

Chapter 11

The EU and Relocation

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Introduction

The recent arrival of a large number of persons seeking international protection placed the matter of migration amongst the priority issues on the EU's political agenda. The influx was, however, distributed very unevenly among member states as some of them took in a disproportionate number of asylum seekers³²⁸ as a consequence of a number of factors, including their geographical location or the state of their economies.

The European Union advocates responsibility, solidarity and partnership. As stated in Article 80 of the Lisbon Treaty; *“The policies of the Union set out in this Chapter and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States.”*³²⁹ Responsibility-sharing is therefore one of the key principles on which a common migration and asylum policy should be built in order to address the unequal distribution of asylum seekers.

The EU experienced several important events in the migration and asylum area which significantly shaped the development thereof. One of them was the adoption of the Lisbon treaty, which entered into force in 2009 and introduced Qualified Majority Voting in the decisions taken in this field. Since then there has been no need for unanimous decision making, which led to another important event: the European Agenda on Migration of May 2015, which is the commission's document addressing migration, based on four pillars (reducing the incentives for irregular migration, border management – saving lives and securing external borders, Europe's duty to protect: a strong common asylum policy, and a new policy on legal migration). This document included a proposal (later adopted by the Council) on the relocation of refugees from some member states across the whole EU in the name of solidarity and responsibility-sharing, which contained a relocation key, based on four variables, aiming at reflecting the capacity of each member state.³³⁰

This chapter discusses the impacts of the relocation scheme of the European Union, both theoretical and practical. Theoretically, the contributions of

³²⁸ Disproportionate in relation to the relative size of some member states.

³²⁹ *Treaty on the Functioning of the European Union*.

³³⁰ European Commission (2015).

individual member states in the field of protecting refugees and asylum seekers should be based on their respective protective capacity. Therefore, in order to improve the uneven distribution of responsibilities among the member states, the relocation scheme should apply the principle of protective capacity while assigning shares of responsibility to the member states. Thus, we assess the criteria used for allocation of quotas by the EU against factors reflecting the protective capacity and against responsibility-sharing models proposed by various researchers.

The practical impact is demonstrated by the changes in shares of responsibility assumed by member states. We will illustrate how the EU relocation scheme affects the numbers of refugees and asylum seekers in individual member states and to what extent it improves the situations of states facing a high degree of asylum pressure, such as Malta.

Protective Capacity of States

In order to address responsibility-sharing in the area of migration, we need to apply the concept of protective capacity of states. This can be regarded as the ability of a certain region or country to receive and care for people in need of protection. It is expected to reflect not only the degree to which there is space for people requiring international protection, but also whether economic conditions are adequate to provide for them and whether the entity is able to absorb them into the native population.

Determination of the protective capacity of each member state is the key element because responsibility-sharing models allocate quotas to every entity taking part in collective care for people under international protection.³³¹ Such quotas are derived from protective capacity because the aim of any mechanism is not to put excess pressure on countries or regions, but to improve the distribution of responsibility.

We consider an equitable protective capacity to be one built on three premises. These are the ability to care for, the ability to absorb and the ability to receive further refugees and asylum seekers. Each of these abilities needs to be reflected in the choice of variables that are to influence the protective capacity. Ability to care for is related to the economic strength of each country, which allows it to provide for the material needs of the refugees and asylum seekers. Regarding the ability to absorb, there are more options as to how one could integrate this into the model. This can be achieved by including population size (reflecting society), which can be complemented by size of territory (reflecting space). Alternatively, both these factors can be combined in the population density measure, although it is a relative indicator rather than one reflecting the actual size of each state. Furthermore, the unemployment rate variable relates to the ability to absorb, as it is concerned with the integration of refugees and asylum seekers in the labour

³³¹ Quotas can be allocated both in monetary terms and in terms of numbers of persons under international protection.

market of the receiving country. The last of the three conditions is the ability to receive asylum seekers in terms of asylum reception systems. This is partly an economic issue, but it also relates to capacity and procedures associated with asylum and refugee status determination. In the event that a member state faced a large number of arrivals of asylum seekers in previous years, there may be a strain on the asylum system and a possible backlog of cases. The ability to receive is therefore negatively impacted by the previous numbers of refugees and asylum seekers in each state.³³²

The relationships between protective capacity, the three abilities of states and individual variables are illustrated in Figure 1. The arrows signify the flow of influence.³³³

