

D5.2.1

Key findings and synthesis of inter-institutional co-operation and crisis management capacities in the area of immigration

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The present TC WP5.2 *deliverable* chapter reports the underway study of the response of the leaders of the European Union (EU) institutions to the inflow of irregular migrants to Europe since 2011. The alarming 700% increase in the number of people crossing into the EU without a permit in 2011 was perceived by many Europeans as a phenomenon which would trigger a crisis across the external EU borders and the borders between the EU member states (MSs). Consequently, the EU leaders were called upon to respond and develop a strategy of trans-boundary crisis management.

This paper is divided into three parts – followed by a conclusion – which are structured as follows: The first part gives definitions for the phenomenon and the response, places the European migration crisis in the context of global migration flows and discusses the EU administration's approaches in its attempts to manage the crisis. The second part of this paper discusses the TransCrisis framework for the analysis of the European migration crisis by specifically looking at the scenario methodology that has been adopted in the current research and how it enables the analyst to assess the effectiveness and legitimacy of the management actions used by the acting authorities. In the third part of this paper the scenario methodology discussed in the previous section is then used to analyse the EU leaders' response to the crisis. Finally, in the Conclusions section, propositions with regards to the assessment of the management actions are given along with some recommendations to the management leaders (these being strictly provisional pending the completion of this WP study).

1. The phenomenon and the existing EU response regime

In the two decades prior to 2011 migration flows in the Central and Eastern Mediterranean showed irregular growth, but the remarkable growth rate in that year¹, and its steady increase thereafter, are not unexpected phenomenon to migration experts such as Castle and Miller (1993) who explained the causes of and predicted the upward trend in global migration patterns. Demography experts have also given warnings about the pressure of migrants from Africa, as the population on this continent faces the problem of having a high fertility rate but few income opportunities available to sustain their lives. Moreover, students of economic development constantly shout that world economic reform is needed in order to reduce the structured unemployment gap separating the centre economies from those on the periphery of the world market as this is one of the major causes of migration.

Given the availability of wide ranging knowledge and expertise on the subject of the migratory pressures in certain parts of the globe, with respect to what can be described as a delayed – and rather poor – reaction by European policy makers, it can be said that the European leaders either did not pay due attention to the warnings issued by scientists or that they were trapped in a sea of doubt for far too long as to how to respond to the rising flows of migrants into Europe. This perspective is challenged by reports in the mass media, which suggest that European leaders were rather surprised by the alarming increase in the magnitude of migrant inflows from the Mediterranean and view this phenomenon as an exceptional and unexpected event. They therefore see the cause of this phenomenon as the combination of the known demographic growth trend and a number of uncontrollable circumstances caused by recent events such as civil wars and political uprisings in North Africa and the Middle East.

The conjunction of global economic trends with local political events caused a sudden and simultaneous upsurge in mixed migration flows. On the one hand you have forced migrants such as refugees, those who are fleeing persecution, drought and famine – these are people who either do

¹ The arrivals of un-authorized persons grew from 9654 to 70402, UNHCR data <http://data.unhcr.org/mediterranean/regional.php> accessed 17 May 2016

not have the resources or face conditions that make it impossible for them to create a decent life for themselves and their families in their country of birth. On the other you have unforced migrants such as those who seek greater economic opportunities even though they have the means to create a decent life for themselves in their home nations and those who migrate to join family members abroad.

Mediterranean migration as an EU trans-boundary crisis

The analysis of the EU management response to the crisis that is presented in this chapter shows that in the first phase of the crisis, the European leaders reacted² to the inflow of irregular migrants² by condemning any reception initiative and humanitarian action organized by the administration of the MSs. To the EU, irregular migration is against the principle of economic efficiency and the practice of well-managed migration. This is because it creates disturbances in the job market and the economic process in general as well as legal and security problems in the country of entry.

After the Italian administration argued for the substitution of the Triton strategy for operation Mare Nostrum, the EU leaders recognized the mixed nature of migratory inflows to the region and thus adopted a comprehensive approach in their response to the phenomenon. This shift in perspective led to a tempering of the ‘irregular migration’ argument which defined their initial reaction to the spike in migratory inflows. Consequently, humanitarian principles and respect for the Refugee Convention were adopted and the EU leaders agreed, in principle, to receive the refugees as well as act against the root causes of irregular migration to the region.

This only lasted till August 2015 when strategy was reverted to strict border control and the return of irregular migrants to their countries of transit and origin. It was further supplemented by external migration policy aimed at establishing collaboration with the governments of the countries of origin and transit. It is therefore apparent that in the period from 2011 to early 2016, the EU leaders did not have a definitive strategy for the management of the trans-boundary crisis they were confronted with – this is the assertion that summarizes the present research – but to be clear about it the concept of a trans-boundary crisis must firstly be clearly defined.

² In the present study, *irregular* migrant is the person that leaves the country of stay with no due authorization document to enter and stay temporarily or permanently in a state that requires non-national citizens to receive a legal authorization document of entry in its territory. The notion of irregular migration appeared in the late nineteenth century (with the term “clandestine migration”), when the nation-states provided the legal means to define legal and illegal mobility. Irregular migration *is not an independent social phenomenon but exists in relation to state policies*. Mostly, irregular migration is the effect of *regulated migration systems linked to labor migration programs* (Lejeune and Martini, 2016: 2-3).

A crisis is a condition in which there exists “*a perceived threat to the core values or life-systems of a society that must be urgently addressed under conditions of deep uncertainty*” (Boin, Ekengren and Rhinard, 2013: 6). In the migration crisis, the values of the European states that are perceived to be under threat are primarily the welfare and security of their citizens as well as the integrity of the states and their societies. In light of the magnitude of the crisis, a sense of urgency is crucial if the region is to manage the threat effectively, but state leaders and EU policy makers are at odds as to the appropriate response to initiate. Consequently, there is no single unified strategy and individual MSs are responding in different ways to the crises instead of engaging in a collective and coordinated effort to solve the problem. This weakens the regions ability to effectively manage the crisis at hand. This has far reaching consequences because once the migrants are within the Schengen area, it is easier for them to travel to other member states in the region, which forces neighbouring states – yet again – to coordinate their efforts to avoid being overrun.

Another factor which calls for collaborative action is the fact that migration is in itself a human condition which cuts across a number of areas of concern from a policy perspective, these include humanitarian (protecting the lives of migrants), economic (the job market and resources available in the receiving state), cultural (the identity of migrants and citizens of the receiving state as well as the integration of migrants into the population) and legal issues both at a state (the status given to third country nationals) and international level (the respect of international law standards). Accordingly, responding effectively to migration issues means coordinating the efforts of different policy sectors like the job, welfare, culture, education, and security policy areas to name a few.

Migration as a threat

The EU institutions, especially the Commission and the Council Presidency, have worked hard for the last three years to develop a response to the crisis, contain the perceived threats and likely damages as well as please the expectations of all the MS governments. But the number of migrants that have arrived to Europe across the Mediterranean has only increased in that time and the problem has worsened partly due to the region’s failure to come to a consensus as to how to approach it. This is evidenced by the fact that the Conclusions the European Council, while approved at majority, were also met with reservations by some participants like the Prime Minister of Great Britain and the Visegrad countries.

The complexity of the issue at hand has spawned a number of opposing viewpoints. Some governments contend that Europe should respect international law with regards to refugees and

asylum seekers but also speak out against the reception of persons that abuse humanitarian protection to conceal disguised interests and irrational expectations by claiming to be refugees. Others contend that while Europe is confronted by a large humanitarian crisis, it cannot adopt an open door policy except to a few of the migrants because of existing economic problems and job shortages affecting their own people, which will only be exacerbated by a rise in the population. Others still, claim that the reception of refugees of different cultures and religions is not sustainable. Generally speaking, Italy and Greece did not oppose to hosting migrants and wanted other MSs to share the burden and the cost of hospitality with them. A consensus was finally reached in the March 2016 EU-Turkey deal, where all of the EU governments gathered in support of providing financial aid to refugee camps outside of Europe.

Anti-immigration protests have come from many different sectors within the societies of the EU member states. Ordinary citizens complained of '*too many immigrants*' while anti-immigrant protesters portrayed the immigrants as individuals assaulting the welfare, security and cultural integrity of their nations. Concurrently, ever since the sharp rise in the number of immigrants coming into Europe, governments have refrained from arguing with their citizens about the nature of the phenomenon and possible responses to it and have instead, agreed with the plausibility of the anti-immigration protests. In general, the political parties of the member states restrained from debating the issue in the national parliaments and their positions did not undergo the careful scrutiny of the deputies.

The most common arguments in opposition to migration in general, as well as the current inflow in particular, are based on economic and cultural rationale. Ordinary citizens oppose the entry of migrants into their countries because of the cost burden that they are to the state, and considering that these costs have not been accounted for in current national budgets, they are viewed as unaffordable to the state. Immigrants put pressure on the job market and the education system. Furthermore, they threaten to overburden national welfare systems and potentially cause security problems on a number of different levels including growth of crime levels in the streets, the infiltration of sophisticated criminal networks as well as the intrusion of terrorist groups. The fact that dealing with all of these potential threats calls for the expenditure of public funds means that the migration crisis threatens to overburden national budgets and the economic stability of not only the EU member states, but the region as a whole.

