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# The European Union's response to the Syrian refugee crisis

An analysis of the response of Member States and EU institutions

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# **Chapter 1 – Introduction**

## **1.1 Topic and research question**

The topic for this thesis is the European Union's response to the Syrian refugee crisis. The political crisis in Syria broke out after the government's violent response to the demonstrations against the regime in March 2011. The peaceful demonstrations were driven by the desire for democratic reform and inspired by the uprisings in Tunisia and Egypt. President Bashar al-Assad cracked down on the demonstrations by using violence and triggered a lasting conflict. Since then more than 4.1 million refugees have fled from Syria to neighboring countries Lebanon, Jordan, Iraq, Egypt and Turkey in search of protection (UNHCR 2015a). Thousands have also made their way to Europe by land or sea and contributed to a sharp increase in the influx of persons in need of international protection. The EU Member States most affected by the influx of Syrian refugees are Italy, Greece and Hungary whose geographic location makes them particularly vulnerable. However, in terms of asylum applications Sweden and Germany are the top receiving countries.

The thesis investigates the European Union's response to the Syrian refugee crisis in the period of April 2011 to October 2015. The thesis addresses the following research questions: 1) How has the EU responded to the Syrian refugee crisis? 2) How may this response be explained? Finally, the thesis draws on the result of the analysis in more general discussion on the nature of the EU. The thesis analyses the response from a supranational as well as an intergovernmental perspective. The thesis argues that EU Member States' response can be divided into three distinctive categories: the liberal, the moderate and the restrictive. The liberal response, constructed by Germany and Sweden, is based on human rhetoric and open door-policies, where Syrian asylum seekers are welcomed and granted protection. The restrictive response, constructed by Hungary, is founded on xenophobia and anti-immigration policies and seeks to complicate the arrival of new asylum seekers. Finally, the moderate response, constructed by Italy, consists of policies that depend on assistance from the EU. The thesis further argues that state leaders, public opinion, economic situation and previous history have had a significant impact on the response of EU Member States. It argues that the discussion on burden sharing among Member States is similar to the discussion that took place in the 1990s following the collapse of Yugoslavia. The study also acknowledges that the objectives of the Common European Asylum System (CEAS) are not adequately fulfilled.

Finally, the thesis argues that there is a connection between the actions of Member States and the actions of the EU institutions.

## **1.2 The Syrian crisis and the EU's response**

The EU's asylum system is currently under severe stress as Europe faces the largest humanitarian crisis since World War II. At the end of 2014 the number of people forcibly displaced in the world reached 59.5 million, the highest level ever recorded (UNHCR 2015d). People are fleeing from war and persecution in Africa, Asia and the Middle East. Thousands of those who leave their country head for Europe in search of protection and a better life. Most of them enter the EU by crossing the external border of Italy, Malta, Greece or Hungary. Syrians together with Afghans and Kosovans were the top three citizenships of asylum seekers in the EU in 2014, while Syrians, Afghans and Albanians were the top three citizenships of asylum seekers in the second quarter of 2015 (Eurostat 2015a-b). The prolonged conflict in Syria has resulted in a humanitarian and political crisis, which also affects Europe. The number of Syrians arriving in Europe seeking international protection continues to increase. However, the number of Syrian refugees in Europe remains low compared with the number of Syrian refugees in Syria's neighboring countries. Slightly more than 10 percent of the Syrian refugees fleeing the conflict have sought protection in Europe. Between April 2011 and October 2015, Europe received 681.713 Syrian asylum applications (UNHCR 2015b). The top receiving countries in Europe being Germany and Serbia (and Kosovo) with 53 percent of the applications, followed by Sweden, Hungary, Austria, the Netherlands and Bulgaria (which together received 34 percent of the applications). The influx peaked in October 2015 when Europe received 143.355 Syrian asylum applications (UNHCR 2015b).

The EU has since the Syrian crisis broke out in 2011 responded to the crisis with rounds of sanctions<sup>1</sup> attempting to put pressure on the Syrian regime and the elites surrounding it. The sanctions started with "Council Regulation No. 442/2011 of 9 May 2011 concerning restrictive measures in view of the situation in Syria" and expanded from there. These measures provided for an arms embargo, a ban on internal repression equipment, and restrictions on the admission to the Union and the freezing of funds and economic resources of certain persons and entities responsible for the violent repression against the civilian

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<sup>1</sup> Sanctions (restrictive measures) are an essential EU foreign policy tool that the EU uses to pursue objectives in accordance with the principles of the CFSP. The EU imposes its restrictive measures to bring about a change in policy or activity by the target country, part of a country, government, entities or individuals (EEAS 2015c).

population in Syria (OJ 2011). The first list of 13 persons included members of the al-Assad family, members of the security apparatus in Syria, members of the political system and business people closely related to the regime. The restrictive measures were gradually extended in areas such as oil, banking and trade. However, EU sanctions have so far failed to facilitate a political solution to the conflict in Syria.

The EU suspended its bilateral cooperation programs with the Syrian Government under the European Neighborhood Policy (ENP) in May 2011<sup>2</sup>. The ENP was the main EU financial instrument to fund development cooperation programs with the Neighborhood partner countries (including Syria) from January 2007 to December 2013. Special measures under the European Neighborhood and Partnership Instrument (ENPI) have been adopted since 2011 to respond to the Syrian crisis. Participation by the Syrian authorities in EU regional programs was also suspended. The same applied to the European Investment Bank's loan operations and technical assistance to Syria. In August 2011 the EU froze its bilateral financial and technical assistance programs with Syria.

The EU and its Member States are leading the international response to the Syrian crisis in terms of mobilizing humanitarian aid. They have since 2011 collectively mobilized more than 4.2 billion Euros for relief and recovery assistance to Syrians in their country and to refugees and their host communities in neighboring countries (European Commission 2015j). Half of the European Commission's humanitarian assistance goes to immediate life-saving emergency humanitarian operations inside Syria (European Commission 2015j). In December 2014 the EU's Regional Trust Fund for Syria, also known as the "Madad" Fund, was established to support refugees and host communities in Syria's neighboring countries by addressing the massive and increasing resilience and stabilization needs in Lebanon, Jordan, Turkey, Iraq and Egypt. The Fund represents a new financing tool to mobilize more aid in response to the Syrian crisis.

In June 2013, the EU adopted a joint communication that established a comprehensive EU approach to the Syrian conflict. The communication established that the first priority of the EU was to promote a political settlement aimed at ending the violence in Syria (European Commission 2013). The communication proposed to ensure access of humanitarian assistance to all war-affected areas, increase EU budget financial assistance, develop derogations to the

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<sup>2</sup> The ENP governs the EU's relations with 16 of the Union's closest Eastern and Southern Neighbors. It was launched in 2003 with the objective of avoiding the emergence of new dividing lines between the enlarged EU and its neighbors and instead strengthening the prosperity, stability and security of all. It is based on the values of democracy, rule of law and respect of human rights (European Commission 2015a).



sanctions regime to provide support to the population and support the UN in dealing with claims of human rights and international humanitarian law violations (European Commission 2013:3-4)<sup>3</sup>. The communication was followed by an EU comprehensive regional strategy for Syria, Iraq and ISIL in March 2015. The overall objectives of the strategy was to counter the threat posed by ISIL and other terrorist groups to regional and international stability, and create conditions for an inclusive political transition in Syria and lasting stability in Syria, Iraq and other refugee-hosting countries in the region (Council of the European Union 2015:17). The strategy set out common objectives, but also country-specific objectives for Syria<sup>4</sup>.

Finally, on 14 September 2015 the Council adopted the European Commission's proposal to trigger an emergency relocation of 40.000 persons in clear need of international protection from Italy and Greece. The Decision applies to Syrian and Eritrean nationals that arrived in either Italy or Greece after 15 April 2015. A week later, on 22 September 2015, the Ministers agreed to relocate 120.000 people in clear need of international protection to other EU Member States during the next two years (European Commission 2015e). The proposal involved relocating 120.000 people from Italy (15.600), Greece (50.400) and Hungary (54.000). The relocation shall be done on the basis of an EU-wide relocation and resettlement scheme, which was presented by the Commission on 8 June 2015 (European Commission 2015d). The scheme covers all Member States and is based on a distribution key, which consists of the size of population (40 per cent), total Gross Domestic Product (40 per cent), average number of spontaneous asylum applications and the number of refugees resettled per 1 million inhabitants over the period 2010-2014 (10 per cent), and unemployment rate (10 per cent).

