Integrative Organized Hypocrisy? Normative Contentions within the EU and the Refugee Migrant Crisis

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In 2015 and 2016, 2.3 million individuals applied for asylum in Europe, the highest number since the creation of the EU. The unprecedented strain on the Common European Asylum policies (CEAS), along with the asymmetric pressure on external border countries and the lack of unified support for border controls, highlighted the tensions between member-state sovereignty and regional competence. According to Lavenex (2018), the Refugee and Migrant Crisis (RMC) was first and foremost a crisis of governance, expressing doubts about the EU's ability to "fail forward" into further integration in the long-run because of "organised hypocrisy", an unintended organisational strategy deployed to cope with otherwise irreconcilable differences between normative aspirations and real-life actions concerning asylum. This article revisits Lavenex's premise of European governance and organised hypocrisy and argues for a more optimistic outlook on European integration. Using the infrastructural Europeanism framework as identified by Pelizza and Loschi (2023), this article argues that despite the legal and legislative gridlocks that surround important issues such as asylum, European integration in relation to asylum is 'failing forward' in no small part due to organised hypocrisy and not in spite of it.

Introduction

The Refugee and Migrant Crisis (RMC) in Europe—variously known as the Refugee Crisis, the Migrant Crisis, or the Migration Crisis—refers to a period in 2015 and 2016 when human migration from Asia and Africa toward Europe was at the fore of local and international debates. The world became captivated in April 2015 after five boats sank in the Mediterranean Sea, resulting in the loss of 2,000 lives. This period arguably ended with the EU–Turkey refugee-return agreement of March 2016, when Europe agreed to pay Turkey six billion euros in exchange for restricting the number of migrants crossing into Europe (Papademetriou 2017). Ultimately, the RMC led to regional and national debates vis-à-vis immigration, identity, and security in many parts of the world, most of which are ongoing (Papademetriou 2017; Lavenex 2018).

In 2015 and 2016, 2.3 million undocumented individuals were found to be in Europe, the highest number in decades (European Parliament 2017). These numbers contrast with those of the five years prior (2010 to 2014) and after (2017 to 2021), which averaged to 141,000 and 164,000 individuals respectively (Statista Research Department 2023a). For some of Europe's—and notably the EU's—portal countries, such as Greece, Italy, and Hungary, gaining thousands of incomers daily while in the midst of administrating those already present pushed their capacities to the breaking point. In addition, there were an estimated 4,000 to 5,000 deaths (respectively) in the Mediterranean linked with this increase in human mobility (Statista Research Department 2023b). In many ways, these were atypical and trying times for many, yet labelling the European

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experience as a "crisis" is hyperbolic. While sensitive to the concerns of all individuals and communities involved, one must be wary of over-sensationalizing the RMC. Doing so stigmatizes the individuals involved by rendering them as mere statistics to be handled or threats to be withstood while also setting an alarmist and politicizing tone that fosters emotionally charged responses (Krzyżanowski *et al.* 2018). The influx in 2015 and 2016 accounted for merely 0.2 percent of the EU's 510 million population and primarily affected six member states, leaving the others largely unaffected (Lavenex 2018, 1196). For most Europeans, the RMC was first and foremost a perception of events rather than an experience of events, quite removed from the actual experience of the migrants or asylum seekers (Krzyżanowski *et al.* 2018; Wallace 2018), leaving some like Lavenex (2018, 1196) to argue that it was primarily a crisis of governance, one that had been anticipated years prior and yet remains unresolved to this day.

In her 2018 article "'Failing Forward' Towards which Europe? Organised Hypocrisy in the Common European Asylum System", Lavenex detailed how the RMC as a crisis of governance was emblematic of a growing dissociation between the EU's normative aspirations and the practical limits imposed by its political and institutional structures. This is an instance of "failing forward" (Jones *et al.* 2016), referring to a cyclical dynamic of European integration in which member states agree to lowest-common-denominator solutions and/or incomplete bargains which prove inadequate and, consequentially, hold the potential for crisis. These crises, in turn, generate new lowest-common-denominator solutions which lead to the next incomplete agreement, thereby moving Europe 'forward' in incremental, limited steps. The Union's approaches to asylum, Lavenex argues, have been a continuous de-coupling of protective (rights-enhancing) aspirations and protectionist (access-reducing) policies, leaving the protective aspects to the discretion of member states. As a result, Lavenex likened the lack of coherent internal responses to the influx of asylum requests in the EU and the subsequent externalisation of RMC responses onto foreign powers to an "organised hypocrisy" (Lavenex 2018, 1196, citing Brunsson 1989 for the concept), that is, "an unconscious organisational strategy to cope with irreconcilable differences" (Lavenex 2018, 1196). In doing so, Lavenex questions member states' abilities to bridge normative expectations with political action, ultimately shedding doubt on the EU's ability to not only 'fail forward' towards a common European policy on asylum, but also to maintain its long-term credibility as an international actor (2018, 1208).

Nearly a decade since the RMC and half a decade since Lavenex (2018) published her premise about European governance and organised hypocrisy, this article argues for a more optimistic outlook on European integration by demonstrating how attempts towards a common approach to asylum have resulted in additional integration, especially when integration is understood holistically. Using the infrastructural Europeanism framework as identified by Pelizza and Loschi (2023), this article argues that despite the legal and legislative gridlocks that surround important issues such as asylum, European integration in relation to asylum can be viewed as 'failing forward' in no small part thanks to organised hypocrisy and not in spite of it. Methodologically, the information and arguments presented in this article build upon existing academic literature and official European documentation linking European integration and the CEAS, using the RMC as a case study of a time of heightened sensitivity towards transnational human migration and political upheaval.

