

# Routes, Corridors, and Spaces of Exception: Governing Migration and Europe

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## 1 — PEDION TOU AREOS

When arriving in Athens at the beginning of August 2015, I was still thinking about the Euro-crisis and the developments in Greece. Just about a month before, an overwhelming majority of the Greek population had rejected the measures proposed by the EU Commission, and just a few days later, the Syriza-ANEL-government conceded to an agreement, which followed from the notorious marathon-summit in Brussels and which imposed even harsher measures than those rejected by the referendum. The roller-coaster ride of the last six months – from the election victory of Syriza in January 2015 via the preliminary agreement on February 20, when both the Greek state's finances and the perceived window of opportunity were rapidly shrinking, up to the referendum and the imposition of the third memorandum – had come to a crashing halt. It seemed like an utter defeat of a left and democratic project in, and for Europe. I expected the social movements to be apathetic and paralysed.

Around the 20th of July 2015, some 43 families from Afghanistan and Syria set up camp in Pedion tou Areos park. They had been evicted from the nearby Victoria square, a well-known transit point in Athens for migrants arriving from the Aegean islands who want to organise their onward journey toward Northern Europe. Soon, a bustling solidarity effort by the Greek social movements was under way. The call for donations was met with overwhelming generosity – tents, clothes, and foodstuff of all kinds were donated in huge quantities. Steki Metanaston, the social centre for migrants close to the park, was literally overflowing with donations. In the end, donations were sent by the truckload to the Aegean islands, where every day, hundreds of migrants were arriving from the Turkish coast, and where the Greek state was incapable of providing even the most basic services while the migrants were forced to wait for their registration. This camp lasted until the 19th of August, when the Ministry of Migration had finally managed to set up an open camp in Eleonas, where all residents of Pedion tou Areos were supposed to be transferred. However, only a minority went with the transfer, while many opted to continue the journey across the Balkans. In the four weeks of Pedion tou Areos, many thousands of migrants – men, women and children alike – must have passed through this ad-hoc structure that was solely upheld by the solidarity of the local population and that enabled many to find a few days of rest, and the necessary contacts before starting to move once again.

This chapter out of the largely unwritten book of the histories of migration is instructive in many ways, as it foreshadows what is now commonly referred to as the *European refugee crisis*. Since by August, there was already a large, though

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largely unnoticed movement toward Europe on its way. Even though there were reports about large arrivals of migrants on the Greek islands of the Aegean, like Kos or Lesbos, Europe was still dealing with the fallout of the Euro-crisis and the process that led to the Third Memorandum in Greece. Even the institutions and processes of the European border and migration regime seemed to focus almost exclusively on Italy and the Central Mediterranean. The discussion in Greece, insofar as there was a discussion at all, also assumed a manageable increase in number of migrants. An arrival of 200,000 persons in 2015 was considered an extreme, and rather unlikely, estimate. Throughout the spring, there were occasional reports about migrants passing through Macedonia, but nothing that would suggest a movement of the scale that would begin during and continue after August.

Pedion tou Areos is thus not only representative of the movement of migration already on the way, but also the inability of national and European institutions to forecast, to plan, and to provide for even the most basic necessities and infrastructure. These were important patterns that continued in the following months, which meant that matters were almost exclusively addressed through the solidarity of ordinary people. State and para-state institutions as well as the various NGOs and IGOs in the field were, with a few notable exceptions, absent at first and then late to the scene. Without the efforts of individuals and loosely composed, often ad-hoc groups, there would have been an all-encompassing humanitarian crisis during these last months. Yet it was mostly averted by an effort of solidarity from below. To this end, the *European refugee crisis* is in fact a crisis of the decade-old attempts of European institutions to control, manage and govern migration on the way to and inside of Europe. Under closer inspection, the *European refugee crisis* is the crisis of the European border regime – it is a crisis of the Schengen system.<sup>1</sup>

This article explains how the invisible path across the Balkans was first established by these movements of migration, and how it then entered into the European spotlight, and indeed onto the screen of the global public, at the end of August 2015. The transformation of a *route* into a *corridor* sheds light not only on new modes of governing migration, but also on Europe writ large. The establishment of the corridor – the proposed declaration of specific parts of Europe's external borders as "hotspots" and the shift of sovereignty toward centralised European institutions legitimated through these denominations – resemble in many ways the political and technocratic interventions into those states most dramatically affected by the Euro-crisis. The latter was epitomised by the actions of the Troika (the European Commission, the European Central Bank, and the International Monetary Fund). If this is indeed an emerging pattern of government in Europe, then at stake here is not only the continuation of the European project in the face of a renewed wave of nationalisms, but democracy itself – both in and beyond Europe.