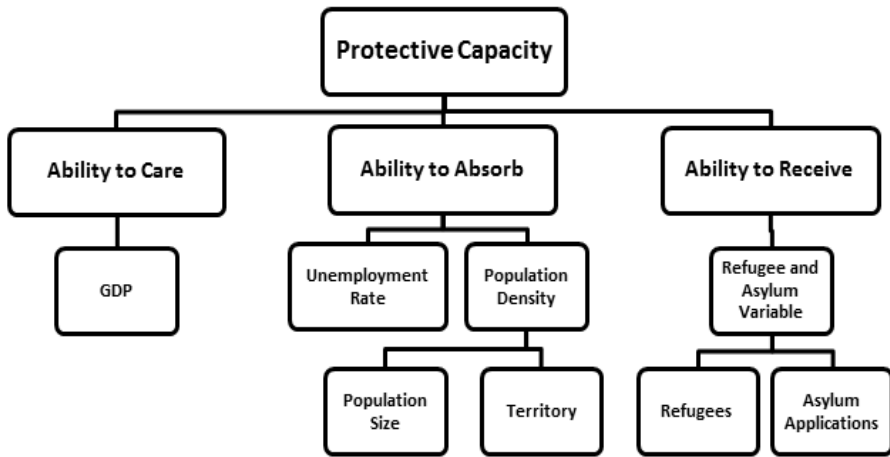


Figure 1: Relationships between Individual Variables, Abilities, and Protective Capacity of a State.

A number of responsibility-sharing models, which contained a determination of protective capacity of states, were introduced by various researchers. In this chapter we will work with four such models in order to access the distribution of refugees and asylum seekers proposed by the European Commission. Firstly, the model proposed by Schuck will be used. He determines protective capacity solely by national wealth, represented by the absolute level of GDP of each country. This way, both economic strength and the size of a country are reflected.³³⁴

The second model introduced by Czaika employs a set of five indices, which affect protective capacity in the same manner (all of them have equal weights). The first is based on GDP per capita and the second on population

³³² Bishtawi, P. and Carammia, M. (2014) p. 9.

³³³ The individual variables are very likely to be correlated to each other (positively in most cases). This correlation is not a problem for protective capacity determination, but it does diminish the importance of relative weights assigned to each variable.

³³⁴ Schuck, P.H. (1997) pp. 279–282.

density of states. The third index is a reflection of ethnic, linguistic and religious fractions in states' societies. The next factor in this model is political freedom, which is composed of the measure of civil liberties and political rights, and the last variable assesses political stability.³³⁵

Thielemann, Williams and Boswell, in their model, apply three criteria which are GDP per capita, population size and population density. These are used to determine three different versions of protective capacity, depending on different relative weights of each variable. The first one has the ratio of weights 50:25:25%, the second one 50:50:0% (excluding population density from the calculation), and the third 50:0:50% (eliminating population size from the formula).³³⁶

The last model is the one offered by Angenendt, Engler and Schneider. The protective capacity is based on the five year averages of absolute levels of GDP, population size, national territory, and unemployment rate of the EU countries, with the ratio of their relative weights 40:40:10:10%. This is done to correct for short-term fluctuations and the fact that not all the variables have the same importance when determining the protective capacity of individual states.³³⁷

Relocation Criteria of the EU Commission

Protective capacity is, according to the EU Commission, calculated with the combination of four variables. These include GDP, population size, unemployment rate, and a five-year average of the number of asylum applications and resettled refugees per 1 million inhabitants. The ratio of relative weights of these variables is 40:40:10:10%.³³⁸

The first dimension, concerned with the ability to care for refugees and asylum seekers, is reflected by member states' GDP. It is given high importance, as it allocates 40% of the responsibility. This is exactly the same as what was proposed by Angenendt, Engler and Schneider. Thielemann, Williams and Boswell, and Schuck assign larger weights to economic strength. The former model assigns 50% and the latter 100%, since it is entirely based on this factor. Czaika, on the other hand, calculates protective capacity in such a way that GDP affects only 20% of it.

In terms of the ability to absorb persons under international protection, the EU uses two variables. Firstly, population size with the relative weight of 40%, and secondly unemployment rate, which determines 10% of member states' capacity. This means that absorption carries a weight of 50%. In

³³⁵ Czaika, M. (2005) pp. 108–112.

³³⁶ Thielemann, E.R., Williams, R. and Boswell, C. (2010) p. 57.

³³⁷ Angenendt, S.; Engler, M. and Schneider, J. (2013) p. 5.

³³⁸ European Commission (2015) p. 19.

relation to the theoretical models, this approach once again resembles that of Angenendt, Engler and Schneider, as it includes these two variables with exactly the same relative weights. However, Angenendt, Engler and Schneider also add the size of national territory, leading to an even higher importance of the ability to absorb refugees and asylum seekers. Thielemann, Williams and Boswell use population size and population density, however the relative weight of variables accounting for absorption is the same as that allocated by the Commission. Czaika's model reflects this dimension by 80%.

The last of the three abilities is that which measures member state capacity in terms of receiving further refugees and asylum seekers. The EU reflects this by the “*average number of spontaneous asylum applications and the number of resettled refugees per 1 million inhabitants over the period 2010–2014*”, with a weight of 10%.³³⁹ Such an ability is not accounted for by any of the above-mentioned researchers.