With respect to the cultural perspective, the collective refusal to share life with the 'diverse' and the 'other' is put forward as the main argument for anti-immigration protests. This argument is rooted in the social norms and a culture of people that have constructed their society on the 'us-

them' divide in which the characteristics of the "other" are stereotyped and sometimes demonized. The perception of irreconcilable differences with respect to religion plays a fundamental role in the maintenance of this attitude.

Both the economic and cultural arguments are echoed in the discourse of political parties on the centre, left and right wing. With few exceptions, all the political parties propose extraordinary measures and policies that securitize the migration issue and fuel anti-migrant mobilization. This phenomenon is linked to the current growth of populism in Europe. The right-wing populist parties diffuse xenophobia and anti-immigration messages, while the mainstream parties and those in government, move close to the right wing parties on immigration and security issues for electoral reasons. A study of European experts asserts that *'Today, some mainstream parties – whether in an attempt to compete with the populists, to follow public opinion, or because of ideological shifts – have endorsed a populist rhetoric. These narratives, until recently taboo, have become part of everyday public debate in Europe, with potential consequences for civil liberties and domestic peace'* (Balfour, 2016: 14). Members of populist parties in government sit in the Council of the Union and the European Council. Furthermore, populist parties have increased their electoral support and presence in the European Parliament, with an average of 12.5% of the vote at the last elections in 2014 (Grabbe, 2015).

Those people who oppose these views saw the threat perception of the immigrants as exaggerated and argued that benevolent reception, non-discriminatory behaviour, and integration facilities can remove all the problems of reception. But, as time went on and the European leaders remained uncertain on the proper decisions to make, the citizen's suspicions that the leaders were incapable of bringing the crisis to an effective and legitimate solution grew and *'provided an opportunity for right-wing populist parties to profit from the storm'* (Balfour, 2016: 48).

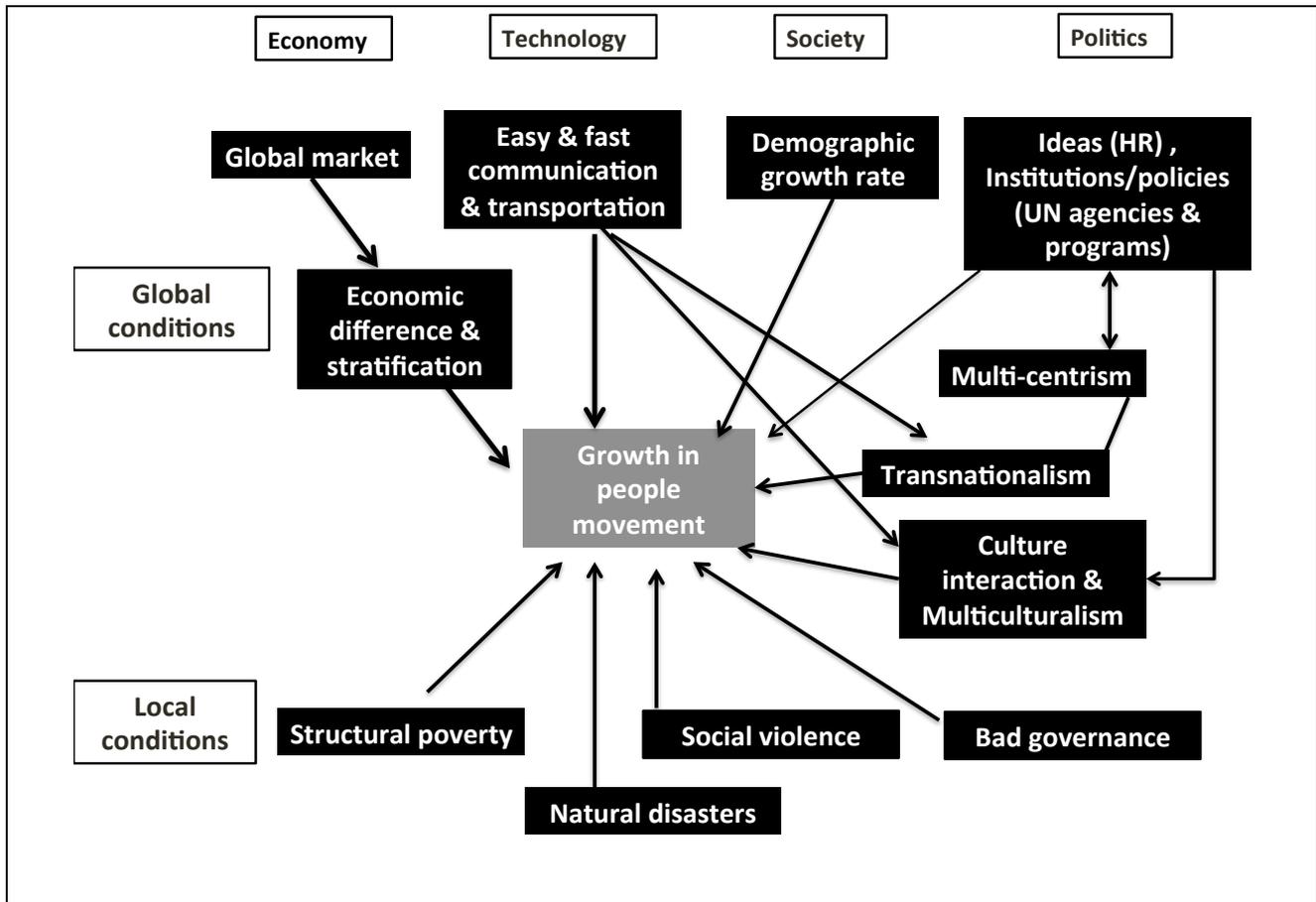
The opinions of Europeans about migrants will be analysed in depth in the next step of this Work Package. Relevant data from the Eurobarometer and other opinion surveys will be reviewed and analysed to trace the European citizen's reaction to the response of the EU leaders to the crisis from 2011 to 2016. Additionally, the European Parliament (EP) debates on the migration crisis will be analysed in order to assess the role that the citizen representatives have played in linking the citizens to the European executive institutions – the Council and the Commission. The analysis of the parliamentary debates will also examine the impact of the migration crisis on the EP Party Group competition and intra-Group relations.

The drivers of contemporary migration

The European public and the EU leaders are inclined to see the current migration flows mainly as the product of events and conditions of a local range that occur at the borders and in the nearby vicinity of the European region. With this perspective in mind, the EU leaders have been responding to the crisis by separating refugees, who are people fleeing unsustainable conditions, namely war, in the areas surrounding Europe such as Syria, from irregular migrants who are fleeing any other condition in any other area and country. Accordingly, the EU institutions and governments have negotiated a double management strategy among themselves and with neighbouring governments, one for the refugees and another for the irregular migrants. They have defended this approach towards the Mediterranean migration crisis by stating that it is in agreement with the existing national laws and consistent with international treaties. But, the significance of local conditions notwithstanding, students of migration claim that current understanding of the crisis must be refined by including the long-term conditions and global trends that drive people to cross the borders of their state and leave to distant countries in order to improve their livelihoods. Researchers of migration have disclosed the origins, features and effects of the drivers of migration as being rooted in the economy, technology, society and politics of the contemporary world.

The present study shares the view of the students of migration that claim that both local conditions and long-term trends are important to make appropriate decisions about the management of migration crisis. The global and local conditions that cause the growth in size of migration flows today are shown in the following Chart and shortly explained in the following.

Global and local migration drivers



The growing shortage of employment opportunities and the consequent poverty of the population of many countries are the product of a global market structure that connects the national markets to one another. This structure is supported by the international rules and policies that organize international trade and capital investment. The employment opportunity gap pushes people to move from the poor to the wealthy economies of the world. In migration studies, this explanation is extensively accepted as the one best illustrating the push and pull factors of the migration flows, i.e. the opposite socio-economic opportunities that push people out of disadvantaged areas and pull them into areas suitable for earning better living conditions.

Efficient means of transportation and instant communication tools are also incentives for the movement of people today. New technologies inflate migration by easing the travel of migrants to the desired destination, offering swift information about the work and social welfare opportunities around the world, and on occasion, providing news about the routes available to cross national borders with no entry permit. These new tools of transportation and communication also incentivise migrants to leave their countries of origin because they give them the opportunity to maintain relations with their distant family and the society back home. On one hand, instant communication

reduces the human costs of migration that come from breaking ties with the society and culture of origin. While on the other, it enables migrants to keep their cultural identity alive in the country of destination. It supports the linkages the social network theory of migration indicates as the determinant of the decision to migrate towards the country where relatives and national peers are settled.

In particular, efficient transportation and communication push up transnationalism and multiculturalism. The former is the phenomenon of developing economic ventures both in the country of origin as well as destination and transferring different ways of doing things from one to the other (Castles, 2004; Vertovec, 2004). Consequently, transnationalism promotes multiculturalism. But in most cases, multiculturalism turns out to be the cause of serious conflict, as the citizens of the destination country refuse to meet the challenge of changing in order to accommodate to multicultural values (Vertovec and Wessendorf, 2010). Nevertheless, these social and cultural changes will have to be embraced eventually as the rate of population growth in areas such as Africa, Central-Southern America, and South-Western Asia, and in areas such as Europe, Australia and North America continues to surge and migration becomes more widespread (Guillen and Ontiveros, 2012).