## 2 — THE INVISIBLE PATH ACROSS THE BALKANS

Throughout spring and summer 2015, an ever-increasing number of migrants arrived on the Greek islands in the proximity of the Turkish coast, where they

1. *Schengen system* refers to the Schengen Treaties of 1985 and 1990 and their subsequent incorporation into the EU through the Treaty of Amsterdam 1997. It stands for the abolition of internal border controls in the so called Schengen Area and introduces the obligation to protect the external border as well as an increased police cooperation, e.g. through the *Schengen Information System (SIS)*, a pan-European police database. To this end, Schengen represents the border policies framework of the EU.

were first registered. After their transfer to the Greek mainland, they usually continued their journey toward Macedonia, onward to Serbia, into Hungary, and thus the Schengen mainland. Even though Greece is part of Schengenland, it has the character of a Schengen island since the accession of both Romania and Bulgaria into Schengen had been postponed many times. Furthermore, since Greece had dropped out of the Dublin system<sup>2</sup> in 2011, a registration in Greece and a subsequent entry into the European fingerprint database EURO-DAC was without consequence – that is, under the Dublin rules no deportation to Greece would be triggered. On their way toward Hungary, migrants could count on the “tacit acquiescence” of these countries, as Charles Heller and Lorenzo Pezzani (2016) so aptly put it. The states just above understood that they were not a destination, but rather a mere transit country, and thus chose the strategy of silently accepting, and at times even facilitating this movement.

Macedonia serves as a good example. Confronted with a growing number of migrants transiting the country, in June 2015 the Macedonian state introduced new legislation, which allowed migrants to move freely within Macedonia for 72 hours in order to reach a reception centre where an asylum claim could be made. The Macedonian state introduced a *de facto* transit visa, and it is highly doubtful that this was not the intended purpose. Frontex’s claim that “this new legislation appears to have also had an impact on the border security as it was used by migrants for transiting the country rather than reaching reception centres” (Frontex 2015b, 18) appears as a rather diplomatic way of paraphrasing what was going on. The rising number of transit migrants through August proved overwhelming for the state’s capacity, however, and on the 20th of August a state of emergency was declared and the border with Greece was temporarily closed. A growing number of migrants were stuck at the border and, soon enough, riots and clashes with the Macedonian police ensued. After two days, the government reversed its position, re-opened the border, and started to provide special trains from the Macedonian-Greek border to the Macedonian-Serbian border.

The Hungarian government was confronted, however, with the fact that it was its responsibility (nominally, under the Dublin regime) to process the vast bulk of asylum applications from migrants that reached Hungary via Serbia. It was therefore in a similar position to Italy and Greece before 2011. Likewise, the situation of migrants there has been deplorable. The government opted for a policy of mass detention in order to create a deterrent effect, there were numerous reports about ill-treatment of migrants by Hungarian police forces, and even recognised refugees suffered from homelessness and unemployment. Their situation was the combined effect of an openly nationalist and racist government, on the one hand, and the lasting marks of the hit that Hungary took with the global financial crisis in 2008, on the other hand, which led to an IMF intervention and a massive devaluation of the Hungarian currency.

