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Exploring the asylum-migration nexus: a case study of transit migrants in Europe

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In his report on the 'Strengthening of the United Nations - an agenda for further change', UN Secretary-General Kofi Annan identified migration as a priority issue for the international community.

Wishing to provide the framework for the formulation of a coherent, comprehensive and global response to migration issues, and acting on the encouragement of the UN Secretary-General, Sweden and Switzerland, together with the governments of Brazil, Morocco, and the Philippines, decided to establish a Global Commission on International Migration (GCIM). Many additional countries subsequently supported this initiative and an open-ended Core Group of Governments established itself to support and follow the work of the Commission.

The Global Commission on International Migration was launched by the United Nations Secretary-General and a number of governments on December 9, 2003 in Geneva. It is comprised of 19 Commissioners.

The mandate of the Commission is to place the issue of international migration on the global policy agenda, to analyze gaps in current approaches to migration, to examine the inter-linkages between migration and other global issues, and to present appropriate recommendations to the Secretary-General and other stakeholders.

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Introduction

In today's migration flows to Europe, irregular migration and asylum meet in various ways. For a long time, irregular migration and asylum have been treated as separate policy areas. In fact, both issues are embedded in different policy contexts: irregular migration is seen as part of the border control, security and migration management field, while asylum is well established in a set of institutional and international legal norms aiming to provide protection and assistance to displaced persons.

Yet, it is possible to identify two main ways in which these two phenomena overlap: on the one hand, persons in need of international protection increasingly take the irregular migration path in order to reach European territory; they enter the first asylum country illegally and may also remain in the country undocumented, hoping to apply for asylum in another European country at a later stage. Rejected asylum seekers also become irregular when they remain in the country of asylum after the rejection of their claim. On the other hand, persons that seek to migrate to Europe but are not in need of protection tend to enter the asylum system, hoping to use this as an alternative means of immigration.

These two aspects create a number of problems: perilous journeys that put human lives at risk, illegal border crossing, flourishing of criminal acts such as human smuggling and trafficking, obstacles to protection for those in need, human rights violations, asylum abuse and, consequently increasing policy restrictionism and the 'securitization' of migration. This overlapping relation between irregular migration and asylum is often referred to as the 'asylum-migration nexus.'

The paper aims to unravel the complexity of this relationship by approaching irregular, 'transit' and asylum migration as a continuum in the experience of forced migration. Case studies tend to examine forced migration as a two stage process, with the first stage being the situation in the country of origin and the reasons for flight, and second the country of settlement and the experience of integration or exclusion. There is less empirical information on the experience and the time spent between these two ends, after leaving the country of origin and before reaching the final destination. The case of transit migration, that is the stage between emigration and settlement, will be used in the analysis as an exemplary situation that displays the overlap between asylum and irregular migration.

It is possible to observe two types of transit migration to Europe: transit migration occurring outside the European Union, in the neighbouring countries of the East and South, and b) transit migration occurring inside the Union, in member states of the European periphery. After providing a short overview of the first case, the present paper will place its focus on the second, on the basis of empirical findings from research conducted with Kurds in Greece.[1]

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[1] The paper is based on fieldwork conducted in Athens in 2001-2002 for the purpose of a doctoral degree, involving 50 in-depth interviews with Kurdish asylum seekers and irregular migrants who had been in Greece between two months and twelve years. Research also included interviews with government and NGO officials and discourse analysis of secondary sources (parliamentary proceedings, reports, policy papers, media coverage etc)

Furthermore, transit migration is a case in which both economic and forced migrants may find themselves. The present paper is mainly concerned with the case of forced migrants. In relation to this group, it is argued that the transit phase occurs because of the absence of effective refugee protection and prospects for durable solutions in the first asylum country – be it outside or inside the European Union.

In particular, a large number of persons that would normally seek asylum decide to remain undocumented in Greece, not least due to the lack of confidence in the eventual success of such a step in that country, in order to file their request in a second European country at a later stage. The following questions are addressed: why do some forced migrants decide to stay and apply for asylum in the first European asylum country, while others remain undocumented? What exactly does it mean to be "in transit" and what implications does this have for the forced migrants, the asylum country and the European Union? How can the phenomenon of transit migration best be addressed?

The last part of the paper discusses policy approaches to transit migration, first inside the EU (by discussing the concept and versions of burden-sharing), and outside, in the neighbouring regions (by discussing mainly the idea of protection in the region). The paper argues for the need for a comprehensive approach and a greater commitment in responsibility sharing among states.

Transit migration

Transit migration to Europe attracted some attention in the early 1990s in relation to increasing migratory flows to Central and Eastern Europe. The UN/ECE (UN Economic Commission for Europe) Activities Unit convened a workshop titled "The study of transit migration in Central Europe" in June 1993 in Geneva and a second workshop in December 1993 in Warsaw. The countries included in this meeting were the Czech Republic, Slovakia, Hungary, Eastern countries and CIS (UNECE, International Migration Bulletin, No 3, 1993, p.7).

Around the same time, the IOM undertook a number of field studies in the region in the framework of its Migration Information Program's (MIP) "migration alert function" – in other words, in order to inform governments on the potential of migration flows in and through this area.[2] The UNHCR has extensively discussed the issue as the "secondary movements" of refugees who irregularly leave a first asylum country for a second in the framework of its Convention Plus initiative (the second strand on Irregular Secondary Movements or ISM).[3] The aim of this initiative has been to understand the causes of the phenomenon and address it through international cooperation.

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[2] The following case studies were conducted in 1993-4: *Transit migration in Romania* (November 1993), *Transit migration in Bulgaria* (March 1994), *Transit migration in Poland* (April 1994), *Transit migration in the Czech Republic* (May 1994), *Transit migration in the Russian Federation* (June 1994), *Transit migration in Ukraine* (August 1994), and *Transit migration in Hungary* (December 1994). Turkey (1994, 1995) was also included in the program. A renewed interest was shown in 2004 with the publication of: *The next stop is: study on transit migration through Azerbaijan*, IOM; Geneva

[3] Here the UNHCR understands the "irregular movement" as "the phenomenon of refugees whether they have been formally identified as such or not (asylum seekers), who move in an irregular manner from countries in which they have already found protection", EXCOM Conclusion 58 of 1989.

These studies and a number of other academic essays are the ones that have more or less set the conceptual framework for the understanding of this phenomenon.[4] According to the UN/ECE, for example, transit migration is understood as: "migration in one country with the intention of seeking the possibility there to emigrate to another country as the country of final destination, by means that are partially, if not full, illegal."[5] In his study on transit migration in Turkey, İçduygu gives a similar definition: "transit migrants are the people who come to a country of destination with the intention of going and staying in another country" (İçduygu, 1995, p.127). The IOM studies also hold a similar view. According to these studies, some migrants also become transit by accident, in the sense that even though they had no previous intention of re-migrating, they do so for economic reasons.

