Immigration policy in Europe: between demography, values and war

Recent developments

Nearly two million refugees fleeing from the barbaric, unsolicited and lawless attack by Russia on Ukraine, make it difficult to talk about migration. This breaking of international law, humanitarian law, the Geneva Conventions and refugee law makes it difficult to discuss a rules-based approach to migration and make the distinction between migrants, refugees and asylum seekers.

However, for clarity, a few words on the concept of '**refugee**' and '**migrant**':

Refugee: (1951 Convention[1]) "a person who is outside his or her country of nationality or habitual residence; has a well-founded fear of being persecuted because of his or her race, religion, nationality, membership of a particular social group or political opinion; and is unable or unwilling to avail him or herself of the protection of that country, or to return there, for fear of persecution"[2].

The cornerstone of the protection of refugees: **non-refoulement** contained in Article 33.
According to this principle, a refugee should not be returned to a country where he or she faces serious threats to his or her life or freedom. This has become customary international law which is binding on all states.

The **1951 Refugee Convention** reflects the post-World War II situation with many stateless persons which were without any protection as the bond with their country of origin was cut. Thus, nationality was the key concept but the Convention itself makes protection dependent on the refugee status and not nationality[3]. While this still holds true also today, we have seen over the years a widening of the concept also in relation to the threat concept, like displacement caused by climate change.

A **migrant**[4], in comparison, may leave his or her country for many reasons that are not related to persecution, such as for the purposes of employment, family reunification or study. A migrant continues to enjoy the protection of his or her own government, even when abroad. The term, itself is not defined under international law. The International Migration Organisation (IMO), provides a definition in referring to the common lay understanding of a person who moves away from his or her place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons.

Thus, refugees are forced to flee because of a threat of persecution and because they lack the protection of their own country. Thus, high level of unemployment in a country, may be a good reason not to accept migrants, but it is no argument not to accept refugees!

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[1] Convention and Protocol Relating to the Status of Refugees (1951); at https://www.unhcr.org/3b66c2aa10

[2] Exclusion grounds: Persons having committed a crime against peace, a war crime, a crime against humanity or a serious non-political crime outside their country of refuge; or they are guilty of acts contrary to the purposes and principles of the United Nations.

[3] Michael Reiterer (1984). The Protection of Refugees by Their State of Asylum. Abhandlungen zu Flüchtlingsfragen Vol XVI, Braumüller, Wien; p. 91.

[4] While the United Nations High Commissioner for Refugees (UNHCR) is mandated to protect refugees under its mandate, the **International Organisation for Migration (IOM)**, which is also part of the UN-family, helps ensure the orderly and humane management of migration, to promote international cooperation on migration issues, to assist in the search for practical solutions to migration problems and to provide humanitarian assistance to migrants in need, be they refugees, displaced persons or other uprooted people. The IOM Constitution gives explicit recognition to the link between migration and economic, social and cultural development, as well as to the right of freedom of movement of persons. It also operates in the four broad areas of migration management: migration and development, facilitating migration, regulating migration, and addressing forced migration. Cross-cutting activities include the promotion of international migration law, policy debate and guidance, protection of migrants' rights, migration health and the gender dimension of migration; See https://www.iom.int/our-work.

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Rights of refugees

- The right <u>not to be punished</u> for illegal entry into the territory of a contracting State (Article31);
- The right to <u>work</u> (Articles 17 to 19);
- The right to <u>housing</u> (Article 21);
- The right to <u>education</u> (Article 22);
- The right to <u>public relief and assistance</u> (Article 23);
- The right to freedom of <u>religion</u> (Article 4);
- The right to <u>access the courts</u> (Article 16);
- The right to <u>freedom of movement within the territory</u> (Article 26); and
- The right to be issued <u>identity and travel documents</u> (Articles 27 and 28).[5]

Long-term refugees having been **granted asylum** may turn into migrants especially if there is no prospective of returning to the country of origin. Granting asylum can be a long process if it is difficult to determine facts and if all appeals are used. Thus, asylum seekers are in a precarious situation, if their request is rejected sometimes after years, even well integrated persons have to return to their country of origin.