In June 2015 the Hungarian government announced that for “technical reasons,” no more returns would be accepted according to the Dublin regime. This announcement had to be revoked the very next day due to considerable pressure, notably from Austria. It is safe to assume that the announcement was a gambit to increase pressure on the EU summit of the 25/26th of June, where

2. *Dublin system* refers to the internal responsibility allocation system of the EU for processing asylum application. It is often referred to as the “rule of first entry” or “one chance rule”: the country of first entry is solely responsible for the asylum procedures, and all subsequent asylum applications in another EU member state are automatically voided and the asylum applicant transferred to the country of first entry. The name stems from the *Dublin convention* of 1990, where these rules were first laid down, and subsequently incorporated into the Common European Asylum System through the Dublin II (2003) and Dublin III (2013) regulations. The main enforcement mechanism is the Eurodac database established in 2003. See Kasperek (2015) for a detailed discussion of the Dublin system.

asylum and migration policies were the main item on the agenda, including the relocation proposal from the European Commission. At the same time, construction work on a 175 km fence along the border with Serbia had already been announced and was met with massive criticism within the EU. The Hungarian position can thus be summarised as an attempt to avoid becoming the main country receiving returned refugees in the southeastern part of the EU; this was an attempt not only to remove the country from the messiness of migration, but also the EU migration and asylum framework completely.

With the ongoing construction of the fence, a formal adoption of the relocation scheme by the EU, and rising numbers of daily arrivals of migrants in Hungary, the government temporarily bowed and adopted the same position of “tacit complicity.” The Budapest Keleti train station became the unofficial transit point where migrants established contact with the informal economy of assisted migrant mobility and brokered their continued journey toward Germany and Sweden. Official transport in trains or buses was prohibited for migrants since, nominally, they had to remain in Hungary to process asylum claims, which meant they had to resort to this grey economy. Effectively migrants did not have to remain at Keleti station for longer than just a few hours.

### 3 — KELETI AND THE MARCH OF HOPE

It should be noted that until the end of August, this route of migration within Europe went largely unnoticed. It had been established through the practices of migration during spring and steadily rose in size, but for the most part it was a silent or invisible practice. On the 25th of August, however, an internal discussion paper from the German Federal Office for Migration and Refugees (BAMF) leaked to the press. It stated that the BAMF was considering suspending Dublin for Syrian asylum seekers. Its content quickly spread amongst Syrians and was immediately taken at face value. Despite the German government denying this policy change there was no way of taking it back, and Germany became the number one destination country for migrants in Europe. A mere two days later, the Austrian police discovered 71 corpses of migrants in a lorry parked at a motorway car park south of Vienna. Following the discovery, Austrian police intensified its control of vehicles passing through its territory and at its border with Hungary, which resulted in traffic jams of up to 50 km in length. So while more migrants than ever wanted to reach Germany, the passage was effectively blocked as the smugglers suspended their operations.

The events of the following days mark the emergence of the so-called “Balkans route” from an invisible practice of migration to a highly visible phenomenon. During the week from August 31st until September 4th, thousands of migrants were left stranded at Keleti train station. The Hungarian government oscillated between either allowing migrants to use trains or suspending all international train connections. Later in the week there was an unsuccessful attempt at luring migrants into detention. The situation at Keleti train station grew dire, as basic support was only provided by a few local organisations. Again, both the government and NGOs were largely absent. In the end, the initiative of migrants to start a march on foot toward the Austrian-Hungarian border resolved the sit-



Video stills from "We walk together" (Domokos et al. 2015)

uation. The march toward the West, which quickly became known under the hashtag *#marchofhope*, progressed relatively fast and soon reached a two-lane motorway. The images of this march will surely find their place in the iconography of this long summer of migration: a line of people formed who, after a week of waiting, reappropriated their own mobility to collectively and defiantly leave Budapest. This is brilliantly captured in the video "We walk together" (Domokos et al. 2015). Under the pressure of these images and with the knowledge that a repressive strategy had failed, Germany and Austria announced that they would open their borders and admit the migrants. In the next days, many thousands of migrants arrived in Germany – not clandestinely, but openly in the central train stations and in the heart of the German cities. There, they were welcomed by many people in scenes that were broadcast around the world (see Kasperek and Speer [2015] for a more detailed account of the events).

#### 4 — CORRIDOR

Keleti and the *#marchofhope* mark the turning point of the route across the Balkans. They mark the new role that Germany took on, with Chancellor Merkel famously declaring that "We [i.e. Germany] will manage" the arrival and integration of the migrants. Despite immense pressure, the German government has since refused to close its borders (though border checks were reintroduced) or declare an upper limit to the number of asylum seekers that would be admitted. All this has been publicised and praised globally, and provides an astonishing contrast with the image of Germany's handling of the Euro-crisis. Chancellor Merkel has continued to stress that there can only be a European answer to the movements of migration.

