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Solidarity Challenges in EU Refugee Policymaking: A Comparison of the Yugoslav, Syrian, and Ukrainian Crises

KEY MESSAGES

- **Refugee protection in Europe is characterized by free-riding and a highly inequitable distribution of responsibilities across EU member states**
- **Refugee protection as a public good suffers from collective action challenges that have contributed to the under-provision of refugee protection willingness**
- **Protection inequities have persisted over the past 30 years and across the three largest refugee crises despite EU solidarity initiatives**
- **The effectiveness of such initiatives has remained limited as the EU has struggled to develop policies that go beyond voluntary (and often symbolic) responsibility sharing initiatives**
- **To become more effective in addressing refugee disparities, the EU should seek to develop more substantive (market-based and mandatory) solidarity initiatives than it does in its recently adopted European Pact on Migration and Asylum**

There have been long-standing debates around solidarity, responsibility, and burden sharing in the debates on refugee protection in Europe (Thielemann 2018; Hatton 2016; Bansak et al. 2017). It is widely recognized that the unequal distribution of refugee responsibilities is unfair to many countries. Such inequalities are also unlikely to be sustainable politically, especially in a regional governance regime like the EU that sees itself as an aspiring political community. Inequalities can be expected to cause diplomatic fallout and are likely to further undermine the protection willingness of countries.

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Unequal distributions of refugee responsibilities are of course not much of a problem as long as responsibilities are distributed based on the relative size and capacity of states. However, an empirical analysis of Europe's three main refugee crises since the fall of the iron curtain in 1989 suggests that responsibilities are not at all shared fairly in line with capacity. This raises a number of questions: Why has the distribution of refugees become and remained so unequal? Has this been by coincidence or by design? What kind of EU policies aimed to address disparities can we expect to reduce the unfair distribution of responsibilities and help to better protect those seeking protection in Europe?

To address these questions, this paper investigates what responsibility sharing policies the EU has adopted and examines the degree of convergence achieved since the adoption of such policies. It does so by studying how disparities have evolved in the EU during the three largest refugee crises of the past 30 years (Yugoslavia, Syria, Ukraine) when several new EU solidarity instruments have been developed and asks whether there is evidence of reduced disparities over time. Ultimately, the paper asks what lessons can be learnt from such an analysis and how much confidence one should have that recently adopted EU policies will be more effective in addressing the solidarity and collective action challenges that the EU's asylum and refugee regime is faced with.

WHY SUCH UNEQUAL DISTRIBUTION?

For attempts to conceptualize explanations about the distribution of refugee responsibilities, a useful starting point is an analysis of factors that can be expected to have an influence on the relative attractiveness of destination countries. Here, a distinction is often made between structural and policy-related factors (Thielemann 2006). Structural pull factors refer to the influence of factors such as geography, the economy/ labor market, or historic ties (Ranis and Fei 1961; Massey et al. 1993). Policy-related pull factors are those that relate to policy differentials between potential host countries. States often restrict access to asylum seekers and view asylum responsibilities as "zero sum," expecting that raising restrictions will lower burdens in one country but result in higher responsibilities for other countries. National policymakers will therefore attempt to use restrictive migration policy instruments (engage in regulatory competition) to make sure that their country will not be seen as a "soft touch," i. e., they will seek to limit their country's relative attractiveness as a destination country

through restrictive policies that often contribute to the unequal distribution of protection seekers across countries.

Another set of academic literature seeks to explain the relative distribution of refugee responsibilities with reference to the research on public goods, collective action problems, and free-riding dynamics (Suhrke 1998; Barutciski and Suhrke 2001; Betts 2003; Thielemann and Dewan 2006).

The principal theoretical expectations stemming from these characteristics are not related just to free-riding incentives but also to the under-provision of public goods (Olson and Zeckhauser 1966). Given the "non-excludability characteristics" of public goods, i. e., the fact that non-providers cannot easily be excluded from consuming, countries have an incentive to rely on "positive spill-ins" of goods that are being contributed to by others. In doing so, they conceal their true preferences for the particular good in question in the hope of being able to free-ride on the efforts of others. Public goods are therefore expected to be provided at inefficient or suboptimal levels.

