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The EU's Normative Ambivalence and the Migrant Crisis: (In) Actions of (In) Justice

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Introduction

Migration has been at the top of the last European Union (EU) Commission's concerns and is due to have a similar importance for the new one. From the Agenda on Migration of 2015 to the EU Global Strategy of 2016, documents clearly show the centrality of the issue and the opportunities and challenges it entails. Heightened tensions related to migration in recent years have provided an opportunity to appreciate the complexity of the issue for the European Union, by clearly unveiling patterns of friction which have at times led to pronounced activism and at others, to inaction. Both outcomes have been imbued with critical normative implications.

Indeed, divided competences in the domain (as argued in the introduction to this book, Lucarelli [2021](#)) are part of the explanation for the

EU's performance; but limiting the analysis to that would obscure the important role of interactions between the actors within the EU's system of migration governance and their often unintended results (Burlyuk and Noutcheva 2019; Reslow 2019). The struggles of EU institutions and Member States are an important part of these interactions and have played a prominent role in the EU's final ability to respond, and in the type of response, to situations of clear internal crisis. Using the categories of non-domination, impartiality and mutual recognition presented in the introduction as a political justice typology (see Lucarelli 2021), this chapter looks at four key critical moments triggered by the events of recent years, to assess the normative prioritizations these interactions have yielded and their consequences. Non-domination occurs when non-arbitrary interference characterizes relations between states and hence when states participate in relations as equals (Lucarelli 2021); impartiality is approached when the rights of migrants, asylum seekers and refugees are fully respected and put upfront with respect to sovereign requirements. Mutual recognition, on the other hand, is achieved when stakeholders and affected actors' voices, concerns and specific needs are duly heard (Lucarelli 2021; Sjursen 2017). This effort is certainly reasonable, for the last years of crisis have released an incredible range of insights to assess. Rather than simply following on from the values and principles it supports, the message the EU conveys to the external world about what is just for migration and asylum largely derives from the articulation and accommodation of its inherent and equally legitimate stakes, that is, its own preservation and the promotion of human rights (Fassi and Lucarelli 2017; Geddes and Hadj-Abdou 2018).

The critical moments considered are: the attempt to revise the Common European Asylum System (2016–); the EU-Turkey deal (2016); increased cooperation with Libya (2017); and the EU's non-contribution (from a formal point of view) to the Global Compact for Safe, Orderly and Regular Migration (2016–2018). At all these critical moments, the copious arrivals of migrants acted as detonators, and solicited interaction has unleashed quite opposite behaviours: in two cases (the EU-Turkey deal and the agreement with Libya) internal quarrels have led to the EU acting in the direction of externalization. In the remaining cases (the attempt to revise the asylum system and its would-be participation in the Global Compact), frictions have paralysed the EU.

The chapter is organized as follows. Section “[About Words: Normative Prioritization in EU Documents](#)” searches for EU normative prioritization in two of the texts published in the context of the migration crisis. These texts clearly delineate a strategy for and a role in the governance of migration. Section “[The EU in Crisis: Snapshot of Four Critical Events](#)” goes over four situations of interaction in recent years; the context which has fed frictions is explained, looking at different layers of disagreement and their consequences. Section “[The External Impact of Internal Dynamics](#)”, then, reconciles normative considerations and observations retrieved from the documents and the empirical evidence, with the abovementioned tripartite justice typology in order to envisage the contributions (if any) to political justice that have emerged from the described events. It is argued that the EU’s ultimate behaviour (action/inaction) entails important normative considerations, and that the same is also true for its internal institutional conflicts.

About Words: Normative Prioritization in EU Documents

The number of immigrants arriving in the European Union in recent years is certainly considerable if compared to past landings. Since 2015, some 1,800,000 migrants have reached the EU’s shores, albeit registering a steady decline in numbers (some 390,000 in 2016, 187,000 in 2017, 104,000 in 2018 and 86,000 through September 2019, IOM, [2019](#)). The pace and scope of arrivals took the EU by surprise, as it was politically and institutionally unprepared to cope. Perhaps also because of this, in recent years migration has become a main trigger of policy production (or of attempts to do so). Published in May 2015, the Agenda on Migration (European Commission [2015a](#)) aimed at tackling immediate problems related to the substantial arrivals on EU shores but also at providing a long-term strategy to consistently and adequately manage migration and asylum. To assess the normative prioritizations spelled out by the EU, referents of justice are first retrieved; then, measures conceived to redress ‘injustice’ are considered, so as to fully grasp the type of argument advanced.