The newly set up **European Union Agency for Asylum (EUAA)** is an agency of the European Union mandated with supporting Member States in applying the package of EU laws that governs asylum, international protection and reception conditions, known as the Common European Asylum System (CEAS)[6]. The EUAA acts as a resource for Member States in the field of international protection, with the ability to provide practical, legal, technical, advisory and operational assistance in many formats. The Agency does not replace the national asylum or reception authorities, which are ultimately entirely responsible for their procedures and systems. It also provides situational updates[7] on developments in the Ukraine.

In light the pressing **Ukrainian crisis**[8] –nearly 2 mio. refugees are already on their way and up to 6 mio. are expected - the European Commission proposed to activate the <u>Temporary Protection Directive</u>[9] to offer quick and effective assistance to displaced persons fleeing from the war in Ukraine. This proposal was unanimously accepted by the Ministers of Justice on March 3, 2022. This Directive guarantees standards for giving **temporary protection** in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

This will enable the EU member states to offer people fleeing the conflict in Ukraine an appropriate response for their situation. Eligible persons will be granted a protected status <u>similar to that of refugees</u>,

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[5] UNHCR. The 1951 Convention relating to the Status of Refugees and its 1967 Protocol; at https://www.unhcr.org/about-us/background/4ec262df9/1951-convention-relating-status-refugees-its-1967-protocol.html (accessed 5 March 2022).

[6] https://euaa.europa.eu/

[7] https://euaa.europa.eu/news-events/euaa-provides-situational-update-eu-rapid-response-efforts-assist-displaced-ukrainian

[8] European Commission. "EU solidarity with Ukraine"; at https://ec.europa.eu/info/strategy/priorities-2019-2024/stronger-europe-world/eu-solidarity-ukraine_en (accessed 5 March 2022).

[9] Proposal for a COUNCIL IMPLEMENTING DECISION establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Council Directive 2001/55/EC of 20 July 2001, and having the effect of introducing temporary protection COM/2022/91 final at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022PC0091&qid=1646384923837

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in any EU country, for a renewable period of one year. T**emporary protection** includes a residence permit, access to education and to the labour market.

In addition, this scheme also allows for more flexibility in the Schengen system. Simplified operational guidelines[10] to help Member States' border guards in managing arrivals at the borders with Ukraine efficiently, while maintaining a high level of security. Member States can set up special emergency support lanes to channel humanitarian aid and recall the possibility of granting access to the EU on humanitarian grounds.

Without going into any details, let me point out that in light of the war in the Ukraine the EU reversed course within a week, agreed on various serious sanction packages, delivered and financed weapons, increased defines budgets and showed unprecedented solidarity with and empathy for Ukrainian refugees, including the previously rather reluctant[11] Poles, Hungarians, Slovaks, Romanians….

However, as the IOM[12] and the UNHCR pointed out, there is no place for discriminating between persons fleeing war in the Ukraine based on their nationality or even race, like migrant workers and students, arriving at the border with neighbouring countries.

Legal migration

Although illegal immigration makes the headlines, let me start with *legal migration.* Legal migration schemes[13] are the best remedy against illegal immigration, ruining effectively the business of criminal gangs engaged in trafficking. The unscrupulous people-smugglers who operate along migration routes worldwide need to be suppressed – this has become a business model. Safe and legal routes will not only decrease irregular arrivals, they may also alleviate the pressure on the EU asylum system as the attempts to get access via an asylum request will diminish if legal immigration is an option.

There are many reasons for migration – either driven by economic interests or personal preferences for way of life, cultures or personal relationships. According to recent statistics, there are around **20 million migrants** (out of 450 mio people in the EU) who live legally in the European Union. During the pandemic, migration has slowed down, but it picking up as we come out of the Covid crisis and - recently - the unfolding refugee drama in the Ukraine.

A well-managed regular migration, coupled with effective integration policies, are part of the **solutions to Europe's problem of demographic ageing, shrinking population and skills shortages on the labour market.**

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[10] European Commission. Communication providing operational guidelines on external border management EU-Ukraine borders. 2 March 2022; at file:///C:/Users/micha/Downloads/Communication%20providing%20operational%20guidelines%20external%20border%20management%20EU-Ukraine%20borders_en_1.pdf

[11] "Visegrad countries U-turn on migration over Ukraine, welcome refugees". EuroActive, 28 February 2022; at https://www.euractiv.com/section/politics/short_news/visegrad-countries-u-turn-on-migration-over-ukraine-welcome-refugees/?utm_source=piano&utm_medium=email&utm_campaign=19187&pnespid=6qNpUC9GK.gKhP7f9iXtDIyN4RnyCpIsILiyzPRq.w1mYt.EDNVkrXybxOZ4hz8QsG6w_zOU