To overcome collective actions, problems, and concerns about free-riding, the public goods literature suggests that there is a need for effective cooperation and substantive (rather than merely symbolic) solidarity among states. It can be easy to agree that there is a need for cooperation, while remaining vague about what kind of international cooperation one is referring to. Clearly, symbolic solidarity measures are insufficient and do not satisfy the requirement for what might be called "substantive cooperation" that the public goods literature is calling for in order to effectively address free-riding problems and concerns about the under-provision of public goods.

When analyzing EU cooperation in this area, it is useful to distinguish between three types of solidarity measures that focus on responsibility allocation rules for displaced persons. Those are: (1) solidarity measures that are based on market mechanisms, (2) solidarity initiatives that operate on the basis of voluntary contributions, and (3) solidarity actions that work through the sharing of mandatory commitments.

Responsibility-sharing through market mechanisms is based on the idea of refugee choice. One can conceptualize a market of protection opportunities across different countries, with displaced persons being the ones who choose which country they want to seek protection in. Such market-based approaches are often combined with a system of harmonized (minimum) protection standards that seeks to minimize the risks of regulatory competition and burden-shifting. Solidarity measures that are based on voluntary responsibility-sharing instruments are measures that allow, encourage, or cajole states to take on additional responsibilities. The motivation for such voluntary contributions (pledges of support for other countries) can range from altruism, to expectations about future quid pro quo actions, to reputational blackmail (by "naming and shaming" those that do less than their fair share). Solidarity initiatives that are based on a mandatory contribution logic often adopt a quota-based approach that takes the relative capacities of contributors into account. Mandatory solidarity measures can be expected to be more effective in addressing free-riding concerns as long as a political commitment can be found to adopt and implement such initiatives in the context of what some might regard as a threat to national sovereignty.

Attempts to create a common European asylum and refugee system have included all three types of solidarity approaches (sometimes in combination). The analysis below will show that while EU policies have started to include some market-based and mandatory elements, the voluntary solidarity logic has dominated, calling into question the EU's ability and/or commitment to adopt substantive (rather than just symbolic) cooperation measures.

THE EVOLUTION OF EU SOLIDARITY POLICIES

The first discussions about European solidarity in the context of attempts to create the common European asylum system go back to the mid-1980s when the Dublin Convention was negotiated. It took until 1997 for that Convention to come into effect. This meant that at the time of the collapse of the Soviet Union and the outbreak of civil war in the former Yugoslavia, no European legal framework on the allocation of asylum responsibilities was in operation. During the Yugoslav crisis, it was market mechanisms that dominated as states' protection responsibilities arose through the choices of individuals fleeing the war. At the time, economic, historical, and geographic pull factors in particular made asylum seekers choose Germany in the largest numbers.

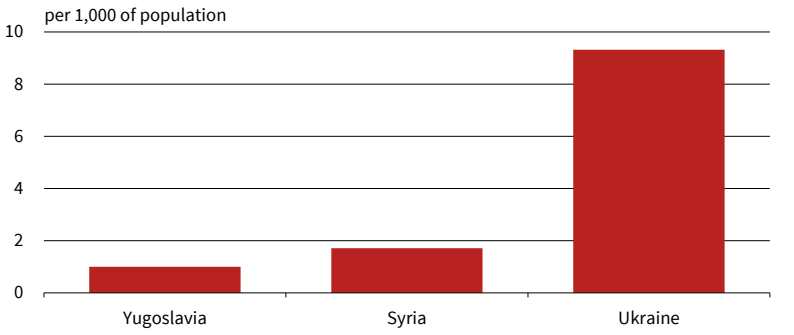
In response to the Yugoslav refugee crisis, the EU adopted the Temporary Protection Directive. This was after rejecting an earlier German proposal for an EU-wide mandatory capacity-based quota system for the allocation of asylum seekers. The Temporary Protection Directive (adopted in 2001) provided for the institutionalization of the market solidarity approach under EU law. It also foresaw the possibility of member states making voluntary solidarity pledges of support to those member states particularly affected by a "mass influx" of asylum seekers. Curiously, the Temporary Protection Directive was not put into effect until the Russian invasion of Ukraine in 2022.

In essence, this meant that until the Ukrainian crisis the "Dublin system" remained the legal framework responsible for the allocation of asylum responsibilities among the EU member states. Under Dublin rules, responsibility allocation is primarily based on the "country of first entry" principle. This principle stipulates that the member state through which an asylum seeker first arrives in the EU is the country deemed responsible for that individual's asylum claim.