Overall, individuals and their rights and the preservation of the EU as a collective entity feature prominently in the EU document as main justice referents (Ceccorulli and Lucarelli [2018](#)). Human life and human rights protection occupy a central position, and this is quite reasonable

given that an important trigger for a more assertive role during the migration crisis was precisely the appalling number of deaths occurring in the Mediterranean. In the words of the EU, the immediate priority is the duty to protect persons in need (European Commission 2015a, 2); this concern is reiterated throughout the document and encapsulated in longer-term objectives. Perhaps just because of this emphasis, it is somehow odd to read that addressing the root causes of migration is the preferred policy option envisaged by the EU ‘to try to halt the human misery created by those who exploit migrants’ (2). Even when the EU flags international protection as utmost, when it insists on the duty of ‘responsibility’ to share the costs paid by those states receiving most of the refugees, or when it emphasizes the need to increase EU and Member States’ legal avenues for persons ‘in clear need of international protection’, similar emphasis is given to cooperation with third countries to help prevent departures through stabilization programmes, support for regional protection, capacity building (so as to help them meet their international obligations, 10) and smuggling detection activities. Third states are hence expected to improve agency and enter the migration equation as equal partners. Enhancing resilience for the benefit of migrants, refugees and the host communities has become a catchword in EU documents (European Union 2016; European Commission 2019). However, there is reason to infer that the suggested policy may arguably, in the short term, prevent the departure of persons in need of international protection, hence ruling out a potential right they may exercise in the EU; instead, human rights protection turns into a delegated responsibility. And ultimately, there would be no guarantee that individuals will be duly protected and in the conditions to act as free agents in third countries. Thus, the narration clearly emphasizes the protection of individual human rights but at the same time it is not clear how the EU intends to support such rights.

The document similarly points to the many challenges that can undermine the EU’s capacity as a collective actor and underlines the relevance of duly implementing those measures aimed at internal solidarity and at promoting a foreign policy that can at least answer to, if not defuse, potential disruptive events. For example, it cites pressures faced by frontier states’ asylum systems and urges a debate on a uniform asylum status

in the Union,¹ improved cooperation between coastguards, joint attention to strengthening borders and, indeed, deepened cooperation with third countries on protection, return, lifesaving and irregular immigration detection. As explained in the 4th progress report on the agenda on migration (European Commission 2019), the EU has provided support both to frontier Member States and to states along the main transit routes to improve reception capacities. As emphasized in the document, a working Schengen system is key to the EU and to the EU economy. Building up its strength and Member States' trust is essential to going back to a space with no internal borders (European Commission 2019). Thus, there continues to be a clear focus on preserving the collective European project, undermined by the uncoordinated reintroduction of partial checks at internal borders between 2015 and 2016 as a shield against possible secondary movements (the unauthorized transit of asylum seekers from one state to another) from frontier states (Ceccorulli 2019).

The EU Global Strategy (European Union 2016) conveys an even greater sense of the EU being threatened. The document clearly communicates a sense of 'lethal threat' (14) while emphasising the urgency to remain united (16) even though the perceived challenge is not specifically related to the governance of migration (Ceccorulli and Lucarelli 2017). The importance of upholding the values of protection and promotion of human rights is also expressed, with the aim of shoring up external credibility and influence (15). Like in the Agenda on Migration document, resilience in origin and transit countries is the strategy envisaged to foster better governance of the phenomenon, while the idea is advanced that mobility towards the EU of both migrants and asylum seekers needs to be legal.