The article is divided into four parts. The first part looks into how the RMC exposed the cleavage between theory and practice surrounding asylum, despite already having a system specifically designed to tackle the issue. The second part builds upon Lavenex's work, demonstrating how and why EU member states turned to a form of organised hypocrisy when faced with the unusually high influx of 2015 and 2016. The third section follows a similar logic as the second but focuses on asylum-related, EU-level developments since the RMC. The fourth and concluding part of this article presents methods of rethinking regional integration that demonstrate how organised hypocrisy is not a sign of cooperative failure, but that it is instead working to facilitate the EU's 'failing forward' towards regional cohesion using the infrastructural Europeanism framework as identified by Pelizza and Loschi (2023). While EU member states have yet to consolidate solutions to the systemic discrepancies brought to light by the RMC, this article identifies reasons for optimism about more effective and cooperative responses to future largescale influxes of migrants to the European continent .

The EU, the CEAS, and the RMC

EU member states and many other countries have established their asylum policy based on the 1951 Geneva Convention on the Protection of Refugees, the European 1967 Protocol Relating to the Status of Refugees, and other human rights conventions, such as the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Covenant on Civil and Political Rights (Upadhyay 2016). Following the adoption of the Schengen Agreement in 1985 and the 2004 Amsterdam Treaty, the post-Cold War EU undertook the harmonisation of national refugee and asylum laws amongst its member states to handle a small number of refugees and migrants from Eastern to Western Europe. This endeavour led to the creation of the Common European Asylum System (CEAS) between 1999 and 2005, establishing a joint system and common standards to process asylum applications as well as intra-state financial solidarity to shoulder refugee protection (Migration and Home Affairs n.d).

Furthermore, the Dublin rule is an important aspect of the CEAS. In combination with the Schengen Agreement and the Treaty of the Functioning of the European Union, the Dublin rule provides both joint and individual provisions and guidelines for dealing with an influx on a theoretical level. The Dublin space consists of 28 EU member states, plus Iceland, Norway, Liechtenstein, and Switzerland. It establishes that the member state responsible for asylum applications is the first country in which the asylee first enters EU territory. The Dublin system was devised to eliminate confusion and potential contentions relating to asylum processing in and between member states. Discussions about asylum standards and procedures began as early as 2001 with the adoption of the Temporary Protection Directive, introducing a scheme for voluntary burden-sharing in situations of mass influx. Common standards were adopted at a later time, first through 'minimum standards directives' on asylum procedures, reception conditions, and status determination between 2003 and 2005 (Heijer *et al.* 2016; Slominski & Trauner 2018), followed by their recast into 'common standards' between 2011 and 2014. However, the recast remained relatively vague and anchored in sovereign power, leaving much of their application to the discretion of ratifying member states (Trauner 2016).

The Dublin system was constructed on the presumption that ratifying states maintained the same definitions of refugeehood, as well as comparable procedures of asylum-seeker administration—thereby negating the need for a more defined policy or discussions on its underlying values (Lavenex & Wagner 2007; Lavenex 2018). The right to asylum is informed by the supposed universal logic of human rights to life and protection, to which most states adhere through international conventions. Even so, member states were found to differ greatly in both reception conditions and recognition practices for asylum seekers, irrespective of the legislative attempts to reform and a presumed ideological conformity (Scipioni 2018; Lavenex 2018). From an operational standpoint, Lahusen and Wacker (2019, 154) refer to the Dublin system as a European administrative field, enforcing a system of mutual exchanges, joint working conditions, and an interdependent division of labour. While abiding states retain the sovereign right to control their borders and decide who may enter their territory, they must also live up to EU laws and international conventions. In practice, however, the system fails to consider a member state's particularities, which include administrative capacities, notions of territorial security, and political disposition. It is organised in a way that individual member states' compliance with its regulations is strongly impacted by not only each other's bureaucracies and their abilities, but also—and most importantly—their willingness.

The RMC highlighted the systemic inequities and inefficiencies of the CEAS and the Dublin system, demonstrating a cleavage between the normative, protective aspirations and the existing protectionist practice adopted by member states vis-à-vis the RMC and asylum in general. Said cleavage was already established prior to 2015. Indeed, according to Scipioni, the RMC was "years in the making" and "more than a simple accident", as the CEAS advanced cooperation with incomplete, lowest-common-denominator agreements with respect to emergency measures, thereby creating the conditions for failure (2018, 1357, 1363).

In 2011, the EU Court of Justice ruled its migration regulatory bodies (including the CEAS and the Dublin rule) dysfunctional and insufficient (Genschel & Jachtenfuchs 2013; Lavenex 2018). Critics, such as Pries, called the inherent systemic inequality and the resulting non-compliance the consequence of "a mechanism of organised non-responsibility" between member states (2020).

The 'first country of entry' clause, for example, results in portal countries, usually either Italy or Greece, receiving significantly higher levels of asylum requests than other EU countries, creating uneven bureaucratic and financial pressure due to geographic positioning (Heijer *et al.* 2016; Zaun 2017). As described by Thielemann and Armstrong (2013), the CEAS and the Dublin system, in general, are based on a "responsibility principle" rather than a "capacity principle", making member states responsible for the asylum seekers they let into their—and therefore the Schengen—territory. Consequently, as the reception and protection of applicants are viewed as a burden on receiving countries due to financial, administrative, social, and political implications, it has rendered the registrations of asylum hopefuls to be viewed as an encumbrance (Wagner *et al.* 2019). It is documented that asylum hopefuls sought to bypass the 'first country of entry clause' as knowledge spread of portal countries overloading with asylum cases, attempting instead to register in another 'more desirable' country (Wagner *et al.* 2019; Juhász *et al.* 2015, 6; Niemann & Zaun 2018, 4). The practice colloquially known as 'asylum shopping' has been encouraged by some EU member states, at times actively refusing to register asylum claims or encouraging individuals to transit through their country in stark violation of international and European law (Human Rights Watch 2020).