However, despite the fact that Dublin rules remained central from a legal perspective, de facto responsibility allocation during the Syrian refugee crisis was largely determined by the choices of asylum seekers, even when these choices were constrained. While, in principle, Dublin rules legally prohibited "secondary movements" of asylum seekers arriving in Europe beyond the country of first entry, de facto onward movements were very frequent and "Dublin returns" by other member states to the country of first entry were rare. This meant that despite Dublin rules, market solidarity mechanisms continued to play a significant role during the Syrian refugee crisis.

Figure 1

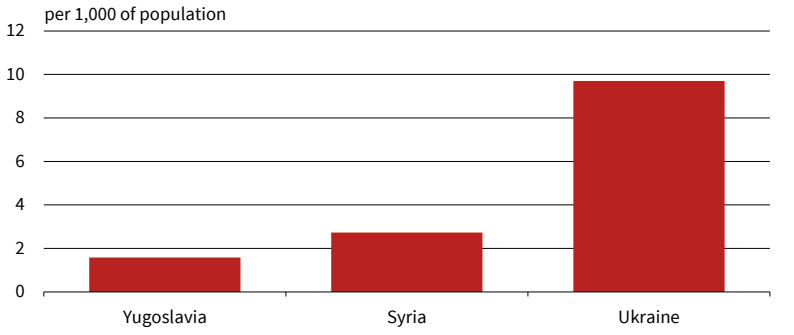
Average Relative Number of Protection Seekers in EU Countries across Three Refugee Crises, 1990–2024



Source: EUROSTAT; author's calculations. © ifo Institute

Figure 2

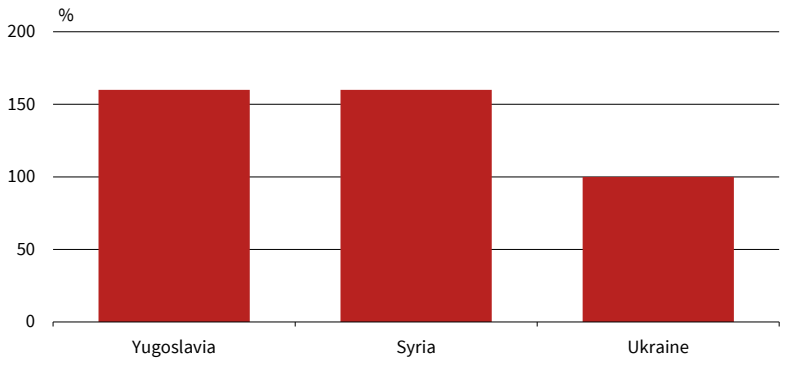
Standard Deviation of Relative Asylum and Temporary Protection Applications in Europe across Three Refugee Crises, 1990–2024



Source: EUROSTAT; author's calculations. © ifo Institute

Figure 3

Coefficient of Variation in Protection across Three Refugee Crises, 1990–2024



Source: EUROSTAT; author's calculations. © ifo Institute

The Syrian crisis also led the EU to develop its first major policy that was explicitly based on the principle of mandatory solidarity, aimed at relocating up to 160,000 asylum seekers from Greece and Italy to other parts of the EU based on a capacity-based quota arrangement. The political opposition to this scheme (especially in Eastern Europe) was extensive and its implementation remained very poor. Subsequent attempts to establish a permanent mechanism of mandatory solidarity failed as the Commission's Dublin+ (or Dublin IV) proposal, while supported by the European Parliament, never received the necessary support in the EU Council.

Instead, the von der Leyen Commission put forward proposals for a new "Pact on Migration and Asylum" in September 2020. Central to the Pact is the goal to create a fairer, more efficient, and more sustainable migration and asylum process. To achieve that, the Pact entails a wide range of measures under the label of "flexible and mandatory solidarity." The Pact's solidarity provisions set out a multi-stage responsibility allocation process. Initially, under the new rules, responsibility is assigned based on entry in a similar way to the old Dublin provisions, but with more explicit elements that invite member states to make voluntary contribution offers to help other member states who are facing higher responsibilities. If such spontaneous offers are deemed insufficient, the Commission can then set capacity-based targets for each member state, with the aim to spur (still voluntary) offers of support to other states. In a final stage, the EU may adopt a mandatory correction mechanism for the relocation of protection seekers. Therefore, while the Pact includes a potential mandatory solidarity mechanism (which will be very hard to implement), it is only the final step of a multi-step system that continues to be dominated by a voluntary solidarity logic.