[12] IOM. "Discrimination and Racism Against Third Country Nationals Fleeing Ukraine Must End: IOM Director General", Press release 3 March 2022; at https://www.iom.int/news/discrimination-and-racism-against-third-country-nationals-fleeing-ukraine-must-end-iom-director-general

[13] European Parliament (2021). "Legal migration policy and law: European added value assessment"; at https://www.europarl.europa.eu/RegData/etudes/STUD/2021/694211/EPRS_STU(2021)694211_EN.pdf

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During the pandemic, migrants were instrumental in keeping the society functioning in supplying basic and necessary functions and services. Migrant workers from outside the EU form a significant proportion of the so-called 'essential' workers: they account for more than 25% of cleaners and helpers, 17% of construction and mining workers and 14% of personal care-workers.

Many of them will be needed for a smooth economic **recovery from the pandemic**. As activities are recovering, there are growing labor demands, especially in sectors like healthcare, agriculture, transport and construction.

Many companies are ready to recruit, but in many cases, they cannot find workers for the jobs, despite persistent unemployment rates in Europe. Seven out of ten businesses have trouble finding people with the right skills. In the entire European Union, 2.5 per cent of positions are now vacant. 21 EU Member States report a shortage in nurses. I understand Japan is driven by the same circumstances.

There are efforts to be done in Europe for equipping people with the skills that are really needed on the labor market[14], but in addition to that, migration can offer a **solution to fill in job vacancies, reduce the skills gap and support EU's economic recovery and innovation potential.**
This pre-Ukraine reflection shall hold in principle, although the war in the Ukraine will impact negatively on the economy which will reduce the demand for workers. The mentioned activation of the emergency measures will facilitate and accelerate taking Ukrainians in, but this will in turn reduce chances for other job seekers considerably.

When it comes to the **global race for talent**, the EU has to make sure to remain attractive and not lose out to others among the many highly educated migrants who might prefer North America, Australia and New Zealand, which used to be typical immigration destinations, to Europe. Improving the recognition of professional and academic qualifications are pull-factors to which transparency, predictability and justice of legal migration to the EU would add. In view of the Single Market and the Schengen area, a common EU recruitment strategy would make sense. In addition to economic opportunities, there is also a need for a <u>welcoming culture</u> for foreigners, an openness of a society and an attractive way of life.

Concerning **welcoming culture**, three points:
<u>First,</u> countries blocking, reducing or allowing migration are well-advised to look back into their own history: There are more people of Irish origin living in the US than in Ireland when their ancestors were fleeing hunger. Japanese immigration to Brazil[15] and Peru[16] as well as return immigration back to Japan offers lessons learned in discrimination and integration.
<u>Second,</u> in relation to refugees: How many Afghans tried to reach Japan or South Korea to name two rich democracies? How many refugees in general are accepted? "Japan's refugee acceptance rate is remarkably low at only 1.2 per cent (47 out of 3,936 applications) in 2020. In 2018, the (Japanese)

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[14] OECD (2014). Matching economic migration with labour market needs in Europe. Policy Brief, September 2014; at https://www.oecd.org/els/mig/OECD-EC%20Migration%20Policy%20Brief%2009-2014.pdf

[15] Mieko Nishida (2017). "Japanese Immigration to Brazil". Latin American History, 26 September 2017; at https://oxfordre.com/latinamericanhistory/oso/viewentry/10.1093$002facrefore$002f9780199366439.001.0001$002facrefore-9780199366439-e-423;jsessionid=37CBFAB0E9D8A1388FB14593F2358174

[16] Peru has the second largest ethnic Japanese population in South America after Brazil. This community has made a significant cultural impact on the country, today constituting approximately 0.1% of the population of Peru. In the 2017 Census in Peru, only 22,534 people self reported Nikkei or Japanese ancestry. Japanese Peruvians. Wikipedia, at https://en.wikipedia.org/wiki/Japanese_Peruvians#:~:text=Peru%20has%20the%20second%20largest,reported%20Nikkei%20or%20Japanese%20ancestry. (accessed 6 March 2022).

