only in the Central Mediterranean. There is a strong moral case for discouraging dangerous departures of irregular migrants from Africa. At humane borders, the dignity of anyone arriving is respected through humane reception, which requires the capacity to determine refugee status reliably and expeditiously. The EU does not need more Frontex at its borders, it needs more asylum case workers. More EU border guards do not reduce the number of arrivals.

Hartmut Bühl: *Minister, is this idea consistent with existing needs?*

Jean Asselborn: A mid-term assessment is foreseen in order to



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“We desperately need a functioning, humane and efficient EU migration policy, based on a healthy balance between solidarity and responsibility of all Member States.” Jean Asselborn

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Gerald Knaus next to a refugee camp on the Greek island Lesbos, 2016

photo: Nikos Pilos

establish whether a permanent corps of 10,000 agents is consistent with existing needs. We should not forget that, in its initial proposal of September 2018, the European Commission aimed to deploy those 10,000 agents as early as 2020. That would have meant a massive and immediate impact on the capacities of the Member States’ border forces and an enormous logistical challenge! A progressive build-up is therefore key.

Hartmut Bühl: *Border management is a shared responsibility between the EU and individual Member States. Minister, what is the role of each?*

Jean Asselborn: The main role of Frontex is to act as a readily available additional source of manpower if a Member State comes under intense migratory pressure. Frontex can only become operational at an external border with the explicit agreement of the host Member State, and it discharges its duties under the operational control of its hosts.

Gerald Knaus: What we need for humane control is not Romanian border guards in Greece or Danish border guards in Ceuta, but better migration diplomacy, more orderly resettlement of refugees, a realistic return policy with cut-off dates and faster, high quality, asylum decisions. The massive expansion of Frontex since 2015 was an act of desperation on the part of the EU.

Nannette Cazaubon: *Gentlemen, shouldn’t the EU put more effort into its development policy by helping African countries to combat drought and water scarcity, for instance, in order to make people stay?*

Jean Asselborn: The EU is currently implementing Team Europe Initiatives, which are specifically aimed at strengthening policy coherence in the field of development cooperation. Luxembourg is strongly in favour of such policies. As stated in the EU treaties, the primary and long-term objective of EU development policy is the reduction, and then the eradication, of poverty. The Grand Duchy is one of only four EU Member States that honour their commitment to spend at least 0.7% of Gross National Income (GNI) on development cooperation.

Hartmut Bühl: *Which regions are you focussing on?*

Jean Asselborn: Currently, Luxembourg spends 1% of its GNI on development cooperation with a focus on Sub-Saharan Africa. We have been active for many years in the sectors you mention: water and sanitation, sustainable energy as well as education and vocational training, among others.

Gerald Knaus: It is in the EU’s interest to reach out to its African neighbours, as Luxembourg does. This should also include more legal mobility. Today almost every Latin American, whether from Honduras or Venezuela or Chile, can travel visa free to the EU, but nobody from Africa can, not even from Tunisia. Putting visa liberalisation on the agenda in talks on cooperation with Tunisia would be a strong signal that the EU is serious about a partnership with African democracies.

Hartmut Bühl: *Some EU Member States are advocating an outsourcing of EU migration policy, by, for instance, transferring migrants to third countries to examine their asylum claims. Mr Knaus, is this realistic?*

Gerald Knaus: Not in the way it is being discussed at the moment in the UK or Denmark, to stop all asylum seekers at the expense of other countries. This would simply be a cover for pushbacks, learning the wrong lessons from the Australian Nauru policy, which has produced a lot of human misery. However, if asylum applicants were safe in a third country, had access to a credible UNHCR asylum status determination there, and if this were verified individually before any transfer, such a policy could be in line with the Refugee Convention. It would save lives at sea and, combined with more resettlement of refugees, would increase rather than reduce, the space for protection in the world. This would be a lot better than the status quo.

Hartmut Bühl: *Minister, would you be willing to push this issue?*

Jean Asselborn: Viewing our partner countries in North Africa as the refugee camps of Europe would be self-destructive for the EU! Our relations with North African countries are complex, deep and historically charged. We need a broad dialogue and

to listen to each other's needs. The pandemic has worsened the economic situation in the region. This is why we talk today in terms of countries of origin, transit and destination. And it is also why a discussion of legal and circular migration to the EU must be part of our approach. We desperately need a functioning, humane and efficient EU migration policy, based on a healthy balance between solidarity and responsibility of all Member States.