The new Pact had not been adopted and was not yet in force in 2022 when Russia invaded Ukraine. Instead of returning to initiatives for mandatory solidarity undertaken during the Syrian war, the EU decided to respond to the Ukrainian refugee crisis by putting market solidarity (free choice) mechanisms at the heart of its response. It did so by activating the EU's Temporary Protection Directive for the very first time since its adoption in 2001. As a result, Ukrainians fleeing conflict (unlike Syrians and others) were given the right to freely choose the EU member state responsible for their protection. As the Temporary Protection Directive also went a long way toward harmonizing the rights of beneficiaries of temporary protection, the EU's response to the Ukrainian crisis was perhaps the clearest example yet of the EU opting for an approach based on the "free choice" of protection seekers and principles of "market solidarity."

Ultimately the analysis of EU policies indicates that while there have been some attempts of introducing alternative instruments, EU policies to date

suggest that the EU struggles to move beyond voluntary solidarity mechanisms when trying to address concerns about the unequal distribution of responsibilities. In other words, the EU has found it difficult to adopt the kind of deep cooperation mechanisms that go beyond symbolic solidarity.

PROTECTION RESPONSIBILITIES IN EUROPE – HOW UNEQUAL?

An empirical analysis of EUROSTAT data on protection disparities across the Yugoslav, Syrian, and Ukrainian refugee crises (1990–2022) shows that despite EU solidarity initiatives, disparities in refugee responsibilities have persisted while responsibilities have increased.

First, while Europe's responsibilities for asylum seekers and refugees have remained comparatively low when contrasted to some of the main host countries for refugees in the Global South, there is clear evidence that EU member states' relative responsibilities have increased (see Figure 1).

Second, the data suggests not only higher responsibilities for EU member states over time on aggregate but also that the distribution of refugee responsibilities among EU member states over the past three decades has remained highly unequal. In other words, despite the policy interventions undertaken by the EU and its member states that have aimed to enhance solidarity and reduce unfair disparities in the distribution of responsibilities, the distribution of protection seekers has remained highly unequal and inequitable. A useful way to compare (relative) disparities in responsibilities over time across the EU is to compare the standard deviation of relative responsibilities across the three crises of displacement (see Figure 2).

To enable an even more meaningful comparison of the extent of disparities observed across the three crises, it is useful to refer to the coefficient of variation for each crisis (standard deviation divided by the mean) (see Figure 3).

This analysis demonstrates that while responsibilities have been highest during the Ukraine crisis, the disparities in the distribution of such responsibilities has been lower during the Ukrainian crisis than in the two earlier displacements. This suggests that policies based on market solidarity mechanisms and refugee choice can produce fairer distributional results than one might expect.

POLICY CONCLUSIONS

It has been shown that the three solidarity logics (market, voluntary, and mandatory solidarity) discussed in this paper can be expected to have very different distributional consequences. They can also be expected to affect the rights of states and refugees in very different ways, hence raising solidarity dilemmas in refugee policymaking that have proven difficult to resolve. A market solidarity (free choice) logic maximizes the rights of refugees by allowing them to choose their preferred host country, but risks ignoring the concerns of host states and their citizens while potentially also leading to highly inequitable outcomes. The logic of voluntary solidarity maximizes state sovereignty, but it is unlikely to effectively address concerns about free-riding and the under-provision of refugee protection. Mandatory solidarity might be expected to lead to the fairest distributional outcomes, but its logic is often regarded as a threat to national sovereignty and democratic legitimacy. Mandatory solidarity measures have also been accused of ignoring the preferences and/or rights of protection seekers in the relocation process. Empirically, this paper has shown that EU asylum policies over the past three decades have been dominated by a voluntary solidarity logic. It is therefore not surprising that the unequal distribution of protection responsibilities has persisted and sometimes been reinforced rather than effectively addressed by EU policies. The challenge for future policymaking in the EU is to find answers to the question of how best to address the solidarity dilemmas that have prevented policymakers from moving beyond voluntary solidarity measures. The answers provided in the recently adopted European Pact for Asylum and Migration are clearly insufficient.

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