## **1.3 Previous research**

### **1.3.1 The Syrian (refugee) crisis**

Previous research on the EU and the Syrian crisis primarily discuss the use of sanctions (Seeberg 2015 and Trombetta 2014) and the failed efforts of the international community to

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<sup>3</sup> It also suggested to promote solidarity with particularly vulnerable persons who may be proposed for resettlement on EU territory, prevent radicalization of EU citizens and deal with EU foreign fighters and prepare for the post-conflict reconstruction and rehabilitation phase.

<sup>4</sup> These are to: work towards a political transition, strengthen the moderate opposition and civil society actors, provide basic services and contribute to rebuilding an administration in areas of reduced violence, promote human rights/international humanitarian law and ensure accountability, and prepare for the "day after" (Council of the European Union 2015).

solve the political crisis in Syria (Asseburg 2013<sup>5</sup>; Börzel, Dandashly and Risse, 2015). What characterizes this research is that it seeks to identify the EU's response and explain the consequences of EU actions. Seeberg (2015) argues that the first two phases of EU sanctions (May 2011 to June 2012) had serious consequences for the regime in Damascus. The consequences involved a weakening of the regime politically, financially and institutionally. However, with the increasing participation by al-Qaida-related Jihadists in the fight against the Syrian regime, Seeberg argues that the EU sanctions became less effective (Seeberg 2015: 31). He further argues that the EU sanctions against Syria represented a deviation from the traditional pragmatic EU policies vis-à-vis the Middle East to that a normative agenda became dominant, insisting on a democratic development in Syria and that Bashar al-Assad should step down. However, during the latest phases a more moderate approach and a preoccupation with security again characterized the European policy towards Syria (Seeberg 2015: 31).

A few academics have reviewed the EU's response to the Syrian refugee crisis in particular. This research differs from the research on the EU's response to the Syrian crisis because of its focus on the response to the refugee crisis (in terms of protection, humanitarian aid and resettlement of refugees), rather than on the political efforts to solve the conflict. Fargues and Fandrich (2012) describe Europe's approach to the Syrian refugee crisis as multi-layered and contend that it can be differentiated by external and internal responses. "External response" denotes the EU's efforts to end violence, support political change and provide humanitarian assistance, while "internal response" includes measures that intend to secure the borders and provide protection to asylum seekers. Fargue and Fandrich argue that while the external actions of the EU can be regarded as one of "assist and contain", the internal actions can be viewed as a policy of "maintain and protect" (Fargues and Fandrich 2012:11). They conclude by providing suggestions on what the EU could do next to handle the Syrian refugee crisis.

Research on the EU's response to the Syrian refugee crisis is further characterized by the fact that its authors have applied an intergovernmental perspective and thus approached the EU through studies of a selection of EU countries. The research is also characterized by its normative approach (what the EU should do). Orchard and Miller (2014) focus on the treatment of Syrian refugees and are preoccupied with the humanitarian response. They have

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<sup>5</sup> Asseburg (2013) argues that the EU and its Member States have relied on their traditional tools and frameworks and not devised new appropriate approaches to the region. He further argues that the violent power struggles triggered by the Arab Spring have revealed the EU's weakness with regard to effective conflict prevention and timely crisis management, as well as its dependence on US military capabilities (Asseburg 2013: 60).

done a comprehensive study on the response of European countries to the refugee crisis in the Syrian region by looking at the European reaction in general and the response of Germany, Sweden, Norway, Bulgaria, Greece, Italy and the UK in particular. They describe the response as a study in contrasts and argue, in agreement with Fargue and Fandrich (2012), that the primary aim of the European response has been to contain the refugee crisis within countries neighboring Syria, to provide significant (but inadequate) support for refugees in those countries, and to strengthen European borders (Orchard and Miller 2014:34). The report argues that the countries neighboring Syria need and deserve greater solidarity from Europe (Orchard and Miller 2014:7). It urges European countries to open their doors to more refugees, and particularly, to expand safe and legal routes of entry into Europe (Orchard and Miller 2014:8).

Ostrand (2015) has compared the responses of Germany, Sweden, the United Kingdom and the United States to the Syrian refugee crisis. She found that although they differ in the level of protection provided to Syrians, all four states have increased protection to Syrians via resettlement and asylum since 2012. Despite this, she points out that the degree of protection provided by the four states is modest in relation to that provided by Syria's neighboring countries, and that far more could be done (Ostrand 2015:255). The author further argues that the international community has not sufficiently contributed toward alleviating the burden caused by the Syrian refugee influx, in terms of both assistance and refugee resettlement. She concludes the article by making two general recommendations to reduce the strain on neighboring countries: increase the level of burden sharing by the international community and more evenly distribute the burden among industrialized states (Ostrand 2015:256).

### **1.3.2 The Common European Asylum System**

This study also addresses the development of EU asylum policy and the Common European Asylum System (CEAS). Previous research on the CEAS and its results is therefore relevant. This research is characterized by the finding that the Common European Asylum System so far has failed to achieve its primary objective – a common standard of protection across the EU. Ippolito (2014) argues that EU Member States have implemented EU asylum law in significantly different ways and this has in turn led to huge disparities between Member States as regards level and standard of protection, negatively impacting upon both asylum seekers and individual Member States (Ippolito 2014:139). Ippolito claims that the recasting

process (the revision of the directives) only has introduced certain improvements and argues that the considerable margin for maneuver left to Member States in their implementation process might risk complicating the effective realization of a truly “common” and “fair” asylum system across Europe (2014:139-140).

Langford (2013) argues that the current configuration of the CEAS presents a triple threat to EU solidarity. This argument is based on what is referred to as the human rights emergency unfolding at the EU’s borders and “the other Euro crisis” (with reference to the influx of refugees). She argues that first; it places a grossly disproportionate burden on southern states (Greece, Italy and Malta), second; the current asylum system fails to ensure that Member States adhere to common standards with respect to asylum seekers and third; the present CEAS framework limits the ability of Frontex, the EU external border control agency, to build solidarity between states (Langford 2013:217-219). She further argues that commitment to reforming the asylum regime must begin at national level, as the union is an alliance of sovereign states (Langford 2013:219).

Tsourdi and De Bruycker (2015:1) argue that the European asylum system lacks a mechanism to distribute responsibility fairly among the Member States, as well as legal avenues by which persons in need of protection can access it. They argue that the differentiated level of economic development between Member States, the discrepancies in their social assistance systems and the varying levels of investment in their asylum processing and reception systems, have led to widely diverging recognition rates and reception conditions. This has in turn undercut the objective of curbing secondary movements between Member States and rather on the contrary fuelled them (Tsourdi and De Bruycker 2015:4).

Previous research on how the development of EU asylum policy can be explained presents differing views. There are two “schools” in particular. The first one presented by Guiraudon (2000) argues that the development of EU asylum and migration policy is a result of “venue-shopping”. “Venue-shopping” refers to the idea that policy-makers, when encountering obstacles on the domestic arena, tend to seek new venues for policy-making that are more open to their preferences and goals. In other words, the development is explained from an intergovernmental perspective where Member States “upload” their policies to the EU level. Thus, Guiraudon argues that national officials began to co-operate on asylum and migration matters at EU level after encountering obstacles at national level, when attempting to develop increased migration controls at the beginning of the 1980s (Guiraudon 2000: 252). This explanation is based on the development in EU asylum and migration policy up until the

year of 2000.

