



OPEX MEMORANDUM N° 196*/2015

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CONTEXT: STATE OF AFFAIRS

The number of asylum seekers in 2014 was the highest since 1992, when the Bosnia-Herzegovina war began. Nowadays, the Syrian civil war, the migratory transit through the Mediterranean Sea (**218.0001 economic migrants and refugees**), the alarming figures of deaths, and the increasing social pressure, made the EU step forward to review the current migration and neighborhood policy framework, whilst fostering a communitarian dimension, inexistent so far.

Amongst other measures, stands out the European lifesaving mission "**Triton2**", depending on Frontex, which has been given the same budget as the Italian government gave to "Mare Nostrum" in order to prevent new maritime disasters. The European Commission also proposed to improve legal channels to prevent asylum seekers (economic migrants are excluded) from putting their lives at risk by crossing the Mediterranean Sea, exposing themselves to mafias, or being victims of illegal border controls (like in the case of Ceuta and Melilla in 2014)³. This is planned to be **implemented by triggering an emergency mechanism**, laid down in the treaties, **to resettle 40,000 asylum seekers** from Italy, Greece and Malta; and take **20,000 others out of conflict areas in the next 24 months**.

According to report from the United Nations High Commissioner for Refugees (ACNUR)⁴, the 28 member states of the European Union (EU) recorded 570 800 asylum applications in 2014, 44% more than in 2013 (396 700).

- Germany and Sweden** received 30% and 13% of EU applications respectively. Sweden, with a population of 10 million, received a total of 75,100 requests of which 77% were approved.
- Followed by **France and Italy** (10%) and **Hungary** (7%).
- Compared to the population of each country, the highest rate corresponds to Sweden (8.4 applications per thousand inhabitants), well ahead of Hungary (4.3), Austria (3.3), Malta (3.2), Denmark (2.6) and Germany (2.5).
- In **Spain**, 5,941 people (1%) called for international protection in 2014, representing an increase of 31.7% compared to 2013 when 4,513 applications were registered. Of the nearly 6,000 applications, only about 1600 were approved. Even from alternative sources such as Eurostat⁵, **Spain is, among the countries of the European Union, where fewer asylum applications were received**, with only **0.1 applicants per thousand inhabitants**. Only Portugal, Slovakia and Romania recorded lower rates. According to Eurostat, in 2014, the number of asylum seekers in Spain stood at 5,615. However, out of this figure, **only 31% were accepted, which represents 0.9% of all requests for international protection in the EU**. The main countries of origin of those seeking asylum in Spain are Syria (1,680 applicants) and Ukraine (942), followed by Mali (620), Algeria (309) and Palestine (209).

To better understand whether those positions are suitable or not, a careful analysis needs to be done. In early 2015, the EU population was about 5076 million, 13, 4% of those came from third countries (about 20 million). In 2014, EU states received

1 <http://www.acnur.org/t3/recursos/estadisticas/>
2 <http://frontex.europa.eu/news/frontex-launches-joint-operation-triton-JSYpL7>
3 <https://twitter.com/malmstromeu/status/434307240796094464>
4 <http://www.acnur.org/t3/fileadmin/Documentos/Publicaciones/2015/10010.pdf>
5 http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics
6 http://europa.eu/about-eu/facts-figures/living/index_en.htm

about 600,000⁷ asylum applications, of those only **160.000⁸** were approved. Of these approved applications, 56% (89710) received the refugee status, 34% (54845) subsidiary protection and 10% (15510) were given asylum condition due to humanitarian reasons. At first instance only 35% were approved, which meant **an increase of 0.03%** over the total population and a less than minimal reduction in indicators of GDP per capita or rising of the unemployment rates.

In contrast, the total number of asylum applications in 2014 raised to almost **200,000 more applications**. In the past four years, these numbers have grown steadily. The highest number of applicants are coming from Syria, which is still suffering the ravages of a civil war, and has not changed (50 470, 12% of the total). On the one hand, given the figures of that period⁹, when there were less asylum claims, there were **12,425 unaccompanied minors** who requested international protection; most of them were accepted in Sweden, Germany, the UK, Austria and Italy. On the other hand, 23,632 victims of human trafficking in the EU during the period 2008-2010 were identified, 80% of them women and girls, and 20% men and boys. In most cases they suffered sexual exploitation (62%), followed by forced labor (25%) and other forms of trafficking as organ harvesting, criminal activities or sale of children (14%).