Nannette Cazaubon: *And what about the point that regular migration can be beneficial, as set out in the New York Declaration for Refugees and Migrants of 18th September 2016?*

Jean Asselborn: I agree absolutely that regular migration is beneficial if it's well designed. But I wish I could also say that the UN Global Compact for safe, orderly and regular migration and the Global Compact on refugees are the milestones they set out to be when the process was launched with high hopes by the New York Declaration in 2016. A number of sizeable political stumbling blocks, most of them related to national, not to say nationalistic and inward-looking agendas, have prevented the Global Compacts from becoming the international success story it was meant to be. Nevertheless, it does provide a basis for future, and hopefully more dispassionate, discussions.

Hartmut Bühl: *Mr Knaus, in your recent book on borders "Welche Grenzen brauchen wir?" ("Which borders do we need?")³ you discuss asylum issues in detail. What is the meaning of asylum and what can be done when asylum is reduced to a farce?*

Gerald Knaus: The core idea of protection in the 1951 Geneva Convention is that it should apply to anyone in need of it, based on universal criteria. This is a radical idea and far from globally accepted. States in East and South-East Asia, for instance, home to 4 billion people, granted asylum to fewer people in 2019 than Austria alone. Since 2013, Luxembourg has taken in as many refugees through UNHCR resettlement as all of South America. Whether this idea of protection survives therefore depends very much on us, this generation of Europeans. We need to show pragmatically how control and a humane approach can be combined. Then I am convinced that majority support for humane border policies is possible in our democracies.

Hartmut Bühl: *Minister, would you like to comment on Mr Knaus' arguments?*

Jean Asselborn: I admit that Mr Knaus' pragmatism offers a refreshing and informed perspective on the issues that institutional actors seem unable or unwilling to adopt. I agree with many of the solutions offered in the book. However, the political reality in Europe today is that some Member States have adopted a very cynical attitude towards asylum...

Hartmut Bühl: *You are referring to the very doubtful interpretation of the non-refoulement principle?*

Jean Asselborn: Yes, because we cannot outsource this responsibility to our neighbours. Article 31 of the Geneva Convention stipulates that those refugees entering the territory of a third country illegally shall not be penalised. We should be in a position to quickly identify those in need once they arrive in the EU, and rapidly offer them material and diplomatic protection. It is unacceptable that people with a recognised status are left in limbo, without housing or access to healthcare, for months and even years in Greece. It is our Union's historic duty to solve these problems through agreement, not repression.

Gerald Knaus: I agree with Minister Asselborn that leaving people in limbo in bad conditions, thereby sending a message to others that they are better off outside the EU, is shameful. It also violates EU laws, and it offends a core value: that human dignity is inviolable. But regretting this is not enough. Governments that reject brutal deterrence need to form a coalition to show how humane control is possible, how it saves lives while offering more people protection through orderly resettlement. A policy based on moral realism.

Hartmut Bühl: *Michel Barnier has raised the idea of a "Memorandum on Immigration", a three to five-year moratorium with the aim of allowing time for discussions on the problem and a change to legislation. Gentlemen, what is your view of this idea?*

Gerald Knaus: We must not confuse migration with asylum. Migration is not a right. It is up to each country to determine its own policy on legal migration. There is, however, a right to protection in the EU treaties. If Europeans today turn their back on the principle of non-refoulement and on the concept of asylum, that right is removed.

Jean Asselborn: For me, the moratorium proposed by Michel Barnier is a self-fulfilling prophecy. Everything we have discussed here indicates that the reforms under consideration today can only lead to a dead end. The logical consequence is to wait for political changes in some Member States before making a further push for reform. Such a moratorium would be really useful, however, if the European Commission were to be stricter in the implementation of EU law and show greater determination on infringement proceedings. The slightest error from a Member State in competition law leads almost automatically to drastic sanctions. Why should there be different treatment in the field of migration?

Hartmut Bühl: *Let me thank you both for this fruitful and very enlightening conversation.*

¹ (All notes are from the editor) At the Valletta summit on migration of 11th-12th November 2015, European and African heads of state and government agreed on efforts to strengthen cooperation and address the current challenges but also the opportunities of migration.

² A new framework for the relationship between Czechoslovakia, Hungary and Poland known as the Visegrad Group or the V4, was established in 1991 (after the dissolution of Czechoslovakia in 1993, the Czech Republic and Slovakia became independent members of the group). The objective at the time was to promote the European integration of the four countries. One of the political objective since 2015 has been the refusal of EU migration policy.

³ See our book review, page 20