The other “school” presented by Kaunert and Léonard (2012) argues that the development in EU asylum policy can be explained by considering the broader picture in which EU asylum policy is embedded. This system has seen important changes following the adaptation of several EU treaties. These treaties have again led to an increased communitarization of asylum matters (meaning the strengthening of EU institutions) and a growing judicialization of EU asylum policy (meaning the increasing influence of juridical texts and actors on asylum policy-making) (Kaunert and Léonard 2012: 1410). Kaunert and Léonard argue, in contrast to Guiraudon (2000), that EU co-operation on asylum matters actually has led to a rise in the legal standards applicable to asylum seekers and refugees. This “school” rather explains the development as a result of supranational actors (the EU institutions: the European Court of Justice, the European Parliament, the European Commission and the Council).

#### **1.4 Approach**

Previous research on the EU’s response to the Syrian refugee crisis has focused on levels of protection, resettlement of refugees, humanitarian aid and number of asylum claims prior to August 2014. However, it has not addressed how Member States’ response can be explained and in what way their response has influenced the European institutions. The latest developments in the EU including the European schemes for relocation and resettlement are not covered in previous research. This study aims to fill this gap. In order to do so it addresses the EU’s asylum policy prior to the Syrian crisis. It analyzes the EU’s response from an intergovernmental (Member States) and a supranational (EU institutions) perspective. It analyzes how selected EU Member States (Italy, Hungary, Germany and Sweden) have responded to the Syrian refugee influx and how they reason their policies. The thesis proceeds by discussing how the response can be explained and how the response of Member States has affected the EU institutions.

This is an empirical analysis of the EU’s response to the Syrian refugee crisis. Its aim is not to develop or test theories. The thesis is based on a content analysis of policy documents, news articles, official statements and statistics. All of the mentioned sources are important when addressing how the EU and its Member States have responded to the Syrian refugee crisis. Policy documents and official statements provided by Member States’ governments are public, accessible online and highly reliable. These sources reveal the

content of Member States' policies and indicate how politicians reason their actions. News articles are also relevant because quotes from Prime Ministers and State leaders give insight on how they choose to present their policies. Press coverage constitutes yet another useful source. This material provides reflections and interpretations, which can be helpful. The reliability of news articles is though important to assess. All newspapers are not equally reliable; I therefore focused my research on well-founded news publishers like *The Guardian*, *The Independent*, *BBC*, *Reuters*, *Al Jazeera*, *Deutsche Welle*, *El Politico*, *AFP*, *EU Observer* and *Der Spiegel*. Finally, I have based my analysis on statistics from Eurostat and the United Nations High Commissioner for Refugees (UNHCR). The materials used in this thesis have shortcomings in that statistics and policies are under continuous development. The topic is highly relevant and developments occur on a daily basis.

The thesis investigates the European Union's response to the Syrian refugee crisis in the period of April 2011 to October 2015. However, the main focus is on the years 2014 and 2015. This is because there have been major developments on the political arena the two last years. The Syrian refugee crisis reached European forums for real in 2014 when the numbers of Syrian asylum seekers in Europe increased. The refugee crisis is still growing; the peak in Syrian asylum applications in Europe in October 2015 confirms this picture. In July the UN High Commissioner for Refugees, António Guterres said: "This is the biggest refugee population from a single conflict in a generation" and added "Worsening conditions are driving growing numbers towards Europe and further afield, but the overwhelming majority remain in the region" (UNHCR 2015e).

The analysis is based on the response of Italy, Germany, Hungary and Sweden. Italy and Hungary are countries of first entry located on the external border of the EU, while Germany and Sweden receive the highest amount of Syrian asylum applications. These four states were selected because of their participation in the ongoing debate on Syrian refugees and burden sharing among Member States. They further "represent" Southern, Western, Eastern/Central and Northern Europe. Not to say that countries belonging to one region necessarily share the same views. The analysis focuses on the response to the influx of Syrian refugees in particular.

The EU has initiated a number of measures in response to the Syrian crisis, but due to the scope of this assignment, only two of them will be addressed here. The two initiatives are the EU's Regional Trust Fund and the scheme for relocation and resettlement of persons in

need of international protection. These two are discussed because they are major initiatives in the EU's response to the refugee crisis.

### **1.5 Conceptual framework**

The meaning of the terms refugee, asylum seeker, displaced person and migrant is important to have in mind when discussing the current influx of persons seeking protection in Europe. The terms refugee and asylum seeker were first defined in the 1951 Geneva Convention, also known as the Refugee Convention or the Convention relating to the status of refugees. After the Second World War, millions of refugees wandered across the European continent. The Convention was a result of the international community's commitment to the protection of refugees. The Convention states that a refugee is someone who:

*“Owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country, or return to there, for fear of persecution.”<sup>6</sup>*

The Convention defines the rights of refugees. Among them are the right to freedom of religion, the right to work, the right of housing and proper living, the right to be granted access to the educational system, the right of equal treatment in terms of social assistance, the right to move freely in the hosting country and the right to be granted legal documentations such as passport or identity card. An asylum seeker is a person who left his or her home country in order to seek protection but whose claim has not yet been definitively evaluated (UNHCR 1967). While refugees are forced to flee, a migrant, 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 (UNHCR 2001a).

Two other terms are relevant for the current debate on how the EU should deal with the current influx of refugees. Temporary protection is a status given to provide displaced persons (who are unable to return to their country of origin) from non-EU countries immediate and non-permanent protection. It applies in particular when there is a risk that the standard asylum system is struggling to cope with demand stemming from a mass influx that risks having a negative impact on the processing of claims (European Commission 2015f).

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<sup>6</sup> UNHCR (1967)

This form for protection was established in the Temporary Protection Directive in 2001. The directive was a response to the need for special procedures to deal with mass influxes of displaced persons, demonstrated by the conflicts in the former Yugoslavia in the 1990s.

Resettlement involves the selection and transfer of refugees from a State in which they have sought protection to a third State, which has agreed to admit them as refugees with permanent residence status (UNHCR 2014d: 9). The EU has in total pledged 38.000 places for Syrian refugees since 2013<sup>7</sup>. Relocation refers to the transfer of persons who are in need of or already benefit from some sort of international protection in one EU member state to another member state where they would be granted similar protection (European Commission 2015g). Relocation is meant to help relieve the burden posed by refugees and asylum seekers in states with external borders. These terms are relevant to the European Commission's proposal to deal with the current influx of refugees.

At least two concepts are used to describe the situation for refugees in Syria – “refugee crisis” and “humanitarian crisis”. A humanitarian crisis is defined as an event, or series of events, that represents a critical threat to the health, safety, security or wellbeing of a community or other large group of people, usually over a wide area (Humanitarian Coalition 2015).

## **1.6 Overview of the structure and main findings**

The study is structured in a chronological manner. Chapter 2 sets the Syrian refugee crisis and the current influx of refugees in a historical perspective. The chapter explains how the development of the international protection system was established after World War II and how European countries have handled previous refugee crises in Europe. The main finding is that a system for distribution of refugees across European countries has been discussed several times before. Sweden, Germany and Austria argued for a more equal distribution of refugees in the 1990s following the collapse of Yugoslavia.

Chapter 3 addresses the development of EU asylum policy and the EU's competences in the field of asylum and immigration. The objectives of the Common European Asylum System (CEAS) are explained in order to identify whether they are fulfilled or not. The main finding is that the aim of providing an equal standard of protection across the EU is hard to achieve as long as it is up to Member States to implement the directives and make their own interpretation of them.

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<sup>7</sup> Germany has pledged 30.000 places, Sweden 2.700 places and other EU countries 5.300 places for Syrian refugees (UNHCR 2015c).



Chapter 4 is divided into two sections. The first section analyzes Member States' (Italy, Hungary, Germany and Sweden) response and the second section analyzes the response of EU institutions. One of the main findings is that Member States' response can be divided into three distinctive categories: the liberal response, the moderate response and the restrictive response. The other main finding is that the response of Member States has triggered the EU institutions to act.

Chapter 5 first discusses how the EU's response can be explained, it then identifies similarities and variations in the response to that of previous crises and finally, on a more general level, discusses what the response tells us about the EU. One of the main findings is that a combination of previous history, leadership, public opinion and economic situation has influenced the response of Member States. Another finding is that the European institutions has been influenced by conflicting opinions among Member States and lobbying by countries most affected by the influx. A main finding is also that the EU's response to the Syrian refugee crisis tells us that the EU wants to, but not quite manages to be a uniform promoter of peace and human rights.