It deserves clarification that neither the CEAS nor the EU at large have formal responsibility towards—or means of exerting pressure on—the elaboration of policies surrounding the integration of immigrants into member state societies; that much falls under the prerogative of state sovereignty. Legislation surrounding migration and asylum stand distinct from those concerning integration into the receiving state. At most, EU institutions may be utilised to discuss and, in turn, encourage preferred strategies to 'welcome' newcomers (Adam & Caponio 2018; Borevi 2022). That being said, some authors denote a certain' level

of convergence on national policies between member states, a shift they attribute to regional integration (i.e., Europeanisation); see for example Block and Bonjour (2013) and Kaunert and Léonard (2012). During the RMC, Borevi (2022) found that states altered their procedures to either incite or deter immigration; indeed, should one member state provide conditions viewed as more "welcoming" than its counterparts, it is thought to "furnish potential immigrants with an incentive to choose that particular country as their destination" (211). It follows the dual-functionality of civic integration, in which strict conditionality and selectivity promote both immigration control and facilitate integration (Goodman 2014). Divergences between Sweden's 2015 and 2016 immigration regimes are a prime example. Initially a favored destination for asylum seekers, it hardened its position in the latter year to give itself "time to breathe" (Stern 2017, 7) and to avoid being "an asylum magnet" (Borevi 2022, 212). Following a similar logic, many other member states adopted stricter measures to dissuade the inflow of asylum seekers, such as: restricting family reunification, changing the safe third country list, switching from permanent to temporary protection, and even shortening the duration of residence permits (European Migration Network 2017).

Consequently, Lavenex (2018) argued that joint EU-level and state-level responses to the RMC were a failure of coordination and a crisis of governance, resulting in open discontent towards supranational politics and a divide in internal EU politics. The crisis of governance, as Lavenex established, stemmed from the EU member states' limited ability and even willingness to coordinate both state-level and regional RMC responses, not the least of which can be linked to migration being an increasingly contentious and politicized matter. Most notably, when faced with the unusually high influx in 2015 and 2016, member states were reluctant to abandon the 'responsibility principle' in favour of a 'capacity principle' set in the Dublin regulation, resulting in a push for the externalisation of responses outside of EU territorial boundaries.

Internal EU Responses to the RMC

As the capacities of portal countries were pushed to their breaking point with the high number of incomers, the CEAS and the Dublin system proved to be both inadequate and contentious (Roots 2016). The initial EU-level reactions to the RMC were ad hoc measures designed to ease the situation at the ports of entry, including failed relocation mechanisms and the establishment of asylum-processing 'hotspots' in Greece and Italy (European Commission 2016; Lavenex 2018). The erection of emergency 'hotspots' aimed to mitigate the geographic inequality of the Dublin system by strengthening the processing and containing capacities of portal EU countries. Between September 2015 and September 2017, they were set up to contribute to the temporary emergency relocation mechanisms that helped to transfer asylum-seekers from Greece and Italy to other member states (European Parliament Briefing 2020). It is worth mentioning that these hotspots were found to be not only violent and inadequate but also unsanitary, to the detriment of those dwelling in them (European Commission 2016).

The CEAS was ill-designed to redistribute asylum applications between member states, especially with these elevated numbers. To ease the burden of portal states, in April 2016, the European Commission proposed the Fairness Mechanism as a way to counter "organised non-responsibility" (Pries 2019) by urging the redistribution of pending asylum requests between member states according to countries' wealth and population sizes (European Parliament News 2023). The Mechanism would rely on an automated system that would record and track all asylum claims to EU member states and help determine each country's capacity to process the claims, ensuring that none would be under "disproportionate pressure" (European Commission 2016). It further stipulated that for any country deemed under too much pressure, additional asylum claims would be sent to other member states with a lesser "pressure quotient" or receive a financial "solidarity contribution" per applicant should the individual not be apt to move. Ultimately, the mechanism was never implemented. Its proposal met strong opposition from some member states, particularly Poland, Slovakia, Hungary, and the Czech Republic.

The Fairness Mechanism was the second attempt at reforming the CEAS, the first of which had meager success. On September 14, 2015, a year prior, the European Council adopted a plan to redistribute 160 thousand asylum seekers from Greece and Italy throughout the union over the next two years (Legislative Train 2023a). The plan was devised on the basis that member states would receive a quota of asylum seekers measured by 40 percent of the size of their population, 40 percent of their GDP, 10 percent of their past number of asylum applications, and 10 percent of their unemployment rate. In some cases, strong supporters of this quota initiative such as Germany, France, and the UK agreed to take on more to alleviate the burden of the RMC on the overwhelmed coastal countries (Upadhyay 2016, 12). Ultimately, however, the implementation of the initiative was met with staunch opposition, chiefly from the same four member states which would later oppose the Fairness Mechanism.

In both undertakings, their opposition was based on concerns surrounding notions of state sovereignty and control. Some member states, for example, viewed the burden of migration (asylum) as a zero-sum phenomenon, one that incited policymakers to promote stricter deterrence policies than those of neighbouring countries (Thielemann 2018, 71), ultimately creating

what Nikolic and Pevcin (2022, 250) called a race to the bottom. Slovakia and Poland, for example, announced they would solely relocate refugees of Christian faith within their sovereign territory, citing concerns about state security (Hughes 2016). Hungary and Slovakia, furthermore, filed a legal case against the quota plan in the European Court of Justice, stating that it was flawed on two premises: "that the adoption of the decision was vitiated by errors of a procedural nature or arising from the choice of an inappropriate legal basis", and "that the decision was neither a suitable response to the migrant crisis nor necessary for that purpose" (CJEU 2017). This lawsuit, while eventually dismissed by the European Court of Justice in September 2017, served to stall reform. Only two percent of the expected number of asylum seekers were relocated as of July 2017 (Scipioni 2018, 1368), and only Malta and Finland met their obligations towards Italy and Greece (Benková 2017). Hungary, Austria, and Poland, moreover, refused to follow both schemes while other countries such as the Czech Republic, Bulgaria, Croatia, and Slovakia joined the initial quota system to a limited degree (Benková 2017).

