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NEW WINE INTO OLD WINESKINS? ADDRESSING PATTERNS OF INSTITUTIONAL DEVELOPMENT IN EURO-MEDITERRANEAN RELATIONS IN THE WAKE OF THE SO-CALLED "EU REFUGEE CRISIS"

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With over 1,500,000 asylum-seekers entering the European Union (EU) through Mediterranean routes from 2015 to 2017, decision-makers in EU Member States (MSs) and Southern Mediterranean countries (SMCs), as well as media pundits, have been calling for a reform of common migration and security policies (European Council, 2018; El Khalfi, 2018; Pascouau, 2018) and for a radical rethinking of the EU decision-making process and Euro-Mediterranean relations at large.

Efforts from the European side have been focusing on strengthening the existing EU instruments to address the increased numbers of asylum claims and to better protect the external borders, as well as on involving SMC partners in the implementation of common solutions to tackle issues such as irregular migration, smuggling of human beings and potential terrorist threats.

Dominant narratives in academia, especially in the neo-functionalist and neo-institutionalist discourse (Niemann & Speyer, 2017; Horvath et al., 2017; Janning, 2018), have been advocating "more Europe" to solve the EU crisis internally highlighting the need for more shared decision-making at the supranational level. However, this policy brief argues that, in spite of a general commitment to finding "European solutions" (Merkel, 2018) to the crisis, the most powerful and influential EU MSs managed to centralise control over alleged "free-riding" MSs (Thielemann, 2018), while simultaneously hindering any meaningful attempt to communitarise responsibility for decisions. While a radical change in the design of EU migration policies was advocated by EU officials, as well as non-governmental actors (Juncker, 2015; De Bellis, 2017), which would thus amount to what Peter Hall calls a "third order paradigmatic shift" in the scale of institutional reform (Hall,

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1993), an in-depth scrutiny of such policies reveals a second order policy change at best, characterised by the development of new tools to achieve old goals and objectives. To show such inconsistency, the policy brief delves into the analysis of the policies of the two EU agencies most involved in dealing with the so-called "EU Refugee Crisis", i.e. the European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX) and the European Asylum Support Office (EASO). This study contends that the logic of control of so-called "strong regulating MSs" over "weak regulating MSs" (Zaun, 2017) governing EU post-crisis institutional and policy reforms resonates with the way the EU frames Euro-Mediterranean relations. To this end, the policy brief analyses the case of bilateral migration agreements and frameworks to assess the degree of reciprocity (e.g. the effectiveness of the so-called "win-win strategy") of existing policies.

Finally, the article calls on Euro-Mediterranean researchers to scrutinise current relations between state actors on the two shores of the Mediterranean Sea through the lenses of the proposed analytical framework. It offers a series of recommendations: highlight the added value of joint ownership of decisions, focus the analysis of policy outcomes in terms of human security score rather than on the formal aspects of governance and stability, and mainstream and disseminate Euro-Mediterranean joint project success stories.

Which EU "Crisis"? Reframing EU Internal Policy Developments as a Power Struggle among Member States

Starting from spring 2015, European political leaders and mass media have depicted the increased migration inflows as an "EU Refugee Crisis" constituting, in the words President of the European Council Tusk, "an existential challenge" for the Union (Tusk, 2016). The juxtaposition of millions of desperate people fleeing war and instability in the Middle East with the notion of a European crisis draws public opinion's attention and perception of urgency to take action towards the migrants. However, statistics provided by EUROSTAT paint a more nuanced picture with regard to the extent of the new migratory phenomenon. While the number of asylum claims lodged in EU MSs in 2015 was indeed unusually high (+ 700,000 compared to 2014), this increase should be put in the context of global mobility and displacement. In fact, even if all asylum claims were accepted by EU MSs – and this was definitely not the case, as countries such as Sweden and Hungary run on a 10% recognition rate for Syrian asylum-seekers (Burmann & Valeyatheepillay, 2017) – this would have represented only a 0.2% increase in the EU population. Indeed, a far cry from the figures provided by the United Nations (UN), showing that 3.6 million displaced people are currently hosted in Turkey and Lebanon alone, and 94% of Syrian asylum-seekers are currently hosted in SMCs such as Turkey, Lebanon, Jordan and Egypt (UNHCR, 2016).

These factual elements require a reframing of the concept of "EU crisis", which is in fact, as pointed out by former UN Secretary General Ban Ki-Moon, not a crisis of numbers, but one of solidarity (Ki-Moon, 2016). Under the EU Lisbon Treaty, solidarity is a key principle governing migration and asylum policies and ensuring a fair sharing of responsibility among MSs (Art. 80, TFEU). Therefore, a crisis of EU solidarity is in fact a crisis of EU policies, revealing the structural flaws of the Common European Asylum System (CEAS). As such, this study argues that the EU's way of dealing with the on-going policy crisis – mainly by reinforcing the capabilities and resources of its agencies and enhancing the external dimension of its migration policy (Emiliani, 2016) – is a clear indicator of the profound differences existing among MSs not only with regard to conceptualisations of acceptable migration management frameworks, but also, and more fundamentally, with respect to attitudes towards the process of European integration itself.