Chapter 6 summarizes the main findings of the thesis.

## **Chapter 2 – The Syrian refugee crisis in historical perspective**

The purpose of this chapter is to establish a backdrop against which the response to the current crisis can be discussed and evaluated. The chapter analyzes Europe's response to previous refugee crises (and sets) in order to place today's influx of Syrian refugees in a historical context. Europe in this context involves European countries, not just the EU. Previous refugee flows are relevant because of the response they triggered in terms of resettlement and discussions regarding burden sharing among European states. The chapter addresses refugee crises after 1945 and emphasizes the collective European response to the Hungarian Revolution and the collapse of Yugoslavia. The main finding is that the handling of the refugee influx from Yugoslavia in the 1990s could have established a formula for distribution of refugees in Europe, if EU Member States had been able to agree.

### **2.1 The aftermath of World War II and the International Refugee Organization**

The refugee crisis after World War II forced the international community to realize that something needed to be done. World War II led to the largest population movements in European history. It has been estimated that by May 1945 there were 40.5 million uprooted people in Europe, excluding non-German forced laborers and those Germans who fled before the advancing Soviet armies (Kulischer 1948: 255-273). When the war ended, millions of Germans fled from Eastern Europe and hundreds of thousands of Jews sought secure homes outside of their native lands. Other refugees from countries in Eastern Europe fled to escape from the newly established Communist regimes. After the war more than one million people remained in the camps in the western zones of Europe.

The international response to the crisis took both organizational and legal form. The International Refugee Organization (IRO) was established in 1946 to deal with the massive refugee crisis created by the World War II. The United States had been the prime mover together with other Western countries. The "Constitution of the International Refugee Organization" was adopted by the United Nations General Assembly on December 15, and specified the agency's field of operations. The constitution defined the terms "refugee" and "displaced person" for the first time. IRO's mandate was to identify, register, classify, care, resettle and provide legal and political protection for refugees and displaced persons (UiO 2015). 26 states became members of the organization and it formally came into existence in 1948. In the period of 1947-1950 the IRO oversaw the resettlement of 1.3 million refugees and displaced persons (Suhrke 1998:9). Of these, the United States took almost one-third

(31.7 percent), Australia 17.5 percent, Israel 12.7 percent and Canada 11.9 per cent (Loescher 1994:35-36 in Suhrke 1998).

Further, the Universal Declaration of Human Rights of 1948 guaranteed a "... right to seek and to enjoy in other countries asylum from persecution" (United Nations 1948). The Declaration was a result of the experience from the Second World War and represented the first global expression of rights to which all human beings are inherently entitled. For the first time in history, the international community agreed that gross violations of human rights would not be tolerated. A few years later, in 1951, delegates from 26 countries gathered in Geneva, Switzerland. Six years after the end of World War II, hundreds of thousands of refugees still wandered across the European continent. After three weeks of tough legal disputes, delegates on 28 July adopted the 1951 Convention relating to the Status of Refugees. The Convention defined refugees, accorded them specific rights, and introduced the principle of *refoulement*<sup>8</sup>. This instrument was a legal compromise, which limited the scope of the Convention mainly to refugees in Europe and to events occurring before 1 January 1951. The hope was that the refugee crisis could be cleared up quickly. The United Nations High Commissioner for Refugees, the guardian of the Convention, a post that had been created in January, was given a three-year mandate and was expected to "go out of business" when the problem was solved (UNHCR 2001a). Though, in 1967 a Protocol to the Convention was adopted which eliminated the time constraints. Over 60 years later, the treaty remains a cornerstone of international protection.

## **2.2 The Hungarian revolution – a large-scale resettlement operation**

The largest mass departure that Europe faced in the years following the establishment of UNHCR was that of approximately 200.000 Hungarian refugees in 1956 (Vevstad 1998). The backdrop was the Hungarian Revolution – a full-scale revolt against the regime and its Soviet masters. Most of the refugees fled to Austria, only 20.000 fled to Yugoslavia. The first refugees streamed into Austria on 28 October 1956, and already on 5 November the Austrian Interior Minister sent a telegram to UNHCR asking for help (both financially and physically). Austria immediately recognized the refugees on a *prima facie*<sup>9</sup> basis as refugees in the sense of the 1951 Convention. The influx of refugees averaged 2.665 per day in the first weeks of

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<sup>8</sup> *Refoulement* means the expulsion of persons who have the right to be recognized as refugees.

<sup>9</sup> A group determination on a *prima facie* basis means in essence the recognition by a State of refugee status on the basis of the readily apparent, objective circumstances in the country of origin giving rise to exodus (UNHCR 2002:5).

November 1956, and in the last week of that month, 7.706 per day (Zieck 2013:50)<sup>10</sup>. The UNHCR responded to the crisis with an appeal to the 20 Member States of the United Nations Refugee Emergency Fund's Executive Committee for financial aid and temporary asylum for Hungarian refugees<sup>11</sup>. The UN General Assembly also called for help, but recognized the urgent need for care and resettlement only later that month. In January 1957 after having appealed to the UNHCR once again, the Austrian government decided to suggest a resettlement quota based on the percentages for individual states to UNHCR. The proposal was discussed, but not agreed upon. The Hungarian refugee emergency was in the end resolved by means of resettlement and became the first large-scale resettlement undertaken within the framework of the 1951 Convention and the Statue of UNHCR. Resettlement places were offered by a large number of states. Although the UNHCR had been given a coordination role, it didn't attempt to resettle refugees on the basis of a distributive mechanism, it simply echoed the Austrian calls for more resettlement places (Zieck 2013: 60). In 1959, there were 9.600 Hungarian refugees in Austria and in December 1961 the number had decreased to 7.900 (Zieck 2013:53)<sup>12</sup>. In the end 180.000 refugees were resettled from Austria and Yugoslavia to a total of 37 different countries (the first 100.000 of them in under ten weeks) (UNHCR 2006).

### **2.3 Vietnam and the resettlement program**

A collective effort characterized the response to the crisis in Vietnam in the 1970s and 1980s. The mass departure from Vietnam in this period was a flight from the hardship, political orientation and human rights violations of the communist regime in the country, as well as the conflicts with its neighbors. Almost 700.000 persons were resettled in industrialized countries during the 1980s and early 1990s, in addition some 400.000 went directly from Vietnam to Western countries (mainly the US) under the Orderly Departures Program (ODP) (Suhrke 1998:405). The ODP was a program for legal emigration from Vietnam, established in May 1979 by the UNHCR and the Socialist Republic of Vietnam. The program was intended to make it possible for persons wishing to leave Vietnam to do so in a safe and orderly manner (Kumin 2008). Anti-communist foreign policies and the memory of the Vietnam War helped create liberal admission policies in the US and other Western countries. The distribution of

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<sup>10</sup> See UN doc. A/AC. 79/49, paragraph 19, and table 1 in Annex 1 to UN doc.

<sup>11</sup> The appeal was eventually extended to other states with a demonstrated interest and devotion to the solution of the refugee problems.

<sup>12</sup> See UN Yearbooks of 1959 (at 228) and 1961 (at 333).

people was made through a market system of types, shaped by immigration criteria, humanitarian concerns and political factors. Australia, Canada, the United States and to some extent France, sent officials to camps in the first asylum areas to select and process candidates for resettlement (Suhrke 1998:405). As new waves of Vietnamese asylum seekers kept coming in the late 1980s a new collective response with return as a principal solution was adopted by the Geneva meeting in 1989. This plan instituted a process of individual status determination for those who refused to go back and meant the end of a large-scale resettlement, a decade after it was initiated.

## **2.4 The collapse of Yugoslavia and the restrictive European response**

### **2.4.1 Serbia, Croatia and Bosnia-Herzegovina**

European countries' response to the refugee crisis in Yugoslavia was to agree on a compromise in the form of temporary protection. From 1991 to 1993 some 700.000 people fled to Western Europe from repression in Serbia and from war and ethnic cleansing in Croatia and Bosnia-Herzegovina (Fassman and Munz 1994). Compared to earlier refugee crises, the response from European states in this crisis was extraordinarily restrictive (Suhrke 1998). A ministerial meeting called by the UNHCR in July 1992 to develop a comprehensive response to the refugee crisis, exposed conflicting reactions among members of the European Communities. A compromise emerged in the form of temporary protection<sup>13</sup>.