State-level Responses to the RMC

At state level, the challenges of responding to the RMC cohesively stemmed from—and resulted in—member states leaning towards the 're-nationalisation' of policies surrounding asylum and migration (Borevi 2022), not the least of which included the reintroduction of controls along internal Schengen borders. Postelnicescu (2016) stated that Europe, facing the RMC, was "at a crossroad, divided between the need to remain faithful to its core democratic values and freedoms, maintaining an area of freedom and justice and the need to protect its citizens against the new terrorism and the rise of nationalistic leaders and parties that require less Europe and more power back to the nation states" (203). No freedom, however, has since been more challenged by the migration influx than the freedom of movement within Europe's internal borders as established by the Schengen Agreement. According to the European Commission (n.d.), between September 2015 and December 2019, border controls have been reintroduced and prolonged almost 50 times (European Parliament 2016). Prior to the RMC, contrastingly, there had been only 36 cases of reintroduced border controls since 2006, most of which were linked to ensuring the safety of high-profile international meetings. Since then, however, the "serious threats [from the RMC and instances of terrorism] compelled some member states to prolong reintroduced border control several times until the exhaustion of the legal time frames", supported by Article 25 *et seq.* (European Parliament 2016). While discouraged, reintroducing border controls along internal Schengen borders remains within the rights of member states. Article 25 *et seq* (25 to 35) of the Schengen Borders Code provides these

sovereign member states with this possibility "in the event that a serious threat to public policy or internal security has been established" (European Commission n.d.). Making use of these articles is always meant to be a last resort, proportional, and, more importantly, short lived, a view reiterated in 2017 when the European Commission published a proposal for an amendment to the Schengen Borders Code giving Schengen states greater leeway when addressing threats to national security (European Commission 2017).

In relation to Central and Eastern European member states' unwillingness to partake in relocation efforts, moreover, there are two additional logics that deserve consideration. The first, as devised by Upadhyay (2016, 21), highlights internal cultural divisions between member states, in which former Soviet Bloc members are more culturally homogenous and therefore more reticent to take in migrants from foreign cultures and religions. In contrast, more immigration in Western European countries in the 20th and 21st centuries has made them more diverse and accustomed to other peoples. Upadhyay's premise is empirically supported by European statistics on foreign-born populations (OECD 2023). The second logic is linked to the 2014 Russian invasion of Crimea, which resulted in numerous Ukrainians claiming asylum in neighboring countries. High concentrations of Ukrainian refugees in Central and Eastern member states could partially explain their unwillingness in 2015 to host additional refugees. The argument, of course, could be seen as complementary to the initial ideo-sociological East–West divide argument, as Ukrainians would be perceived as culturally and racially akin to their host societies.

State-level contentions dissuading regional cooperation are highlighted during the RMC as human mobility moved to the fore of debates. In 2015, the continent was attending to the complexities of the increasingly frequent Islamist-linked terrorist attacks since 2006, the 2008 financial crisis, the Greek debt crisis of 2010, the Crimea/Ukraine crisis of 2014, as well as the rise of right-wing, nativist political parties agitating EU politics (European Union Agency for Law Enforcement Cooperation 2018). As Postelnicescu (2016) advances, by 2015, the EU was at a "crossroad" (203), divided between its ideals of freedom and justice on the one hand and the rise of nationalistic fervour and Euroscepticism on the other. While the EU faced the financial and debt crises through cooperation, the RMC resulted in state-level responses. Some EU member states, notably (but not exhaustively) Germany, Austria, France, Denmark, Sweden, Norway, and Hungary, chose to publicly move against EU regulations, reverting towards the state-level management of human flows and increasing border controls to varying degrees (Hauswedell 2018). Lehne (2018) called member states' inward responses to the RMC the result of a 'logic of renationalisation', combining xenophobia and identity politics to the detriment of regional collaboration.

By 2015, sensitivities towards foreigners, especially those of the Muslim faith, were heightened in most of Europe. The perception of asylum seekers involved in the RMC played a role in how they were welcomed by civil society and policymakers alike (European Social Survey 2017). In 80 percent of EU countries surveyed by the Pew Research Center in September 2016, respondents on the political right discursively associated refugees with security rather than a humanitarian cause (Poushter 2016). The threat perception stems from the origin of asylum seekers involved in the RMC, most of whom came from Muslim-majority countries, discursively associating them with ISIS and/or other Islamist terrorist groups. The characterisation of Muslims as terrorists invading the Western world, as rooted into the post-9/11 mainstream, is highly problematic for multiple reasons, perpetuating unfair and frankly unwarranted labels on the men and women who simply wish for a fresh start and harbor no ill-wishes unto their host societies. The narrative has been promoted by law enforcement organisations, such as Europol (2016) which states:

A real and imminent danger is the possibility of elements of the (Sunni Muslim) Syrian refugee diaspora becoming vulnerable to radicalisation once in Europe and being specifically targeted by Islamic extremist recruiters. It is believed that a number of jihadists are travelling through Europe for this purpose. According to unconfirmed information, German authorities were aware of around 300 recorded attempts made by jihadists to recruit refugees who were trying to enter Europe by April 2016 (9).

While one cannot say that the association of asylum seekers and terrorist aspirations has no basis *per se,* it is worth highlighting that it has been stretched and inflamed to the extent of fearmongering. An infamous example of this dates back to the November 13, 2015, Paris attacks, when a Syrian passport was found near the body of one of the aggressors (franceinfo 2016). While it would later become known that the passport had been stolen from a completely unrelated party—an asylum seeker who had arrived in Greece a few weeks earlier—the narrative remained (Kingsley 2016). It further entrenched the linkages between the threat of Islamic-extremist terrorism to the ongoing RMC (Farmer 2016). Islamophobia then becomes a form of "strategic opportunism" for anti-immigration and anti-integration parties, mobilising fear to justify both action and support all in the name of security and control (Postelnicescu 2016, 206). The 2016 Brexit referendum in the UK, for example, is said to have been predominantly driven by RMC-fueled fears over transnational migration and a desire to 'regain control' from the EU on corresponding policies (Clarke *et al.* 2017; Ford & Goodwin 2017; Prosser *et al.* 2016).