The actions and programmes of world political institutions that promote human values as the basic political principles of the world system, and in particular the right to a better life, transform the nature of migration and affect the magnitude of the flows in present times. The United Nations agencies and the intergovernmental and non-governmental organisations of human rights have a double role in this field: they promote migration as a human right and concurrently feed transnationalism, multi-centrism, cultural interaction, and multiculturalism. On the other side of the fence, governments of those states that signed human rights treaties should comply with (or, at least, not oppose) the human right of migration in normal and exceptional circumstances as well. They have to prepare their countrymen to meet the challenges that come with exceptional migration waves since the treaties they have signed were conceived for the exact purpose of decreeing how they should respond to such circumstances.

The local conditions that fuel migration today are also set in the four sectors (economy, technology, society, and politics) of global drivers. In almost all the peripheral countries of the world economy, the shortage of financial and industrial resources at the time of the rebuilding of world economic regimes following the Second World War has only increased in magnitude and is further aggravated by severe natural conditions and the effects of climate change. Moreover, ethnic and cultural differences, which were not under consideration early on in the state building effort,

condemn the populations of these countries to tough conditions as well as poor governance, corruption, and criminal action by rulers. The combination of these local conditions is the driver of people's decision to leave their own country in order to seek better living conditions elsewhere.

The EU response regime: border control and the external migration policy

As border control and immigration turn into a trans-boundary crisis for the EU system, it is to the political convenience of the parties involved in the crisis to decide which of the following solutions suits them best, (a) to coordinate the separate management response of national authorities, (b) to create *ad hoc* measures for co-management along with the national measures, (c) to adopt a common response within the framework of the EU shared competence power, or (d) to permanently transfer the problem area to the Union. Whichever option is chosen, trans-boundary crisis management evolves from the usual type of international and intergovernmental management to a multinational type of management. Since all such management schemes are at hand to the MSs, knowledge about the existing EU's border control policy and external migration policy is important to understand the path dependence that influenced the decisions of the EU leaders to respond to the current migration crisis. In other terms, the analyst has to put the management response in the context of the existing crisis management regime³ that the EU had already created to manage border crossing by unauthorized persons.

Control of the external and internal borders of the EU belongs to the individual MSs but the EU does play a role at both the operational and policy levels. From a policy perspective, the EU plays a double role as the standard setter and rule maker on selected issues. At the operational level, the EU plays the role of assistance provider as well as enabler for the coordination and convergence of the actions and operations of the agencies of the MSs. Both the rule making and operational roles came into effect when the Schengen agreement on the free circulation of people was put into the EU Treaty (Takle, 2012). This regime sets the security criteria to grant permission of entry to foreign nationals as well as the criteria the MSs apply to the foreign nationals that desire a permit to reside in their territory.

The EU plays the role of assistance provider and of coordination/convergence enabler through three European agencies that support the MSs in running border control against security threats and irregular immigration. The FRONTEX agency, created in 2004, coordinates cooperation

³ The crisis management regime approach has been introduced by Hood, Rothstein and Baldwin (2001) and is adopted by the TC WP 5.1 to assess the EU crisis management in the economic, environmental, financial, and social domains (See Cabane and Lodge, 2016).

between the MSs in the management of external borders⁴. EASO, the European Asylum Support Office that was created in 2011, provides relevant information to the EU institutions and the MS governments about the management of migration problems. And EUROSUR (European Border Surveillance System), created in 2013, aims at upgrading the surveillance system of the European external borders.

Though the EU plays a role in shaping the common control of external border crossing by third country nationals, and while these efforts comply with the Lisbon Treaty articles with regard to the EU's power to legislate the entry, residence, return and readmission of foreign nationals, and though the individual member states retain the power of legislating the social and economic integration of foreign workers, it is acknowledged that the EU as an institution promotes the principle of the free movement of labour in the name of economic efficiency. Generally speaking, the MSs seek to bring down the standard of immigrant right protection as a response to domestic interests, but the EU directives that protect immigrant rights have a chance of success thanks to domestic institutional protections that also exist in the MSs such as strong court systems, legal aid for immigrants, and state funding for pro-immigrant NGOs (Ludtke, 2011). Nevertheless, the EU created a regime for managing migration outside her own borders and avoiding irregular migration inflows into Europe.

The Commission named this regime the EU *external migration policy*. The policy is aimed at controlling the influx of immigrants in the EU by means of actions and programmes implemented beyond EU borders and in collaboration with external actors and third parties. It was presented in the Communication published by the Commission titled *Global approach to migration and mobility*, known as GAMM. The Council approved the Communication in 2011 to meet the challenge of growing migratory flows in the regions around Europe⁵. GAMM updated the 2005 Commission's Communication titled *Global Approach to Migration*. Complementing the concept of migration with the concept of mobility was a meaningful act by the Commission. It showed the intention that the EU leaders were going to be strict about allowing migrants to stay in EU countries on the condition that they are employed workers. In other words, mobility is of concern to the EU as a condition of economic efficiency. It is not an opportunity for individuals to move with few

⁴ The full name of the Agency is the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.

⁵ GAMM and the *external migration policy* have been confirmed in February 2014 when the Commission released to the other EU institutions the *Communication reporting on the implementation of the Global Approach to Migration and Mobility 2012-2013* (Com (2014) 96 final).

constraints and restrictions but it is the set of mechanisms that permits foreign nationals to work and stay temporarily in the EU.

GAMM is highly relevant to understanding the EU's management of the current migration crisis because the Commission highlights the economic appropriateness of the EU's external migration policy. In fact, the promotion of economic efficiency has been of great significance in shaping the EU immigration policy in the past and its defence is of primary concern to the Commission in advising the EU leaders and shaping the EU's response to the irregular migration flows of the last few years.

The external migration policy consists of building a network of bilateral cooperation agreements with countries of origin and transit as well as developing regional forums and dialogues to increase the synergies of the national initiatives for managing migration in areas of origin.

The EU bilateral cooperation on migration issues consists of two types of agreements, the Mobility Partnerships and the Common Agendas for Migration and Mobility. They address mobility issues and the measures to facilitate the return and readmission of irregular migrants. The Partnerships, in difference to the Common Agendas, include the negotiation of visa facilitation and readmission agreements⁶. The regional dialogues vary according to regional neighbourhood and include the EU-Africa Strategic Partnership, the Prague Process, and the Rabat Process.

The effectiveness of the instruments of the external migration policy meets with inherent problems and restrictions. Firstly, stemming the outflow of migrants is rarely in the economic and political interest of the outflow countries. Second, the governments of these countries are not equipped to accomplish all the tasks defined in the mobility partnership agreements since inefficiency and corruption are widespread in the public service. Finally, these agreements are not legally binding, do not have provisions for assessing accomplishment by the partner country, and do not bind the EU governments that have not signed the documents.

In summary, the most important EU document about migration, the GAMM, shows the EU's understanding of migration is as follows:

A. Migration is principally an economic phenomenon. Persons migrate from countries and areas of very little or no economic growth and job opportunities to countries and areas of prosperous economy and large job opportunities.

B. Migrants bring economic growth to receiving countries and economic development to their countries of origin as long as the former need manpower to feed the growing job market, and the

⁶ As of February 2016, Tunisia, Morocco, Cape Verde, Moldova, Georgia, Armenia, and Azerbaijan have signed mobility partnership documents. Ethiopia and Nigeria have signed Common agendas.

latter benefit from the financial resources the remittances of the migrants provide to the local economy.

C. Such benefits are achieved on condition that migration is well managed by the political authorities of the sending and receiving countries. This objective is achieved by negotiating and firmly implementing the agreements on the return of migrants to the sending country when jobs are no longer available in the hosting country, and on development ventures in the receiving country funded by the EU, the MSs and the financial remittances of the migrants.

D. Irregular migration impedes the effective management of migration and must be stopped. The country of entry has to return the irregular migrants to the country of origin. To this end, bilateral readmission agreements and regional agreements on migration, mobility and border control are negotiated by the sending and receiving countries and jointly implemented.

E. In managing migration, the human rights of the migrant are to be respected throughout the migration process and international protection is to be given to refugees according to existing international rules.

2. The research instruments

This chapter section deals with the instruments that are used in this research to enlarge the existing empirical knowledge about the EU leaders' management of the *European* migration crisis and assess the effectiveness and legitimacy of the management. These instruments are the concept and analytical framework of the TransCrisis Project that Arjen Boin and associates at the University of Leiden have built⁷, as well as the scenario research methodology.

The TC analytical framework

Managing a crisis means accomplishing a set of tasks intended to re-establish normalcy (and the perception of it) in a group (or country) that perceives an event (or a series of events) as threatening the normal life conditions. Accordingly, in a trans-boundary crisis the management tasks have to be made by the policy-makers and leaders of all the affected countries. The TransCrisis Analytical Framework is the framework of concepts and basic research principles that have been adopted for studying the way leaders and policy-makers define a set of tasks that the scientific literature recognizes as important to the management of trans-boundary crises. The defined set of tasks is as follows:

- (1) *Detection*, i.e. the timely recognition of an emerging threat.
- (2) *Sense-making*, i.e. the collecting, analysing and sharing of critical information that helps to generate a shared picture of the situation.
- (3) *Decision-making*, i.e. the selection of strategic decisions, joint decision-making, and the formulation of an effective strategy to implement the key decisions.
- (4) *Coordination*, i.e. identifying key partners and facilitating collaboration between these partners.
- (5) *Meaning-making*, i.e. formulating a key message that offers an explanation of the threat, actionable advice, and a sense that leaders are in control of the situation.