These definitions assume that migrants have concrete plans for specific routes and a pre-selected final destination. However, as the present case study will show, the intention is not always clear at the beginning of the journey, but is usually affected by the structural context of the first country of reception, in other words, the types of policies and integration opportunities and the nature, operation and inter-relations of migrant social networks.

Therefore, it would be more useful to understand transit migration as the situation of indeterminate residence of migrants, legal or illegal, in a receiving country, that may or may not develop in further emigration according to a combination of structural and individual factors, such as the policy framework of the receiving country and the role of social/family networks in directing the movement of migrants.[6] In other words, transit migration does not always lead to further emigration but can become permanent settlement. Transit migration is not a different type of migration, nor is it a status – it is a process and a contingency.

Analysis and examples

Transit migration takes place for a number of reasons. First and foremost, it takes place because of the first host countries' inability to meet the migrants' needs: in the case of economic migrants, the first host country does not provide opportunities for sustainable employment and good living conditions; in the case of refugees, the first asylum country does not provide effective refugee protection and durable solutions. Second, transit migration takes place because of the countries' key geographical position next to an area of significant political and economic gravity (such as the EU). Moreover, transit migration is a consequence of restrictive migration policies and the "containment" trend in the neighbouring states: the more restrictive the classic destination countries, the more likely are migrants to "get stuck" in the buffer zone. Third, transit migration takes place because of gaps in legislation and administrative procedures, porous borders and insufficient control capability, incomplete migration

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[4] According to the IOM Glossary, refugees awaiting resettlement are also named "refugees in transit" (see IOM Glossary on Migration, p.53). Yet, this is not the case of forced migration that the present paper is looking at.
[5] UNECE, International Migration Bulletin, No 3, 1993, p.7
[6] Papadopoulou A., (2004), *Asylum, transit migration and the politics of reception: the case of Kurds in Greece*, PhD Thesis, University of Oxford/St Antony's College, p.4

policy developments and established informality in the first host country's labour market. Finally, transit migration occurs because of the need for family reunification. In other words, migrants will not settle permanently in the first host country, if they have close family members in other destination countries, which they wish to join.

Yet, it also needs to be noted that most transit countries have increasingly become themselves countries of destination, either because their own economic situation and administrative systems are improving, or because the migrants' temporary waiting periods have been transformed to *de facto* formalized or semi-official extended residence.

Transit migration preoccupies the countries of the East and South as much those of the West, but for different reasons. For the EU member states, transit migration in the neighbouring regions raises concerns of potential massive influx. For the transit countries, the phenomenon creates numerous internal political and policy problems and external pressure from the West for border control. Still, the illicit nature and scale of the problem is both sides' main concern.

Two examples serve to illustrate the phenomenon and role of transit migration in the EU neighbourhood: Central and Eastern European countries during the mid–1990s and the Mediterranean today. The following section will shortly describe the main features without going into further analysis, since this in itself is a vast topic and has been covered by numerous studies and policy papers.

Central and Eastern Europe

With the fall of the communist regimes, the opening of borders and the reorientation towards Western markets, a large number of migrants from Asia and Africa moved to Central and Eastern Europe. The main reasons that transformed these countries to the EU's buffer zone were the following: their geographical position, the institutional and economic influence of the EU (increased mobility, new types of investment and consumer behaviour, agreements to regulate migration flows), the division of labour and the countries' informal economy, and the exclusive asylum policies and lack of experience in combating illegal migration (Wallace, 1996; Okolski, 2000).

In addition, the war in Former Yugoslavia led to large numbers of refugees remaining "in transit" in the region. Besides, a set of pre-existing intra-regional mobility patterns also contributed to this phenomenon: in the past, formal labour and student exchanges between countries were prevalent under the COMECON system. Under that system, temporary (which often became long term) migration for training and work purposes was typical for the entire region (ICMPD, 1997, p.8).

This kind of intra-regional mobility culture could still be observed during the nineties, despite the gradually restrictive migration and asylum policy regimes. The "educational channel"– migration for study purposes followed by illegal overstay – became particularly common in Russia (IOM, Transit Migration in Russia, 1994). Finally, a very important feature was the existence of visa-free entry between former Socialist countries during the nineties that ceased to exist with the introduction of the

Acquis Communautaire and the imposition of visas to other countries by the new member states.

The countries attracted all sorts of migrants, from returnees to economic migrants, refugees, students, "suitcase vendors" and seasonal workers. These groups originated from the former Soviet Republics, Asia and Africa, from countries as diverse as Afghanistan, Iraq, Iran, Turkey, Albania, Liberia, Somalia, India, China and Vietnam (Salt and Clarke, 1996). According to an IOM study on transit migration in Hungary in 1993-4, up to two million migrants were living in Central Europe who wanted to move to the West. More specifically, it was estimated that between 300-500,000 migrants were living in Russia, 100,000 in Poland, 100-140,000 in the Czech Republic, 30-50,000 in Bulgaria, and 42,000 in Romania (UNECE Bulletin, no 4, 1994). Hungary and Ukraine were also hosting large numbers of transit migrants.

Judging from the sample of the IOM studies, the majority were young, educated and urban individuals; in Russia, less than half of the transit migrants had been forced to leave their countries for political reasons, conflict and discrimination. Other countries hosted mainly economic migrants. Germany and Austria were the favoured destinations. Yet, many transit migrants had no specific plans and were ready to move to any Western nation. In addition, the studies showed that most migrants had no information about destination countries prior to emigration. The main reasons that lead migrants to further emigrate to the West were the poor reception and protection standards and the unsatisfying living conditions. Transit migration was a trial phase that could last from a few days to a lifetime.[7] Only one fourth of migrants had family members in other destination countries. Family reunification was not the strongest of motivations among the samples.

Yet, the role of the European Union as a pull factor and at the same time as an increasingly restrictive migration and asylum space played the crucial role in the transformation of this region to a buffer zone. Germany seems to have played a key role, spearheading a number of initiatives for border control, information exchange, capacity building and intergovernmental cooperation, including the Budapest Process.[8] Eastern countries experienced a pressure to make their refugee and immigration policies more restrictive.