The following year most European countries imposed visa restrictions on citizens from the former Yugoslavia, and the inflow slowed dramatically (Suhrke 1998:408). By that time Austria, Sweden, Germany and Switzerland had the highest intake of refugees on a per capita basis. Great Britain and France had the least in absolute terms. Sweden, Austria and Germany, the countries with the largest intake, unsurprisingly carried the issue in European forums. These three with the support of Denmark, Norway and Switzerland, argued that a more equal distribution of de facto refugees from Yugoslavia would make it easier to provide protection. But the UK and France disagreed. A more cautious version of the proposal stating that states should work together "in a spirit of solidarity", was therefore agreed in January 1994. When the issue made its way to the European Parliament later that month it called on the Commission to move forward by "drawing up plans for a European Fund for Refugees and ... an emergency plan for the reception of refugees which provides for them to be

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<sup>13</sup> Temporary protection is an exceptional measure to provide displaced persons from non-EU countries and unable to return to their country of origin, with immediate and temporary protection.

distributed evenly among the countries of the Community” (OJ 1994: paragraph 16). The draft resolution (European Union 1994) implied a quota based on assumed national capacity to absorb refugees (indicated by size, population and wealth) and a commitment to long-term participation – in short a system of distribution that would go into effect whenever an emergency arose. However, in the final resolution, adopted by the Council in September 1995<sup>14</sup>, the boldness of spirit found in the draft resolution was erased. In the end a formula for distribution was not established – the responses and consultations were to be ad hoc shaped by individual emergencies.

#### **2.4.2 The Kosovo crisis**

The solution to the refugee crisis in Kosovo was based on a “burden-sharing” scheme involving transfer of refugees to other countries. The Kosovo refugee crisis followed NATO’s air strikes against the Federal Republic of Yugoslavia in late March 1999. A crisis emerged when the neighboring country Macedonia blocked its border and denied the refugees access. When trains packed with refugees carrying some 25.000 persons each kept arriving, the Macedonian authorities nearly panicked (Barutciski and Suhrke 2001:). The blockage meant that tens of thousands of persons were trapped in the open for several days, initially denied both protection and assistance. For the international community, the central policy challenge was to persuade Macedonia to admit a massive influx of refugees that the government initially rejected. The critical situation on the border attracted international attention and created strong incentives for states and organizations concerned to find a solution. The United States took the lead and promised economic assistance and a program to share refugees, initially suggesting it would take 20.000 (Barutciski and Suhrke 2001:96). The “burden sharing” scheme entailed two innovative programs called “humanitarian transfer” and “humanitarian evacuation”. These programs were controversial because the UNHCR’s standard policy was to call for asylum in the country of first arrival<sup>15</sup>. The position of the UNHCR was that the refugees had to be admitted and sharing discussed in the second phase.

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<sup>14</sup> The Resolution on Burden-sharing with Regard to the Admission and Residence of Displaced Persons on a Temporary Basis of September 1995 offers principles to guide states in the event of an emergency. Two categories of “civil war refugees” are eligible for admissions outside the normal asylum procedures, on a temporary protection basis: a) those who come “directly from combat zones” and b) those who in UNHCR terminology are particularly vulnerable (Suhrke 1998:411).

<sup>15</sup> In EXCOM conclusion no. 22 Member States affirm that situations of large-scale influx, asylum seekers should be admitted to the State in which they first seek refuge and if that State is unable to admit them on a durable basis, it should always admit them at least on a temporary basis... In all case the fundamental principle of non-refoulement – including non-rejection at the frontier – must be scrupulously observed (UNHCR 1981: paragraph 2).

Eventually UNHCR committed itself to proceed with evacuations out of the region. Thousands of refugees were evacuated to Turkey, Germany and Norway within days. Eventually over 90.000 persons were moved out of the region during the emergency that lasted for eleven weeks (Barutciski and Suhrke 2001). In total 29 countries contributed to the Humanitarian Evacuation Program (HEP). The responses to the refugees in Kosovo and Indochina (mentioned in section 2.3) have something in common. But while the Indochinese refugees were transferred to third countries under resettlement programs, the refugees from Kosovo were transferred to third countries on the basis of temporary protection.

## **Chapter 3 – The emergence of EU asylum policy**

The purpose of this chapter is to identify the objectives of EU asylum policy, to explain its development and thereby to address the framework that existed prior to the Syrian refugee crisis. The chapter examines the development of EU asylum policies and the Union's competences in the field of asylum and immigration. It further addresses the development of the Common European Asylum System (CEAS). What characterizes EU asylum policy? The aim of EU asylum policy is to harmonize national asylum procedures and provide an equal standard of protection across the EU. However, as long as it is up to Member States to implement the directives and make their own interpretation of them, this aim seems hard to achieve. Asylum and immigration is a policy field where the Union and its Member States share competences. This makes it a complicated policy field where Member States still have a wide scope of action.

### **3.1 EU asylum policy**

#### **3.1.1 Schengen and the Maastricht Treaty: “compensatory measures”**

Cooperation in the field of asylum and immigration was at first a consequence of the establishment of the single market. The history of EU asylum policy began in the mid-1980s when five EU Member States, Germany, France, the Netherlands, Belgium and Luxembourg, decided to abolish internal borders in order to facilitate the completion of the Single Market<sup>16</sup>. These countries argued that the abolition of internal borders necessitated the introduction of so-called “compensatory measures” that included strengthening external border controls and cooperation in the field of asylum and immigration. As a result, in 1985 five countries signed the Schengen Agreement<sup>17</sup>, which established common rules on visas, the right to asylum and external border checks. The Schengen Convention was signed in 1990 and took effect in 1995. The agreement was initially concluded outside of the EU Treaty framework.

Justice and Home Affairs (JHA) were incorporated into the European Union through the Maastricht Treaty in 1993. JHA formed one of the three pillars that were designed to

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<sup>16</sup> The Single Market refers to the EU as one territory without any internal borders or other regulatory obstacles to the free movement of goods and services. A big step was taken in 1986 when the European Union adopted the Single European Act (allowing 280 pieces of legislation to be passed).

<sup>17</sup> The Benelux countries, Germany, France and Italy created a new system that connected their police forces and customs authorities. They also created the Schengen Information System (SIS), a shared database that stored information like criminal records and asylum applications, which was accessible by national law enforcement authorities (Cini and Pérez-Solórzano Borragan 2014).



expand the scope of European integration. The first pillar comprised the original Communities, while the Common Foreign and Security Policy and JHA made up the two following pillars. Asylum policy rules applicable to the crossing of the Union's external borders, immigration policy and the handling of third-country nationals were identified as some of the common areas of interest included in the third pillar (Cini and Pérez-Solórzano Borragan 2014). However, the Union's competences remained limited. The new JHA pillar became an intergovernmental negotiating sphere where the key decision-making body was the JHA Council. The European Commission had to share its usual function, as the initiator of European legislation, while the European Parliament's role was limited to consultation. A majority of Member States supported bringing JHA matters into the Union, but the countries disagreed on how this should be done. Some argued that it should be handled as a supranational policy, while others preferred to keep it as a dialogue between sovereign states.

### **3.1.2 The Amsterdam Treaty: towards further integration**

The Amsterdam Treaty strengthened the role of EU institutions in the field of Justice and Home Affairs. The JHA framework was subject to much criticism in the mid-1990s because of lack of progress, non-binding policy instruments, deadlock in the Council and secretive negotiations (Cini and Pérez-Solórzano Borragan 2014). The call for reform was formalized in the Treaty of Amsterdam in 1999, which incorporated the Schengen Convention into the EU acquis. The European Commission was given competence to enact measures dealing with asylum and temporary protection, burden sharing and immigration policy, in particular conditions of entry and residence, illegal immigration and third country nationals taking up residence in other Member States (Baldaccini, Guild and Toner 2007:2). The Commission was to share its right of initiative with Member States, before acquiring the sole right of initiative (in asylum matters) when the transition period was over. The role of the Parliament was limited to consultation, while a unanimous decision was required in the Council for five more years. Co-decision and qualified majority voting in the Council was introduced in 2004. The Amsterdam Treaty also gave the European Court of Justice (ECJ) a more prominent role in the field of asylum by granting the ECJ the competence to rule.