PROPOSAL FROM THE EUROPEAN COMMISSION

The commission proposal¹⁰ gathers **three groups of measures**:

- 1) The proposal gained momentum, due to the tensions between member states, is the distribution of the migration burden, derived from the current humanitarian crisis, of about 40000 political refugees from Italy and Greece. It is believed that, through the activation of the **emergency-response system** provided for in Article 78 (3)¹¹ of the Treaty on the Functioning of the European Union, a temporary scheme for asylum seekers resettlement will be established.

In words of the European Commission, the distribution key will be based on objective, quantifiable and verifiable criteria that reflect the current capacity of EU Member States to absorb and integrate a number of refugees, with appropriate weighting factors to balance these criteria. This formula is based on the following variables:

- △ The **size of the population** will account for 40%, reflecting the ability of culturally absorbing a certain number of refugees;
- △ The total **GDP** of each state. This will also feature as 40%, reflecting the absolute wealth of a country and therefore indicating the ability of an economy to absorb and integrate refugees;
- △ Average **number of spontaneous asylum requests** and the number of refugees resettled by a million people in 2010-2014. This criterion will account for 10%, reflecting the efforts made by Member States in the recent past;

7 <http://www.acnur.org/t3/fileadmin/Documentos/Publicaciones/2015/10010.pdf>

8 http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics

9 http://www.acnur.es/PDF/acnur_tendenciasglobales2013_web_20140619124652.pdf

10 http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf

11 <http://eur-lex.europa.eu/legal-content/es/TXT/?uri=CELEX:12012E/TXT>

- ▲ **Unemployment rate** (10%) as an indicator reflecting the ability to integrate refugees in the different labor markets, counterweighing the rest of the distribution key.

Receiving Member States will be legally responsible for examining asylum applications. It is expected that around 40,000 people will be redistributed by EU states. If adopted, this distribution key will be set as permanent for the next 24 months at least, to continue absorbing refugees in need of international protection, in a safe and legal way, until a new total amount of 20,000.

- 2) In parallel, the EU is designing a **strategy against the regular trafficking of irregular migrants** -either refugees or economic migrants- for the period of 2015-2020, where concrete measures to combat and prevent illicit trafficking actions will be set, whilst ensuring full respect and protection of human rights. The Action Plan will set out specific measures to implement the security agenda at the same time as the migratory one by: a) **Enhancement of police and judicial action**, including **military action** against human traffickers b) **improving** the collection and exchange of **data**; c) **Prevention of trafficking** and assistance to vulnerable migrants; d) **Increased cooperation** with third countries.
- 3) The Commission is also aware of the risk of **secondary spontaneous movement**. To control this issue, which has raised doubts among national leaders; several alternatives have been placed on the negotiation table. On the one hand, it is expected that the relocation is conditional on the consent of the asylum seeker to remain in the host state for a period of at least five years, informing them about possible legal consequences as not being possible to acquire legal status in another Member State or access to social rights. In addition, under EU law, mechanisms for rapid identification and return of those who do not comply with the agreement would be established. Also, the Commission services have proposed guidelines for the implementation of the **EURODAC**13 regulation, a database of fingerprints to normalize the situation of persons seeking international protection. If EURODAC shows that the fingerprints have already been recorded in a different country, the asylum seeker can be sent back to the country where his or her fingerprints were originally registered.

REACTIONS AND POSITIONS OF EUROPEAN GOVERNMENTS

The **International Organization for Migration (IOM)**14 welcomed several EC proposals, including the improvement of rescue operation conditions, and sharing proportional responsibility for asylum seekers in all Member States. The IOM also supports the disruption of criminal smuggling networks, but has serious concerns about the proposals on "systematically identifying, capturing and destroying ships used by smugglers", including **military action** against human trafficking networks. The EU is waiting for the Security Council of the UN's approval to launch operations. However, while the need for a powerful demonstration of the determination of the EU to act is recognized, the IOM believes that there is an important risk of losing more lives.