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Ministry of Justice tightened regulations on refugee recognition by limiting work permits for asylum seekers, which halved applications in the following year."[17]

<u>Back to migration</u>: First and foremost, Europe has a positive image: "One in three migrants in the world go to Europe. That's a staggering statistic when considering there were more than 250 million migrants globally in 2017. But it also highlights the desire of millions of people for a higher quality of life – in pursuit of better education, jobs, healthcare, or simply a safer place to live."[18]

Recognizing the competition for talent, the **New Pact on migration and asylum**[19] includes a new **EU Blue Card** based on the Blue card directive[20] to better attract highly skilled workers to the EU provided they have higher professional qualifications, such as a university degree, and an employment contract or a binding job offer with a high salary compared to the average in the EU country where the job is. The revision also offers more flexible admission conditions, family reunion, enhanced rights and the possibility to move and work more easily between EU Member States. The EU Blue Card applies in 25 (minus Denmark, Ireland) of the 27 EU countries. While Member States are responsible for deciding on the number of persons they admit for labor purposes, an improved framework at EU level will put Member States and businesses in a better position to attract the talent they need[21]. Thus, there is still a strong nationalistic element, Member States prefer national schemes (Red-White-Red Card for Austria) to keep full control, but thereby reducing attractivity of the whole scheme.

A "**Talent Partnerships**" is another idea to make Europe more attractive for those who want to work train or study in Europe. They should be a "triple win" for all the parties involved - Member States, partner countries and migrants themselves." The idea foresees a policy framework and funding support to boost mobility of students, graduates and skilled workers, from partner countries to the EU. Partner countries could also benefit from capacity building assistance in areas, such as: labour market or skills intelligence, vocational education and training, integration of returning migrants.

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[17] Yusaku Yoshikawa (2021). "Japan's intensifying refugee debate". East Asia Forum, 27 October 2021; at https://www.eastasiaforum.org/2021/10/27/japans-intensifying-refugee-debate/ See also Hirotaka Fujibayashi (2021). "Rethinking Japan's refugee and asylum policy". East Asia Forum, 19 January 2021; at https://www.eastasiaforum.org/2021/01/19/rethinking-japans-refugee-and-asylum-policy/

[18] Asli Demirgüc-Kunt, Cyril Muller (2019). "Is there a policy remedy for brain drain in Europe?" World Bank Blogs, 9 October 2019; at https://blogs.worldbank.org/europeandcentralasia/there-policy-remedy-brain-drain-europe

[19] European Commission. New Pact on Migration and Asylum, at https://ec.europa.eu/info/strategy/priorities-2019-2024/promoting-our-european-way-life/new-pact-migration-and-asylum_en (accessed 5 March 2022). For a critical evaluation see: European Parliament (2021). "The European Commission's legislative proposals in the New Pact on Migration and Asylum"; at https://www.ceps.eu/ceps-publications/the-european-commissions-legislative-proposals-in-the-new-pact-on-migration-and-asylum/

[20] European Commission (2021). "EU Blue Card: Commission welcomes political agreement on new rules for highly skilled migrant workers", Press Release 17 May 2021; at https://ec.europa.eu/commission/presscorner/detail/en/IP_21_2522

[21] **Flexible requirements**: To qualify for an EU Blue Card, the salary threshold will be reduced to between 1 and 1.6 times the average gross annual salary, making it more accessible to more people. The minimum duration for a contract of employment will also be reduced to 6 months.
Qualifications and skills equivalency: New rules will facilitate the recognition of professional skills for occupations in the information and communication technologies sector. Applicants with professional experience equivalent to a higher education qualification in some specific sectors will also be eligible to apply.
More flexibility to change position or employer: During the first 12 months, EU Blue Card holders need only complete a new labour market test if they wish to change position or employer. Only after this period, EU Blue Card holders may be subject to an obligation to notify a change in their situation to the relevant national authorities.
Highly skilled beneficiaries of international protection will be eligible to apply for an EU Blue Card.
Family reunification: To attract and retain highly skilled workers from outside the EU, family members of EU Blue Card holders will be able to accompany them and access the EU labour market.
Intra-EU mobility: EU Blue Card holders, and their family members, will be able to move to a second Member State based on simplified mobility rules after 12 months of employment in the first Member State. Periods of time spent working in different Member States will also be taken into account, facilitating easier access to the EU long-term resident status.

A Skills and Talent package", planned for 2022 would make it easier for people of all skills to come to Europe.