⁷ The detailed presentation of the framework is in the *TransCrisis Analytical Framework* published on the Projec website <http://www.transcrisis.eu>

(6) *Communication*, i.e. effective delivery of the core message to selected audiences (e.g. victims, citizens, stakeholders, voters, media representatives, etc.).

(7) *Accountability*, i.e. rendering an explanation in a public forum of relevant decisions and strategies that were initiated before, during and after the crisis.

The goal of the analysis reported in this chapter is not theory building or testing but the deepening of knowledge about the way the EU and MS political leaders went through the seven tasks of the analytical framework to manage the crisis triggered by the massive migrant flows into Europe since 2011. Since policy-making analysis and advice is one of the objectives of the TC research programme, the management tasks are analysed in order to know whether they have been effective or should be changed to produce the expected results, i.e. minimizing the effects of the crisis that are perceived by the leaders and the citizens. Regarding the political side of the analysis, the management decisions by the political leaders are analysed to discern the legitimacy of the management, i.e. to determine whether the leaders made appropriate use of the available political tools, complied with the existing decision-making rules and procedures, and had the peoples approval for the management and implementation of the responses to the crisis.

In general terms, the successful, i.e. effective and legitimate, management of the crisis is that course of action, decided on and led by the state authorities, that achieves the goal of minimizing the negative impact of any problem that is perceived as a threat to the normalcy and values of the state. The more the management of the crisis reduces negative impact, the more successful it is deemed to be. More specifically, since global trends and local conditions outside of Europe are the root causes and drivers of current migration flows, and since these flows are perceived by Europeans as a serious threat to their normal living conditions, the assessment of the leaders' actions and decisions in managing the crisis will be the empirically documented assessment of the appropriateness of the leaders' decisions and actions towards the goal of *reducing the impact* of these factors on the European region. To achieve this goal, the leaders have a number of options to choose from with regards to their approach, for example, they could launch long-term initiatives in coordination with other international actors in order to contain the impact of the drivers of current migration flows; strengthen border control and cooperation with countries of transit and origin in order to reduce the magnitude of inflows of migrants to Europe; expand the domestic society's capability to receive and integrate migrant nationals in order to facilitate resilience to the crisis and restore the normalcy of the European states and societies; or change the approach of the

citizens towards the threat by communicating clear messages about the importance of developing open and inclusive societies to meet the challenges of the contemporary world.

Another point to make about the theory and methodology of this research is that the analysis has to be open to the possibility that the causes of the crisis and, consequently, the objectives of the management may weaken and even disappear with the passage of time following the effects of external factors that may have an impact on the crisis independent of the actions of the crisis managers. In other words, factors and conditions that were not included in the research project because they were not predictable at the time it was designed, could affect the actions of the crisis managers and either strengthen or oppose them. Examples of external factors that cannot be anticipated are the exhaustion or self-defeating process of the causes of the crisis, and the intended actions of third players, like international organisations and the governments of states not affected by the crisis, that may or may not act outside of coordination with the crisis managers.

The scenario methodology

In this research project, the management tasks that have been fulfilled by the EU leaders to manage the European crisis of Mediterranean migration inflows in the past five years are analysed using the scenario methodology⁸. This tool of analysis is apt to study the management of a crisis that passes through different configurations in successive periods of time. Accordingly, the present research has developed scenarios for the management of the *European* migration crisis and, most importantly, aims to explain the conditions that have been created by, and the effects that have followed the EU leaders' management decisions and actions in each scenario.

In social science research, the term scenario is used in different ways and has variable meanings. In general, a *scenario* is the configuration, in a definite period of time, of the conditions, actors and events of a system that is researched to check the state of a matter of interest.

- The conditions are the structures, processes and trends that are relevant to understand the matter of concern.
- The actors are the agents of the system that participate in the events that affect the matter under study.
- The events are the actions and decisions of the actors as well as any other event that has a significant impact on the matter and the stability or change of the system.

⁸ The scenario method was introduced in social science about 60 years ago to generate knowledge about the future conditions of systems, process and phenomena, but it is used also to test hypotheses and develop theories (Ramirez et als., 2015).

As a tool for the present research for organising knowledge about the management of the crisis, the scenario methodology is the study of a series of scenarios that follow one another in time. The matter of concern are the management actions that have been used by the EU leaders to minimise the crisis that emerged at a time when a large number of Europeans perceived the arrival of irregular migrants as threatening the normalcy of life in the EU countries. The crisis conditions have been presented in the first part of this chapter about the global trends, the local conditions, and the EU's existing regimes. The actors are the EU leaders and the migrants. The events are the actions and decisions of the EU leaders aimed at managing the crisis, the collective behaviour of the migrants attempting to enter and settle in Europe and, on occasion, the actions of third parties like international organisations and the governments of third countries.

In the present research, the *EU leaders* are the following institutions and individuals in charge of those institutions in a political authority role (1) the European Council and the heads of state and governments of the MSs as members of the European Council as well as the European Council President; (2) the Council of the Union and the ministers of the MSs as members of the Council of the Union that actively participate in the management of the crisis; and (3) the President of the Commission and the members of the Commission that actively participate in the management of the crisis. The relations of the EU leaders with individual and collective actors within the political and social life of the European countries are the objects of the present analysis only as far as they are relevant to shape the scenarios and to explain the EU leaders' actions and decisions. The same rule applies to the European Parliament as actor of the crisis-

In summary, the first task of the WP 5.2 research is *system analysis*, i.e. the analysis of the systemic conditions that are relevant towards the examination of the migration phenomenon and build knowledge about the conditions that affect the success of the management of the crisis. This task is reported in the first Part of this chapter. The second and major task of this research is *management analysis*, i.e. the analysis of the leaders' decisions and actions to respond to the perceptions of the threat and the disruption of normalcy in the EU and its MSs. This task is the object of the next Part of this chapter. The last task is the *assessment* of the appropriateness of the management actions to the objective of reducing the impact of the crisis on the normal conditions of the states (*effectiveness*) with the consent and approval of citizens (*legitimacy*), and the formulation of recommendations and advice in case that the effectiveness and/or the legitimacy of these interventions are called into question. This task is shortly and provisionally made in the assessment

section of the four scenarios as well as the Conclusions section. This task will be further developed as the research reaches completion.

3. The scenarios of the EU migration crisis management

The overthrow of Muammar Gaddafi in 2011 removed the 2008 Italian-Libyan treaty as an obstacle to the crossing of the Mediterranean Sea by migrants. The influx of irregular migrants into Europe grew remarkably in magnitude, and so too did the number of fatal accidents of boats full of migrants. The Commission and the European Council restated the principle of no entry to outside nationals that did not have regular authorization issued by one of the MSs. They also recalled to the MSs the responsibility of controlling external borders to safeguard the Schengen free circulation system. In October 2013, this scenario was superseded following the Italian government's decision to launch Operation *Mare Nostrum* and consequently detach Italy from the EU's official position that censured migrants from illegal entry into the region as well as the governments of the EU Mediterranean countries (Italy, Greece, and also Spain at that time) for inefficient border control.

To the EU, both the migrants and the EU Mediterranean governments were destroying the two pillars of the GAMM regime, i.e. the well-managed migration and the return of illegal immigrants in compliance with the external migration policy. But, a year after *Mare Nostrum* started, a third scenario came into play and changed the EU's response to the crisis. Recognizing that certain humanitarian rescue initiatives in its seas were its responsibility, EU leaders endowed Frontex Operation *Triton* with the mandate to continue the *Mare Nostrum*'s rescue and border control mission. Soon afterwards, the Council decided to deploy a CSDP military operation to oppose the migrant smuggling that was said to be the business of organized criminal groups. The Commission proposed two relocation plans for moving the persons eligible to international protection from Italy and Greece to all the Member countries. The Council and the Commission negotiated measures with neighbouring countries to block migrants and refugees out of Europe. But in the late summer of 2015, the situation turned bleak again.

The MS governments questioned the Commission's humanitarian actions; they neither implemented the relocation plans nor agreed on reshaping the existing migration and asylum policy, and were tactful in building common control of the external borders. The circumstances were ripe for the fourth scenario that came into play in autumn. The Commission, in agreement with the

European Council, reinstated the GAMM policies as the main instruments for responding to the crisis. Securing the borders of the EU against the arrival of any migrant, whether or not he/she qualified for international protection, became the goal of the common management strategy.

In the following, the four scenarios are described in detail and assessed. The synoptic table in the Appendix provides an overview of the four scenarios.