It is commendable that the EU takes into account the numbers of refugees and asylum seekers that arrived in the past, since none of the existing theoretical models considered those. However, there are three points we would like to raise in relation to this part of the Commission's formula. Firstly, it uses the numbers of asylum applications filed in member states and resettled refugees. Those asylum seekers who were previously granted refugee status and stayed in the country are disregarded. This means that only the flows of asylum are included.

Secondly, the proposal puts little emphasis on the ability to receive further persons under international protection. The variable representing this determines only 10% of protective capacity. Furthermore, it is expressed in terms of numbers of refugees and asylum seekers per number of inhabitants. This means that the population size is reflected again through this factor, leading to enhanced absorption ability and an even further reduced ability to receive new refugees and asylum seekers.

Finally, the use of a simple five-year average of the numbers of refugees and asylum seekers means that the incoming flow from five years ago has the same importance as that which took place a year ago. We can, however, assume that the asylum system does not have a backlog over such a long period of time, therefore, the strains brought about by these two flows are not entirely comparable. We believe that if an average value over a certain period of time is considered, it should be discounted accordingly so that more recent events have greater impact on the outcome.

³³⁹ *Ibid.*

To understand the motives behind the responsibility-sharing mechanism of the European Agenda on Migration, it is important to look at the explanations provided for the inclusion of each variable. In its proposal, the EU commission mentions two capacities of member states that need to be reflected in the distribution key: “*the capacity to absorb and integrate refugees*”.³⁴⁰ According to this document, population size reflects the capacity to absorb refugees, unemployment rate is associated with the capacity to integrate refugees, and GDP applies to both of them. The last variable is included to take into account “*the efforts made by Member States in the recent past*”,³⁴¹ rather than relating to a certain ability. Therefore, it seems that the purpose of using this variable is to reward states’ contributions in previous years and to discourage them from underinvesting in their asylum systems, instead of focusing on their asylum systems being overloaded.

From the Maltese point of view, the distribution proposed by the EU Commission is challenging. On the one hand, the relocation key applies the economic and population criteria, which leads to a smaller share of responsibility assigned to Malta due to its very small relative size. However, the unemployment rate variable increases the Maltese quota, because the country is doing relatively very well in this respect.

In terms of the effect on Malta, the most important variable included in the formula is the number of refugees and asylum seekers in the past. This third dimension, concerned with the asylum reception systems of member states and their ability to process new applications, is especially significant for the state, which has faced large inflows of asylum seekers over the last several years and is still coping with high numbers of refugees and asylum seekers present on its territory. Unfortunately, the emphasis of the EU does not lie on this dimension.

Relocation in Numbers

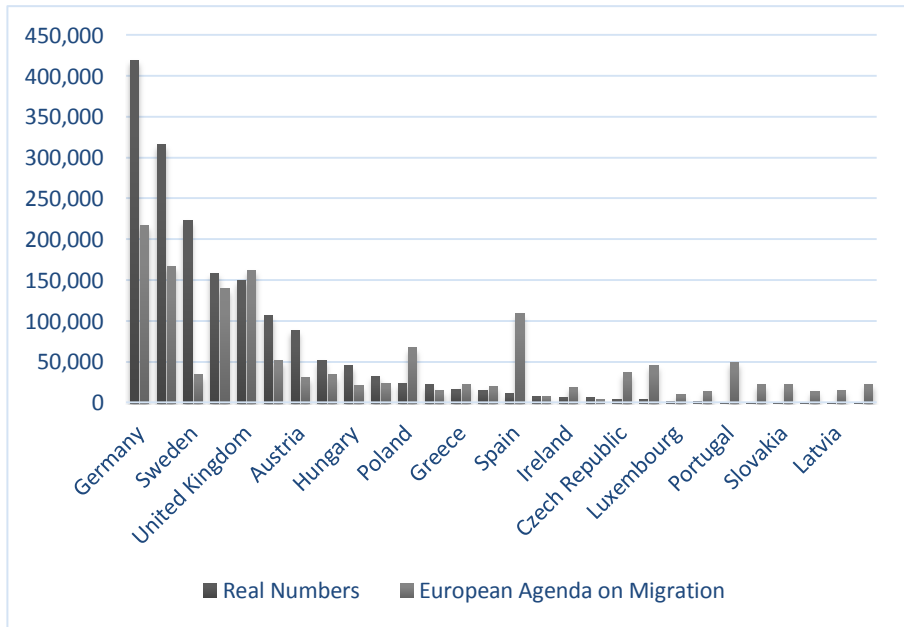
The impact of relocation in practical terms is demonstrated by the numbers of refugees and asylum seekers and by the change in their distribution among the member states. Figure 2 provides the actual numbers of refugees and asylum seekers in EU member states in 2014, together with the numbers potentially allocated by the European Commission. The latter illustrates the hypothetical situation that would take place if the relocation key from the European Agenda on Migration was applied to the total number of refugees and asylum seekers present in the EU in 2014.