During the RMC, media and political rhetoric frequently focused on administrative and economic demands, as well as perceptions of refugee disingenuousness in their

claims (Wallace 2018). Studies have suggested that in a general sense, the 'mediatized' coverage of migration-related events is often overly negative (Wallace 2018; Krzyzanowski *et al.* 2018), with journalists, as Goís and Faraone (2018, 139) put it, "exploiting receiving societies' fears and ignorance in search of audiences and profit". The media has become a platform for the spread of "anxious politics" towards immigration (Albertson & Gadarian, 2015) which are chiefly constructed on fears and misinformation propagated by sensationalistic media and xenophobic rhetoric, infusing migration discourses with marked elements of security (Hier & Greenberg 2002; Goís & Faraone 2018).

Throughout 2015 and 2016, more specifically, the RMC was interchangeably referred to as the "refugee crisis" or the "migrant crisis". A study by Berry, Garcia-Blanco, and Moore (2015) on media coverage of the RMC demonstrated that European countries utilised different terminology when covering the same events. While the German and Swedish media referred to incomers as 'refugees' or 'asylum seekers', media in the UK and Italy used 'migrant', and in Spain, in turn, used 'immigrant'. The distinction between the terms implies certain assumptions that contribute to a range of framings from support and sympathy to rejection and threat. The term migrant, or economic migrant, implies that an individual aims to join the workforce of the receiving country to become a permanent member of the local society. These two elements, however, are not well received by those who are anxious that these economic migrants might 'steal' available jobs, impacting locals' chances of employment, but might also eventually come to "blemish" the local status quo with their own diverse cultures. By using these two terms interchangeably, the fear that stems from migrant arrivals is transferred to refugees, creating confusion and taking away attention from people who require and are entitled to legal protection (Krzyżanowski *et al.* 2018, 6). Aided by xenophobia, Islamophobia, and the willful or inadvertent muddling of terminology, right-leaning politicians were able to legitimise their discourse of fear and aid their anti-immigration positions. A few well-known examples of this are: Hungarian Prime Minister Victor Orbán referring to incomers as "Trojan horses of terrorism", French Presidential Candidate Marine Le Pen insinuating that the RMC was comparable to the "barbarian invasion" of the fourth century, former Polish Prime Minister Jarosław Kaczyński comparing the influx to "parasites and protozoa", and former British Prime Minister David Cameron comparing newcomers to Europe to a "swarm" of insects (Viktor 2015; LePoint 2015; Cienski 2015; BBC News 2015).

While suggestions for new asylum procedures seemed to polarise the continent between East/Central vs. West, it is apparent on the scale of state-level politics that this issue was just as divisive independently of their geographic position. As a result of what seemed like irreconcilable differences between member states

and substantial hindrances in coordinating cohesive institutional, regional solutions, there was a tendency to externalize the EU's responses to the RMC outside of the CEAS and Europe.

External EU Responses to the RMC

Accounting for nearly 30 percent of incomers (Eurostat 2015, 2016), the EU as a whole had taken in more Syrian refugees by 2018 than Australia, Canada, and the US combined (Lavenex 2018). In addition, the RMC generated some genuine humanitarian action from IOs, NGOs, and civilian groups alike (see for example Signe *et al.* 2016). It could even be argued that the sheer amount of coverage generated in social and traditional media has shed more light on the plight of asylum seekers than ever before, but each of those silver linings were met with considerable resistance. Indeed, it will remain unclear how many Syrians would have been taken in by EU member states had they not been forced to by their physical arrival. And while there was a great deal of solidarity demonstrated towards refugees throughout the RMC, public opinion polls in member states tended to lean towards a call for more humanitarian assistance, with the caveat that it did not occur in their own country (Lavenex 2018). Those humanitarian moments, moreover, were met with a multitude of policies criminalising giving help to refugees in hopes of deterring the 'flow' (Hayes & Barat 2017; Dearden 2016). As such, faced with the seemingly impossible task of not only fixing the internal system of refugee admission but also mustering support for a joint solution, the lion's share of EU initiatives in relation to the RMC resulted in the externalisation of its responses (Slominski & Trauner 2018; Lavenex 2018). Such externalisation carried one logic: reducing administrative pressure within the EU by preventing migrants from reaching Europe. It was performed in two ways, through the militarisation of the external borders of the Schengen zone and the incitement of non-European states along traditional RMC routes to withhold human mobility towards Europe.

Ensuring security and managing external border controls for the Schengen zone is a joint effort, as there are no permanent border controls between Schengen countries. While member states retain primary responsibility for their frontiers, Frontex was created in 2004 and granted limited powers and operational capacity regarding EU external borders, performing technical assistance, training, data collection, and risk analysis tasks (Segura 2016). It has since become a central point of contact, setting standards for all European border guards to share intelligence with all border authorities. Frontex does not have its own equipment nor its own border guards, relying instead on national EU countries resources. Throughout the RMC, more specifically, Frontex Joint Operation Triton in Italy and 'Frontex Joint Operation Poseidon in

Greece joined the deployment of Frontex Rapid Border Intervention teams in the Aegean which helped save more than 400,000 people in 2015 and nearly 100,000 in 2016 (Council of the European Union 2023). Other EU Agencies, such as Europol Eurojust, have similarly scaled up their operations (European Commission 2016). In June of 2015, Triton joined forces with the Common Security and Defence Policy (CSDP) military operation EU Naval Force Mediterranean (EUNAVFOR Med) 'Sophia', targeting smuggling networks and consequently irregular migration (European External Action Service 2017a; 2017b). Moreover, to curb human smuggling and irregular mobility outside of the designated hotspots, an agreement was struck on the strengthening of external EU border patrolling, resulting in the creation of the European Border and Coast Guard Agency (the successor of Frontex) with additional competences (Segura 2016). Apart from a new name, the new guard was given more money, equipment, staff, and responsibilities in border management and in return operations. The development came after portal countries like Italy and Greece complained of the systemic inequality created by the Dublin system (Segura 2016).