"Strong Regulating" vs. "Weak Regulating" Member States?

Interestingly, the ineffectiveness of EU migration policy in delivering appreciable outcomes became apparent right after a long cycle of reform of the CEAS, which was deemed to address loopholes in the legislation and ensure greater harmonisation among MSs. In spite of the entry into force of three directives and two regulations, in fact, the decision to maintain the so-called Dublin system to allocate responsibilities for asylum-seekers produced the collapse of the EU system, with mounting disparity among MSs with respect to reception conditions, asylum procedures and recognition rates.

In the EU dominating discourse, however, this disparity was not conceptualised as the natural result of a structurally-inefficient system. Rather, it was imagined and narrated as the by-product of MSs' gap in political responsiveness to the crisis and internal legal sophistication (Zaun, 2017). In particular, a revealing dichotomy opposing "strong regulating MSs" to "weak regulating MSs" was put forward. According to this conceptualisation, strong regulating MSs were identified as countries with strict and well-established legislation in the field of migration and asylum, developed over time in response to previous crises (Ripoll Servant, 2017), such as Germany, the Netherlands, the UK, Sweden or France. Weak regulating MSs would then be countries such as Greece, Portugal and Italy, whose administrations have allegedly proved ineffective in dealing with increased migration inflows and could not cope with reforms of their asylum systems. At the height of the EU policy crisis, the narrative portraying a divide between strong vs. weak regulating MSs became extremely popular in European media. Southern states at the borders of the Union took the blame for the failure of the CEAS and were accused of free riding on the provisions established by the Dublin system. By doing so, they were deemed responsible for jeopardising the Schengen system, and putting the EU fundamental pillar of free movement of people at risk. On the other side of the

spectrum of public opinion, so-called strong regulating MSs played the role of law-abiding actors, whose proactive response to the emergency was hampered by the negligence of their European partners. The mainstream public discourse thus transformed a crisis of EU policies into a crisis of the policies of targeted MSs.

Centralisation of Control Disguised as Communitarisation of Decision-Making

As a result of the dominating narrative, countries such as Germany, France and Sweden were in a perfect position to upload their national preferences at the European level by portraying those as the only "truly European". On the other hand, Greece, Portugal and Italy were seen as less legitimate to propose reforms. A clear example lies in the evolution of the mandate and competences of FRONTEX and the EASO, the two EU agencies most directly involved in dealing with the crisis. Regulation 2016/1624 transformed FRONTEX into the European Border and Coast Guard Agency (EBCGA), considerably boosted its budget and enlarged its mandate by adding new organisational, operational, as well as risk-assessment tasks. While the old FRONTEX was entirely dependent on MSs' voluntary contributions in technical and human resources, the EBCGA now has 1,500 standing border guards and advanced technical equipment. Furthermore, and notably, the EBCGA is now tasked with carrying out regular vulnerability assessments of MSs' border management capabilities. In case the agency should determine that an MS is unable to cope with migratory pressure, Art. 19 of the new Regulation explicitly foresees the EBCGA's right to intervene to preserve the common borders, even against the concerned MS's will (European Parliament and Council of the European Union, 2016). While European commentators and public officials hailed the freshly empowered agency as a "milestone in the history of European border management" (Avramopoulos, 2016), a more attentive analysis suggests that the EBCGA fails to establish a truly common system, with, on the one hand, responsibilities for the implementation of border controls still left to MSs and, on the other, no common financing of the border protection efforts of MSs on the frontline.

The assessment of the reformed EASO shows similar patterns: while considering alternative options to strengthen the agency, the plan to create an executive body with powers directly delegated from the Commission was promptly discarded. Rather, no decision-making powers were conferred on the EASO in spite of the proclaimed urgency of the current situation, with responsibility for processing all asylum claims staying with concerned MSs. The development of the agency revolved around increased facilitation and coordination tasks, aimed at supporting MSs under particular pressure. It is particularly interesting to notice the role that the EASO does now play in the newly-established "hotspot approach" to be implemented in Italy and Greece. The approach implements the notion of inter-agency cooperation, tasking FRONTEX, the EASO and EUROPOL with supervising the identification, fingerprinting and

registration of third-country nationals by the Italian and Greek governments. Agencies should also follow up on the outcome of asylum procedures and potential relocation and return. It emerges clearly that, in spite of the well-marketed rhetoric of the assistance, the EASO's new competences are designed to ensure more cogent surveillance over frontline MSs to implement their obligation under the Dublin system (Tsourdi, 2016).