While attracting people is one possibility, **caring and making better use of all the talent of migrants who already live in the EU is an obvious tool**. This initiative is related to an important problem in migration, the formal recognition of refugee qualifications. There should be common tools, like the **EU Skills Profile Tool, to assess the qualifications**.

The Pact on Migration and Asylum include also the **revision of the Long-term Residence Directive,** to strengthen the rights of residents to move and work in different Member States, and the revision of the **Single Permit Directive** to simplify the procedures for low and medium skilled workers – both expected soon in 2022.

A different but also important category are **seasonal workers**[22] who meet a structural need which is not entirely met by EU workers notably in agriculture, horticulture and tourism. They are often in precarious situations facing exploitation, sub-standard working conditions and unequal pay. Member States must submit a list of sectors that are dependent on seasonal conditions (for example, summer/winter tourism and harvesting) to the European Commission. Applicants have to prove a work contract or a binding job offer specifying i.a. pay, working hours as well as evidence of adequate lodging. 'Seasonal' means that the length of stay is limited to between 5 and 9 months per 12 months. Once in the EU, workers may extend their work contract or change employer. Within the maximum permitted stay, EU countries may allow workers to extend their contract with the same employer more than once, as well as to have contracts with more than one employer.

Finally, as **migration is a global phenomenon**, like refugees, mobility and migration, should be part of a rules-based global multilateral system to which the EU subscribes. The **United Nations' Global Compact for Safe, Orderly and Regular Migration (2018)** was endorsed by the UN General Assembly in December 2019[23]. It is the first inter-governmentally negotiated agreement, prepared under the auspices of the United Nations, covering all dimensions of international migration in a holistic and comprehensive manner. It is a non-binding document that respects states' sovereign right to determine who enters and stays in their territory and demonstrates commitment to international cooperation on migration. It also fits into the 2030 Agenda for Sustainable Development in which Member States committed to cooperate internationally to facilitate safe, orderly and regular migration.

Developmental aspects and brain drain

The **development aspect** is important: **brain drain** has an internal and external dimension. Within a country (and within the EU) the young and talents are drawn to cities. Certain areas suffer simultaneously from depopulation and over-aging, especially in rural areas[24], a problem also known in Japan. Within the European Union, EU-citizens make use of their right to move and profit from the wage and wealth difference within the EU, the UK, Switzerland and Norway. The share of Romanians

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[22] Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers; at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0036

[23] IOM. Global Compact for Migration; at https://www.iom.int/global-compact-migration (accessed 5 March 2022).

[24] European Commission. "Population decline and brain drain in EU territories"; at https://migration-demography-tools.jrc.ec.europa.eu/atlas-demography/stories/AoD/2/ageing/S2.4 (accessed 8 March 2022).

and Poles working in another member state increased within ten year (2011 to 2020) from 14 to 23% and 4 to 9% respectively[25]. This also causes external migratory movements: already before the war in the Ukraine, Ukrainians were replacing Poles or Hungarians who had moved to other member states. Albania and Bosnia-Herzegovina have a brain drain rate among the educated of 40-50%!

Thus, the **external** dimension is that the competition for talents favours industrial countries offering better living and earning conditions. This is often linked to education and training when those having profited from it prefer staying on in the country of temporary abode.

Circular migration[26] is an attempt to remedy brain drain: this can either take the form of

(i) nationals from a non-EU state, getting the opportunity to engage in an activity (business, professional, voluntary or other) in their country of origin while underline retaining their main residence in one of the EU Member States; (*This covers various groups, like business persons working in the EU and wishing to start an activity in their country of origin (or in another third country); and doctors, professors or other professionals willing to support their country of origin by conducting part of their professional activity there*.), or

(ii) third country nationals may temporarily work, study, undergo training or a combination of these in the EU, on the condition that, at the end of the period for which they were granted entry, they must re-establish their main residence and their main activity in their country of origin.

Integration vs. ghettoization

Integration in the EU is a hot topic. Integration vs assimilation, integration vs. ghettoization. Respect for other cultures, religions – unity in diversity or unity without diversity? Multi-cultural or mono-culture? In addition, there is often a racial element – keeping societies closed. Non-discrimination vs. discrimination or exclusion.

Respect and tolerance have to work both ways, for the host society and the migrants, while "guests" might have to make more efforts to fit into their host environment.