As the analysis of these documents shows, migration is an issue area of critical importance to the Union for it tests the EU with respect to its purported values and its internal ability to survive crisis. In both documents, the agency and empowerment of third states are considered key to rendering justice to the referents identified above. The EU promises to keep faith in its values, including the promotion and protection of individual rights. However, the distinction between regular and irregular immigration and the insistence on addressing the root causes of migration seem to already suggest a step away from the advancement of

¹ Recently, solidarity measures have been encouraged with respect to disembarkations (European Commission 2019).

the demanding conception of global political justice that equals impartiality. Insistence on resilience may suggest that mutual recognition may be at stake (Tonra 2017) in terms of promoting capacity building and enticing countries to implement their ‘own solutions’: it is however difficult to believe that containing irregular immigrants heading for the EU represents third states’ ‘own problems’. On the contrary, it seems that strengthening third states’ capacity building in this specific domain is foremost an attempt to entice sovereign capacities, approaching an understanding of justice as non-domination, which contemplates states as the main regulating actors.

The following section is an analysis of events triggered by the substantial arrivals of immigrants in the EU since 2015. It assesses how the two referents of justice have been impacted by frictions arising among EU Member States and EU institutions.

The EU in Crisis: Snapshot of Four Critical Events

The Missed Reform of the Common European Asylum System

Adopting a common asylum system in the EU has always been a key aspect of the European integration process. First, it exemplifies the importance for the EU of international protection and second, it reflects the need to approximate Member States’ legislation in a free movement space to avoid the risk of multiple applications (asylum shopping) and secondary movements.

During 2015 and 2016, previous achievements in the realm of asylum were directly called into question and were put under significant pressure because of the copious arrivals on the Union’s shores. This consequently accelerated the process of a more thorough reform. The stress experienced by frontline states (Italy and Greece) revealed the dysfunctional nature of the Dublin Regulation in assessing the ‘responsible country’ for examining asylum requests. It also concretely contributed to secondary movements among Member States, that is, unauthorized movements of migrants from frontline states. Indeed, challenges likely to affect asylum seekers were also of relevance, given the incapability of proper reception and recurrence to emergency measures potentially undermining key rights (Ceccorulli 2021b; Karamanidou 2021). Upon completion of the overall process of revision, there were a series of related proposals: the resettlement of refugees from third countries to the Union (European

Commission 2016a); the definition of a list of safe countries of origin to expedite the examination of asylum applications (European Commission 2015b); modification of the EURODAC asylum seeker fingerprint collection database into a tool to govern irregular immigration more at large (European Commission 2016b); and the upgraded role of the European Union Asylum Office (to become an Agency) with respect to relations with third countries (European Commission 2016c). Taken altogether, these proposals meant a U-turn on protection: the latter seemed to be subordinated to the need to preserve ‘order’ in the EU and avoid disrupting the existing (albeit dysfunctional) asylum system.

In fact, the proposals seemed particularly focused on avoiding secondary movements between Member States, not an easy task given the persistence of differences between asylum systems. In order to do so, measures were proposed to speed up the application process (European Commission 2016d), restrictions (with related sanctions) were imposed on asylum seekers and refugees with respect to their freedom of movement after resettlement, during the examination process and after being granted refugee status by a Member State (European Commission 2016a, e, f). One of the most controversial issues was the proposed revision of the Dublin Regulation: the European Commission document seemed to reiterate frontier states’ responsibility for preventing secondary movement by, among other measures, introducing the obligation to proceed with admissibility checks (in the case of asylum seekers’ provenance from ‘safe countries’) and security checks and by obliging asylum seekers to apply in the first country of entrance in the EU (European Commission 2016e). A ‘corrective mechanism’ in case of massive inflows was also proposed in the Dublin Regulation (European Commission 2016e), a corrective that, according to the European Parliament, was not courageous enough in directly addressing Dublin’s problems. The Commission’s proposal was essentially built on the original structure, with tough sanctions on asylum seekers’ secondary movements.

In fact, the European Parliament countered in 2017 with a proposal for a deep-seated overhaul of the Dublin rules to create a system able to effectively deal with the risk of perpetual emergency: according to the Parliament report (European Parliament 2017) first countries of entrance would not necessarily be responsible for asylum seekers. Instead, the proposal would assign a much higher priority to the exigencies and preferences of asylum seekers, considering possible links with specific Member States and the acceleration of family reunification procedures. This was

considered the only credible measure to avoid secondary movements. Thus far, though, the revision of the Dublin Regulation is at a stalemate.