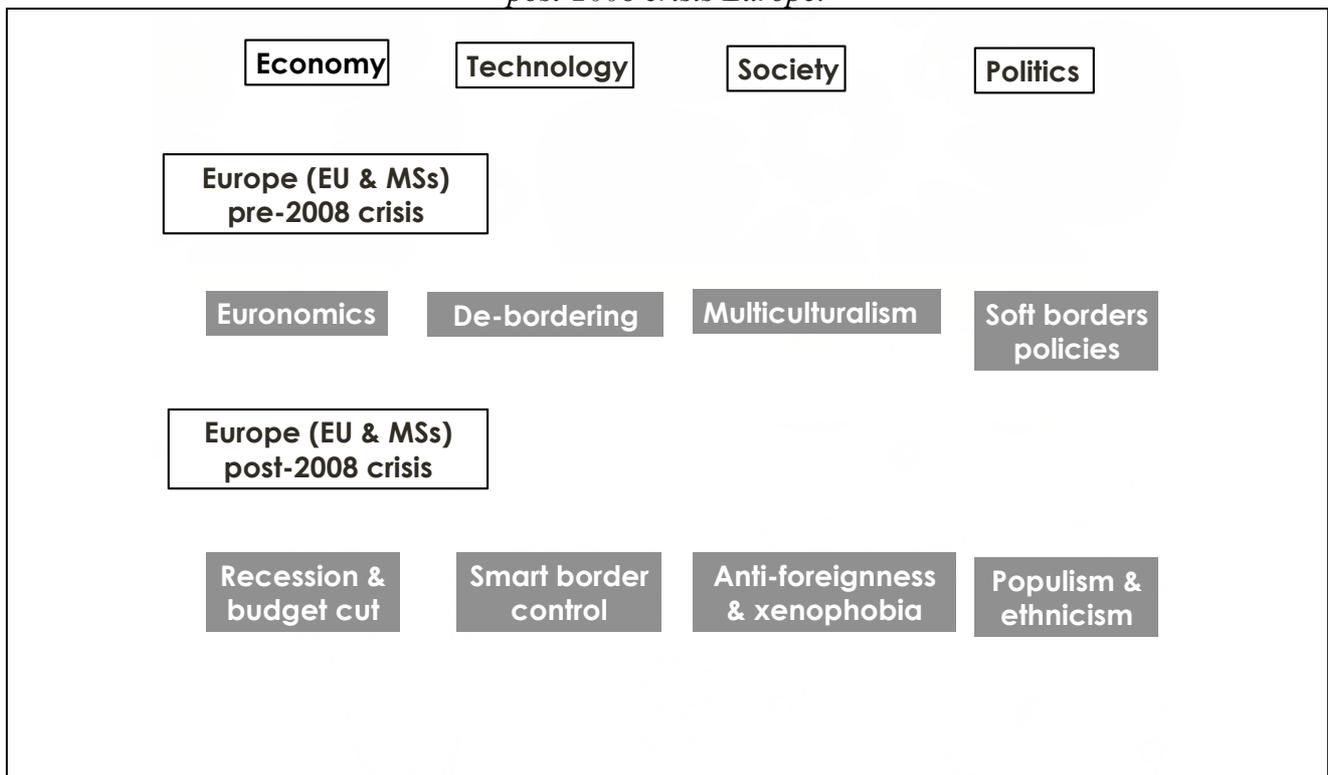
Conventional response (2011 – 2013)

The EU and its MSs official response to the problem of border crossing by persons with no permit of entry is normally comprised of passport and visa checking by border police, refusal of entry to the person lacking the appropriate permit, building cooperation with the governments of the states of transit and origin to curb irregular flows, and returning irregular migrants to their country of origin (Carrera, den Hertog and Parkin, 2012; Cassarino 2014). In 2004, the EU created Frontex, the agency for the Management of operational cooperation at external borders, to support the MSs in the task of border control. Since 2006, Frontex has conducted operations to detect and break irregular border crossings including return missions. These operations were initiated to respond to the growth of unwanted immigrants from the countries surrounding the EU Southern border, since the number of irregular migrants from Eastern and Central Europe had gone down following the enlargement of the EU (Ekelund, 2014).

The GAMM perspective on migration that influenced the EU leaders to respond with strict border control, efficient return measures and cooperation with third countries to the arrival of people that were escaping critical events in their countries of origin was corroborated by the impact of the 2008 economic and financial crisis on the EU and its MSs. Before the 2008 crisis, EU institutions promoted de-bordering, people movement, mutual knowledge and dialogue among nations and cultures with actions and programmes that were aimed at complementing the policies of economic integration like the trade and custom union policy and the single market policy that changed the economy of Europe. Economic integration made a great step forward in the early years of the present century thanks to the single currency policy that was accepted by the governments of the Eurozone. But the common economic and monetary policies neither protected the economies of the MSs from the shock of the 2008 world financial crisis nor did it help to facilitate the recovery of the economies of the Eurozone countries in the 2010s. The recession hit almost all the countries of the Eurozone hard and forced governments to adopt measures for the restructuring of national

economies, the cutting of public expenses and the reduction of welfare expenditure (see the following chart). multiculturalism

The change of attitudes and policies towards border control and migration from the pre- to the post-2008 crisis Europe.



The economic crisis had important effects on the society and politics of the MSs and heavily influenced the European people's response to immigration and to the humanitarian emergency in the Mediterranean. Many people blamed the Euro and the Maastricht criteria as well as the free circulation and common market regulations as the main obstacles to the national strategies of exit from the financial and economic crisis. Anti-EU political movements and parties fed anti-immigration, anti-foreigner and xenophobic feelings. Furthermore, populism infected the political life of those countries that faced economic decline and the reduction of the welfare system.

The 'Conventional Response' management assessed

In general, the European leaders did not oppose the rise of the anti-immigration mood and shared the views of the people inspired by rightist political parties and movements. At the EU level, they adopted the Commission's view of fostering well-managed migration and curbing irregular migration flows by strengthening external border controls. In agreement with the Commission

Communication, they created two agencies to support Frontex; the European Asylum Support Office and the EU Border Surveillance System. The abnormal growth of the arrival of irregular immigrants in 2011 and the following years as well as the deadly accidents that occurred in the Mediterranean in that time did not influence the EU institution's resolve to respond with conventional tools that were designed to effectively manage migration flows under normal conditions.

Mare Nostrum (Oct. 2013 - Oct. 2014)

On 13 October 2013, the Italian Prime Minister Enrico Letta announced his decision to immediately initiate Operation *Mare Nostrum*. The goals of the Operation were the rescue of people in distress at sea, the control of national borders and to fight against smugglers of migrants. This decision was neither on the official agenda of the government nor a theme of public debate. In previous years, Italian politicians and its citizens worried about the problems and costs brought to the country by the increasing number of people – especially from Central and North Africa – that arrived aboard small boats in Sicily and other areas of the Southern coast to enter the country with no visa or permit. From 1989, the government and the Parliament had approved a number of amnesty laws to legalise the status of migrants lacking a regular permit. Approval of the amnesty laws was always hard to make. Two groups stood against one another in both Parliament and the society. The right wing parties and unions wanted to protect the country from the invasion of unauthorised, unskilled third country nationals, the consequent distortion of the labour market, and rising crime levels. The remaining parties and social organisations generally favoured the regularization of migrants mainly because they could work in those labour sectors that had been neglected by the Italians.

In this regard, in 2013 the problem of irregular migrants was not new to Italy but Operation *Mare Nostrum* projected the issue into the arena of public debate, with respect to the humanitarian aspects of the issue. The human tragedies and deadly accidents in the Mediterranean Sea upset the Italian people. The same can be said for the people of the Lampedusa Island reception site, the large number of migrants hosted on the island were an unsustainable burden to the locals. The poor conditions of the reception site were also unsustainable to the migrants. Italian rightist parties asked for the employment of the military to stop illegal entry and return unwanted migrants to their own countries. They also invoked reinstating the containment measures the past centre-right government and Gaddafi had agreed upon. The centre-left parties, instead, were uncertain about the appropriate

way to manage the crisis. Italian political and social groups unanimously called on the EU to bear the costs of the crisis and to undertake the appropriate course of action to minimize the negative effects of the inflow. This call was made with the will of the migrants in mind, as almost all of them wanted to go to Northern Europe.

The EU governments and institutions turned blind eyes towards *Mare Nostrum* in compliance with the official policy of the conventional response to irregular migration. They claimed that the control of the borders against irregular crossing is the duty of the individual MS that has to accomplish it in agreement with the EU regulations. The Conclusions of the October 2013 European Council regular meeting did not at all refer to the Italian Operation launched 10 days earlier but expressed *'deep sadness at the recent and dramatic death of hundreds of people in the Mediterranean which shocked all Europeans. Based on the imperative of prevention and protection and guided by the principle of solidarity and fair sharing of responsibility, determined action should be taken in order to prevent the loss of lives at sea and to avoid that such human tragedies happen again.'* In that document, the EU leaders confirmed their resolve to manage the migration issues by means of border control measures and cooperation with third countries. Moreover, the Council expected to know the *'priority actions for a more efficient short term use of European policies and tools'* to respond to the circumstances from the Task Force for the Mediterranean.

The Task Force for the Mediterranean had been created by the Justice and Home Affairs Council two weeks earlier, admittedly to respond to the *'strong call for action from European leaders and European citizens'* following the sinking of a boat with around 500 migrants off the coast of Lampedusa on 3 October. It was led by the European Commission and involved representatives of the MSs, EU agencies and the European External Action Service. In two meetings on 24 October and 20 November, after which apparently it disappeared from the stage, the Task Force identified five areas of action in line with the GAMM, i.e. (1) cooperation with third countries, (2) regional protection, resettlement and reinforced legal avenues to Europe, (3) fight against trafficking, smuggling and organised crime, (4) reinforced border surveillance contributing to enhancing maritime situational picture and to the protection and saving of lives of migrants in the Mediterranean, and (5) assistance and solidarity with Member States dealing with high migration pressure.