Indeed, however slowly at first, the European institutions started formulating such an answer. Jean-Claude Juncker, the president of the European Commission, seized the moment and made the *European refugee crisis* the central issue of his "State of the European Union" address on the 9th of September. Furthermore, the Commission was quick to adopt a second implementation package for its European Agenda on Migration and has been taking up new ini-

tiatives every month; the negotiations with Turkey and the Valletta summit on Migration<sup>3</sup> are only the highest-profile examples of these initiatives.

Over the months of autumn, the route across the Balkans remained largely open, but changed in character. The first change was the completion of the Hungarian fence at the border with Serbia. Soon the movements of migration turned toward Croatia, which at first seemed strangely overtaken by the events and which in the following days organised train transport for the migrants. In a most bizarre turn, migrants were transported to Hungary, where, on an open field behind the border, they had to change trains and were transported to Austria. It was only after the construction of a second fence – this time at the Croatian border – that Hungary ceased to be a transit country for migrants. In turn, migrants left Croatia toward Slovenia, and from there on toward Austria.

Both Croatia and Slovenia had the same experience vis-à-vis migration as Macedonia did before. An initial attempt to close the borders and to contain the migrants did not prove feasible, so both countries instead turned to facilitating the transit of migrants. By October, a highly efficient infrastructure of transit had been established across the Balkans, reaching from the ports of Piraeus and Thessaloniki to several regional distribution centres in Germany. The main architectural feature is the transit camp, geared towards processing migrants as fast as possible, as well as the connecting lines of transport. By this time it was no longer just a *route*, but rather a *corridor*, i.e., a narrow and highly organised mechanism to channel and facilitate the movement of people that only states seem capable of providing. While migrants were still able to travel towards the north, the corridor turned the active movement of people, which had constituted the route in the first place, back into a passive mechanism of being transferred. Migrants didn't travel the route anymore: they were hurriedly channeled along, no longer having the power to either determine their own movement or their own speed.

One thoroughly consistent testimony from migrants is heard in many places along this corridor. Asked why they do not leave the corridor and pursue an alternative path, the answer is that if you leave the flow, you are lost. Outside the corridor, you are subject to the regime of asylum, detention, and deportation. Only inside the corridor, you are allowed to move. The corridor, stretching across and seemingly connecting many countries, has a constitution of its own. One might characterise it as “extraterritorial” to better capture the different laws and rules that apply within (as opposed to those without). That these rules and laws were written elsewhere goes without saying. The EU border and migration regime did not have the capacity to stop the extraordinary movement of people across its borders, but morphing the route into a confined corridor served to re-establish some kind of control over the movements.

This became clear on the 18th of November, when Slovenia first refused entry to all migrants who did not come from either Syria, Afghanistan or Iraq. Over the course of the next days, all other countries along the corridor followed suit: first Croatia, then Serbia, and then Macedonia. Since Greece had not established this kind of control over its – arguably more complex – border, the Greek-Macedonian border post near the town of Eidomeni became the point

3. The Valletta Summit on Migration took place on the 11th and 12th of November 2012 in Valletta, Malta. European Union and African leaders met to agree on a common policy of migration management. The summit was largely a farce, with the EU pressuring African states to sign readmission treaties and control their borders more strongly. The setting up of the *EU's Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa* covering 1.8 billion euros was perceived as an attempt to buy the complicity of the African states, and was mocked since Turkey alone was promised 3 billion euros for a comparable agreement.

of separation of nationalities. Within a few days, thousands of migrants who were refused entry into the corridor were stuck there, and they started to protest. After about two weeks, the informal camp at Eidomeni was evacuated by the Greek police.