The lack of agreement among Member States and in the trilogue has paralysed the process of asylum reform, and instead has actually caused backsliding. On the one hand, there has been no political breakthrough leading to a change in the conditions that bring on recurrent crises. Along the same lines, the dysfunctional asylum system which risks impairing the rights of asylum seekers still exists. On the other hand, an opportunity to include migrants' voices in the equation of asylum governance has been missed, passing up the chance to recognize them as active subjects with proper requests.

Our Beloved Schengen: The EU-Turkey Statement

Another key test for the European Union was the urgency perceived in the months of the migration crisis to immediately stop the inflows landing in Greece via Turkey, a situation that became particularly critical in the summer of 2015. Here it is relevant to ascertain how (and if) the EU got out of a critical situation in which Member States were directly questioning the survival of Schengen.

A conspicuous number of Syrians displaced by years of civil war (which began in 2011) plus migrants already *en route* to the EU from other regions, added up to almost 800,000 landings in the summer of 2015 in Greece. The copious inflow resulted in an increase in migrants' deaths at sea, and overloaded Greece's already weak asylum system, simultaneously affecting the Western Balkan states and sharpening tensions among EU Member States. With respect to this last point, tensions arose over Greece's capacity to properly cope with the inflows, while fears of asylum seekers' secondary movements (European Council 2015) led some states (Germany, Austria, Slovenia, Hungary, Sweden, Norway and France) to reintroduce partial controls at their borders. Faced with the poor implementation of the redistribution scheme for asylum seekers—accorded in two decisions of the Commission in mid-2015—and fearing a major shock to the Schengen space of no border checks (Guild et al. 2015; Peers 2015) the Commission soon submitted a proposal to ensure the survival of the Schengen regime (European Commission 2016g). Among other measures, the reduction of irregular inflows in partnership with Turkey was a key condition for easing pressure on the Greek border and hence warding off a lethal threat to Schengen (see Ceccorulli 2019).

The progressive deepening of cooperation with Turkey was thus brought to a new level with the infamous EU-Turkey statement of 18 March 2016 which sealed off the eastern Mediterranean route. In this case, the concrete possibility of Schengen being dismantled resulted in the EU's move towards externalization (Collet 2016; Carrera et al. 2017). Agreement between all Member States was secured, demonstrating the widely shared preoccupation with inflows. Implications were numerous and on many fronts.

Turkey was given a prominent role in the governance of migration, which it performed well if one looks at the number of arrivals on Greek shores in the months following the deal. However, the EU paid a high price for the trust placed in the Turkish government, with the constant threat of blackmail in the form of flooding the EU with refugees in case of adverse relations. The EU's externalization of the issue has raised the question of whether money, copiously disbursed by the EU, can be a way of washing its hands of the matter and a reasonable solution for sharing the burden with the most affected states. Also, outsourcing may have worsened the refugee situation in already overstretched countries such as Lebanon because of the block introduced by Turkey after the deal with the EU. At the same time, it has affected the Western Balkans and Greece, failing to properly address these states' persistent reception concerns. Finally, it is inevitably playing out on the situation and condition of asylum seekers caught in juridical and physical limbo by the EU's governance of the issue.

The 'informality' of the deal (which is not legally binding to the parties as an agreement would be) presents further criticalities: its unclear authorship (it is not the EU who signed it but the Member States) and the fact that it is not compulsory has determined a weakening of the juridical and democratic monitoring role of some EU Institutions (The European Parliament and the Court of Justice), confirming the prioritization of Member States' prerogatives and concerns. As a consequence, the role of Parliament and the Court of Justice as guarantors of EU norms and values has been neglected. More pressing, in fact, is the impact on the EU as a supporter of human rights, a presumption that seems to have been fatally tainted (Amnesty International 2016; Nielsen 2019). The sharp decrease in deaths in the Aegean is mainly because departures were no longer allowed, while the closure of the route may render the journey costlier and more dangerous to persons still eager to leave their country. And while the EU has disbursed billions of euros to improve the living conditions of

refugees hosted in Turkey through the Facility for Refugees in Turkey, this does not absolve the Union of its protection duties, which seem instead to be strongly compromised. The definition of Turkey as ‘safe’ does not prevent arbitrary practices, and Turkey is sorely deficient in the realm of protection. Ultimately, safety and voices, also of the most vulnerable, the Syrians, seem to have been sacrificed for the sake of preserving the deal.