The 'Mare Nostrum' management strategy assessed

The Italian government launched Operation *Mare Nostrum* to abide by Search and Rescue international law norms⁹ as well as the humanitarian duty to help people in distress at sea. By giving the task of the Operation to the Interior Affairs Ministry, the government set the mission as an ordinary operation that was not to be authorized by Parliament. Opposition to the operation, however, did not turn into a big political conflict. In fact, both the proponents and opponents of the migration debate in all sectors of Italian society blamed the EU for failing to undertake the cost of the mission, including the responsibility for the task of responding to the problem of giving humanitarian aid to those in distress out in the Mediterranean sea. They blamed the EU also for not dealing with the legal aspects involved by the circulation of migrants in the European territory (ReShape, 2015).

The remaining goals of the Operation, namely border control against irregular migrants and the fight against the smuggler organisations, were accomplished by the Italian government to a small degree, i.e. by taking the rescued migrants to the poorly organized reception and identification centres, and by seizing and prosecuting a number of boat-drivers for smuggling crime - both these tasks were fraught with issues that overwhelmed the security sector of the Italian state. At the European level, Italy's resolve to defend the priority of the humanitarian dimension met the unfriendly reaction of other states and the vague response of the Commission, which recognised the complex nature of the crisis, but refrained from starting any appropriate EU initiative. The EU did not initiate solidarity actions to aid the Italian humanitarian efforts and reproached the Italian government for not exercising border control, failing to systematically check the un-documented migrants and return as many to the country of origin as it had to. However, the Italian position did not go completely unheeded (Gour, 2015). Italy's conduct encouraged other European governments as well as the Commission to care about the humanitarian side of the crisis, abort the conventional response and focus on developing an ad hoc strategy for the management of the crisis.

⁹ The texts of importance to this issue are the United Nations Convention on the Law of the Sea (UNCLOS), the International Convention for the Safety of Life at Sea (SOLAS) and the International Convention on Maritime Search and Rescue (SAR). In particular, coastal States have an obligation to develop adequate search and rescue services and put them on action when search and rescue operations are needed. The duty to assist and rescue persons found at sea in danger of being lost or in some sort of distress covers asylum seekers and all kinds of migrants whether regular or irregular, travelling also on smuggling and trafficking boats. Such international law documents do not expand on important matters like the definition of distress, the allocation of the responsibility to act, the place of disembarkation of those rescued, and the responsibility of coastal States for disembarkation. Such holes in international treaties frequently are the cover of the denial of action claimed by governments.

EU-Turn (Nov. 2014–Sept. 2015)

In November 2014 the European Council accepted, in principle, to share some of the costs borne by the Italian government for the Mediterranean Sea rescue operation and the subsequent reception of migrants into Italy, particularly those who were eligible for international protection. The council furthermore restated that unauthorised immigrants should be returned to their country of origin. Subsequently, the Frontex Operation *Triton* was mandated to substitute *Mare Nostrum* on the search and rescue mission in the Mediterranean, but its humanitarian mandate was less important than *Mare Nostrum*'s.

The Triton decision was the first which marked a U-turn in the EU's approach towards managing the crisis. The second was the decision to protect migrants from smugglers. On 18 May 2015, foreign and defence ministers committed the EU to act in order to prevent the '*human tragedies resulting from the smuggling of people across the Mediterranean*'. In June, the European Council decided to deploy the Eunavfor-Med mission in Mediterranean waters. The first phase of the mission involved information gathering and intelligence tasks. The second, by October, was mandated to board, search, seize and divert vessels suspected of being used for human smuggling or trafficking in the high seas. To critics, Eunavfor-Med was the disproportionate instrument of a misconceived objective as there was no strong evidence of smuggling by well-organised crime groups, but rather, there were signs that it was carried out by occasional smuggler groups.

The third move marking a U-turn in the EU's perspective was towards migrants that could prove that they were refugees in compliance with existing laws. In May and September, the Commission prepared two relocation schemes in agreement with a suggestion from the European Council. Relocation meant that all the refugees on the soil of the frontline states at the time the decision was made were given international protection in one of the MSs territories. Following this, Hungary, in addition to Greece and Italy, was declared a frontline state. But the Hungarian government rejected the qualification in addition to the EU approach to the crisis. It preferred to erect barriers at the country's southern borders to stop the entry of migrants from Serbia. The EU governments also approved the resettlement, to be accomplished in two years, of 20 000 refugees hosted in third-country camps, thus confirming the humanitarian emphasis in the change in the EU's crisis management strategy in the first semester of 2015.

The U-turn was presented in the following documents:

1. The Presidency statement concluding the 18 April European Council meeting,
2. The 13 May Communication of the Commission titled *European Agenda for Migration*, and

3. The 22 September decision of the Council of the European Union.

These three documents displayed the main objectives of the EU leaders, namely; the development of *a comprehensive approach*, the solution to the refugee problem with relocation plans and measures against unauthorized migrants. But the massive influx of migrants through the Balkan route in the summer of 2015 put an end to this management strategy. The EU's priority shifted once again from a humanitarian perspective to that of securing its external borders.

A comprehensive approach

EU institutions recognized that the EU had to address the need for immediate action in order to save human lives as well as counter the *root causes* of the current flows of migrants at both a global level such as the '*communication revolution*' and '*global poverty*', and a local one such as the '*wars and crises from Ukraine to the Middle East, Asia and North Africa*'. Accordingly, this comprehensive approach consisted of a combination of the Search and Rescue tasks mandated to the Frontex' Triton Operation, the CDSP mission against the smuggler organisations in the Mediterranean, the plans for relocating and resettling in – and out-side Europe – the refugees hosted in the frontline states, the actions '*to intervene upstream in regions of origin and of transit*', and actions to support financially and tangibly those countries that were '*bearing the brunt of displaced refugees*'.

EU leaders also expressed the view that the crisis was an opportunity to update common migration policy. And recognized the presence of conditions like the shortage of a higher-educated labour force and the decline in the working age population in Europe, as good reasons for promoting legal migration underpinned by effective integration policies. But the good intentions of the comprehensive approach were soon met with some tough conditions.

Relocating the inside-border refugees to de-burden the frontline states

In a statement at the 18 April Council meeting, the heads of government committed to '*consider options for organising emergency relocation between all Member States on a voluntary basis*'. But soon after that they rejected the relocation scheme that the Commission proposed and blamed the Commission experts' so-called *distribution key* as violating their sovereignty rights. In May, the decision was suspended until the end of September. The distribution numbers were subsequently adapted to suit the preferences of the governments. In September, a second plan was approved for the relocation of migrants that had entered through the Balkan route during the

summer. This plan was approved to meet the protest of the Hungarian government, which ironically refused to adopt it. The plan was also prompted by the tragedies that occurred to migrants on the marine border between Greece and Turkey and in the core of Europe, namely in Austria where the bodies of 71 migrants were found in a truck left on a highway. Furthermore, the decision of the German Chancellor Angela Merkel to accept the entry of refugees into her country played a role in influencing EU strategy. The Council approved the two plans by majority vote with opposition from the Czech Republic, Hungary, Romania, and Slovakia.

The blocking of migrants at external borders

In the September Council meeting, governments claimed that the protection provided to the refugees had to be paired with the blocking of the entry of those people who did not qualify for international protection. With this in mind, Frontex was engaged to support the MSs in order to drive return operations. The Commission had to advance the negotiation of the re-admission agreements with outflow countries as well as provide assistance to the border control capacity-building efforts of governments of third party states in order to halt the departure of both new and repatriated migrants. Moreover, the Council expanded the EU's financial contribution to third countries and international organisations to establish and improve refugee camps in crisis areas to meet the humanitarian standards. No decision was made on an important item on the table, the asylum policy and the Dublin Convention rules (Ripoll & Trauner, 2014).

The 'EU-turn' management assessed

The third scenario attempted to make sense of the mixed nature of the migration flows into the European region – i.e. a flow including refugees and 'economic' migrants – and build consensus about a broader management strategy – the so-called comprehensive approach. These objectives were harshly contended by the British and Central European governments and only tentatively accepted by others. Officially, the EU recognized the mixed nature of the migratory flows towards Europe and the need to take care of the humanitarian dimension by saving people in distress at sea and give international protection to refugees. Frontline states were recognized as eligible for assistance from the Union provided that they effectively identified all migrants, checked for the international protection requirements of applicants and returned unauthorized migrants to their country of origin. But, the persisting differences among the MSs with regard to the nature of the crisis and the preferred management strategy plagued this scenario. The slow and ineffective

negotiation with regard to a common management strategy for the crisis destabilized relations between the MSs and the EU institutions respectively. Many governments showed an inclination to downplay humanitarian duties, an unwillingness to bear the burden of receiving foreign nationals in need of aid and the will to offload the problem onto neighbouring states.