At the same time, there was also a strong incentive for many of these countries to do so, namely the future EU membership. The old member states have been criticized for having offloaded part of their responsibility towards hosting refugees and admitting migrants to the East (see for example Byrne *et al*, 2002; Lavenex, 1998). They mainly did so through two instruments, the "safe countries" principle and the readmission agreements. In turn, as part of the EU Acquis, Central and Eastern European countries

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[7] See also UNECE Bulletin, no 4, 1994, p.10
[8] The *Budapest Process* is a consultative forum of more than 40 Governments and 10 international organizations, aiming at preventing irregular migration and establishing sustainable systems for orderly migration in the wider European region. It was established in 1991 and has been meeting since then every year. Involved in the Process are Azerbaijan, Belarus, Georgia, Moldova, Russia, Ukraine, which have been active also before, as well as Armenia, Kazakhstan, Kyrgyzstan, Tajikistan, who have recently joined the Process. The ICMPD (International Council for Migration Policy Development) in Vienna acts as its Secretariat (http://www.icmpd.org)

also declared their neighbouring countries as safe and signed readmission agreements with other transit countries and countries of origin.

The Mediterranean

Today, Europe's attention has moved from the East to the South: the Mediterranean and more specifically, its Southern shores have emerged as a major transit space of immigrants and refugees attempting to reach Europe. The Maghreb region is more affected by the sub-Saharan transit flows while the Mashreq region (Egypt, Lebanon and Syria mostly), is rather affected by flows from Asia and even the CIS countries. Turkey also hosts large number of transit migrants from diverse origins.

This development is due to a number of factors. First of all, pressures from Sub-Saharan populations: poverty, demographic growth, lack of natural resources, civil wars, persecution and political instability have pushed large numbers of Africans to the Northern shore of the continent with the ultimate hope to reach Europe. Second, the countries' geographical position is an obvious key factor: the proximity between Morocco and Spain, Tunisia and Italy, Turkey and Greece makes them a natural passage. Yet, in the absence of legal migration channels, the majority of migrants try to cross the Mediterranean by irregular means.

In turn, European border control, immigration and asylum policies have grown more restrictive towards the South. Restriction is evident in the intensification of sea patrols, multiplication of readmission agreements, and intense EU pressures on the countries to control and prevent irregular migration. The multilateral cooperation framework with Europe (the EU Mediterranean Partnership or Barcelona Process) contains a number of strands that relate to migration and asylum policy and the fight of irregular migration and trafficking, and that also pair policies with development assistance and capacity building. But, contrary to Eastern Europe in the mid-1990s, the North African countries today have no such strong incentives, like a future EU membership, in order to collaborate. Preferably, the transit countries would like to achieve free circulation of persons, which the EU has not been ready to offer (ICMPD, 2004a).

In this restrictive framework, an increasing number of migrants get stuck in the region from a couple of weeks to a number of years. It needs to be noted that a large part of the transit population in North Africa are Maghrebis that are also looking for ways to migrate to Europe.[9] The ICMPD estimates that about 100-120,000 migrants cross the Mediterranean illegally every year out of which 35,000 are of Sub-Saharan origin, 30,000 are transit from other regions, and 55,000 are nationals of the region (ICMPD, 2004b, p.16). In Tunisia alone, over 40,000 were caught in 1998-2003 while trying to illegally cross the border (Boubakri, 2004, p.6). It is estimated that between 1,5 to 2,5 million migrants are currently residing legally or illegally in Libya (ICMPD, 2004b). Large numbers are also concentrated in Morocco, trying to cross to Europe via Spain or via the Canary islands (Barros *et al*, 2002). Smuggling is a common practice for the crossing of the Mediterranean.

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[9] Migration from the Maghreb became more difficult since the introduction of Schengen visas in countries such as France, Italy and Spain. An additional factor has been increasing unemployment, due to the difficulty of absorption in the Algerian and Libyan labour markets in recent years (see Boubakri, 2004)

Even though there are some opportunities for survival and temporary stay in the region, employment and settlement are not sustainable. Furthermore, the national asylum systems do not meet the standards of sufficient protection to the persons in need (FFM, 2002). Judging from a small number of studies conducted in the region, the profile of transit migrants is very similar to the one observed in Central and Eastern Europe in the mid–1990s. At the same time, there is a growing polarization between educated and low-skilled individuals, and a growing participation of women and children.[10]

Turkey is similar in terms of extent and reasons for transit migration. A large number of migrants have been travelling to and through Turkey during the last 15 years, such as: migrants from Eastern European countries (mostly Romania and Moldova) who travel to Turkey legally in search of work, but overstay their visas; migrants from the Middle East (Iran and Iraq), from Asia (Afghanistan, Pakistan, Bangladesh, India and Sri Lanka) and from Africa (Algeria, Nigeria, Ghana and Somalia) travelling to Western Europe; rejected asylum seekers working in the informal economy and looking for opportunities to migrate to another country; and also Turkish citizens (mainly Kurds), who join other transit migrants (IOM, 2003; Icduygu, 1995). In 2000, some 95,000 irregular migrants were arrested for irregular entry or stay in the country.

UNHCR has been working closely with the Turkish government for the protection and resettlement of its mandate refugees. One of the main obstacles to refugee protection in Turkey in accordance with international standards is the fact that the country has ratified the 1951 Convention with a geographical limitation on granting asylum only to refugees coming from Europe. In the context of its EU candidacy, Turkey is asked to introduce reforms in a number of policy areas, including immigration and asylum and border control. The geographical limitation is also expected to be lifted, yet that will be *'in a manner that would not encourage large scale refugee inflows from the East'*.[11] It has been argued that the EU has been exerting disproportionate pressure on the security aspect of border control, at the expense of other areas (Kirisci, 2004; Kirisci *et al*, 2004).

In the two examples described above, Central and Eastern Europe in the mid-1990s and the Mediterranean today, transit flows are a result of both the inability to provide protection and long term settlement opportunities at local level, and the difficulty to obtain legal access to European territory. EU immigration and asylum policies, and the EU's relations with the countries in both regions have been the key factors that condition the type, direction and scale of movement.

Transit migration in the EU: the case of Kurds in Greece

At the same time, transit migration also takes place inside the European Union, in countries that have established asylum systems and are considered "safe countries" and migrant destinations, as the case of Greece will display. It will be shown that to a large extent, this is due to domestic asylum policy practices. Equally important, this

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[10] See Barros *et al*, 2002; Boubakri, 2004; ICMPD, 2004a and Lahlou, 2004

[11] Article 24, The Turkish National Programme of Action for the Adoption of the EU Acquis (NPAA), 19 March 2001, Executive Summary, http://www.mfa.gov.tr

phenomenon puts the current level of responsibility sharing and cooperation between member states into question. I will first outline the current framework for asylum and refugee reception in Greece and consequently present some findings from a case study of Kurds living in transit in Athens.