By February 2016, international pressure to respond to the RMC became so insistent that the EU turned to NATO to assist with the crisis. NATO's role was to provide support in international efforts to curb trafficking and undocumented migration in the Aegean Sea, working closely with Greek and Turkish coastguards as well as other national authorities (Stoltenberg 2016). They acted via a Standing Maritime Group in collaboration with Canada, Germany, Greece, and Turkey.

All militarised efforts aimed to prevent migrants from reaching Europe entirely, while policy initiatives in collaboration with non-European member states were more subtle. A communal Safe Third Country list, for example, was suggested in May 2015. While ratifying EU members pledged to help those needing protection, each abided by their own list of safe countries. It should be noted that the concept of the Safe Country of Origin is different from that of the Safe Third Country; the first one describes a country in which its citizens do not face persecution and are therefore not legally entitled to asylum elsewhere, and the second one refers to host countries deemed safe enough for asylum seekers to make their claim and remain. The Safe Third Country concept is mainly used to rule about the admissibility of an asylum application, given that the asylum seeker could have presented the request in some other country, and to systemise the return process of those who may be accused of the aforementioned 'asylum shopping'. The main purpose of this list was to prevent abuses of the EU and national asylum system and "support the swift processing of asylum applications from countries designated as safe" (Benvenuti 2016). Unfortunately, however, similarly to the relocation quota and the Fairness Mechanism, the idea of the common

Safe County of Origin list was dropped following futile discussions over which countries should be included. Since then, EU member states have turned inwards and returned to their pre-existing lists, creating difficulties under the shared Dublin System over what is considered a valid asylum claim.

In attempts to mitigate migration to European soil altogether, the EU took steps to spur third-party states to stem the human flows. In June 2015, in an attempt to curb the migrant flow from Libya to Italy and the precarious smuggling practices associated with the route, the EU made a deal with Libya. The deal aimed to establish 'safe' refugee camps within Libya, repatriate refugees who are willing to return to their countries of origin, boost training and equipment to Libya's struggling coastguard, and become more involved with neighboring nations of Algeria, Tunisia, and Egypt to contain flows of migrants (Karakoulaki 2018). With conditions being too dangerous on the ground, the EU–Libya deal, while funded by the EU, was implemented by locals with the help of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM). Similarly, in March 2016, the EU struck a deal with Turkey, known colloquially as the EU–Turkey deal, stipulating that all new irregular migrants crossing from Turkey to the Greek islands would be returned to Turkey. Additionally, for every Syrian returned to Turkey from the Greek islands, the EU would commit to resettling a legal refugee in Europe. In exchange, the EU committed itself to reduced visa restrictions for Turkish citizens, both to speed up the membership negotiations between Turkey and the EU and to allocate sizeable funds to Turkey aimed at tackling the flow of refugees and migrants (Legislative Train 2023b). As of April 2018, the EU–Turkey deal resulted in the relocation of over 12,000 Syrians from Turkey to EU member states, headed primarily to Germany and the Netherlands, and, in return, over 2,000 refugees were sent to Turkey from Greece (Lavenex 2018; Karakoulaki 2018).

By 2017, European Commission President Juncker (2017) announced that measures to stem flows of migrants along the Eastern Mediterranean and Central Mediterranean routes had resulted in reductions of 97 percent and 81 percent respectively in comparison to the previous year. Even so, the apparent success had not eradicated the sources of Europe's governance crisis, leaving the EU dependent on third countries' co-operation for control of irregular human flows into the continent. Member states benefited from externalizing their responses to the RMC, not the least of which includes access to third-party capabilities that are faster, cheaper, and require fewer resource commitments (Abbot 2015). It, moreover, mitigated internal conflict as well as domestic politicization, refocused accountability away from EU governments and institutions, and bought time to defer EU capacity-building. It, however, also implies surrendering control

over goals, outcomes, and procedures, especially on long-term projects. Such was the case with President Erdoğan, who threatened on multiple occasions to withdraw Turkish co-operation if the EU failed to comply with his demands, as well as with the UNHCR who leveraged the withdrawal of co-operation because the EU–Turkey deal infringed upon migrants' rights under international law (Slominski & Trauner 2018; Genschel & Jachtenfuchs 2018). Both the EU–Turkey and the EU–Libya deals were highly criticized for creating poor conditions for migrants and even inciting human rights abuses linked to the 'road block' created by both deals (see, for example, Karakoulaki 2018; Scazzieri & Springford 2017).

The EU and the CEAS post-RMC

Years after the peak of the influx, the pressure for European solutions seemed much reduced, along with the perception of crisis. Even so, numerous additional EU-level initiatives were undertaken or maintained surrounding asylum, organised in a way that aimed to address existing deficiencies and promote future collaboration. Below are a few key EU-level and state-level developments concerning asylum post-RMC.