Fencing the EU (Oct. 2015 – on)

Criticism of the Italian rescue operation, the rebellion of the Central European countries against the free movement of migrants in the Schengen area, the division fuelled by the German chancellor Angela Merkel's declaration in favour of granting Syrian refugees access to Germany, resentment towards the British government for rejecting the relocation scheme and blocking migrants that wanted to access the English Channel – and other similar events in the last few years – did not prevent the EU governments and the Commission from returning to the albeit elusive sharing of measures such as the relocation of refugees hosted in frontline states, the return of migrants ineligible for international protection and the externalisation of refugee camps. All of this was admissible on the assumption that these efforts constituted the development of an effective management response in order to secure the external borders of the EU, reduce the number of refugees coming into the region and end irregular migration.

In late autumn 2015, the EU leaders shifted their focus from refugee matters to address the construction of robust European borders. The Commission and the Council worked mainly at (a) coordinating the MSs to implement the refugee relocation and return process, (b) coordinating the neighbouring countries with the EU's crisis management strategy, and (c) improving information exchange about borders with the intention to establish common control of external borders. In the meantime, a group of MS governments went on to suspend Schengen and fence their countries on account of the failure of the EU to reach an agreement with regards to fencing Europe.

The leaders have defined the management measures of this scenario in three documents:

1. The 'Conclusions on Migration' adopted by the Council on 12 October 2015,
2. The Communication from the Commission to the European Parliament, the European Council and the Council on *Managing the refugee crisis* (14.10.2015 COM(2015) 510 final) and
3. The Conclusions of the 15 October European Council meeting.

Furthering the implementation of the 'EU-turn' measures

On 9 October, the first relocation operation moved 19 Eritreans from Italy to Sweden. The resettlement plan for refugees from third countries to MSs was also put in action and 132 Syrians were moved to Italy, the Czech Republic and Liechtenstein. But, in the following months, the magnitude of the transfer of refugees from the frontline States to other MSs did not match the numbers of the Commission's relocation plans at all. The MSs were also slow in accomplishing the voluntary and forced return of migrants who did not qualify for relocation. The Commission's Communication reprimanded the MSs for their misconduct and asked them to join in efforts to convince countries of origin to elevate the number of accepted returns.

Additionally, the Commission blamed Greece and Italy for not requesting the deployment of Rapid border intervention teams (RABIT) that were devised to provide border guard support in circumstances like those that the two countries were facing. The Commission also criticized the MSs for the limited number of civil protection assets deployed to help refugees under the guidance of the EU Civil Protection Mechanism. Furthermore, the Commission made it known that only a few MSs supported the refugee assistance programmes of the UNHCR with a some national funding in addition to the World Food Programme and other agencies such as the EU's Regional Trust Fund in response to the Syria crisis known as the Madad fund, and the Emergency Trust Fund addressing the root causes of irregular migration and displaced persons in Africa. But the major problem with the relocation plans was the operation of *hotspots*, the places in Greece and Italy for the identification, registration and fingerprinting of migrants, and their selection either as refugees to be sent to regional hubs and the state of destination, or as irregular migrants to be returned to their country of origin. The establishment of 11 hotspots was decided on in May 2015 and implemented gradually. A year later, all of them were operational but understaffed and underequipped to process an excessive number of people (Kaca, 2016).

Also, the fight against migrant smuggling organisations was the object of preoccupation and renewed action¹⁰. Attention shifted from the Central Mediterranean and Libyan coasts toward the organisations smuggling immigrants in the Eastern Mediterranean between Turkey and Greece. On 12 March 2016 the Council discussed the issue. A Press Release emphasized the importance of enhancing *'inter-agency cooperation focusing mainly on the synergy of activities of all agencies*

¹⁰ Also NATO decided in February 2016 to deploy ships to the Aegean Sea to stop smugglers moving migrants from Turkey to Greece.

involved and on information exchange, through the use of the EU Contact Group of Agencies on migrant smuggling (in particular Europol, Eurojust, Frontex, FRA, Cefpol and EASO)'.

Coordinating with neighbours and partners

Initiating and expanding cooperation with foreign first countries of asylum and countries of transit like Jordan, Lebanon and the Non-EU Western Balkan countries was deemed to be essential to the fencing approach to managing the crisis. Cooperation with Turkey was highlighted as *essential* by the Commission and MS governments. The EU leaders' argument was that the strategy to decrease the magnitude of migration movement would fail unless the EU and the MSs (a) convince the governments of states like Jordan, Lebanon, Turkey and the Western Balkan countries to keep refugees in camps in their own territories and lock their borders against new migrants; (b) persuade the governments of any country of transit and origin to block people that do not have permits of entry into Europe; and (c) sustain the actions and programmes of the international organisations that assist displaced people and prospective migrants outside Europe. The EU leaders believed that to relieve the European states from the immigration pressure, effective border control must also be the concern of governments in the states immediately surrounding the EU. In the case that these governments don't make the appropriate control actions spontaneously, the EU has to provide financial and technical support to persuade them to do so. Additionally, the EU has to persuade, influence and support governments of countries placed beyond the countries immediately surrounding the EU, since irregular migrants come from those countries as well. To this end, in the fourth scenario the EU leaders called upon two groups of countries to coordinate with Europe, namely the Balkan countries as countries of transit and the African countries as countries of both transit and origin of unauthorized migrants to Europe.

The Commission, the Council and the governments of the Balkan countries convened in Brussels on 25 October. The statement that was delivered at the end of the meeting underlined the importance of exchanging information, discouraging the movement of refugees and migrants towards the borders of other countries, increasing the capacity to provide temporary shelter and return migrants to their countries of origin, and regaining control of the national borders by increasing coordination of border management.

The Valletta summit from 10-11 November brought together the heads of governments from European and African states. The final Political Declaration, a rather generic document, and the Action Plan addressed the causes of migration and the responses to manage the crisis by emphasising the link between migration and development as the conditions for *well-managed*

migration and mobility. The Action Plan set out five *priority domains*, namely; the root causes of migration, cooperation on legal migration and mobility, the protection of displaced persons, the fight against migrant smuggling and the trafficking of human beings, and the return of people who are not allowed to stay in Europe to their countries of origin. Operative decisions were made on a small number of initiatives aimed at improving existing response measures like fighting against the smugglers of migrants and the return and readmission of irregular immigrants.

The Commission President handed the Action plan on EU-Turkey cooperation to the Turkish President on 5 October 2015. Ten days later in Brussels, the Plan was agreed *ad referendum*. It specified collaborative actions to be implemented by both parties to support Turkey's efforts in managing the massive influx of people in need of temporary protection. In addition, the parties declared that they wanted to address the root causes of the massive influx of Syrians and support Syrians under temporary protection and their host communities in Turkey. The EU accepted to provide technical and financial assistance to weaken the push-factors in Turkey and the countries of origin and support return operations and reintegration measures. Turkey accepted to undertake measures to build a strong migration management system, facilitate the stay and integration of refugees into Turkish society and accelerate procedures for smoothly readmitting irregular migrants. At the next meeting in Brussels on 29 November, the EU acknowledged that Turkey had spent 8 billion US Dollars hosting more than 2.2 million Syrians, and committed to provide an initial 3 billion Euro of new financial resources. On 3rd February 2016, the MS's representatives agreed to provide Turkey with €1 billion from the EU budget and the remaining €2 billion by contributions from the MSs according to their share in EU GNI.

Finally, on 7 and 18 March 2016 the EU Heads of government and state along with the Turkey Prime Minister signed the deal for the common management of the irregular movement of migrants from Turkey to Greece. They agreed on the following actions:

- *to return (to Turkey) all new irregular migrants crossing from Turkey into the Greek islands with the costs covered by the EU;*
- *to resettle, for every Syrian readmitted by Turkey from Greek islands, another Syrian from Turkey to the EU Member States, within the framework of the existing commitments;*
- *Turkey will prevent new sea or land routes for illegal migration opening from Turkey to the EU,*
- *to accelerate the implementation of the visa liberalization roadmap with all Member States with a view to lifting the visa requirements for Turkish citizens at the latest by the end of June 2016;*
- *to speed up the disbursement of the initially allocated 3 billion euros to ensure funding of a first set of projects before the end of March and decide on additional funding for the Refugee Facility for Syrians;*
- *to prepare for the decision on the opening of new chapters in the accession negotiations as soon as possible, building on the October 2015 European Council conclusions;*

- *to work with Turkey in any joint endeavour to improve humanitarian conditions inside Syria which would allow for the local population and refugees to live in areas which are safer*

The Plan raised concern about the respect of international legal obligations. In particular, to return asylum seekers back to Turkey without giving each one of them the opportunity to make asylum claim in an EU state breached the internationally recognised duty of *non-refoulement*.

¹¹Turkey was defined as a safe country for refugees at the time that the 1951 Geneva Convention and the 1967 Protocol were ratified; it retained a geographical limitation that exempted it from extending the Convention to cover non-European refugees. Moreover, Turkey is a signatory state of the European Convention of Human Rights, but the European Court of Human Rights judged against the country many times for violations of the prohibition on torture, inhuman and degrading treatment and punishment including the treatment of refugees. With these concerns in mind, a few days after the EU-Turkey Action Plan was in place, the UNHCR suspended activities at the Lesbos hotspots and non-governmental organisations like Doctors without Borders (MSF) and the International Rescue Committee (IRC) followed suit in suspending activities and scaling back activities in the camps on the Greek islands.