### **3.1.3 The Lisbon Treaty: the end of the pillar system**

The entering into force of the Lisbon Treaty in 2009 marked the end of the pillar system and a new era for Justice and Home Affairs. It established that the Union and its Member States are

to share competences in the field of immigration and asylum (Article 4 TFEU). This means that both the EU and its Member States can adopt legally binding acts. However, the Member States can do so only where the EU has chosen not to or has explicitly ceased to do so. The Member States are mainly responsible for determining the procedures for immigrants' entry into their territory and on the number of labor immigrants they will admit. The EU's role is to complement and harmonize national immigration policies by creating a common legal framework. This includes conditions for entry and residence for certain categories of immigrants, such as students, researchers and workers (European Commission 2014). The legal basis for the competences of the EU is stated in articles 79 and 80 in the Treaty on the Functioning of the European Union (TFEU). The Lisbon Treaty further strengthened the role of the European Parliament, which acquired joint decision-making powers in the field of asylum, and the European Court of Justice.

### **3.2 Common European Asylum System (CEAS)**

#### **3.2.1 Joint guarantees for protection**

An important step towards further integration in JHA was the creation of the Area of Freedom, Security and Justice in 1999 at the EU Council summit in Tampere. Under this initiative the negotiations started on the creation of a Common European Asylum System (CEAS). The aim of a common asylum system was to achieve a uniform and effective asylum procedure, joint guarantees for protection and guaranteed access to safe and uniform regimes across all Member States<sup>18</sup>. The first stage of the CEAS was completed in 2006 under the Hague Program (2004-2009) and included the Temporary Protection Directive, the Reception Conditions Directive, the Dublin II Regulation, the Qualification Directive and the Procedures Directive. These acts aimed at a minimum harmonization of national legislations in order to prevent an influx of asylum seekers in countries with better infrastructures and reception procedures (Ippolito 2014:113)<sup>19</sup>. The second stage began in 2007, involving an evaluation and a revision of three directives (Qualification Directive, Reception Conditions Directive and Asylum Procedures Directive) and two regulations (the Dublin II Regulation and the

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<sup>18</sup> Presidency Conclusions – Tampere European Council, 15-16 October 1999, SN 200/99 3, Conclusion n 13.

<sup>19</sup> Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

EURODAC Regulation<sup>20</sup>). The goals in the second stage were to achieve a higher common standard of protection and greater equality in protection across the EU and to ensure a higher degree of solidarity between EU Member States (Commission of the European Communities 2007:3).

### **3.2.2 Defining minimum standards**

The directives under CEAS define minimum standards and are binding to all EU Member States. The Temporary Protection Directive lays down provisions on temporary protection for displaced persons in the event of a mass influx of persons seeking protection. It was the EU's concrete response to the need for special procedures to deal with mass influxes, demonstrated by the conflicts in the former Yugoslavia (European Commission 2015f). The Directive states that UNHCR must be consulted on the establishment, implementation and termination of the regime of temporary protection. The Reception Conditions Directive<sup>21</sup> lays down minimum standards for the reception of asylum seekers while their claims are being processed. These minimum standards relate to freedom of movement, employment and training, housing and subsistence, health care and education services. The Qualification Directive<sup>22</sup> lays down minimum standards for the qualification of third-country nationals or stateless persons as refugees or as subsidiary protection beneficiaries. It further elaborates upon the status associated with each of these categories. An evaluation of the implementation of the directive in 2010 recognized that the objective had not been fully achieved<sup>23</sup>. The purpose of the recast proposal, which entered into force in January 2012, were to reduce legal uncertainty by clarifying legal concepts, to streamline procedures, reduce the administrative burden and costs associated with maintaining two protection statuses, and to ensure full compatibility between the standards of the EU acquis and those of the European Court of Justice and the European Court of Human Rights (Ippolito 2014:118).

The Asylum Procedures Directive<sup>24</sup> provides for several minimum standards regarding issues such as access to the asylum procedure, access to legal assistance and representation,

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<sup>20</sup> The EURODAC regulation establishes an EU asylum fingerprint base and makes it easier for Member States to determine responsibility examining an asylum application by comparing fingerprint datasets.

<sup>21</sup> Council directive 2003/9/EC of 27 January 2003 OJ L31/186

<sup>22</sup> Council directive 2004/83/EC of 29 April 2004

<sup>23</sup> Report from the Commission to the European Parliament and the Council on the Application of Directive 2004/83/EC of 29 April 2004 on Minimum Standards for the Qualification and Status of Third-country Nationals or Stateless Persons as Refugees or as Persons who otherwise need International Protection and the content of the Protection, COM (2010) 314 final, 6 June 2010

<sup>24</sup> Council directive 2005/85/EC of 1 December 2005

the right to remain in the member state pending the examination of the application, personal interviews, detention and appeal. The Dublin II Regulation<sup>25</sup> sets out rules to determine which member state is responsible for processing an asylum application<sup>26</sup>. The objective of the Dublin Regulation is to prevent the phenomenon of “asylum shopping” – a situation where asylum seekers make multiple application claims in different Member States.

The first stage of the CEAS did not include any further provisions for burden sharing. An element of financial burden sharing was however introduced in 2000 with the foundation of the European Refugee Fund. It was intended to help defray the costs of projects for the economic integration of refugees and to finance emergency temporary protection measures in the event of a mass influx of refugees. The European Refugee Fund was equipped with a budget of 216 million euro over a five-year period (2000-2004) (Hatton 2005:10).

### **3.2.3 “A single protection area for refugees”**

The idea behind the creation of the CEAS was to create a single protection area for refugees. The Green Paper on the future Common European Asylum System, presented in June 2007, stated that “creating a Common European Asylum System (...) emerged from the idea of making the European Union a single protection area for refugees, based on the full and inclusive application of the Geneva Convention, and on the common humanitarian values shared by all Member States”<sup>27</sup>. The 1951 Geneva Convention Relating to the Status of Refugees and its 1967 protocol is a key instrument of EU asylum policy. Article 33 in the Convention provides that a person who has claimed asylum under the Convention not must be forced to return to a territory where he or she may be at risk of persecution (the so-called principle of non-refoulement). The Green Paper introduced the idea of establishing “corrective” burden-sharing mechanisms complementary to the Dublin system, providing for the distribution of beneficiaries of international protection between Member States after they had been granted protection status. Intra-EU resettlement was stated as an important way ahead. As a result of this consultation process, the Policy Plan on Asylum was presented a year later, in 2008. It defined a road map for the second phase of the CEAS and highlighted a critical flaw in the system at the time – the differences in decisions to recognize or reject asylum requests from applicants from the same countries of origin. A lack of common practice, different traditions and diverse country of origin information produced divergent

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<sup>25</sup> Council Regulation (EC) No 343/2003 of 18 February 2003.

<sup>26</sup> The precursor of this regulation, the Dublin Convention, was signed in 1990 and entered into force in 1997.

<sup>27</sup> Green Paper on the future Common European Asylum System 6.6.2007.

results.

The European Asylum Support Office (EASO) was established in 2010 in order to contribute to the implementation of the CEAS, support practical cooperation among Member States on asylum and support Member States under particular pressure (Official Journal of the European Union 2010). The agency is further meant to act as a centre of expertise, help Member States fulfill their European and international obligations to give protection to people in need, provide practical, technical and operational support to Member States with specific needs and provide evidence-based input for EU policy-making and legislation in areas having a direct or indirect impact on asylum (EASO 2015).

