

A humane and effective European border and asylum policy is possible

Ex meridie lux – a Malta Plan for the Mediterranean

by Gerald Knaus, Founder and Chairman of the European Stability Initiative (ESI), Berlin*

The European Union urgently needs a credible policy on asylum and border management. It must combine effective control of its external sea borders with respect for existing international and EU refugee law. It must respect the fundamental ethical norm of the rule of rescue, not to push individuals in need into danger, which is at the heart of the UN Refugee Convention (and its key article 33 on no push-backs or non-refoulement). Such a policy must deter irregular migration while treating asylum seekers respectfully.

What to learn from the EU-Turkey agreement

The current EU Presidency (Malta), supported by the countries which suffer most from the status quo (Greece and Italy) as well as countries where broad publics still support the goal of a humane asylum policy, such as Germany and Sweden, should build consensus for a concrete proposal before this summer. A new system should replace the current Dublin procedures whose reform is currently debated in the EU with little prospect for a successful outcome. What the EU needs instead is a Malta Plan for the Mediterranean: effective, humane, and politically acceptable to majorities in key countries.

One year ago, the EU-Turkey agreement laid the basis for

diffusing the refugee crisis in the Aegean. Its lessons need to be applied to African migrants arriving by sea in Italy. This agreement has had a dramatic and immediate impact on refugee movements in the Eastern Mediterranean. Crossings in the Aegean Sea fell from 115,000 in the first two months of the year 2016 to 3,300 in June and July. The number of people who drowned in the Aegean fell from 366 people in the first three months of the year to seven between May and July 2016. This was achieved without pushing refugees to more dangerous routes. There have not been any mass expulsions from Greece either. In fact, more people had been sent back from Greece to Turkey in the three months preceding the agreement (967) than in the twelve months since it was concluded (918).

Australia for sure is not a model

This stands in stark contrast to the situation off the coast of North Africa. Here the EU has no credible strategy. The status quo is unacceptable from a humanitarian point of view: in 2016 an unprecedented number of people (some 4,500) drowned in the Central Mediterranean. The situation is politically explosive, lending ammunition to those across Europe who argue that the only way to control migration is by abolishing the

Schengen open borders regime, or by looking to Australia for inspiration. The Australian government puts everyone who arrives via the sea in camps on the Pacific island of Nauru or on Manus Island in Papua New Guinea. Asylum seekers held in Nauru in recent years have been forced to wait many years for their applications to be decided. Conditions of detention are intentionally harsh to deter further arrivals. And once asylum is granted, it remains unclear where refugees might go. The European far-right has long praised a model whereby anyone reaching the EU by sea should simply be denied the right to apply for asylum and be returned to North Africa.

In fact, as a policy for the Central Mediterranean this is a fantasy. Taken together Nauru and Manus island have never hosted more than 2,500 people at any given time,

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Photo: private

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under inhumane conditions, and with no clear sense of what should happen to those whose asylum claims are eventually recognized as valid after many years of unnecessary delay. The notion that the EU might outsource the detention of tens of thousands of asylum seekers to camps across North Africa for long periods under similar conditions is a recipe for failure, logistically impossible, already rejected by governments in the region, and inhumane.

An effective and humane policy is possible

However, a humane and effective border and asylum policy is possible, and it does not involve emulating the Australian model. Greece and Italy should call on the EU immediately to send seriously organised European asylum missions that should be able to take binding decisions on asylum claims. The key lies in quickly processing asylum applications of anyone who arrives. Both of these tasks should become European responsibilities. This would require provisions that any decision taken by such missions could be suspended by a chief Greek or Italian legal officer – a sovereignty clause. All those who are given protection should then be relocated across the EU, without delay. This would require that there is an EU asylum mission in Italy able to process all claims within weeks. Developing the ability for EU Asylum Missions to deal with claims within four weeks, while ensuring the quality of decisions through quality control mechanisms and trained staff, backed up by competent interpreters and with available legal aid, should be the top priority for the EU in the coming weeks. This is above all else a matter of resources and competent management.

Specific “take back” agreements

Those whose claims are rejected should be returned quickly to their countries of origin. Here too one can learn from the EU-Turkey agreement. African countries are understandably suspicious of readmission agreements under which they would have to take back an unlimited number of their citizens who arrived in the EU in the past. Ensuring that Nigeria, Senegal and other countries take back their nationals who do not qualify for protection after an agreed date should be the chief priority in talks between the EU and African countries of origin – similar to the commitment Turkey made to take back without delay people who arrive in Greece after 20 March 2016. There is a need for specific “take back” agreements between the EU and African countries of origin which focus only on those who arrive in Italy after these agreements enter into force. This would have no impact on current remittance flows from nationals of these countries to their families. In addition the EU should offer these countries concrete benefits, from scholarships to visa facilitation and schemes for regular work migration. EU member states should also support UNHCR to resettle identified refugees from these countries to the EU directly. This would offer safe and legal ways, both for those in need of protection and for some who are looking to migrate.

The impact of the Malta Plan

What would be the impact of such a policy on arrivals? They would almost certainly fall sharply. Nigerians were the largest group of arrivals in Italy in 2016, and the majority would be unlikely to risk their lives crossing the deadly Sahara, unstable Libya and the Central Mediterranean and spending thousands of Euros on smugglers when the probability of being returned to Nigeria within four weeks of arrival in Italy is almost 70 percent. Quick decisions and rapid readmission based on Take-back Agreements with countries of origin would bring down sharply the number of people who stay in the EU after their applications are rejected. The number of irregular arrivals will become manageable – with less business for smugglers and far fewer deaths at sea.

Such a system would also address the many implementation problems that persist with the EU-Turkey agreement. In the past year conditions on the Greek Aegean islands where asylum seekers have landed have been shameful for the EU. The Greek asylum service has been overwhelmed by the challenges it faces, both on the mainland and in the Aegean, deciding fewer than 1,000 asylum claims per month. No serious effort has been made to address legitimate questions whether and how Turkey can demonstrate that it is truly a safe third country for those who might be returned there from the Greek islands. And instead of sending a signal that rhetoric about alternative, safe and legal ways to the EU for Syrian refugees is serious, less than 3,000 refugees have been resettled from Turkey to EU member states since April 2016. Greece too requires a serious and long-term European engagement.

Replace the ineffective Dublin system

A Valletta system, based on EU asylum missions in border states, should replace the current Dublin system, which never actually worked even before the recent crisis. To implement this Malta Plan in the first year the EU should appoint a high-level special representative, a former prime minister or foreign minister, perhaps based in Rome. The immediate aim should be to reduce the number of all irregular arrivals by sea to below 80,000, a manageable number for an EU of over 500 million people. It is realistic, close to the average number of arrivals in the years 2009-2014. A humane and effective policy is possible, but there is no time to lose. Every week that passes the death toll in the Mediterranean is rising. Malta, Italy and Greece should put such a proposal on the table soon. It would not be the first time in history that Mediterranean countries show the rest of the continent the way forward.

→ **Web More on the ESI Malta Plan, presented to governments across Europe in recent weeks:**
www.esiweb.org/refugees

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