Finally, the plan faced uncertainties about Turkey's capabilities to implement the deal and cope with the huge number of migrants on its soil. However, in early May the Commission praised the Turkish authorities for implementing the plan effectively.

Sharing information to manage in- and within-flows

Since the migration crisis put the continuity of the Schengen system under threat, the EU leaders pointed to a powerful and effective system of information sharing for all people entering or exiting the Schengen area as one of the conditions for ensuring the continuity of the free movement of people inside the EU and fostering the common control of the external borders. On 30 October 2015, the Council Presidency decided to initiate the Integrated Political Crisis Response (IPCR) arrangements, an instrument created in 2013, to support decision-making and better implement the agreed measures for monitoring migratory flows. The MSs along with the EU institutions and agencies were requested to share updated information on the situation on the ground via a common web platform. The Commission and the EEAS were entrusted with providing regular integrated analysis of the information provided to facilitate common decision-making and a coordinated crisis

¹¹ Also the European Convention of Human Rights (ECHR) and article 19 EU Charter of Fundamental Rights prohibit the collective expulsion of foreigners.

response between member states. But the 13 November ISIS attack in Paris put further pressure on the policy-makers to go well ahead of this decision.

The Council of Ministers took special measures to prevent the free circulation of terrorists in the EU and especially in the Schengen area. In the *Conclusions of the Council of the EU and of the Member States meeting within the Council on Counter-Terrorism* (20 November 2015), the MSs committed themselves to ‘*carry out a systematic registration, including fingerprinting of third country nationals illegally entering the Schengen area – whether they be migrants or applicants for international protection – and perform systematic security checks by using relevant databases, in particular SIS II (Schengen Information System), Interpol databases, VIS (Visa Information System) and national police databases, with the support of Frontex and Europol, and ensure that hotspots are equipped with the relevant technology. Europol will deploy guest officers to the hotspots in support of the screening process, in particular by reinforcing secondary security controls*’.

A month later, the Conclusions on Migration of the European Council meeting (17 December) again urged the MSs to address the shortcomings at the Schengen external borders by ensuring systematic security checks with relevant databases; while the Presidency Report on *Managing the migration flows* (16 December) admitted that identification, registration and fingerprinting of all third country nationals entering the Schengen area irregularly were to be strengthened by the MSs in terms of human and technical resources as this was a crucial precondition for effective border control.

The Commission’s December 15th press release *A European Border and Coast Guard to protect Europe's External Borders* announce an initiative to create an agency that would bring Frontex and the MSs’ authorities responsible for border management together. The MS’s border services would continue to exercise the day-to-day management of the external border. Appropriately equipped with human and financial resources, the Agency would be charged with monitoring and surveillance tasks, intervention right on request by member and neighbouring states, return actions, and a role in internal security, especially in preventing terrorism. On the 6th of April, a Council’s press release announced that the COREPER was ready to negotiate with the European Parliament as soon as the latter adopted its position¹². On the same day, the Commission sent a

¹² The Council proposed to talk about the following tasks of the envisaged Border and Cost Guard Agency: (a) appointing liaison officers of the agency in member states; (b) drafting of vulnerability assessment regarding member states' border control capacity; (c) organising joint operations and rapid border interventions; (d) assisting the Commission in the coordination of migration management support teams when a member states faces disproportionate migratory pressures in hotspot areas of their external border; (e) ensuring the practical execution of measures in

revised proposal to the Council and the Parliament the Communication on *Stronger and Smarter Information Systems for Borders and Security* for a Regulation on the establishment of an Entry-Exit System. The Communication set out ‘*actions to improve the functioning and interoperability of existing information systems and potential new systems to address information gaps*’. The Regulation proposal wanted ‘*to speed-up, facilitate and reinforce border check procedures for non-EU nationals travelling to the EU*’. It was intended as ‘*part of the broader 'Smart Borders Package', addressing the role of information systems in enhancing external border management, internal security and the fight against terrorism and organised crime*’.

Border control between Schengen countries

In the October Communication on *Managing the refugee crisis*, the Commission expressed worries about the temporary reintroduction of border controls that several MSs invoked, and Germany, Austria¹³ and Slovenia had adopted on a temporary base. As permitted by the Schengen Borders Code, border controls between Schengen countries can be reintroduced for a maximum of two years in emergency situations. The number of states that temporarily reintroduced control at their internal borders grew to eight in the months from September to May 2016. On May 4, the European Commission approved extending these controls by six months on account of deficiencies in Greece’s management of its external border.

The reason for reintroducing control was to contain the *large influx of persons* into the region. It is certain the governments acted to contain the local effect of the persisting inflows of migrants at the EU external borders. Since the collective management strategy failed to deliver the expected results, individual MSs managed the threat by their own means and –as a result of inactive collective management measures – offloaded the consequent effects onto neighbouring states.

The ‘Fencing Europe’ scenario assessed

The EU governments together with the Commission decided to fence Europe and called for the countries of transit to gather refugees and migrants in camps in their own territories and

emergency situations; (f) providing for a mandatory pooling of human resources by establishing a rapid reserve pool of at least 1500 border guards; (g) organising, coordinating and conducting return operations and interventions (establishing a Return Office within the Agency); and (h) promoting cooperation with third countries, by coordinating operational cooperation between them and member states on border management.

¹³ On 17 February 2016, the Austrian government announced it would set a daily cap of 80 claims of asylum in the country. It also said it would grant entry to a daily maximum of 3,200 people who were transiting Austria to seek asylum in a neighbouring country.

countries of origin to tighten up border control measures to block the exit of potential migrants. They wanted potential migrants to remain in their own country no matter what pushed them to leave their home in order to minimise the crisis. The Conclusion of the Council meeting of 9 November reveals that these were leaders' expectations¹⁴. Seven months later, the appeal made in Athens on 3 March 2016 by Council President Donald Tusk to migrants restated these expectations¹⁵. But fencing the EU with no change in the visa, asylum, and immigration policies did not discourage migrants from seeking illegal paths into the EU. Additionally, it closed doors to those people in need of international protection. Moreover, it encouraged strong anti-foreigner and xenophobic feelings among Europeans.

¹⁴ In the Conclusion of the Council meeting of 9 November on the “*Measures to handle the refugee and migration crisis*”, the ministers of the MSs governments asked to define, as a matter of urgency, a common information strategy addressed to asylum seekers, migrants, smugglers and traffickers aiming at (1) discouraging migrants to embark on perilous journey and to have recourse to smugglers, (2) explaining how EU rules on the management of external borders and international protection operate, including resettlement, relocation and return, (3) disseminating counter-narratives to the ones being used by the traffickers and smugglers of migrants, (4) informing about criminal prosecutions against traffickers and smugglers and (5) informing about return operations. As part of an information strategy geared at reducing pull factors, it should be clearly explained that migrants must register in their first Member State of arrival; that, under EU law, asylum seekers have no right to choose the Member State responsible for examining their application; and that migrants without a need of protection will be swiftly returned. Furthermore, a clear message should be passed that migrants cannot refuse to cooperate with the relevant national authorities.

¹⁵ After talks in Athens with Prime Minister Alexis Tsipras, Tusk told economic migrants “*I want to appeal to all potential illegal economic migrants wherever you are from: Do not come to Europe*”. “*Do not believe the smugglers. Do not risk your lives and your money. It is all for nothing. Greece or any other European country will no longer be a transit country*”.

4. Conclusions

Migration experts and international agencies do not doubt that there are consistent migratory pressures in present times and thus effective management strategies are urgently required. Geographical proximity to the areas of outflow places the burden of leadership on European states with regards to the development of effective response strategies. But, the EU leaders were late in detecting the characteristics of the phenomenon and preparing a shared response strategy to threats that were apparent to many Europeans for a long time.

In the last five years, the EU and its MSs did not stand firm with regard to the implementation of the common management measures that they had difficulty coming to a consensus about in the first place. They began by responding to the crisis with conventional tools to a phenomenon that they represented as an exceptional case of irregular migration, then went on to officially recognize its mixed nature (humanitarian and migratory) and the need to initiate a comprehensive approach. This perspective denigrated into the haphazard reaction of passing the burden onto one another and accusing each other of double-dealing until they finally resolved to block their borders to all migrants. Moreover, the EU leaders also decided on measures to be enacted and implemented by governments of third countries who only loosely share the EU's management strategy and hardly comply with it in full.

Finally, after such a long time of MS entrenchment into the nation-state, its political and economic interests; the EU is neither able to intervene with the robust diplomacy and security power necessary to contain the conflicts that fuel migration, nor to bring into play the economic power that is required to address the unemployment problems in poorer countries.

European leaders have to admit to their citizens that they are challenged with having to face the combined effects of demographic change, population mobility, and lack of economic opportunities to a substantial number of people – even those outside of the region. In line with global trends, they have to formulate new policies for matching domestic normalcy with the burden of receiving third country nationals which the citizenry must accept. As experts suggest, *‘Political and institutional representatives need to invest more time in exploring how to explain complex*

policy responses in non-technocratic language, highlighting that solutions exist, however complicated, and that they are underpinned by different world views and principles to those advocated by populists. To do so, policy solutions need to be explained and their practical application needs to be communicated, using fact-based arguments linked to a broader vision that provides a sense of direction.’ (Balfour, 2016: 55).

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