Two observations can be made concerning this transformation of the corridor. The first is that the corridor served to establish a new and unprecedented political space. On the 25th of October, the president of the European Commission invited to Brussels the heads of state of Albania, Austria, Bulgaria, Croatia, Macedonia, Germany, Greece, Hungary, Romania, Serbia and Slovenia for the so-called *Leaders' Meeting on refugee flows along the Western Balkans Route*. According to news reports, the meeting started with mutual accusations but apparently, over the course of the session, some common understanding was forged. This resulted in a 17-point statement (*Leaders' Meeting on refugee flows along the Western Balkans Route 2015*). The individual points on information exchange, limiting secondary movements, humanitarian efforts, migration and border management, fighting smuggling, and trafficking are very much boilerplate policy recommendations – such was to be expected. But the mere fact that heads of state of government from within as well outside the EU – countries within Schengen and outside, with EU candidate status and not, etc. – convened in this way is remarkable by itself, both for its high-level composition as well as the heterogeneity of countries involved. Their common affectedness and the new connection of the corridor created an ad-hoc political space, orthogonal to all previously existing spaces, such as the EU, the Schengen Zone, and so on. Despite widespread skepticism following the meeting and expectations that, soon enough, the individual countries involved would again pursue their own strategies of beggar-thy-neighbour, this has not yet happened.

Second, it should be noted that the particular choice of the three countries of origin (Syria, Afghanistan and Iraq) seems to follow less a rationale of asylum than the law of big numbers. For instance, notably absent from this group is Eritrea, which is controlled by a grim dictatorship and is a point of departure for many refugees. The Commission's relocation proposal, to which we will turn later, focuses on refugees from Syria and Eritrea, since only refugees from these countries have an average asylum recognition rate above 75%. On the other hand, Germany has tried especially hard to declare Afghanistan a safe country so that deportations of Afghan asylum seekers would be allowed. The decision to focus on these three countries seems to be based on the fact that migrants from these places constitute the largest groups in the corridor, with Eritreans usually crossing from Libya to Italy.

In this sense, the corridor represents a space of exception – a space where rules and laws are suspended and a space that is not formally constituted. Charles Heller and Lorenzo Pezzani's discussion of the shifting character of the Central Mediterranean border since the inception of *Mare Nostrum* in this issue\* captures a similar notion. The corridor represents a “half-way bridge to Europe” since in order to enter it, the perilous journey across the Aegean Sea still waits ahead. In the corridor itself, migrants are subjected to a different legal regime that suspends some of their rights. Their access to an asylum system that could guarantee them some kind of status still lies at the very end of

the corridor. They move and exist in a legally non-defined state and, as in the case of the exclusion of most nationalities, there is no recourse against such arbitrary decisions.

Sandro Mezzadra and Brett Neilson discuss a similar phenomenon in their recent work “Border as Method” (2013, ch. 7). Under the subheading “Corridors and Channels,” they discuss excisions from national territory, such as special economic zones or free ports. They note that

*[t]he strange form of excision, by which states establish such zones and enclaves by removing them from ordinary normative arrangements, allows a plurality of legal orders, labor regimes, patterns of economic development, and even cultural styles to emerge. We argue that these zones [...] invert the logic of exception that in recent times many thinkers have used to explain the new forms of securitization epitomized by the camp. Rather than being spaces of legal voidness, they are saturated by competing norms and calculations that overlap and sometimes conflict in unpredictable but also negotiable ways (Mezzadra and Neilson 2013, 208f).*

While they discuss established and more permanent zones than the corridor across the Balkans, their argument concerning the character of exception remains notable. It focuses on the productivity of the exception, which is hence characterised not as a voidness of legal norms and regimes, and especially not as arbitrariness in a despotic sense, but rather as the ability to choose from competing orders and to impose new ones. This corresponds precisely with the dubious legality and legitimacy of the emergence and temporary stability of the corridor. It is in this sense that the corridor represents a space of exception, which will characterise the emergence of a new border regime that is rising from the ashes of the old.

## 5 — LOOKING ELSEWHERE TOO LATE

Writing this essay – after the many months that the *European refugee crisis* has captured the headlines, just as the Euro-crisis had done before – it is difficult to return to my state of mind back in spring 2015, when the route across the Balkans was still invisible. The question that keeps coming to mind, however, is this: How was it possible that this could even happen, after the EU spent decades building and extending the institutions and mechanisms of the border regime?