In our societies the value of a person is mostly defined in terms of **work.** Therefore, **work is essential for integration.** Thus, access to the labour market is not only an economic issue but also one of self-esteem, respect, acceptance and integration.

To ensure full social and economic inclusion policies have to be devised in cooperation between hosts and guests: it is better to talk underline with immigrants than underline about immigrants! This will help to define measures that are fit for purpose and efficient.

These main **obstacles** to entering the labour market need particular attention:

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[25] European Commission. "Depopulation, brain drain and returning migrants: facts and figures for EU policy", News 17 January 2022; at https://knowledge4policy.ec.europa.eu/news/depopulation-brain-drain-returning-migrants-facts-figures-eu-policy_en

[26] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on circular migration and mobility partnerships between the European Union and third countries, COM/2007/0248 final/ at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2007:0248:FIN

(i)   the language barrier and

(ii)   the non-recognition of diplomas and qualifications.

(iii)   migrants face discrimination in getting promoted and accessing higher positions even after accumulating years of work experience.

Important **promotional measures** concerning **employability** to remedy the situation:

(i)   to provide incentives for employers and to recognise all skills and experience

(ii)   to implement specific actions for the access to employment of youth and migrant women,

(iii)   to offer specific business training for migrants to enable them to set up enterprises and

(iv)   to raise awareness about the European Qualifications Passport for Refugees[27].

Schools, and therefore access to them, can be effective hubs for integration if

(i)   all children have access to the education system and their specific needs are met.

(ii)   Teachers and school staff need support, tools, information and training about psychosocial support and mental health so that they can better ensure a positive school environment and can effectively assist children.

Local networks are essential

(i)   to complete the support provided by schools and to build up ecosystems, with opportunities for non-formal education (sport, culture etc.) provided by civil society organisations and municipalities and

(ii)   to show more positive examples of migration stories.

It is clear that migration only works well if migrants are properly integrated in the host society.

The **costs of non-integration cause the following risks and are probably more costly than integration**:

- migrants' exclusion from formal labour and surge in undeclared work e.g., black market, exploitation of migrants;
- migrants' inability to fully realise their potential;
- lack of identification with and acceptance of the values of the host country;
- aggravation of socio-cultural differences between the migrant and host communities;
- increased xenophobia and mutual distrust;
- spatial segregation leading all the way to ghettoisation;
- increase in hate speech and hate crimes;
- decline in law enforcement and possible increase in crime rates, particularly in socially excluded areas;
- potential radicalisation and increased support for extreme ideologies (by both migrant communities and the host society).

Therefore, the European Commission presented in 2020:

- **Action Plan on integration and inclusion** for 2021-2027[28];
- relaunch of the **European Partnerships on Integration** that had existed since 2017. The Commission is financing projects implemented by employers' organisations, chambers and trade unions to promote the integration of refugees into the labour market.

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[27] https://www.coe.int/en/web/education/recognition-of-refugees-qualifications

[28] https://ec.europa.eu/migrant-integration/news/ec-reveals-its-new-eu-action-plan-integration-and-inclusion-2021-2027_fr

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Social integration, fighting stereotypes, overcoming resistance against those who are different in behaviour, appearance, language, religious beliefs need support in fighting **hate speech, misinformation about migrants and refugees in firmly counteracting xenophobic discourse**.

Positive messaging, best practices or experience: highlighting concrete examples of positive contributions of migrants across Europe for several years, avoiding the dangerous, confrontational "them" but as "us".

In principle, migrants are not a threat but an opportunity for maintaining and improving further Europe's economic and social model. Open societies are more innovative and productive as can be measured in the number of start-ups in immigrant societies like the US and Israel. "*In principle*" means that there is a need to make sure that the people accept, support and recognize this, either for economic or humanitarian reasons. If there is no acceptance, integration will not happen, societal tensions will rise playing in the hands of nationalists, populists and right-wing politicians.

Therefore, the EU needs to **strike the right balance between effective and realistic migration management that is humane and sustainable, while ensuring security and control of its external borders.** A better balance between solidarity and responsibility needs to be found.