Figure 2: *Refugees and asylum seekers in EU Member States (2014).*

³⁴⁰ *Ibid.*

³⁴¹ *Ibid.*

Source: Own calculations based on data available from EUROSTAT, UNHCR and the European Agenda on Migration.



The data shows that the EU Commission assigned significantly smaller shares of responsibility to Germany (by more than 200,000 refugees and asylum seekers), Sweden (by almost 190,000 refugees and asylum seekers) and France (by nearly 150,000 refugees and asylum seekers).

Member states that would in these circumstances be allocated higher numbers of refugees and asylum seekers than they provided for in reality include Greece (by close to 6,000 persons) and Malta (by a little more than 1,000 persons), even though these two countries were considered as bearing disproportionate pressure. This means that if the European Commission applied its key to the total number of refugees and asylum seekers, relocation would take place in the opposite direction than it does in reality, for example from Germany to Greece.

The most important practical aspect of relocation is the actual number of relocated refugees and asylum seekers. Under the EU arrangement, 26 countries made relocation pledges. There have been 23 EU member states and 3 partner countries (Norway, Switzerland and Lichtenstein) which volunteered to take this commitment upon themselves, established bilateral agreements and joined the relocation scheme.³⁴² All these countries together

³⁴² The group of EU countries which did not take part includes Denmark, Greece, Hungary, Italy and the United Kingdom.

committed to accept 44,374 refugees and asylum seekers from Greece and Italy.

The part of the process that took place in Italy has so far relocated 6,928 refugees and asylum seekers to another 17 EU member states and 1,593 refugees and asylum seekers to two of the partner countries. Another group of refugees and asylum seekers relocated from Greece consisted of 18,651 persons moving to 21 different member states and 1,047 persons to the partner countries. Overall, this means that there were 28,219 relocated refugees and asylum seekers in total.^{343, 344}

Since there were over 600,000 asylum applications filed across the EU in 2014,³⁴⁵ the relocation of about 28,000 refugees and asylum seekers only represents around 4.7% of the incoming number (let alone the refugees and asylum seekers arriving in the previous years). Therefore, in relative terms, only a very small portion of the total responsibility for protection of refugees and asylum seekers is being redistributed. This can hardly sufficiently alleviate the strain on some member states.

When it comes to Malta, the country took part in the relocation process and pledged 164 places. So far it has accepted 47 refugees and asylum seekers from Italy and another 101 from Greece. Considering its small relative size and the high number of refugees and asylum seekers already present on its territory, Malta contributed significantly to EU responsibility-sharing.³⁴⁶

Conclusion

Migration and the international protection of persons seeking asylum is a topic of growing importance, and cooperation between EU member states is vital in order for them to adequately manage these large inflows. The European Agenda on Migration is both a recognition of and a response to this.

In general, the relocation scheme successfully relates to each of the three abilities of states constituting protective capacity. However, a number of issues remain. Firstly, the relative weights of the three theoretical criteria do not reflect proportionally the abilities of states to assume responsibility for persons under international protection. The distribution key puts too much emphasis on the ability to absorb refugees and asylum seekers into member states' societies, while not sufficiently considering the strain on their asylum

³⁴³ The numbers of relocated refugees and asylum seekers correspond to data from 14. 9. 2017.

³⁴⁴ European Commission (2017).

³⁴⁵ The number of asylum applications grew significantly to about 1,300,000 in 2015 and 2016. However, this number was not known at the time of the creation of the European Agenda on Migration.

³⁴⁶ Apart from the European responsibility-sharing mechanism, Malta also benefits from the US resettlement programme, through which 500 refugees leave the country every year.

systems and all the other matters linked to the reception of refugees and asylum seekers in previous years. Secondly, although the allocation of responsibility is “*based on objective, quantifiable and verifiable criteria*”,³⁴⁷ the reasoning behind them, among other things, shows that previous efforts are being acknowledged and rewarded. Instead, protective capacity should, in theory, be a reflection of the protection member states are able to provide, rather than what remains for them to do. Finally, the numbers of refugees and asylum seekers, to which the distribution key is applied and that were up until now relocated, are relatively very low.

Malta has been an active member state in terms of responsibility-sharing in the area of migration. It has been both promoting the idea of relocation of refugees and asylum seekers and also participating in the process by providing protection for refugees and asylum seekers relocated from Italy and Greece.

Responsibility-sharing is a step in the right direction. Nevertheless, should these first phases prove successful, higher numbers of relocated persons should follow in the future so that the uneven distribution of responsibility is substantially improved. This, however, will be a question of political discourse, solidarity among member states, and their willingness to participate in responsibility-sharing.

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