To pick but one example: The European border agency Frontex was strikingly absent this summer. Despite its supposedly sophisticated Risk Analysis Unit, charged with forecasting changes in migratory patterns, both quantitatively and qualitatively, the agency has failed to even come close to estimating the events of 2015. The Annual Risk Analysis 2015 (Frontex 2015a), published in April 2015, still mostly focuses on the Central Mediterranean. Even with the events I just sketched out above, the agency remained silent and inactive, only to be called upon in late autumn. More generally, during the long summer, all (analytic or reactive) mechanisms of the EU border regime seem to have failed, while Dublin, the corner stone of the European asylum system, was relatively suspended.



But the answer to the question is: the EU border regime was already in trouble in the spring of 2015. The crisis of Schengen, i.e. the appearance of a dis-integrative dynamic in the Schengen process, can be traced back to the events of the Arab Spring of 2011. The overthrow of the dictatorships – first in Tunisia and then Libya – effectively destroyed the Central-Mediterranean border regime, since the delegation and externalisation of the practices of migration containment came to an abrupt end. The arrival of about 30,000 young Tunisians in Italy following the revolution, the ensuing French-Italian border conflict around Ventimiglia, and the subsequent patches to the Schengen Acquis in 2013 are all well documented.

This development coincided with what can be referred to as a democratisation of the border in the sense of Étienne Balibar (1999), albeit on a very basic, or pragmatic level. The by now famous judgment<sup>4</sup> in the case of *Hirsi Jamaa et al. vs. Italy* of January (2012) re-affirmed the legal force of international law – the Geneva refugee convention in this case – even extraterritorially. To this end, push-back operations at the EU's external border were outlawed. Without the externalised border in North Africa, and the border included into the realm of international law, a major reversal of border policies of the EU was necessary. Italy's government's decision of October 2013 to establish the *Mare Nostrum* mission and to prioritise the saving of lives over the “defense of the external border” can be hailed as a courageous step. But it can also be seen as the consequence of *Hirsi vs. Italy* and precisely the emergence of a new approach to governing the borders and migration, where humanitarian and securitarian rationales are not played out against each other, but are amalgamated. After all, the imperative to save human lives, so far leveraged as a critique of the contemporary bordering practices of the EU, can also lend legitimacy to incisive action on behalf of governing migration.

The third development in the crisis dynamics of Schengen is the gradual disintegration of the Dublin system and, with it, the Common European Asylum System. This steady deterioration of the southern European asylum systems within the EU is a consequence not only of uneven geography but, like the Euro-crisis, of the dominance of one economic model prescribed by the North over another practised in the South. The 2008 Pact on Immigration and Asylum,<sup>5</sup> brokered by French president Nicolas Sarkozy, cemented the dominance of Asylum as the European political technology to govern migration over the less formalised model of oscillation between illegalisation and collective legalisation in conjunction with employment as practised in the south of the EU. While the construction, agricultural and care sectors of the southern economies were fueled by access to an illegalised and thus a disenfranchised and exploitable labour force, the northern economies depended much less on this approach. Their migration preferences were rather directed toward the figure of the international high-skilled migrant, while an economic need for migration in the lower income sectors could be easily satisfied by the EU's eastern expansion. Both the creation of the internal market as well as the space of free labour mobility benefitted the export-oriented economies of the north. With the ban on collective legalisation, the rapidly shrinking capacity of labour markets to

4. Enabled through the Italian-Libyan Friendship Agreement of 2008, the Italian *Guardia di Finanza* started pushback operations in the Mediterranean in May 2009. Hirsi Jamaa et al. were the first victims of this new policy, and through an arduous legal process managed to sue Italy in front of the European Court of Human Rights for violation of the Non-Refoulement principle of the Geneva Convention on Refugees. The Italian government argued that outside the territory of Italy, Italian executive forces were not bound by the Convention. The Court ruled against Italy in 2012.

5. The 2008 European Pact on Immigration Asylum was brokered during the French presidency of the EU. France's president Nicolas Sarkozy was the driving force behind the Pact. While not being binding itself, it was an attempt to push the EU framework for migration forward. Its main topics were a) to organise legal migration, b) control irregular migration, c) improve border controls, d) build a European framework for asylum and e) moving forward on the migration and development nexus.

absorb immigration, and austerity limiting the resources of the state (not only in the field of asylum, but all social sectors), the Dublin system started to fall apart. It could not guarantee the (from the onset fictional) homogeneity of the European asylum systems.