Forced migrants and asylum in Greece

Located at Europe's Southeastern border, Greece faces a major external and internal policy challenge to control irregular migration flows to the EU. Migration management has focused on the one hand on the regularization of resident labour migrants, and on the other on the prevention of irregular migration through reinforced border protection (recruitment of additional border guards, intensification of sea patrols, penalties for smugglers) and the conclusion of readmission agreements with Turkey and a series of other countries. With regards to refugees, the public impression is that they aim to stay temporarily in Greece. It is because of this assumption that forced migration to Greece remains largely overlooked.

In fact, compared to the rest of Europe, the number of refugees in Greece is relatively small: for the period 1990-2003 Greece received 47,030 asylum applications, having a share of 0.9% of all asylum applications submitted in Europe.[12] In 2003 Greece received 8.178 asylum applications and another 3.030 during the first half of 2004 (UNHCR Athens Office data). At the same time, while the overall number of asylum applications decreased in Europe in 2003, in Greece it increased by 45% from the previous year.[13] Regarding nationality, roughly 50% of asylum seekers and refugees during the last decade have originated from Iraq (53.6%), Turkey, Afghanistan, Iran and Pakistan.[14]

Yet, the abovementioned numbers do not necessarily reflect the actual size of the refugee population, a large part of which remains undocumented; and they also do not include the rejected asylum seekers, many of who may remain in the country. Reliable data on irregular migrants are hard to obtain. Estimations are usually based on border apprehensions. The number of migrants arrested for illegal entry in 2001 was 6,800 people.[15] This does not however include the cases of 'successful' entries; instead, the numbers of migrants arrested inside the country for the same year was 210,000.[16] Another 114,181 were arrested by mid-2002.[17]

Refugee matters are regulated primarily by articles 24-25 of Law 1975/1991 on the Status of Aliens, as amended by Law 2452/1996, and presidential decrees PD 189/1998 and PD 61/1999. Asylum applications are lodged in person at the frontier checkpoints or to any other public authority, and do not necessarily have to be lodged

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[12] *Asylum Levels and Trends: Europe and Non-European Industrialised Countries, 2003*, UNHCR Population and Data Unit, UNHCR, 24 February 2004, p.5 and Table 2.
[13] *Asylum Levels and Trends…,* p.3 and Table 1.
[14] UNHCR, BO Athens (2000), 'Statistics, Greece 1990-2000', and UNHCR BO Athens (2002), 'Annual Statistical Report for 2001: Refugees and Others of concern to the UNHCR'.
[15] Migration News Sheet, February 2002, vol. 9, 2.
[16] 'Ta Nea' Newspaper, 25/10/2001.
[17] Between 01/06/2001 and 31/03/2002, 'Eleftherotypia' Newspaper 31/05/2002.

'immediately' upon the arrival of the alien in the country.[18] The police is the competent authority to carry out a preliminary examination of the application within three months of submission. Asylum seekers are initially given a police 'service note' confirming that they registered, and a date for interview, which may be a few months later.[19] Following the interview, they are granted a temporary residence permit for six months, renewable until their application is examined. Asylum seekers have the right to temporary employment during that period of time.[20] Refugees and their spouses are granted residence permits for five years and work permits valid for the same time. The decision is taken by the Secretary General of the Ministry of Public Order.[21]

The asylum examination process is usually rather long, between one and three years on average including appeals, and the recognition rate very low: while in 2000/2001 it ranged between 7-10%, in 2002 it dropped to 0.3% (1% including humanitarian status), the lowest in the last 20 years. In the rest of the EU the rate for the same year was 21.1% The average recognition rate for applicants from Iraq in Greece during the 1990s was 3%; including humanitarian status it was 8% in 1997-2002, which is the second lowest recognition rate for Iraqi refugees among industrialized countries. In the year 2002 in particular, the recognition rate reached the all-time low of 1%, from 22.4% in 2001. In the rest of the EU the rate for the same year was 47.7%.[22]

In general, the rationale is to grant asylum to those that strictly fulfil the 1951 Convention criteria and provide irrefutable evidence. As Kurds and NGO staff have stated, it is usually very difficult for forced migrants to build a case with such evidence. With few chances of obtaining asylum and with a highly bureaucratic, prolonged asylum procedure, refugees are disillusioned with the Greek asylum system. Some of those who register with the authorities in Greece still leave for another country, playing on the chances of their case being presented later to Greece from that country. My informants mentioned that it is also common to register in Greece with a fake name. 680 such Dublin Convention cases were presented to Greece in 2001 and 818 in 2002.[23] In addition, as a study by Papageorgiou and Papadimitriou shows, Greece has often refused to examine "Dublin" cases of asylum

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[18] Law 2452/1996 amended Article 25,(1) of Law1975/1991 by abolishing the conditions of admissibility and stating that '*an alien who is in any way on Greek territory shall be recognised as refugee and shall be granted asylum if the conditions of Article 1A of the Geneva Convention relating to the Status of Refugees are fulfilled*'.

[19] It is estimated that the number of asylum seekers including those with just a "service note" is 30-50,000 (Papageorgiou and Papadimitriou, unpublished). The "service notes" policy is questionable in terms of legal basis and accordance with international human rights standards.

[20] The Directive on minimum standards for the reception of asylum seekers foresees that member states determine the period of time after an application is made during which an applicant will not have access to the labour market and this must not exceed one year. See Council Directive 2003/9/EC of 27 January 2003.

[21] The fact that the Ministry of Public Order and not the Ministry of Interior is in charge of asylum applications – unlike other European countries – is telling of the policing mentality prevalent in Greek asylum policy.

[22] UNHCR Report on refugee recognition rates in the EU: Greece 'rockbottoms' the ranks, Press Release 43/03, 12 September 2003. Due to the slow processing of applications, the calculation of recognition rates is problematic; refugee and humanitarian status are usually granted to applicants whose case is still in the backlog (from the previous year).

[23] ECRE Country Report 2001: Greece and ECRE Country Report 2002: Greece (based on Ministry of Public Order data).

seekers returned from another member state, putting access to protection at a serious risk.

Finally, the accommodation infrastructure for asylum seekers in Greece remains insufficient. Accommodation is currently provided by ten refugee camps and a number of reception halls, run by the state, Greek NGOs and UNHCR's implementing partners. In total, these camps can shelter about 1,500-2,000 asylum seekers for a number of months. Additional reception areas have operated temporarily around the country in periods of mass refugee arrivals. Camps have frequently become overcrowded. As a result irregular migrants and asylum seekers often tend to seek shelter in abandoned property. Besides, the state does not grant refugees and asylum seekers social benefits (NCHR, 2001).

These factors discourage migrants from applying in the country. The Greek asylum policy framework has been generally criticised for lacking an effective administrative infrastructure and a coherent state plan for integrated refugee protection (Sitaropoulos, 2000). Another issue that has raised concerns is the reported detention of asylum seekers.[24] Cases of deporting torture victims and other forced migrants have been repeatedly reported by international organisations.