In April 2016, to further enforce the initial quota system on the non-cooperating member states, the European Commission began penalizing them by setting a penalty prize of €250,000 per migrant, an effort that fueled the Visegrád Group (Poland, Czech Republic, Hungary, and Slovakia) to counter-offer with the suggestion that RMC-mitigation efforts would be better spent on other activities, such as protection of external EU borders and return operations of rejected asylum claims (Benková 2017). In June 2017, the European Commission initiated an infringement procedure against Poland, Hungary, and the Czech Republic, citing non-compliance with their obligations under the 2015 Council Decisions. Three years later, in April 2020, the Court of Justice of the European Union concluded that each aforementioned country had failed to meet their obligation to varying degrees, stating that their non-compliance due to sovereign security concerns was insufficient (CJEU 2020). While the ruling was linked to past (in)actions, European Commission President Ursula von der Leyen stated that it would provide "guidance for the future", both in terms of legal precedent and as a warning to member states wishing to shirk their legal obligations should similar events occur in the future.

In 2018 and early 2019—moreover, at the end of the 2015 relocation quota—informal and voluntary-based arrangements to disembark and relocate asylum seekers were introduced to ease political tensions surrounding geographic inequality created by the Dublin regulation and the consequent border closure of Mediterranean member states (ECRE 2019, 3; Carrera & Cortinovis 2019a). One such informal arrangement

was the joint Malta declaration, proposed by the interior ministers of Italy, Malta, France, and Germany in the fall of 2019 (Carrera & Cortinovis 2019b). The declaration proposed standard operating procedures for disembarkations, relocation of migrants, and search and rescue efforts in the Mediterranean (European Council n.d.). It was a non-legally binding "joint declaration of intent" that suggested voluntary solidarity mechanisms to address important issues that the RMC made apparent. Ultimately, the declaration was viewed as mere 'political talk' rather than genuine action and did not muster much attention, according to Frasca and Gatta (2020), at the expense of migrants, many of whom were dying at sea. Similar to previous mechanisms, its implementation raised questions about the EU's accountability to migrant rights during the disembarkation and relocation procedures (Carrera & Cortinovis 2019b).

On a more formal note, in the summer of 2018, the European Council agreed on a set of measures aimed to 'solve' issues surrounding asylum, including intensified co-operation with external third parties in the Sahel region, Libya, and Turkey, along with additional search and rescue operations (Ripoll Servent 2019, 293). The initiative followed the same logic of externalising RMC-responses both by strengthening the EU's external borders and by using third-party states. The RMC prompted a sizeable increase in EU efforts and funding of external border controls and third-country transit capacities. Frontex received a sevenfold increase in its budget as a direct result of the RMC, from €19 million in 2006 to €14 billion in 2015, as well as receiving another sevenfold increase to €75 billion in 2022 (Statista Research Department 2023c). According to Raineri and Strazzari (2021), externalizing such responses served as a "compromise" between the fear that Europe-bound rescue operations could incentivise irregular sea-crossings and the illegal practice of returning rescued migrants and asylum seekers to third-party states viewed as unsafe under EU Human Rights law. While the number of reported crossing-related deaths in the Mediterranean decreased sizeably after the introduction of various European Coast Guard and Frontex initiatives, there was an increase in the proportion of deaths per crossing in the following years, linked with a growing military presence and increasingly aggressive smuggling practices. Deaths per crossing statistics peaked in 2018 at approximately one in ten (Missing Migrant Project n.d.). Andersson (2014) argued that the externalisation of migration control created a vicious circle in which smuggling networks would benefit from incentivizing rescue missions. Throughout the RMC, some men and women determined enough to enter the EU were subject to increasingly creative smuggling practices such as Jet Ski trips from Morocco to Spain, parachute jumps from Turkish cargo flights, and in some more creative instances, "some kind of self-made submarines" (UNHCR 2017, 44). Yet, according to Borevi (2022), there remained a strong

emphasis on externalizing migration control, precisely because it was "one of the few areas where the member states have managed to reach agreement" (196).

According to Raineri and Strazzari (2021), the EU's externalisation efforts come at a high reputational cost, citing cases in Mali (Lebovich 2018), Niger (Raineri 2018), Sudan (Molenaar *et al.* 2018), Turkey (Pierini 2018), and Libya (Micallef *et al.* 2019) in which the EU turned a blind eye in exchange for cooperation on migration and border policing. In doing so, the EU may have (in)directly aided the empowerment of authoritarian and criminal leadership abroad, shedding doubts on the EU's ambitions of promoting good governance and liberal state-building. Still, the EU's external responses are being rationalised and discursively associated with humanitarian norms, mitigating, as Cusamano (2019) argues, the perceived need for further reform.

On European territory, new migration centers were opened since the RMC (Ripoll Servent 2019, 293). These centers followed the same aim as the RMC's hotspots, processing and determining the legal status of arriving individuals. During the RMC, hotspots were initially created to be reception and identification centers working in conjunction with a migrant relocation mechanism. Internal contentions between member states and growing numbers of incomers, however, turned hotspots into containment camps to varying degrees (Close 2022). According to the European Council of Refugees and Exiles, Greek island hotspots essentially became open-air prisons (ECRE 2023). In October 2019, the Council of Europe Commissioner for Human Rights decried the "desperate conditions" of those dwelling in these camps, dubbing the situation "explosive" and calling for urgent measures to address the "desperate conditions in which thousands of human beings are living" (Council of Europe 2019). A month later, the Director of the EU Fundamental Rights Agency characterised the situation as "the single most worrying fundamental rights issue that we are confronting anywhere in the European Union" (Nielsen 2019). Allowing for some temporary closure during the COVID-19 pandemic in 2020 and 2021, Italy alone maintained four hotspots operational by the end of 2022 (ECRE 2023).