It was this scenario – the breakdown of the central Mediterranean border regime, failure of Dublin as the internal distribution mechanism for asylum seekers, the emergent divisions within Europe – that the Juncker Commission sought to rectify with its *European Agenda on Migration* in May 2015 (European Commission 2015a). The history of the Agenda itself details the inability of the current European political process to formulate policy responses in time. After the shipwrecks off the shores of Lampedusa in October 2013, a major overhaul of the EU's migration and border policies had been promised for summer 2014. The Ukrainian crisis, and the controversial nomination of Jean-Claude Juncker as the Commission's president supplanted these plans. It was only in spring 2015 that the Commission started to adopt the first measures. By that time, the political agenda was dominated by the Italian initiatives *Mare Nostrum* (and its substitution, the Frontex operation *Triton*) that re-attempted an externalisation of the border, as well as the rising death toll in the Mediterranean and an anticipated mass arrival of migrants from Libya.

The Agenda is an umbrella for a plethora of initiatives, not all of them new. Its main points can be summarised as Relocation, Resettlement and Europeanisation of the border. Relocation refers to the establishment of a pressure relief valve for the Dublin system, where a quota of asylum seekers from EU member states that are confronted with the arrival of large numbers of migrants (initially Italy and Greece) would be distributed, first voluntarily, then mandatorily, throughout the EU. This scheme was never ambitious. In June the decision to relocate 40,000 asylum seekers was made and, in September, another 120,000. These numbers seem strikingly inadequate given the fact that around 800,000 migrants arrived in Greece in 2015. However, the proposal was controversial enough to produce a split within the European Union, with major eastern EU member-states such as Hungary and Poland refusing to support the scheme. This led to the first ever majority decision in the Justice and Home Affairs council in June 2015. Resettlement – that is, the transferring of refugees from conflict zones directly to the EU – seems equally doomed, given the refusal of many EU member states to opt into such a plan.

## 6 — EXCEPTION

The most ambitious and equally controversial proposal of the Commission, however, concerns the reinforced Europeanisation of the border, which aims at regaining control over this space. This proposal was already part of the European Agenda on Migration of May 2015, but has gathered momentum due to the events of last summer. The Commission proposes to temporarily declare certain portions of the European external border “hotspots,” i.e. zones with high levels of activity of irregular migration. While the Commission is unclear about the precise criteria that would trigger the designation, it would clearly trigger a “hotspot approach”:

*The aim of the Hotspot approach is to provide a platform for the agencies to intervene, rapidly and in an integrated manner, in frontline Member States when there is a crisis due to specific and disproportionate migratory pressure at their external borders, consisting of mixed migratory flows and the Member State concerned might request support and assistance to better cope with that pressure. The support offered and the duration of assistance to the Member State concerned would depend on its needs and the development of the situation. This is intended to be a flexible tool that can be applied in a tailored manner (Avramopoulos 2015, emphasis added).*

The early formulations of the “hotspot” and “hotspot approach” make it very clear that the Commission is planning a highly flexible approach. There is neither mention of specific architectures, nor a concrete elaboration of what agencies are to be deployed and to what ends. The Commission stresses that this designation is a temporary one, and it ends with the crisis or emergency being resolved.

Curiously, the EU interior ministers have taken a different view on what a “hotspot” means. To them, it is the return of detention infrastructure in a new guise:

*setting up of reception and first reception facilities in the frontline Member States, with the active support of Member States’ experts and of EASO, Frontex and Europol to ensure the swift identification, registration and fingerprinting of migrants (“hotspots”) (European Council 2015).*

So far, eleven hotspots have been designated, five in Greece and six in Italy. Especially the hotspots in Italy confirm Charles Heller’s and Lorenzo Pezzani’s observation that the scaling up of maritime border operations such as *Mare Nostrum* and its successor *Triton* have been accompanied by a scaling down of



Identified “hotspots” in Greece as of December 10, 2015 (European Commission 2015b, Annex 4)



Identified “hotspots” in Italy as of December 10, 2015 (European Commission 2015b, Annex 5)

registration and accommodation efforts on the land, which went hand in hand with the subversion of the Dublin system by the Italian state. The situation is similar in Greece, with EU interior ministers having complained for about a decade that the Greek state is not playing its role in the Dublin procedures. While the “hotspot approach” may use both the language of humanitarianism and support for the “frontline Member States,” it is in fact a massive vote of no confidence concerning the ability, and even willingness of these states to conform to the European rules, as unfair and biased they may be.