The Kurds

Kurds, in particular, came to Greece in three main waves: in 1991-1992, after the use of chemical weapons in Halabja, Iraq and the Gulf war, in 1994-5 after the escalation of violence in Southeastern Turkey, and in 1996-8 due to the ongoing conflict between Kurdish parties in Northern Iraq. A continuation of Kurdish migration can be observed since 1999, reflecting the situation of social and political instability and economic deprivation in Northern Iraq and the Turkish southeastern provinces. The total Kurdish population in Greece is hard to estimate, because of the constant border crossings in and out of the country and the absence of statistics for this particular group.[25] By the end of the 1990s the number of Kurds in Greece was estimated to be somewhere around 7-10,000. Today, the number must have been reduced (Papadopoulou, 2004).

Most migrants use smugglers for the exit, passage through third countries, and entry into Greece. An equal number try to smuggle themselves through the Greek-Turkish border or cross the Aegean Sea with smugglers or small inflatable boats.[26] Leaving the Middle East, Greece is the first European asylum country that refugees reach in this migration route. For the majority of my informants, protection and safety was the most crucial issue affecting their choices. Recognised refugees were not interested in

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[24] National Commission for Human Rights (NCHR) Annual Report 2002, Introduction, and Annual Report 2001, text (6); Greek Ombudsman's Office, 'Detention conditions in prisons', field reports (Chios 29 October 2001, Athens 10 December 2001, Kos 13 November 2001), http://www.synigoros.gr/reports

[25] Kurdish asylum applicants are recorded according to citizenship (Iraq, Iran, Turkey), while ethnicity ('Kurds') is only mentioned in the hearing process.

[26] The issue of smuggling and the routes that the Kurds followed on their way from Iraq and Turkey to Greece will not be examined in this paper. See Papadopoulou A., (2004), Smuggling into Europe: transit migrants in Greece, *Journal of Refugee Studies*, 17, 2, pp.169-186.

migrating to another country; similarly, about half of the asylum seekers and 'police note' holders that I interviewed stayed in Greece hoping to be granted asylum.

The majority in my sample were males, aged between 25-35 and originated mainly from Iraq and Turkey, and a few from Iran and Syria. One third of the sample, particularly newcomers, saw Greece as a "waiting room," the place to stay for a couple of years and work in the informal economy in order to pay off the debt to the smugglers or relatives, and finance the second part of the trip. In addition, less than a third of my informants would prefer to join their relatives or friends in other destination countries. These groups would still file an asylum application in the country in order to be protected from deportation and have access to employment and free healthcare.

In fact, the length of stay is not a determinant factor: seven informants stayed in Greece contrary to their initial plans; some others, who had hoped to settle in Greece, decided to leave after two or more years of stay. Five Kurds had already been in other countries, but then returned to Greece, because they found less prosperous opportunities for settlement, and also felt more comfortable with Greek society. Despite the policy deficiencies and the dim prospects for asylum, employment in the informal economy and networking play an important role in the decision to settle in Greece. Seven informants felt that they had started a life in Greece and were not willing to move to another country. It also needs to be taken into account that Greece is the second 'transit' stop after Turkey on the way from the Middle East to Europe, and thus a stage where migrants' financial resources and psychological strength are almost exhausted.

In fact, the majority (70%) would consider staying in Greece, should the chances for asylum and settlement become more promising. Thus, while the reasons for entering Greece relate to the country's geopolitical position, the reasons for seeing Greece as a passage relate more to the country's domestic policies.

Some Kurds had been well informed through their networks about reception facilities, asylum and life in Athens before even reaching the Greek shores. Yet, one third of my informants had no social/family ties abroad and arrived completely unprepared. In addition, five chose Greece randomly, without any prior information or planning. For others, smugglers were the only source of information.

The UK, Sweden, Germany and France were the most popular final destinations among the Kurds I interviewed. Canada, Switzerland, the Netherlands and Australia were also mentioned in the interviews. A shared impression among the Kurds was that these countries, particularly the UK, Sweden and Germany, are more generous in granting asylum and social benefits to refugees. This perception was usually based on advice by relatives and friends who had already undertaken the trip following the same route before them. Generally, for most migrants the destination was 'Europe' – a broad space of safety, protection and opportunities. Some migrants had more than one choice of destination, depending on the smuggling opportunities, and a few others did not have a particular country in mind. This reaffirms the claim that the choice of destination is influenced mainly by the type of asylum policies offered and less by social networks (Koser, 1997, pp.600-1).

Finally, return was rarely mentioned as an option, due to the political and socioeconomic situation in the countries of origin.

Being in transit

Regarding housing conditions, it is estimated that in the year 2000 about 1,600 Kurds were living in refugee camps and 2,000 in flats and run-down buildings in Athens and other cities.[27] During my fieldwork in 2001/2 Kurds were known to live in the refugee camps and a few NGO reception halls in central Athens. Families and groups of singles were scattered in flats in middle and low class neighborhoods with Greek or mixed population. The camps I visited hosted 'police note' holders and registered asylum seekers. Some Kurds, especially those in the process of appeal, had been resident in the camps for some years.

The period of "waiting" can be quite prolonged and uncertain. Settlement in Athens or further emigration depends on a number of factors: financial resources from relatives at home or other destination countries, smuggling opportunities, the progress of the asylum examination, employment, the prospects for proper housing in the near future, and the level of socialisation in and out of the camp. It is often what comes first that will indicate whether they will stay in Greece or not. For the unemployed in particular, such as women and teenagers, this is a very stressful period.

The informants felt that being an asylum seeker or 'police note' holder in a refugee camp was a tentative situation and not a status with which they could identify. Instead, they identified with a community whose members were settled either back home or in other destination countries. They saw themselves as being in a transitional stage that would hopefully end soon and lead to a normal settled life. The state of permanent tension that refugees experience during this transitional phase can well be described by the concept of 'liminality'.[28]

During this phase, refugees seem more concentrated on the maintenance of ties with the homeland and other destination countries, than with the place they are staying. Many among my informants were not interested in socialising with other camp residents, and even less with locals and Kurds outside the camp, and knew very little about the city and Greek society. Instead, they kept regular phone contact with their friends in Germany, Sweden and England. They would also send money from their savings to family and friends on a regular basis, especially older family members and those planning to emigrate. The sense of solidarity with other camp residents sharing similar social and symbolic ties and experiences is merely a support for survival. It is a situation of living 'neither here nor there' and engaging in transnational fields and practices.

As Chatelard (2002) argues, transnational networking plays a crucial role during the transit phase: these connections help to overcome economic difficulties for the

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[27] '*Ta Nea*' Newspaper, 8 November 2000.