12 Brussels, 27.5.2015 COM(2015) 285 final

13 http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/asylum/general/docs/guidelines_on_the_implementation_of_eu_rules_on_the_obligation_to_take_fingerprints_en.pdf

14 <http://www.iom.int/news/iom-welcomes-european-commission-proposals-migration>

Despite the IOM approval of the European Commission migration package, there are confronting positions at national levels, especially in relation to distributing asylum seekers in the EU. At this point, the proposal -in consultation with the European Parliament- must be approved by the countries at the Council by qualified majority voting. Below there is a mapping of the current national positions by blocks:

1. Despite **agreeing** on the need to establish a fair system, **France and Germany¹⁵** urged the EC for corrections since, along with Sweden, Italy and Hungary, "they are responsible for 75% of the asylum seekers". **Germany¹⁶** has signaled general approval to the Commission proposal, but also called for corrections and started to lobby in favour of giving more weight to for the number of applicants previously admitted, in addition to conditioning asylum to have "prospects of permanent residence in the EU".
2. Meanwhile, **the French government's** disagreed with turning this emergency into a fixed system, government negotiates for lowering asylum seekers' figures and calls for taking into account refugees that were accepted with retroactive character. France has also enhanced border controls, bringing the Schengen area to the breaking point in its 30th anniversary. This has caused new tensions between the French government and Italian Prime Minister, Matteo Renzi.
3. Amongst the countries that have positioned themselves **against** the EC proposal, the **Czech Republic** limited the problem to the Mediterranean region and demands to solve crisis exclusively in those countries. **Slovakia** calls for "alternative programs" such as humanitarian aid or the deployment of doctors to third countries. They also stressed that the Commission proposal was "**insincere and hypocritical**" since Bulgaria and Romania were not accepted in **Schengen** by the "fear of Roma immigration" whilst insisting on solving a "non-EU outsider" problem. Slovakia has one of the most strict asylum policies in the EU. Last year 331 people applied for asylum, but only 14 of them were accepted. **Poland** demands to select refugees based on a **religious criterion**, all refugees must be Christian. **Bulgaria** feels ignored by the Commission since it was decided that only Italy and Greece would benefit from the relocation plan. Bulgaria has not publicly expressed their dissatisfaction, but is very unlikely to vote in favor. **Estonia, Hungary, Latvia and Lithuania** also declared their opposition to the plan.
4. **Italy and Greece** remain besides the Commission in the call to Member States for **cooperation and solidarity**. Despite being in situation of minority, they have been endorsed by the European executive, since they declared that they will not back down on its proposal. Their position is that, even if the majority of immigrants do not stay within its borders, the coast of Italy are just one of the stops to reach the northern states of Europe and, as a common problem, it has to be solved with a common approach. They also count with the initial support of **Romania** since their access to the Black Sea can be an alternative route for asylum seekers facing Europe. Therefore, Bucharest has a significant interest in finding a solution.

15 <http://www.reuters.com/article/2015/06/01/us-europe-migrants-ministers-idUSKBN00H1XH20150601>

16 http://www.bmi.bund.de/SharedDocs/Pressemitteilungen/DE/2015/01/asylzahlen_2014.html

5. As for the **Spanish government**, it has rejected the proposal of the Commission to place refugees in its territory¹⁷, emphasizing the previous effort made by Madrid in managing a constant flow of irregular migrants from the Spanish North African enclaves of Melilla and Ceuta, and from the Canary Islands. Also, the Spanish government is arguing that the **unemployment rate and efforts** made are not well represented. Firstly, the government considers that unemployment is central to calculate the capacity of integration in a country in dignity. And secondly, it expects that the "huge" effort that has been made on controlling irregular migration from Morocco, Mauritania and Senegal to be properly pondered in the distribution key since it is something that **"affects the European Union as a whole."**

RECOMMENDED POLICY ACTION AT EU LEVEL

Europe must show a much stronger economic compromise and a bigger political ambition. The price of inaction is unaffordable, eroding the core of the Union based on **solidarity, stability and prosperity**, while perpetuating the suffering of displaced persons and asylum applicants, and feeds xenophobia. If free movement of non-EU citizens could not be guaranteed, the entire EU project could collapse.

Mediterranean countries cannot continue assuming the **economic and moral responsibility** of the entire European Union in controlling the Mediterranean borders. Moreover, the EU cannot ignore that Europe needs to **double** the number of immigrants to stem the decline of the population, **triple** it to keep the size of its population of working age, and multiply it **by five** to keep the number of workers and pensioners of today. These are hard-facts confirmed by the European Commission and the OCDE¹⁸.