The analysis of the reforms of FRONTEX and the EASO shows that delegation of powers to the agencies was not a symmetrical process of communitarisation in which all MSs committed to the same extent. Rather, the mandate and competences of the agencies were strengthened so as to ensure that MSs at the common external borders, particularly Italy and Greece, would be coerced into complying with the existing policy framework, allocating responsibilities for the protection of external borders and asylum claims processing to the states at the frontline.

At the height of the EU policy crisis, when institutional as well as policy reforms were advocated from all corners of the Union, centralisation of control was preferred to true supranational decision-making, and emergency measures aimed at fixing the existing broken system were chosen over designing a more sustainable, new policy framework. Influential so-called strong regulating MSs acted as principals, delegating EU agencies to control their fellow MSs (Ripoll Servant, 2017). Lack of concrete solidarity mechanisms among states, which had played a large role in the collapse of the CEAS, was not seriously addressed, as the unsatisfactory figures of the relocation scheme proposed by the European Commission (EC) show (Barigazzi, 2017). Prioritising strict enforcement of existing rules over flexibility and solidarity had the effect of promoting distrust among the members of the Union and fuelling nationalistic resentment in MSs at the external borders, as the spectacular electoral rise of populist Lega party in Italy proved. MSs took a variety of different decisions with regard to the crossing of their national borders, which made the common system's consistency even more fragile. Angela Merkel implemented an open-door policy for asylum-seekers in Germany,[1] disregarding de facto the Dublin Regulation clause stating that migrants must seek asylum in the first MS of entry (Court of Justice of the EU, 2018). Meanwhile, Viktor Orban in Hungary declared that Europe was "too slow to act" and built a razor-wire fence across its border with Croatia and Serbia, so as to physically prevent asylum-seekers from entering its territory (Nolan, 2015).

Besides the confrontation between so-called strong and weak regulating MSs in the field of migration, centralisation of control as a political strategy of the Union

[1] Merkel, who was under pressure after negative results at the political election in Germany, decided to reverse the open-door policy in July 2018.

contributed to the unleashing of centrifugal forces in many EU states, weakening decades of European integration.

More of the Same? Path Dependency and Realpolitik in Euro-Mediterranean Relations

An analysis of current Euro-Mediterranean relations suggests that similarities exist between the dynamic of control governing EU institutional development and the way the EU pursues external engagement with SMCs. Most influential EU MSs, who act as strong regulators internally and have powerful voices in external policy-making, are also countries characterised by long colonial pasts that shaped practices and attitudes. As a result, and in spite of the paradigmatic change in approach and policy proclaimed by EU officials after the 2011 Arab revolutions, commentators have highlighted how relations between the two shores of the Mediterranean are still marked by post-colonial prejudices and cognitive uncertainty (Pace, 2014; Natorski, 2015). In the framework of this study, it appears that dominant forces within the EU still consider the Union as the "strong regulating party" to the relations, with SMCs constructed as "weak regulators". As such, the EU prioritises control over joint ownership and shared decision-making in order to minimise perceived risks of non-compliance with agreement clauses and free riding in multilateral settings.

The case of Mobility Partnerships (MPs) is a striking example. Such agreements, aimed at regulating migration flows to the EU, are negotiated by the EC (on behalf of willing EU MSs) and "selected" partner countries. Morocco, Jordan and Tunisia entered MPs in 2013 and 2014, while negotiations are currently on-going with Lebanon, Egypt and, on a rather discursive level, Libya. EU officials have issued rather emphatic declarations about MPs potentially marking the beginning of a new "win-win" era (Koenig, 2017). An analysis of the policy documents, however, suggests a different reality. MPs, in fact, fit in the well-researched strand of EU securitisation policies, attaching special importance to internal security in exchange for minimal concessions on venues for legal migration for SMC citizens (Yildiz, 2016). In addition to cooperation on border management, these agreements require Morocco, Jordan and Tunisia to "readmit" their nationals residing irregularly in the EU, as well as third-country nationals who entered EU MSs through Moroccan, Jordanian or Tunisian exit points. Only upon complying with Brussels' pressure to curb and readmit irregular migrants did co-signatories obtain legal migration quotas for their citizens.

Thus, the EU embeds a securitarian, control-driven policy within a discourse of supporting circular migration and mutual development, integrating SMCs into the EU border control system. To do so, the EU does not hesitate to rely on normative framing and conditionality, thus disavowing the commitment to pursue its relations on an equal footing (Limam & Del

Sarto, 2015). Indeed, MPs, as instruments foreseen by the EU Global Approach to Migration and Mobility amended after the 2015 EU crisis, are still structured simultaneously on both coercion/conditionality and the promotion of norms. Assuming, of course, that EU external relations are the product of a complex interaction between different actors and procedures, the pressure exerted on Morocco, Jordan and Tunisia as regards migration policies shows that the Union has advanced its securitarian interests under the cover of EU values. In other words, the EU's approach prioritises control over genuine cooperation, postulating a structural lack of reliability of Southern Mediterranean partners.