[28] For the condition of "liminality" see Harrel-Bond B. and Voutira E., (1992), Anthropology and the study of refugees, *Anthropology Today*, 8, 4, pp.6-10.

journey and settlement, and create a sphere of communication with fellows in other countries. Whereas they could not visit their homeland, some informants travelled to visit friends (legally or illegally) and get an idea of reception conditions in other destination countries. A Kurd from Turkey spent the first year in Greece, moved to Switzerland for a year, returned to Greece for four years, then moved in with friends in Germany for another four years and finally returned to Greece again in 2001. In all these stages, he followed the track of ties he had in each country, which also helped him find local jobs.

Being 'in transit' is a process rather than a status, where the degree of protection and socioeconomic participation in the host country will determine the decision for settlement. Once social and economic ties are formed, migrants seem more prepared to cope with administrative difficulties. In a way, transit migration is a way to surpass restrictive structures and administrative deficiencies by residing in more than one country in Europe – sometimes illegally – and by gaining time and money until the opportunities allow migration to another, more promising destination.

The impact of transit migration

Transnational networking does not relieve Kurds from the problems they face while 'in transit' in Greece. During the period of waiting, the Kurds are an invisible population living on the margins, with no obligations, no rights and only partial legal protection. Aside from the undocumented migrants, the 'police note' holders may be technically registered, but not really protected from deportation. Medical care may be theoretically free, but is rarely accessible due to lack of information. Camp residents suffer from various health problems, such as skin infections, physical and psychological strains. Life in the camps is reclusive and the contacts with the outside world rare.

These problems are a result of the ineffective policy framework, particularly the prolonged processing of asylum applications that leaves refugees in an uncertain situation for a number of years. Besides, the lack of information in the refugees' native languages causes significant delays, even prevents access to the services offered by NGOs and local authorities. The NGOs' social services can only meet the needs of a small number of refugees. The right to employment for asylum seekers is an advantage, but occasional day-jobs can hardly meet individual and family needs.

The crucial issue of housing remains unsolved, as the existing refugee camps are few and can hardly host newcomers. In short, poverty, semi-protection, unemployment and social exclusion are the main characteristics of life 'in transit', fostering a process of marginalization rather than integration. The first years are a precious time for establishing connections and access to resources, familiarising oneself with the authorities and the local structures and finding ways to match people's skills to labour market demands. Instead this time is wasted and migrants are immediately pushed into the margins of social strata. Healing the trauma of displacement is postponed for a number of years.

Transit migration also has consequences for the host country and the region. For the host country, tolerating this situation raises moral and ethical issues about the

provision of effective protection to displaced persons in accordance with international refugee and human rights standards, and the regulation of irregular migration flows. In addition, transit migration has a negative impact on the societal sphere, because the presence of an irregular or semi-legal population can reinforce intolerance and xenophobic trends towards migrants in the country in general, and impede the process of integration of the resident migrant populations. What is more, tolerating illegal entries and residence becomes an issue of national security, by challenging the state ability to control its borders. It can also affect foreign relations with the neighbouring countries.

For the EU, the presence of 'transit' migrants in Greece results in further irregular migration flows to other countries. Many among those that remain undocumented in Greece, and for that matter also in other countries of the EU periphery, become asylum seekers in Western European states a few years later. The secondary movement of forced migrants from one member state to another is usually based on differences in reception conditions and asylum systems. The known impediments to harmonisation are problems of coordination, and the role of national histories in moral and normative perceptions of migrant participation.

As Papageorgiou and Papadimitriou explain, lack of coordination and hesitations to responsibility sharing among member states often result in situations where asylum applications are not examined by any EU state and refugees are repatriated contrary to the principle of non-refoulement, or "disappear" in Europe as irregular migrants. In a vicious circle, the more states fail to meet their protection responsibilities, the more they reduce other states' credibility in the possibility and efficiency of a common asylum and policy across the EU.

More broadly, secondary migrant movements has a destabilizing effect on structured efforts to provide appropriate solutions for refugees, as UNHCR rightly points out. In addition, secondary migration movements feed in further smuggling and trafficking.[29]

Policy approaches to responsibility sharing

The case study and the previous two examples have shown that the phenomenon of transit migration is a result of both domestic inefficiencies and lack of the sharing of responsibilities between states. The final section will explore policy developments and ideas in the area of responsibility sharing, first inside the European Union and second, between the EU and neighbouring countries.

At European level, a number of important steps have taken place towards the harmonization of asylum policies, as foreseen in the Tampere I Program: the Directive on minimum standards on the reception of asylum applicants, which aims to ensure dignified standards of living and limit movement of asylum seekers between member states on the basis of differences in reception conditions has been adopted; so have the Directive for temporary protection in the event of mass influx of displaced persons, and the Directive on minimum standards for the qualification and status of

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[29] UNHCR Convention Plus, *Basic Propositions*, 25 June 2004.

persons as refugees or as persons who otherwise need international protection (Qualifications directive). The last Directive contains a clear set of criteria for qualifying either for refugee or subsidiary protection status and sets out the rights attached to each status. Importantly, a regime is set up for subsidiary protection at EU level for persons outside the scope of the Refugee Convention who are still in need of international protection (such as victims of generalized violence or civil war).

The Directive also allows for refugee recognition of persons who have a well founded fear of being persecuted on account of their sexual orientation or gender. The provision of protection irrespective of the actor of persecution (in other words, including non-state actors such as militia) aims to reduce differences in the interpretation of the 1951 Convention by member states. Finally, the Qualifications Directive also contains measures to combat misuse of asylum systems of Member states.

States have also reached political agreement for the Directive on minimum standards for procedures in granting and withdrawing refugee status (Procedures directive), yet the issue is still pending, largely due to the lack of consensus between member states on the annexed list of "safe countries of origin" (a number of countries in Africa and Latin America to be considered safe for the return of asylum seekers).

The Directive foresees that all procedures at first instance are subject to the same minimum standards (and in accordance with international obligations), that accelerated and regular procedures provide the same safeguards for applicants, and that all negative decisions have the possibility of judicial scrutiny. It is also aims to help member states to speed up the examination of asylum applications. The Directive guarantees the right to be invited to an interview for asylum applicants as well as the basic principles and guarantees for the examination of claims. This Directive will be a fundamental step towards the establishment of a common asylum policy, as will be the policy goals of Tampere II. The main challenge in these efforts remains the actual implementation in accordance with the abovementioned standards.