Figures also show that **irregular entry is the least frequent way**¹⁹ to become an irregular immigrant. Only a balanced and comprehensive approach to design appropriate **legal channels** for migration and mobility, which promotes the rights and welfare of migrants and refugees, in **cooperation with countries of transit and origin**, can be effective in the long term to ensure internal security priorities and objectives of EU growth. Also, the EU needs to tackle the political instrumentalisation of migration through a **European strategy** for data collection and evidence-based policies²⁰. It is crucial to **raise awareness** among national, European and third countries policy makers on the importance of **reliable data to develop evidence-based policies**.

Highlights:

- There are other measures that deserve consideration as for example, **bilateral agreements**²¹ and cooperation measures with third countries. They are extremely cost-effective solutions that create win-win situations for both parties. **Niger**²² is a key transit point for immigrants. The plan of the

¹⁷ <http://www.europapress.es/sociedad/noticia-fernandez-diaz-insiste-propuesta-bruselas-distribuir-refugiados-no-tiene-consenso-deberia-20150611125209.html>

¹⁸ <http://ec.europa.eu/social/BlobServlet?docId=12628&langId=en>

¹⁹ http://www.ohchr.org/Documents/HRBodies/CMW/Discussions/2014/PICUM_CMW_DGD2014.pdf

²⁰ <http://eea.iom.int/images/Download/IOM%20contribution%20future%20jha%20policies.pdf>

²¹ http://www.ilo.org/global/docs/WCMS_226300/lang--en/index.htm

²² http://europa.eu/rapid/press-release_MEMO-15-4832_en.htm

EC involves IOM and UNHCR in creating "a pilot multipurpose center" in the country; informing about road hazards, protection against exploitation and effective identification of those in need of international protection. In addition, IOM believes that **labor integration policies** are key to a more competitive Europe. There are also alternatives from the perspective of trade agreements, like establishing clauses that balance labor and social standards in international supply chains which market their products in Europe, in addition to promoting ILO fundamental standards in third countries, which would help foster migrants' fundamental rights in such countries fostering a race-to-the-top situation in the area.

- In contrast, the suitability of **fighting migration "mafias"** on the basis of **military action**²³ is doubtful and seems intended to justify the criminalisation of migration to "show muscle" in front of the international public opinion. The big question is how military resources can help dissolved a 'mafia " that basically consists of a loose network of people who communicate by mobile phone between countries.
- The **fingerprint identification** is a double-edged sword. On the one hand, being accompanied by appropriate legislation could help access to justice or services that are essential to all citizens, improving labor, judicial and civil protection once in European soil. Nevertheless, if not treated with sufficient sensitivity, or being used for electoral purposes, that protection could be pierced or it could even create vulnerabilities that facilitate abuse or returns in conditions of illegality.

POLICY ACTION RECOMMENDATION TO THE SPANISH GOVERNMENT

- While acknowledging that **migration is a shared problem**, and bearing in mind that a considerable burden is being undertaken as part of the southern border, the current position of the **Spanish government lacks sufficient commitment towards asylum seekers**, fleeing from war zones such as Syria or Eritrea, allowing them to apply for it safely. Despite this need for increased responsibility there are several nuances that could help to find a better way of ensuring the **dignity and welfare** of asylum seekers.
- It is reasonable to think that unemployment rates should be revised upwards, since the Spanish labor market suffers from serious deficiencies, the formula could be made **more flexible** to consider the permanent **added value of Spain**, and others, in EU border control. Spain should assimilate around 3000²⁴ asylum seekers through emergency mechanism launched by the Commission, closer to a 9% of total EU figures more in line with the specific weight of Spain in the EU, rather than the 0,3% that it is currently admitting. In addition, this plan should adopt a **progressive nature** to assimilate, as smoothly as possible, this emergency plan in solidarity with Italy and Greece.

²³ http://www.eeas.europa.eu/csdp/missions-and-operations/eufor-libya/index_en.htm