Out of Necessity? The EU’s Increased Cooperation with Libya

While the EU-Turkey statement of March 2016 caused a drastic drop in arrivals in Greece, inflows have not stopped along the Central Mediterranean route: 2016 was recorded as the deadliest year for migrants heading for the EU, with more than 5000 lives lost at sea,² while a sustained increase in arrivals at the beginning of 2017 forewarned a new record in disembarkation after more than 180,000 landings in 2016.³ Aware of the criticality of the Central Mediterranean route, the European Union had already started to focus on Libya as an interlocutor in governing migration (European Commission 2015a) but lacked a preferred channel of dialogue with the African state (European Commission 2016h). With the stall in the process of reforming the EU asylum system, *de facto* leaving unchanged the potential pressures on frontline states, the closure of the Eastern Mediterranean route and the worsening security situation in Libya, Italy, which claimed to be already at full reception capacity, soon recognized the necessity to hedge the potential repercussions of new massive inflows.

Anticipated by a document issued by the Commission in January 2017 on the Central Mediterranean (European Commission 2017a), and backed by the formal approval of the European Council (2017), a Memorandum of Understanding between Italy and Libya was signed on 2 February 2017 (Governo Italiano 2017). This document built on previous arrangements regarding the control of irregular immigration between the two countries. Focussed on boosting capacity building (controlling flows and protecting migrants in the country), enhancing

² <https://www.iom.int/news/mediterranean-migrant-arrivals-top-363348-2016-deaths-sea-5079>.

³ <https://www.iom.int/news/mediterranean-migrant-arrivals-reached-171635-2017-deaths-reach-3116>.

economic development opportunities in Libya and addressing the migrant smuggling phenomenon, the memorandum triggered a hectic phase of meetings and initiatives between the two countries' authorities, but was not able to significantly decrease the number of landings on Italy's shore.

Between May and June 2017, more than 45,000 migrants landed in Italy, adding to the approximately 35,000 from the first three months of the year (Ministero dell'Interno 2019). The arrival of 8500 migrants in two days at the end of June resulted in even greater pressure to find a solution (*Huffington Post* 2017a). This led then Italian Minister of the Interior Marco Minniti to ask for the modification of disembarkation rules at the European table, and to report the situation to France, Germany and FRONTEX, emphasising the unsustainable conditions (*Huffington Post* 2017b). Meanwhile, a code of conduct for search and rescue operations implemented by non-governmental organizations (NGOs) in the Mediterranean was drafted by Italy. This code of conduct maintained that rescue activities could only be carried out if there was a sustainable reception path shared with other Member States, as reported in article 80 of the Treaties on solidarity (Ministero dell'Interno 2017). Despite efforts by the European Commission to assist and support Italy with an action plan approving the Italian code of conduct for NGOs, as well as loudly soliciting Member States' financial contributions to dedicated capacity-building plans in Libya and inviting more coordinated action in search and rescue activities in the Mediterranean (European Commission 2017b), the option of 'regionalizing' rescue operations discussed at an informal meeting of Interior Ministers in Tallin (6 July 2017), was totally dismissed.