Asylum and irregular migration

Europe is still traumatized by the 2015 refugee crisis with a large influx of people following the war in Syria: **a big focus was put on asylum and irregular migration**. The recent situation around the Ukraine, the after-shocks of **Afghanistan** and the situation at the border with **Belarus**, but also the handling of refugees from the Middle East and North Africa by Turkey, were recent occasions which demonstrated that **blackmail** works if there is no sound, coordinated and effective migration policy in place that combines the management of external borders, safe pathways for asylum-seekers, regular channels for migration and a good integration of non-EU nationals in the EU.

Migrants and refuges are used as geopolitical tools. Such an instrumentalization has a long history, but is totally unacceptable and against fundamental European values and international law. Unfortunately, it is the Achilles heel of the EU, as for other developed countries.

When situations, especially at the **border** or at the sea get out of control, **push backs** happen i.e., non-refoulement is not practiced. The Mediterranean regularly turns into a large grave yard for many, mostly Africans.

Securing borders is a duty of a state, therefore migrants (and asylum seekers) have to prove their title of entry into a territory. This is especially difficult in times of mass movements, therefore the idea of pre-screening either in the country of origin, at the border or in the country form which entry is sought, are discussed to alleviate the pressure at the border. However, outsourcing of border control remains problematic in terms of rule of law and of fundamental human rights, creating a fiction of non-entry, depriving somebody of liberty through 'camps' or assigned 'accommodations'. The proportionality of measures taken needs to be respected. This also applies to **FRONTEX**[29], the European Border and Coast Guard Agency, which supports member states in securing the external border of the EU. Various

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[29] https://frontex.europa.eu/

reforms[30] of at the mandate and rules of engagement of these transnational border guards have been enacted to ensure respect for fundamental rights, above all the principle of non-refoulement.

Disturbing is the building of walls: the fall of the Berlin Wall was heralded as the beginning of a new area, fences were cut in front of cameras at the Austro-Hungarian border and now we are building fences again – in Europe, in the US - Mexico, in Asia. **Walls and fences are also the end of solidarity and cooperation**: some Member States opt out from joint obligations; other Member States are left alone to carry a disproportionate burden in dealing with asylum seekers and migrants dictated by geography. The more dangerous walls are the walls in the minds of people, long-term with negative attitudes, nationalism and xenophobia.

Therefore, the EU needs a **genuinely common asylum procedure** that is reliable, flexible and efficient, while ensuring various legal pathways for people in need (e.g., resettlement, humanitarian visas). Although a reform of the Schengen system is envisaged, without commonality of asylum systems and policies to accept migrants, the system cannot work. Otherwise, one of the fundamental principles of the EU, free movement of persons, will be diminished.

As mentioned, we need to establish **additional ways for legal migration to the EU** for other types of migrants, which will help significantly decreasing irregular migration. One reason why many persons embark on highly dangerous journeys over oceans is the **lack of legal alternatives**. This lesson is not confined to the EU but also applicable to Japan.

There can also be competition between asylum seekers and migrants: if asylum is rejected, asylum seeker need to return to their country of origin. The conclusion of **readmission** agreements of illegal migrants has become a prominent but unpopular trait of the neighborhood policy. 'Mobility Partnership Agreements'[31], trying to combine cooperation on irregular migration, legal migration, development and asylum became widely used for migration management in response to the Arab Spring. Resettlement schemes and support are often necessary to achieve this goal. In the case of Afghanistan, in order to get space for refugees and persons in need of international protection, those asylum seekers who were not granted asylum had to return.

Conclusion

Migration can be steered by a sound migration policy, domestically and internationally. Migration is sensitive to political developments: The COVID-19 pandemic and Brexit caused a return movement within the EU, indicating also that migration often is of temporary nature. Migration is also a global problem, intertwined with the situation of refugees and displaced persons, the uneven distribution of wealth and prosperity. Successful development in turn would take out an important pull factor for brain drain.

Receiving refugees is a duty, because they are in need. Receiving migrants is a choice, because they are needed. In both cases, the receiving state shows its respect for human beings, their rights and culture.

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[30] Roderick Parkes (2021). "The other Frontex debate: how border geopolitics will define the future of Schengen". CSDS Policy Brief 5/2021; at https://brussels-school.be/sites/default/files/CSDS%20Policy%20brief_2105.pdf

[31] European Commission. "Mobility partnerships, visa facilitation and readmission agreements", at https://ec.europa.eu/home-affairs/policies/international-affairs/collaboration-countries/eastern-partnership/mobility-partnerships-visa-facilitation-and-readmission-agreements_de (accessed 7 March 2022).

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