With the establishment of the hotspots, this raises important questions about their legitimacy and their internal mechanisms. The concept of the “hotspot” refers to the slight democratisation of the borders that *Hirsi vs. Italy* brought about; the concept legitimises it through a humanitarian guise. The initial concept of “hotspots” takes a shortcut and avoids these issues since, nominally, all actions taken in “hotspots” are to be carried out by national officials, thus leaving national sovereignty in these matters intact. The intervention of the European institutions and agencies is supposed to merely consist of an advisory role.

Here again, the specific modes of European government in the Euro-crisis come to mind, where nominal advisory bodies such as the Troika were in fact writing laws and policies to be adopted, and that were only formally, in haste and without proper deliberation, voted into power by the national parliaments. While in May the “hotspot approach” was still predicated on a request of the respective member state, the December EU summit called for a mechanism to deploy these institutions; additionally, it called for a yet to be created European Border and Coast Guard (European Commission 2015c), even against the will of the affected member state. The Commission explicitly spoke of a “shared responsibility” for managing the external borders of the EU.

## 7 — GOVERNING EUROPE AND MIGRATION

That this is not a fictional scenario became quite clear during the run-up to the December EU summit, when substantial rumors circulated that the EU was preparing steps to exclude Greece from the Schengen zone of passport-free travel unless the country was willing to accept the extended deployment of Frontex at its borders (Fotiadis 2015). Of course this threat eerily resembles the threats of a *Grexit*, i.e. the exit of Greece from the Eurozone, which was used as leverage this summer to ultimately force through the Third Memorandum.

Thus emerges a new pattern of governing Europe: in ever more policy fields, a declaration of a crisis, of an emergency, legitimates the intervention of European institutions, be it the Troika in the case of the Euro-crisis, or Frontex in the case of the “refugee crisis.” We should note, however, that this is not simply a new chapter in the discussion about the “*United States of Europe*.” European intervention is now always described as temporary, and confined, and to last only until normalcy is restored. The mechanisms employed are those of the state of exception, though they are always confined to specific and limited spaces. The many quick fixes and patches that already characterise the EU border regime threaten to become the ubiquitous *modus operandi* of government in the EU. If this is an emerging governmental pattern, it is sidestepping the necessary but long neglected debate concerning the democratic legitimacy of the measures taken.

The parallels between the Euro-crisis and the “refugee crisis” offer insight into the particular and curious case of Germany’s political stances over the course of 2015. Chancellor Merkel has been globally lauded for her seemingly pro-refugee stance, and she has continued to defend it, time and again, against critics both within her conservative party and from other parties. However, this cannot be attributed to a change in policy, since the current German government had already implemented the most severe restrictions on asylum of the last 20 years, and it plans to continue to do so in the near future. Merkel’s steadfast refusal to declare an upper-limit of admitted asylum seekers in Germany per year – a particularly popular demand even in her own party – mirrors the statement of ECB president Mario Draghi during the Euro-crisis. In June 2012 Draghi declared that the ECB was prepared to do whatever it takes to preserve the euro. Just as central banks constitute the so-called Lender of Last Resort, Germany has – this summer – taken on the role of Refugee-Receptor of Last Resort. This statement is not intended as praise. It simply means that the possibility of an implosion of the European project is very real; it may merely hinge on the question of whether Germany closes its border or not. For this action would trigger a chain reaction of EU member states adopting the Hungarian model.

The migrations of this summer have exposed the coercion and contradictions at the core of the European project. It seems as if we are confronted with the false choice between either a Europe that would return to the nationalisms of the past or a more centralised EU-architecture that would wield substantial powers of intervention. Neither can be seen as acceptable, lest we overlook the necessity of far-reaching democratization – not only of the borders, but also of the European project writ large.

### RECOMMENDED CITATION

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