### **3.3 The European Visa Regime**

The primary objective of the EU visa regime, which was introduced in the 1990s, is to prevent irregular migrants and asylum seekers from reaching Europe. Its origin is to be found in the asylum crisis of the early 1990s when Western and Northern European countries experienced a flow of asylum applications from the Balkans and Eastern Europe (following the Balkan wars and the collapse of the Communist bloc). The introduction of visas was targeted at preventing arrivals on EU territory, and particularly in France and Germany, of potential asylum seekers. Visa policy was a part of a complex system, which included the introduction of the principle of the first safe country<sup>28</sup>, the enactment of carrier sanctions<sup>29</sup> and the reform of border controls (Finotelli and Sciortino 2013). The years between the signing of the first Schengen Agreement in 1985 and the Implementation Agreement in 1990 were crucial to the development of the current European system of controls. In 1995, following the visa provisions contained in the Maastricht Treaty (1992), EU Member States established a common list of 101 countries whose nationals were required to obtain a visa to enter the European Union<sup>30</sup>. Countries that had at least one visa-free agreement with an EU member state were excluded from the list. Although the harmonization of visa regulations became a priority, carrying it out through intergovernmental means involved frequent legal and political disagreements among Member States, as well as between the European

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<sup>28</sup> The principle of the first safe country – the state in which an asylum seeker entered the EU is usually responsible for their asylum claim.

<sup>29</sup> Carrier sanctions refers to the imposing of fines on private transport companies that carry persons who do not hold the necessary visas and/or travel documents to enter the territory of the EU.

<sup>30</sup> Council regulation No 2317/1995. The regulation included a visa obligation for most states in Africa and Asia, a number of states in Central and Eastern Europe, a number of states in Latin America, the Caribbean and the Indian and Pacific Oceans.

institutions (Finotelli and Sciortino 2013). It was only after the complete Schengen Acquis was included into the EU Treaty framework in 1999 that the goal of a common visa policy could be fully realized. In 2001, the EU adopted a regulation determining a negative list of third countries whose nationals are required to obtain a visa to enter the EU as well as a positive list of countries whose nationals are exempted from a visa requirement<sup>31</sup>. The strict visa policies make it extremely difficult, if not impossible, to travel to EU Member States from many countries in Africa, Asia and the Middle East. The only way (if not assisted by UNHCR) for people fleeing from their home country is to travel by land or sea to reach the territory of an EU Member State in order to apply for asylum. This system creates a market for human smugglers and results in exploitation of people in need. The consequences of these policies will be further assessed in the following chapter.

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<sup>31</sup> Regulation No. 539/2001 of the European Council – has been amended by introducing new countries into the negative list (Ecuador in 2003 and Bolivia in 2007).



## **Chapter 4 – The EU’s response to the Syrian refugee crisis**

The chapter investigates the EU’s response to the Syrian refugee crisis by means of a two-pronged approach. The first (and main) part of the chapter analyses how a selection of Member States (Italy, Hungary, Germany and Sweden) has responded to the Syrian refugee crisis. The second part of the chapter addresses the response of EU institutions by studying two specific initiatives. The chapter argues that the EU Member States’ response can be divided into three distinctive categories: the liberal response, the moderate response and the restrictive response. The liberal response is based on human rhetoric and open door-policies, while the restrictive response is founded on xenophobia and anti-immigration policies. As President of the European Parliament, Martin Schulz, described it, there is two Europes: “a Europe willing to move and change the status quo, ready to confront an epochal challenge in the right way; and a Europe of walls and ostriches, ready to dump its problems on its neighbors in the hope that the crisis will solve itself” (Finans 2015). The moderate response is based on the demand for EU action. The thesis finally argues that the response of Member States have triggered the EU institutions to act.

### **4.1 The response of Member States**

#### **4.1.1 Italy**

Italy’s response to the Syrian refugees has reflected its inability to handle yet another influx. Italy, as a country of first entry on the external border of the EU, has since 2011 experienced an increase of refugees from Syria. In spite of being the number one nationality arriving Italy by sea in 2013<sup>32</sup>, Syrians were not among the top five nationalities in overall numbers of asylum claims (UNHCR 2014e). The majority of Syrian refugees who reach Italy do not claim asylum but travel to other European countries, where they have relatives, friends or hope for better living conditions. Approximately 94 percent of Syrian refugees arriving in Italy seek to continue to other countries (UNHCR 2014e: 17). Between April 2011 and September 2015 Italy received 2.168 Syrian asylum applications (UNHCR 2015b). Compared to the amount of asylum applications in other European countries, this number is small. Regarding resettlement, Italy does not have a regular resettlement program, but has since 2013 pledged to accept 350 resettled refugees from Syria (UNHCR 2015c).

Italy has an external border and therefore a responsibility, as a member of the

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<sup>32</sup> 11.307 Syrian and Palestinian nationals arrived in Italy in 2013 (UNHCR 2014e: 10).



Schengen area, to register every person crossing the border (including asylum seekers). However, the country has been criticized by fellow EU Member States (Austria, Germany, Hungary and Sweden) for not complying with EU laws (Spiegel Online 2014, The Wall Street Journal 2014). The claim is that Italy fails to register persons crossing its external border. By not doing so, it bypasses its responsibility to examine a possible asylum application and avoids considerable costs. The explanation provided by Italian authorities is that due to the amount of people arriving at its shores<sup>33</sup>, it may take days before the registration is carried out. By then, refugees who wish to seek asylum in another EU member state could have left the country.

Italy has responded to the influx of refugees by launching a large-scale operation to rescue migrants at sea (Operation Mare Nostrum) and by decriminalizing illegal immigration<sup>34</sup>. Operation Mare Nostrum was launched following the accident outside of the Italian Island of Lampedusa where 368 migrants drowned in October 2013 (UNHCR 2014). However, the cost of running Mare Nostrum, 9 million euro per month, was too high (ECRE 2014). Italy therefore called on the EU to act and after numerous complaints, a Frontex coordinated joint operation Triton was established in November 2014. Operation Mare Nostrum contributed to the rescue at sea of 150.810 migrants in the year of its activity (Ministeria Della Difesa 2014). Operation Triton<sup>35</sup> differs from Mare Nostrum because it is a border security operation, not a search and rescue operation. Its operational area is limited to 138 nautical miles south of Italy and is based on voluntary contributions from Member States (Frontex 2015a).

Italy has repeatedly called on the EU for assistance and claimed that it's neither fair nor feasible that it has to handle the influx of migrants and asylum seekers by itself. Italy has received financial assistance from the EU and operative support from the European Asylum Support Office (EASO) to handle the influx, but this has not been sufficient (ECRE 2013). In May 2014 Italy's Interior Minister Angelino Alfano threatened to send asylum seekers across Europe and defy EU asylum rules if the Union didn't provide more assistance in terms of border patrols (AFP 2014). Prime Minister Matteo Renzi reiterated this "threat" in June 2015.

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<sup>33</sup> In 2013, 42.925 migrants arrived in Italy by sea (IOM 2014) and in 2014, 170.000 migrants arrived (of which 64.625 persons applied for asylum<sup>33</sup>). By October 2015, 136.408 migrants have arrived at Italian shores (IOM 2014 and 2015a).

<sup>34</sup> The Senate justice committee, with government support, approved an amendment to abolish the criminal offence of illegal immigration in October 2013. It was the Berlusconi government in 2009 that introduced the offence as a part of the Maroni security package (Corriere della Sera 2013).

<sup>35</sup> The budget for Triton is 38 million euro in 2015 (Frontex 2015a).

Prior to a meeting among EU ministers in Brussels, Renzi said that he would take unilateral action if Italy failed to get “sufficient support” (referring to a burden sharing system proposed established by Italy, Germany, Greece, Malta, Sweden and Austria). One option under his “plan B” would be for asylum seekers in Italy to receive a three-month residence pass that would allow them to travel around most of the EU. Another option was the get-out clauses in the Dublin Agreement from 2003.