The lack of Member States' solidarity drove Italy in the direction of deeper cooperation with Libya: a military mission consisting of the deployment of a naval presence in Libya was approved by the Italian government at the beginning of August. This was part of the EU's broader objective to build the capacity of the newly established Libyan Coast Guard in dealing with irregular immigration, detecting the smuggling phenomena and saving lives. Concurrently, drawing on a programme funded since 2016 in the framework of the EU Trust Fund for Africa on assistance on disembarkation points and centres, and for the return of migrants to their countries of origin (European Commission 2017a), a task force composed of the EU, the African Union, the United Nations and with the support of the International Organization for Migration, was created to accelerate the voluntary return of migrants

from Libya to escape the nets of smugglers (EEAS 2017). The EU's financial support through the EU Trust Fund had been key to assisting Italy's strategy towards Libya: a programme called 'Managing mixed migration flows in Libya through expanding protection space and supporting local socio-economic development', allocated 90 million euros to addressing the socio-economic situation of migrants and refugees in the African country but also that of the local host communities. The objective was to boost the resilience of local governance structures (European Commission 2017c, 1) and train local authorities to respect a rights-based approach to migration. Under the same heading, a plan valued at 46 million euros jointly envisioned by Italy and the Commission was dedicated to strengthening surveillance on Libya's northern and southern borders (European Commission, 2017d).

Also in this case, the EU was tested on its ability to collectively address a challenge which was disproportionately affecting a Member State at times of massive arrivals. While it has to be said that Minister of the Interior Minniti's activism was key to the course of action undertaken and that the strengthened engagement with transit countries is part and parcel of the EU's external dimension of migration governance, we cannot ignore the fact that reinforced cooperation with Libya and stemming the flow of irregular arrivals was mostly a by-product of Member States' contentious interaction. And as in the previous case, the direction chosen out of the impasse led towards externalization, possibly giving rise to even more concerns than in the case of Turkey.

On the one hand, the plan insisted on building up the capacities of a profoundly torn and divided country. On the other hand, Libya was dragged into governing migration as if it were an 'equal' state in full control of its statehood tools. Moreover, recognising the country as a safe 'port' could not avoid clashing with the admission of the very precarious conditions in official detention structures and even worse situations in informal ones, with an admitted void in basic legislation on protection. It also conflicted with plans for the fast return of asylum seekers and migrants to origin countries. In this context, the new presence on the ground of international organizations such as the UNHCR and the IOM was merely palliative. According to some scholars, Italy and the EU adopted a persuasive narrative focussing on the exploitation of immigrants by smugglers only to mask the real objective, which was to drastically reduce irregular arrivals on Italian shores (Oxfam 2017). Even the presumption of taking into due account local communities' exigencies

was refuted with the accusation of misinformation about local economic and security dynamics and needs (Molenaar and El-Kamanoui-Janssen 2017).

The Heritage of the EU's Empty Chair at the Global Compact for Migration

The launch of the Global Compact for safe, orderly and regular migration with the New York Declaration of September 2016 had much to do with events occurring in the European Union since the arrival of sizeable inflows in 2015. Indeed, the event was interpreted by European authorities as the international community's attempt to provide effective formulas for governing migration, in view of the migration crisis experienced by the European Union (Mogherini 2018a). The Global Compact for Migration, a major international attempt at regulating migration and human mobility in all its aspects, thus attested to the fact that migration is a key issue for international cooperation, and acknowledged the need for an all-inclusive approach to govern human mobility. Started in 2016, the process that led to the Intergovernmental Conference of Marrakesh and the adoption of the text on a Global Compact for Migration in December 2018 saw constant consultations and negotiations among UN Member States and the participation of many other voices somehow affecting or affected by the governance of human mobility. Convinced that it had developed a model of dialogue with origin and transit countries and practices for the governance of migration-related challenges starting with the Agenda on Migration of 2015, the EU wholeheartedly welcomed the launch of the process as a way to advance its own proposals.

In its approach to the Global Compact the European Union was steadfast in supporting the linchpin of the whole process, that is, its non-compulsory nature. Moreover, the sovereign rights of states to decide whom to admit and host in one's own country was reiterated. Also, the EU strongly supported the idea of migration governance as an exercise in international cooperation, while also upholding the belief that well-regulated migration could contribute to the sustainable development of origin, transit and destination countries. Despite the EU's readiness to lead the agenda, it fell short of expectations: on the one hand, it was prevented from acting as a unitary actor. On the other hand, its formal absence from negotiations (the EU was allowed to participate only informally in the process), and the scornful positions of some Member States

with respect to the process and its rationale had profound repercussions for the EU itself and for its external credibility.