A policy that merits particular attention with regards to secondary movements within Europe is the one determining the state responsible for the examination of asylum applications. Up to recently, the 1990 Dublin Convention framework determined that the 'country of first asylum' is the one responsible for refugees passing through its territory.[30] This to a large extent resulted in an uneven distribution of refugees, with the "burden" obviously placed on the border member states. Even more, this practice has made access to refugee protection dependant on these countries' implementation and fulfilment of their obligations, which do not always meet the expected standards. In 2003 the Council replaced the Dublin Convention with a Council Regulation that aimed to make the allocation of responsibilities for examining asylum applications more workable.[31]

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[30] Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities signed in Dublin on 15 June 1990, OJ, C 254, 19 August 1997

[31] Council Regulation (EC)343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, OJ, L50 - 25 February 2003

The new Regulation takes into account family ties and the need for family reunion in the examination of the asylum application. Some efforts to tackle the imbalance of responsibilities are visible: according to article 7, the first member state entered by the asylum seeker will be responsible for examining the asylum application, unless it can be shown that the applicant has been living for a period of time in another member state where an application was previously filed.

Similarly, if s/he has remained unlawfully for six months or more in a member state, that state will be responsible for examining the asylum application. These provisions can balance responsibilities between EU countries of the centre and periphery in cases where migrants pass quickly through EU border countries and reside illegally in a Western European country for a significant amount of time. Yet, many migration flows from the South and East to the West do not follow the exact same path: prolonged illegal stay is very common in the first EU country, as the case of Kurds in Greece also displayed. For these cases, the Regulation does not really provide any remedy.

Burden sharing in the EU

Aside the Dublin Regulation, it is important to examine the conceptualisation and potential of a burden-sharing mechanism.[32] According to Noll (2000), a framework of burden-sharing in the EU consists of three components: sharing policies (through harmonisation of policies and definition of refugee and subsidiary protection), sharing the costs, and sharing the number of beneficiaries (through redistribution of asylum seekers). An example of sharing resources and costs is the establishment of the European Refugee Fund (ERF), operating since 2000, that is supporting reception and integration projects at local and national level. The third case has been applied in the recent Kosovo crisis through distribution of refugees to member states on a temporary basis under the UNHCR Humanitarian Evacuation Programme (Thielemann, 2003b; van Selm, 2000).

The idea of 'physical' burden-sharing was already proposed by the German Presidency in the early 1990s, in the context of mass displacement during the first Balkan crisis.[33] This proposal, advocating compulsory redistribution of refugees on the basis of the states' population size, size of territory and GDP, was opposed by countries that received few refugees, and by others who claimed that a compulsory distribution was potentially violating the refugees' consent and human rights (Thielemann, 2003b, p.260). Alternatively, scholars have suggested the option of a 'soft' resettlement policy that is non-binding for member states and depends on 'double voluntariness', that is the condition that both the recipient country and the refugee agree before resettlement takes place (Boswell, 2003) – a proposal envisaged

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[32] 'Burden-sharing' will be used here as the technical term already employed in the literature to describe intergovernmental cooperation aiming to share the responsibilities in relation to asylum seekers in Europe. However, the use of 'burden' to refer to asylum flows is conceptually problematic, because it implies that countries see asylum seekers as a problem.

[33] German Presidency Draft Council Resolution on burden-sharing, Council Document 7773/94 ASIM 124, July 1994.

in the Directive on Temporary Protection.[34] This policy option remains to be tested in practice.

In general, advocates of the redistribution policy claim that this would be the most effective way of burden-sharing, as states could equalise also non-quantifiable costs, such as integration. Others argue that a harmonisation of policies will be the only possible way, as sharing costs or refugees will not pragmatically be effective or fair (Boswell, 2003). In the end, burden-sharing is about the commitment of member states in equity and solidarity in the Union. The principle of solidarity is also evoked in the Draft EU Constitution (Article III-169):

> The policies of the Union set out in this section and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the acts of the Union adopted pursuant to this Section shall contain appropriate measures to give effect to this principle.

It is important to consider the ways in which such a responsibility mechanism can be achieved. The policy rationale of the lowest common denominator, observed in EU asylum and migration policy to this day, indicates that the call to solidarity and equality has not always a powerful effect. Yet, if values do not manage to mobilise member states, the realisation of necessity can be a more convincing argument. Sharing the costs of proactive measures (such as border protection and prevention of irregular migration) and reactive measures (such as reception, asylum processing) or tackling root causes (peacekeeping operations and missions, or development aid in the countries of origin) can work for the benefit of all and strengthen the countries' own border protection and reception capacity.

With regards to the types of burden-sharing outlined above, a redistribution of refugees among member states is likely to raise reactions, especially from countries that receive only small numbers of asylum seekers, such as Greece. Further research is needed in the effectiveness of such a mechanism and the criteria applied for redistribution among member states, as well as the degree to which the refugees' consent is guaranteed.

In fact, fair burden-sharing can primarily be achieved through harmonisation, by sharing policies, and resources for the cost of reception, asylum processing and integration. Sharing responsibilities signifies the progress in creating an integrated political EU community. The migrants who come to 'Europe' see the European Union as an integrated space more than the member states do. Acknowledging the level of state interdependence and need for uniform policies should not be seen as a challenge to state sovereignty, but as a means to strengthen the border control and reception capacity of each member state separately. It will also enhance the credibility and the value of refugee protection by preventing asylum abuses by non-genuine refugee claimants.

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[34] Council Directive 2001/EC/55 of 20 July 2001.

Policies for sharing responsibilities with the neighbouring countries

With regards to irregular and asylum flows in the EU neighbourhood region, a number of possible policy options have been discussed that could form part of the EU's partnership relations with third countries.[35] It has been acknowledged, that states and refugees currently face two main problems: on the one hand, member states face enormous costs in the processing of applications, a large part of which turn out to be manifestly unfounded (and most of which have arrived in the Union illegally); on the other hand, large numbers of displaced persons, including often the most vulnerable, remain in the transit region without access to protection.

In relation to these two points, the main ideas proposed have been resettlement, protected entry procedures protection in the region and processing of asylum applications in the region. To a large extent, these ideas are parallel to recent items in the UNHCR agenda (the Agenda for Protection and, mainly, the Convention Plus). While such ideas have been on the table for a few years, they gained a tangible form of policy objectives at the Thessaloniki Summit in June 2003 and more specifically in Conclusion 26 (objective 1: "orderly and managed entry of persons in need of protection" and objective 2 "enhance protection capacity in the regions of origin").[36]

A follow up June 2003 Communication spelled out these policy objectives more clearly, and the 2004 Communication on "Improving access to durable solutions" came up with a set of policy proposals.[37] The Communication suggests that an EU wide Resettlememt Programme could meet the first objective of the Thessaloniki 26 Conclusion (the orderly and managed entry), while the second Conclusion 26 objective is to be met through programs to enhance capacity building in order to create an asylum space in the regions of transit.