International negotiation theory shows that distrust by one of the negotiating parties is associated with lack of cooperation by the other, lower satisfaction and commitment, and possibly even actively hostile behaviour. Mutual distrust reduces the willingness to engage in problem solving and promotes distributive bargaining approaches over integrative, value-creating opportunities (Lampereur & Colson, 2010). In the context of Euro-Mediterranean relations, it emerges that by defining actors, policy instruments and issues from the standpoint of the "strong regulators", the EU marginalises the perspective and needs of regional states and thus fails to deliver proper "partnerships". A number of surveys administrated among SMC élites and members of the civil society show quite clearly a remarkable disconnection between "what the EU may believe it is achieving in the MENA region, and local perceptions of the failure of its influence and impact" (ArabTrans, 2016).

Starting from the 1970s, when the political construction of the Mediterranean as Europe's "neighbourhood" emerged in the official narrative, EU policies towards SMCs made regional stability and security the cornerstones of a policy approach characterised by quiet support for a status quo suiting existing priorities (Sour, 2017). The 2010-2011 Arab revolutions marked a historical moment, bringing about a radical shift in the public discourse. Yet, only a lesser change affected EU policies that are still marked by the shadow of instrumentalism (Emiliani, 2016). Similarly to what happened in Europe after the 2015 crisis, where the decision of centralising control instead of investing in solidarity and shared responsibility has contributed to the rise of populist movements that put the European integration project at risk, EU policies towards SMCs have eroded the credibility of the Union as a normative actor, paving the way for post-colonial resentment and reluctance in cooperating.

Time to Change the Conversation: The Role of Young Researchers in Scrutinising Euro-Mediterranean Relations

The article has shown that discourses on post-2015 Euro-Mediterranean relations are often constructed around a major epistemological flaw. In this context, academic

researchers have a duty to provide impetus for a new framing of the Euro-Mediterranean that will push decision-makers to build cooperation on different bases.

It is necessary to highlight the added value of joint ownership of key decisions, the only sustainable ones in the long run, rather than keep endorsing the old pattern of North-South transfer of money and concessions in exchange for compliance. The EU Global Strategy makes explicit reference to co-ownership of decision-making in two distinct sections on State & Societal Resilience and Joining Up Internal & External Policies (European Union, 2016). Yet, a third order paradigmatic change in policy and approach is yet to fully materialise. To this end, it is essential to contribute towards mainstreaming and disseminating success stories related to Euro-Mediterranean projects and actions carried out according to the values of reciprocity and joint growth. The field of cultural diplomacy includes positive examples in this regard: the project EraNet Med, funded under the Horizon 2020 programme, is dedicated to the coordination of research and innovation in the area of societal challenges in the Euro-Med region, so as to reduce fragmentation of programming (EraNet, 2014). Tfanen – Tunisie Creative is a EU-funded programme to support the strengthening of the cultural sector, reinforcing the creative economy, as well as the role of culture as a vector for social cohesion at local, regional and national level. Tfanen is a co-partnership between the EU National Institutes for Culture network and the Tunisian Ministry of Culture (EUNIC, 2017). This programme aims to contribute in the long run to the strengthening of civil society, the consolidation of democracy and to the sustainable professionalisation of cultural sectors in Tunisia. Its objective is to reinforce the creative economy, as well as the role of culture. El Hiwar II (the Dialogue) is a dedicated project to improve the flow of information and to promote dialogue among officials working in the EU institutions and the Arab League, aimed at reaching a better mutual understanding. Funded by the EU and implemented by the College of Europe, El Hiwar II foresees the establishment of a cooperation routine geared towards a joint definition of the process and the content of the training activities (EU Neighbours South, 2017).

Despite the generally good reception of such initiatives from both sides of the Mediterranean (European Commission, 2017), however, it is arguable that true co-ownership can only be achieved if SMCs invest in stepping up their funding for joint Euro-Mediterranean projects. Until then, researchers should participate in the ongoing debate on Euro-Med relations by reframing the qualitative assessment of the EU's policy outcomes in the Mediterranean. The long-standing practice of evaluating the EU's success in regional efforts in terms of scores in local governance and stability should be coupled with a more pronounced attention to human security and inclusive development.

With the European Parliament elections coming up in 2019, as well as legislative elections in many countries of the two shores of the Mediterranean, the time to start amending Euro-Med relations is now.

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