The idea that the European External Action Service (EEAS) could speak on behalf of the EU at an international forum was looked upon as an important political signal, upgrading migration to the level of a foreign policy issue: the EEAS was supposed to bring to the table already agreed policies on migration and asylum and in particular provisions taken during the migration crisis. However, the European Council viewed this option unfavourably, and it was later discarded as a result of Hungary's staunch opposition. In the absence of a full mandate and to partially save face, Austria, soon to have the Presidency of the Union, was selected to speak on behalf of the Presidency and of the (then) 27 Member States minus Hungary. The idea of the Union to build new partnerships and mould new alliances (Avramopoulos 2018) and go beyond the traditional 'donor-recipient' approach, in favour of a political partnership of equals whereby the needs, aspirations and desires of all actors involved would be listened to, so as to jointly forge a partnership, (Mogherini, September 2018b) had to be put aside. Simultaneously, the possibility of including issues of key importance for the EU's approach to migration in relations with third states, such as the return and readmission of irregular immigrants, seemingly appeared weakened (Link 2017). But an even worse tag was attached to the EU's incapability to deliver as a single actor: that of having a divided opinion over the values nurturing the EU's actorness.

The divisiveness of the issue of migration for the European Union was clearly showcased by the vote that accompanied the adoption of the Global Compact for Migration: Romania, Latvia, Italy, Austria, Bulgaria and Slovakia abstained from the vote. In the case of Belgium and Slovakia, governments in power ended up resigning because of the overheated internal debate. The Italian government adopted the trick of postponing the decision so as not to further strain the already litigious alliance in power (Pastore 2019). Even more alarming, though, was the vote against the pact expressed by Hungary, Poland and the Czech Republic; Hungary was second only to the US in leaving the negotiations on the Global Compact in the summer of 2018. The main arguments raised by these countries were that the pact was actually establishing a human right to migrate and that migration (even if well-regulated) could never contribute to the sustainable development of destination countries (Tebano 2018; Orban 2018). International imposition, according to these countries, was clearly infringing on their sovereign rights and was therefore to be refused

(Euractiv 2018). These positions not only deepened the already open friction between Member States during the migration crisis (i.e. relocation plans were similarly interpreted as an intolerable handover to supranational authority), but also echoed externally, casting a dark shadow over the EU's model of migration governance and the values underpinning it.

The External Impact of Internal Dynamics

The juxtaposition of these different crises highlights important repercussions for the EU's action as well as inaction. These, and EU words as seen before, led to the advancement (if any) of specific justice conceptions.

Overall, it is safe to affirm that the crises have reiterated if not emphasized a conception of justice as non-domination as promoted by the EU, where preoccupation about the (European) community took absolute priority (see Lucarelli 2021). The need to avoid asylum seekers' secondary movements is the unavoidable starting point from which the asylum system is doomed to be revised in the future. Also, at least two of the crises cited here have confirmed the EU's critical objective of preserving the internal space of no border checks: both in the case of the EU-Turkey deal and cooperation with Libya, the EU has relied on third actors with the aim of slowing down or possibly eliminating irregular arrivals on its shores. The EU's external borders and their protection have hence been rendered stronger, irrespective of the potential repercussions this could have on other stated priorities. Thus, third parties have been considered key to properly handling migration, they have received funding to meet the EU's objectives and have been considered reliable interlocutors and equal partners in the cooperation attempt. This has brought about a series of problems: the EU has more than once been prey to Turkey's blackmail, revealing an imbalance in the partnership and subjecting the Union to attempts at domination. Quite the opposite, the need for legitimacy of Libya's newly founded government has enforced cooperation based on the EU's contribution to building up Libyan capacities to control borders, which has conveniently overlapped with the strengthening of Libyan sovereign prerogatives. The EU's initial approach to the Global Compact for Migration similarly aims to advance justice as non-domination, mirroring the desire to strengthen international solutions or 'collective projects' regulating 'how states should relate to each other in order to ensure their equal status' (Sjursen 2017, 11). The adoption of a final document thus could have been interpreted as a

multilateral, albeit voluntary, effort at allowing deliberation on common challenges (Sjursen 2017, 11).