The EU Resettlement Programme is envisaged as a program operating on a total EU level quota (not country-specific), initially non-binding for countries (countries with little resettlement experience could participate at an *ad hoc* or *funds-only* basis) and based on the principle of "double-voluntariness", as described above. Such a programme would need a special legislative instrument and funding possibly from the ERF. This programme would also include special responsibilities for vulnerable groups.[38] Protected entry procedures (PEP) could be set up as an emergency strand of a wider resettlement action, but not as a self-standing EU policy.[39] Such an approach to PEP is also shared by the UNHCR.[40]

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[35] A number of policies in the area of border control and the combatting of smuggling and trafficking are also parts of the approach to combat irregular migration. These policies, are not however, examined in the present paper.

[36] Thessaloniki European Council, 19 and 20 June 2003, Presidency Conclusions, 11638/03, p.8

[37] See Communication "*Towards more accessible, equitable and managed asylum systems*" COMM 315, 3 June 2003 and Communication "*Improving access to durable solutions*", COMM 410, 4 June 2004.

[38] See COMM "*Improving access…*", pp.5-12

[39] Protected entry procedures are understood as various channels to access protection through a (preliminary) processing of claims for asylum beyond national borders in order to ensure an orderly and managed arrival of persons in need of international protection (but not in the form of transit centres) see COMM "*Towards more accessible, equitable…*", p.3

[40] UNHCR (2004), *Issues paper*, p.5

Creating an asylum space in the regions of origin is envisaged by the EU as a process that will be achieved through capacity building programs in the main transit and origin countries. There are indeed a number of important aspects in the possibility of protection in the region that justify the need for such an approach: first of all, refugees don't have to travel too far to find protection; second, they will not need to resort to smugglers and risk human lives while trying to cross borders illegally; third, repatriation is more likely to be take place in the future (Phuong, 2005). At the same time, it is imperative that these countries also meet their international obligations to provide protection to persons in need, a point also made by the UNHCR.

Towards that end, the UNHCR suggests that the strategic use of development assistance to achieve sound levels of refugee self-reliance should be an integral part of any capacity building plans targeting countries of asylum in the developing world.[41] Furthermore, the EU Communication also provides with a set of benchmarks and indicators that will serve as objectives in the process of building capacity for protection in the regions. These benchmarks make the idea of *protection capacity* and *effective protection* more clear and concrete, and are worth outlining.

"Effective protection" is understood as protection from persecution, non-refoulement, access to the legal procedure of claiming asylum and the possibility for adequate survival. Capacity building programs should aim at supporting the given country to accede and adhere to refugee instruments and human rights treaties, build national asylum laws, conduct proper registration and documentation of asylum seekers, cater for their admission and reception and support their self-reliance and local integration.[42] Finally, the abovementioned proposals can be best achieved if they form part of EU Regional Protection Programs that will be country-specific, flexible and provide a type of systematization and coordination of these policies.

Protection in the region does not overlap with 'processing in the region of origin' (suggesting the screening of applications in camps located outside the EU).[43] Such a policy is very likely to deflect burden-sharing to neighbouring countries, as well as risk access to protection, increase migrant vulnerability through spatial segregation, and feed in further smuggling. These ideas have been largely rejected by a number of different actors, such as Amnesty International, human rights groups, and the European Commission itself (in the 2003 Thessaloniki Summit). The UNHCR, which has proposed a three-prong approach in the Convention Plus initiative, including the idea of transit processing centres inside the EU, has tried to remain distant from this concept.

The general EU approach to manage orderly migrations to Europe and secure access to protection for those in need in the most efficient, fastest and less costly way, as outlined in the 2004 Communication, is well-balanced and considers both state interests and refugee and human rights standards. The Communication has been well

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[41] UNHCR, *Issues Paper*, and UNHCR *Framework for Durable Solutions*, Geneva, May 2003.
[42] COMM "*Improving access…*", pp.14-16
[43] A concept initially presented by the UK in 2002 and recently suggested also by Germany, Austria, Lithuania, Estonia and Latvia.

received by European non-governmental actors, such as ECRE.[44] In any case, a combination of opportunities for protection in the region and resettlement is a feasible and acceptable scenario. It remains however, crucial that resettlement policy and protection in the region do not replace, but act complementary to the states' obligations to consider asylum applications. In addition, the type of return policy to be established in the near future will play a key role in the way responsibility sharing with third countries will work.[45] It also remains to be seen whether and how member states will agree to commit themselves in such responsibility sharing proposals in practice. Finally, these policies should form part of a coherent framework of development policy and external relations of the Union with third countries

Conclusion

The present paper has aimed to shed light on the relation between irregular migration and asylum in Europe, using transit migration as an exemplary case. Transit migration is not a different type of migration, but a phase in which both economic migrants and refugees find themselves. With regards to forced migrants in particular, transit migration is a result of the lack of opportunities for effective protection and durable solutions in the first asylum country, and the restrictive policies in the neighbouring countries. As the case study of Kurds in Greece displays, the situation of transit refugees in a member state creates a number of problems for them, the host state and the European Union as a whole.

Migration issues in Europe tend to be approached as separate phenomena witnessed at domestic level and debated in a parallel rather than integrated fashion: for example, while Greece is preoccupied with irregular migration, the public debate in the UK centres on the issue of asylum seekers. In reality, these distinctions reflect more the different stages in which forced migrants find themselves in the course of the migration process, rather than different types of migrations to Europe. It would be no exaggeration to argue that it is the same refugees that remain undocumented in Greece – or for that matter, in other countries of the EU periphery – that apply for asylum in the UK a few years later. National policy responses only manage to provide piecemeal solutions to domestic symptoms, which can even exacerbate, directly or indirectly, problems in other parts of the European Union.

A framework for responsibility sharing is needed between EU member states as well as between the EU and third countries in the neighbouring regions. Such a framework would include a number of different policies, as those discussed in the last section, which should form part of a broader development and partnership program between the countries and the Union. A framework would give shape and systematization to burden sharing and capacity building programs (the idea of Regional Protection

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[44] ECRE, Comments on the Communication on the managed entry in the EU of persons in need of international protection and the enhancement of the protection capacity of the regions of origin, "Improving access to durable solutions", CO2/09/2004/ext/PC

[45] The Commission plans to prepare a proposal for a Council directive on minimum standards for return procedures and mutual recognition of return decisions in 2005 (see Statewatch News, *The "Hague Program" Timetable* http://www.statewatch.org/news/2004/nov/hague-timetable.pdf A Community Return Fund is expected to be created by 2007, see Council of the European Union, *Note from Presidency: partnerships with third countries countries and migration management*, 12715/04, 22 September 2004.

Programs, mentioned in the Communication, is a good example of such an approach). Aside for the need for such an institutional framework, what is equally important is a sense of solidarity, commitment and partnership.

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