²⁴ http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_annex_en.pdf

- **Spain should propose a more respectful policy approach to human rights** that would benefit refugees and economic migrants. Approving the use of the allocation formula would also host 1,549 additional plaintiffs of 20,000 people in the period 2015-2016, which would certainly help ease the pressure on the borders of African enclaves.
- Addressing the issue of immigration with **military operations should be avoided** at all costs.
- Spain should also opt for **leveraging migration contribution**²⁵ to growth and innovation whilst enhancing synergies with demographic, economic and employment policies. It would be equally important to improve the access of immigrants, especially the most vulnerable, to basic services such as health and justice.
- Given the importance of the problem, it is necessary to promote a **mono-thematic European Council on migration**, seizing the opportunity to establish guidelines at the highest political level, providing the necessary leadership in a field where Spain plays a crucial role in the EU.
- Sharing **best practices on cooperation agreements**²⁶ with third countries. For example, the signing of bilateral agreements with West African governments (among others, **Cabo Verde, Gambia, Mali and Niger**) and memorandums of understanding with others like **Senegal, Nigeria and Mauritania**, would help to control the heavy flow of migrants. In exchange they receive compensation in the form of work visas, professional training programs, training teams and foreign aid. These agreements include **return clauses**, thanks to which Spain may send migrants back to their countries of origin, on a regular basis, when their asylum demand is rejected.

²⁵ <http://eea.iom.int/index.php/news-events/183-iom-recommendations-on-future-eu-home-affairs-policies>

²⁶ <http://www.exteriores.gob.es/Portal/es/PoliticaExteriorCooperacion/Africa/Paginas/Inicio.aspx>

	Total (number, rounded figures)	All minors	Minors (%)			Aged 18 and over (%)			Age unknown (%)	Analysis of minors (%)	
			0-13	14-17	18-34	35-64	65 and over	Accompanied		Unaccompanied	
EU-28	625 820	26	19	7	54	20	1	0	86	14	
Belgium	22 710	29	23	7	48	22	1	0	93	7	
Bulgaria	11 080	30	17	13	56	13	0	0	72	28	
Czech Republic	1 145	20	17	3	41	37	2	0	98	2	
Denmark	14 680	21	13	7	55	24	1	0	73	27	
Germany	202 645	32	25	6	48	19	1	0	93	7	
Estonia	155	13	10	3	55	32	3	0	100	0	
Ireland	1 450	18	14	4	58	23	1	0	88	12	
Greece	9 430	14	7	7	65	21	0	0	67	33	
Spain	5 615	20	17	4	56	23	1	0	99	1	
France	64 310	22	19	3	51	26	1	0	98	2	
Croatia	450	3	1	2	76	21	0	0	33	67	
Italy	64 625	7	3	4	84	9	0	0	43	57	
Cyprus	1 745	21	16	5	55	23	0	0	86	14	
Latvia	375	16	11	5	49	32	4	0	100	0	
Lithuania	440	24	20	3	50	26	1	0	95	5	
Luxembourg	1 150	31	25	6	50	19	0	0	92	8	
Hungary	42 775	28	19	8	57	16	0	0	95	5	
Malta	1 350	23	15	8	59	17	1	0	83	17	
Netherlands	24 495	21	14	7	53	25	1	0	81	19	
Austria	28 035	30	20	11	51	18	0	0	77	23	
Poland	8 020	42	37	4	33	24	1	0	94	6	
Portugal	440	18	14	5	57	24	2	0	81	19	
Romania	1 545	24	15	9	53	21	1	0	75	25	
Slovenia	385	30	12	18	48	21	0	0	43	57	
Slovakia	330	20	17	3	59	21	0	0	85	15	
Finland	3 620	23	16	6	55	21	1	1	76	24	
Sweden	81 180	29	19	10	46	24	1	0	70	30	
United Kingdom	31 745	21	14	8	54	21	1	3	73	27	
Iceland	170	18	15	3	50	29	0	0	100	0	
Liechtenstein	65	31	23	8	38	31	0	0	100	0	
Norway	13 205	29	20	10	54	17	0	0	76	24	
Switzerland	23 555	28	22	7	55	16	0	0	88	12	

(*) Due to the use of rounded figures in these calculations the sum of all age groups does not always equal 100 %.
Source: Eurostat (online data codes: migr_asyapptza and migr_asyunaa)

Member States	Key
Austria	2,62%
Belgium	2,91%
Bulgaria	1,25%
Croatia	1,73%
Cyprus	0,39%
Czech Republic	2,98%
Estonia	1,76%
Finland	1,72%
France	14,17%
Germany	18,42%
Greece	1,90%
Hungary	1,79%
Italy	11,84%
Latvia	1,21%
Lithuania	1,16%
Luxembourg	0,85%
Malta	0,69%
Netherlands	4,35%
Poland	5,64%
Portugal	3,89%
Romania	3,75%
Slovakia	1,78%
Slovenia	1,15%
Spain	9,10%
Sweden	2,92%

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