In none of the cases mentioned, however, has the EU advanced the promotion of international procedures and structures to give individuals the key status as rightful claimants of justice. This is quite surprising considering the magnitude of individuals who were moving out of necessity between 2015 and 2016 and the precarious conditions many experienced. Nor has it favoured the pursuit of supranational authority or legal arrangements engaging individuals as autonomous co-determinants (Sjursen 2017, 12). And this despite the fact that decisions taken within the community have clearly been shown to have an impact on individuals' autonomy outside the EU's borders. This is clearly a negation of justice as impartiality and these actions could possibly be seen as allowing the conditions for forms of domination. From the suspended revision of the asylum system producing an uncertain legislative framework and leaving unchanged the seeds of future crises, to the case of stranded asylum seekers along the Balkan routes and Greece and the destiny of migrants kept in Libya just to name a few effects of the EU's action/inaction, the retreat from a key pillar of the EU's actorness abroad seems to be well underway.

This is not to infer that the EU does not uphold the human rights of migrants altogether: perfectly in tune with what was explained in the key documents examined herein, this objective seems to be better absolved by relying on third states and avoiding situations in which the denial of rights may be most likely to occur, that is, in irregular attempts to reach the Union. Building up the capacities of third states is the pragmatic effect of co-ownership and resilience as intended by the EU in the realm of migration, and as such it raises the question of whether the EU or third states' interests are being promoted.

With respect to the latter point, an attempt to promote context-sensitive institutional frameworks, accounting for the specific concerns and vulnerabilities of those affected (Sjursen 2017, 13) seems not to find large space in the cases analysed. This is true both in terms of states, as seen for example in the case of Libya, and migrants, as epitomized by all cases presented. On the contrary, the tendency seems to be towards ready-made solutions elaborated by the EU which somehow negate the need for specific hearings. Hence, for example, building up state-capacity in Libya is considered to be the best way to tackle the smuggling phenomena irrespective of the complex reality on the ground; the Facility Fund for

Turkey supposedly compensates for the huge amount of refugees present in the country; while the proposal to take into account asylum seekers' needs has been blocked in the trilogue.

A further aspect of interest regards the external impact of internal quarrels among EU institutions. Overall, this type of conflicting interaction (the Council and the Parliament in the case of reform of the asylum system; in the case of the deal with Turkey and on the Global Compact for Migration) directly undermines the credibility of the EU as a problem-solving actor and hence as an actor able to advance any conception of justice in the global arena, be it because of the 'delegation' of potential challenges (Turkey, Libya) or because of inaction in key chapters regarding the governance of migration (asylum and the Global Compact).

Concluding Remarks

This chapter has gone deeper into how internal interaction has affected the EU's ability to respond and the modality of response to situations of internal crisis. Hence it contributes to considering the potential role of internal determinants in advancing specific conceptions of global political justice in the EU's migration governance.

The process of reforming the EU asylum system, the EU-Turkey deal, strengthened cooperation with Libya and the lack of formal participation in the Global Compact for Migration have been analysed as key moments of institutional and political crisis, producing either action or inaction on the part of the EU. In the case of reinforced cooperation with third countries (Turkey and Libya) internal quarrels have led to externalization processes and hence to a type of action inviting the contribution of third states to reduce the inflow of irregular arrivals into the EU. This type of move does not contradict the narration of the EU which seemingly stresses the relevance of vigorous external action to meet the EU's objectives. However, the way in which the crises have effectively been solved has largely underlined the subordination of the overall human rights of migrants and the specific needs of the affected states and individuals. Protection of the EU's space has clearly gained priority and relations with third actors have underlined the regulatory role of states, and have emphasized (if not helped to strengthen) sovereign prerogatives. But also inaction has produced important consequences: paralysis, as in the case of revision of the Common European Asylum System or disagreement over

the EU's participation in the Global Compact for Migration. Both cases have impeded the advancement of any conception of justice, while back-firing on the EU, its actorness and its values in the global world. In fact, the most resounding consequence has been the EU's affected image as a promoter of human rights, side-lining any expectations regarding the promotion of a human rights-centred conception of justice in the field of migration.

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