In September 2020, the European Commission introduced the New Pact on Migration and Asylum of the EU, leaving many hoping for future policy cohesion. Even then, debates and contentions surrounding asylum and CEAS systemic discrepancies were still prevalent (De Bruycker 2022). As such, the proposal lacked novelty, suggesting shared responsibility between member states and a 'new' solidarity mechanism premised on willingness and capacity. Ultimately it was merely a reiteration of past CEAS reform attempts (Borevi 2022). It provided, moreover, amendments to the standardisation of the hotspot approach in the reception of asylum seekers in the EU,

further entrenching the already debatable practice. In June 2022, the French presidency of the European Council proposed CEAS reforms that addressed issues of solidarity and responsibility-sharing by advancing a "declaration on a voluntary solidarity mechanism" with the ambition of relocating 10,000 people in adhering member states (French Presidency 2022). It was signed by 21 EU member states (ECRE 2023). The Declaration aimed to introduce a new 'modus operandi' with the EU, signalling what Pelizza and Loschi (2023) term "the continuation of operational cooperation and the significance of administrative activities in the CEAS" (6).

Conclusion: The EU, the CEAS, and Failing Forward Post-RMC

The seeming lack of development in CEAS reform during and post-RMC follows the 'policy stalemate' logic established by Zaun (2018) and Ripoll Servent (2019), in which contentions between EU-level jurisdictions and member states make consensus difficult and stall reform. If more changes result in more of the same, what does this mean for Europe and the future of the EU more specifically?

Going back to Lavenex's (2018) text, European integration 'failing forward' implies innovation and collaboration, leading to more integration through need and urgency (i.e., a crisis). Lavenex concludes her article on a pessimistic note, sustaining that while European Integration has always been anchored in normativity, normative ambition being decoupled from political action is likely to become status quo surrounding asylum (1198, 1209). She bases her position on existing and varied approaches in the literature, including intergovernmentalist (Biermann *et al.* 2017), neofunctionalist (Schimmelfennig 2018), a "failing forward" (Scipioni 2017), and postfunctionalist perspectives (Börzel & Risse 2018), all of which, she says, "converge on the assertion that, unlike for the euro area, no meaningful integration steps resulted from the CEAS crisis" (Lavenex 2018, 1198). Ultimately, they conclude that the gap created between expectations and reality may undermine the EU's long-term credibility as a political actor, extending this vision to issues beyond CEAS reforms. Many others share this pessimistic vision. Genschel and Jachtenfuchs (2018), Ripoll Servent (2019), and Nikolic and Pevcin (2019), for example, are pessimistic about the future of the Union, decrying the time, money, and energy lost in debating RMC responses in jurisdictional gridlocks. Some, like Zaun (2018, 44), even go so far as to state that the Dublin regulation has "clearly failed" due to the inability of member states to agree to fair redistribution of migrants during the RMC. In a sense, these authors are right, in as much as EU policies in general have become more salient and contentious on the domestic level following the RMC, with regional politics figuring prominently in state-level elections

(Genschel & Jachtenfuchs 2018; Ripoll Servent 2019). From an organisational, supranational, policy, or even a moral (i.e., human rights) standpoint, the CEAS and the related Dublin regulation in their existing structure have indeed limited the development of effective and/or fair state-level and EU-level responses. Failure in the face of the RMC does not, however, signal the 'inevitable' demise of the EU.

Viewing European integration from Pelizza and Loschi's (2023) sociotechnical perspective, for example, would demonstrate a more holistic and less pessimistic vision of the future of the CEAS and the EU as a whole. Pelizza and Loschi's analysis includes a recognition of a gap between the "insurmountable" legal limitations in state-level cooperation and CEAS operationalisation, a divergence between theory and practice they call a "paradox", which resembles Lavenex's vision of asylum-related organised hypocrisy as an organisational strategy. Their sociotechnical perspective provides a means to discern tangible, cooperative continuity despite the "gaps in policy design and its implementations" (Pelizza & Loschi 2023, 3)—i.e., hypocrisy. Delving into the role of on-the-ground actors, they demonstrate that even with the gridlocks in state-level negotiations, a variety of actors—state and non-state—ensured operational continuity, and in doing so promoted further regional integration. Ultimately, they argue that even if collaboration and negotiations seem to stagnate at the level of 'talk', real-life exigencies actually promote member state cooperation and further intertwine respective capacities. It is a vision in league with Tsourdi (2020), in which the CEAS is not merely concerned with legislative rules, but also considers the series of actors that implement these rules themselves. Consequently, allowing for failed schemes, contentious actions, and even ongoing conflicts, the continuity of on-the-ground operations by a series of state-level, EU-level, and non-governmental bodies in relation to asylum—not the least of which includes the formalisation and standardisation of norms and rules but also administrative routines, both joint and individual—exhibits both continuity and even a form of systemic stability (Lahusen & Wacker 2019; Tsourdi & De Bruycker 2022). As such, Pelizza and Loschi (2023) argue that debates on European integration that focus solely on legal outcomes (i.e., supranational and inter-governmental) are "ill-equipped" (7) to tackle the CEAS paradox.

Lavenex's notion of organised hypocrisy as it relates to the idea of 'failing forward' may be better suited. The same logic that deterred EU-level cooperation during the RMC is still at play today. Asylum-related policies since the RMC are nothing if not emblematic of the growing dissociation between the EU's normative aspirations and the practical limits imposed by its political and institutional structures. Member states still call for the externalisation of migration control to third-party states. The normative contentions that

inform said dissociation in such a large and complex body of sovereign states as the EU are likely to persist as long as sovereignty and state interest are involved.

Nearly a decade has passed since the RMC and there is no knowing what the future of the EU holds, but one may retain hope for its ability to 'fail forward' past the most contentious issues. Despite the legal and legislative gridlocks surrounding asylum since the RMC, huge on-the-ground initiatives were undertaken by and in the name of the EU. Decoupling talk and action reconciled conflicting expectations of member states. Organised hypocrisy as such enabled action when faced with otherwise "irreconcilable" differences, permitting a form of integration which—while not as blatantly obvious as supranational agreements—can be viewed as inching its way forward. While EU member states have yet to consolidate a systemic approach to increases in irregular migration, this author maintains that in the event of future influxes into the European continent, there are reasons to remain optimistic for more effective and cooperative responses.

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