Italy has since 2013<sup>36</sup> argued that the influx of refugees should be considered as a European problem, not only an Italian one. Prime Minister Matteo Renzi has stated that whoever has the right to asylum must be welcome in Europe, not just in Italy (The Guardian 2015b). Renzi has further explained that Italy has felt abandoned in its efforts to deal with the refugee crisis (The Independent 2015b). This perception explains why Italy at several occasions has threatened to let asylum seekers loose across Europe to provoke EU action. When it comes to the refugee flow consisting of Syrians, Iraqis and Afghans, the Italian Minister of Justice, Andrea Orlando, has said that: “Italy can welcome refugees but it cannot be the only one. They cannot just be centered in the countries that are most approachable to them” (The National 2015). Orlando has further distanced Italy from Hungary’s border and immigration policy by saying that: “the EU was born to remove borders... The fact that, nowadays, we are again rising up walls is a defeat” (The National 2015). These “walls” are undesirable because they prevent the secondary movement of migrants who wish to leave and travel to other countries.

#### **4.1.2 Hungary**

Hungary is also a country of first entry in the EU and has experienced a sharp increase of refugees from Syria, particularly in 2014 and 2015. Between April 2011 and September 2015 Hungary received 54.125 Syrian asylum applications (UNHCR 2015b). However, Syrians only amount to a small share of the total number of migrants arriving in Hungary<sup>37</sup>. The refugees enter Hungary through the Western Balkan route, which means that they enter the EU through the Bulgarian-Turkish or Greek-Turkish land or sea border, and then proceed through the Western Balkans into Hungary (Frontex 2015). Hungary has since 2013 pledged to resettle 30 Syrian refugees (UNHCR 2015c).

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<sup>36</sup> The calls for EU assistance were renewed after the accident outside of Lampedusa in October 2013.

<sup>37</sup> 18.900 of those entering the EU through the Western Balkan route in 2013 applied for asylum in Hungary. In 2014, 42.775 persons applied for asylum in Hungary (Eurostat 2015b). By August 2015 over 110.000 asylum applications were registered in Hungary, representing a fifty-fold increase from 2012, and a five-fold increase from 2014 (IOM 2015b). Most came from Afghanistan, Syria and Iraq.

Hungary has responded to the influx of refugees by strengthening border controls, declaring a state of emergency<sup>38</sup> in six counties<sup>39</sup> and changing its Asylum Act. The amended Asylum Law, which came into force on 1 August 2015, gives the authorities power to reject asylum applications from persons from Syria, Afghanistan or Iraq who already passed through other “safe” countries without lodging claims there (ECRE 2015a). Hungary has also built a 175-kilometer long fence along its border with Serbia to prevent irregular border crossings. The fence was approved by the Hungarian Parliament on 6 July 2015 and finished in September/October. Hungary has, according to the government, spent 200 million euro this year on what they call “the restoration of law and order in the vicinity of its borders”<sup>40</sup>. The amended law further makes it a criminal offence, punishable by prison or deportation, to damage the newly built fence. The Hungarian Parliament has in addition passed a law allowing the government to deploy its army to handle refugees at its borders and the use of non-lethal force such as rubber bullets and tear gas grenades (The Independent 2015d).

In May this year the government sent out a questionnaire to Hungarian citizens as part of a “National Consultation on Immigration”. The questionnaire clearly was a stunt to gain support for Prime Minister Viktor Orbán’s<sup>41</sup> hard-line approach (Tremlett and Messing 2015). It featured leading questions such as: “Do you agree that mistaken immigration policies contribute to the spread of terrorism?” and “Do you agree with the government that instead of allocating funds to immigration we should support Hungarian families and those children yet to be born?” (Haraszti 2015, Hungarian Spectrum 2015, Website of the Hungarian Government 2015a). Orbán also had posters put up aimed at refugees with slogans like “If you come to Hungary, you cannot take away Hungarians’ jobs” (Spiegel Online International 2015b)<sup>42</sup>.

Hungary’s right-wing government and the Prime Minister are opposed to immigration. Orbán has made it clear that Muslim asylum seekers are unwelcome in Hungary and argues that he is defending European Christianity against a Muslim influx (Al Jazeera 2015). The Prime Minister has made references to the history of Ottoman rule and said that “we don’t want to, and I think we have a right to decide that we do not want a large number of Muslim

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<sup>38</sup> The point of declaring a state of emergency is to give the police extra powers and allow troop deployments depending on the approval of the parliament.

<sup>39</sup> Website of the Hungarian Government (2015e)

<sup>40</sup> Website of the Hungarian Government (2015f)

<sup>41</sup> Orbán has been Prime Minister since 2010 and belongs to the National Conservative Party, Fidesz.

<sup>42</sup> The critics claim that the anti-immigration campaign (the questionnaire and the posters) is aimed at shoring up faltering support for the ruling Fidesz party and divert attention from escalating poverty and corruption scandals (The Guardian 2015e).

people in our country” (Al Jazeera America 2015). The Hungarian government defends its anti-immigration policy by saying that the influx of migrants and refugees amount to a security threat<sup>43</sup>. The Prime Minister fears that the EU lets in the internal conflicts of the Middle East by allowing migrants and refugees to enter (Website of the Hungarian Government 2015b). Orbán has referred to the influx as an invasion and said that the refugees entering Europe “look like an army” (The Guardian 2015c). He has also stressed that Europe is not facing a refugee crisis but “a movement composed of economic migrants, refugees and foreign fighters” (Website of the Hungarian Government 2015d). This point is used to legitimize initiatives like the newly built border fence.

The Prime Minister further believes that allowing thousands of people to arrive illegally in Europe lacks democratic foundation because no vote/decision in any election has been made (Website of the Hungarian Government 2015b). Orbán further seems to believe that Hungary cannot cope with immigration, as it has no experience of “multiculturalism”. However, Hungary has always been multicultural with Roma and other minorities making up 10-12 per cent of the country’s citizens (Tremlett and Messing 2015).

#### **4.1.3 Germany**

Between April 2011 and September 2015 Germany received 125.441 Syrian asylum applications (UNHCR 2015b). That makes Germany the primary destination in the EU for Syrian asylum seekers. The recognition rate (amount of asylum seekers that are accepted) for Syrian nationals was 94 percent in 2014 (Asylum Information Database 2015). Germany is also one of the biggest donors of international aid to the Syrian people in Syria and the neighboring countries. In 2012 and 2013 it contributed approximately 440 million euro for humanitarian and development aid to people suffering from the Syrian conflict (Federal Foreign Office 2014). In terms of resettlement, Germany has a small program, which has been operating since 2012 with a current annual quota of 300 refugees (UNHCR 2014b). Refugees admitted under this program are granted temporary residence permits. Germany also has the largest humanitarian admission program for refugees from Syria. The Temporary Humanitarian Admission Program (THAP) was implemented in 2013 and included admitting 10.000 Syrians from Lebanon in 2013-2014. The program was further extended by an additional 10.000 places in June 2014 (UNHCR 2014c).

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<sup>43</sup> Chief Security Advisor to the Prime Minister György Bakondi has said that the migration flood increases the national security threat, significantly affects public security and health, and has substantial economic and social impacts (Website of the Hungarian Government 2015c).

In contrast to the Hungarian prime minister, Chancellor Angela Merkel has opened the door for refugees and said that Syrians and others in need of international protection are welcome to Germany. The country's open door-policy has led Orbán to call the influx of refugees a German problem, not a European one (The Guardian 2015). Some would argue that Merkel's statement has indeed contributed to an increased influx of Syrian refugees. The Chancellor has been one of the prominent figures in the political debate on how the EU should handle the ongoing refugee crisis. She believes that the EU needs to act in solidarity with southern Member States and agree on a common solution. On 21 August 2015<sup>44</sup>, Germany decided to suspend the Dublin procedure, which establishes that refugees must seek asylum in the first European country in which they set foot<sup>45</sup>. By doing so Germany took the lead in efforts to relieve the overloaded countries on the EU's external border<sup>46</sup>. The suspension meant that all Syrian asylum seekers were welcome to remain in Germany, no matter which EU country they first had entered. Germany together with Austria also took responsibility when Hungary closed its border with Serbia and stopped trains with hundreds of migrants from leaving the country.

During a press conference in Bern (Switzerland) on 3 September 2015 Merkel said it was both an honor and a moral obligation for Germany to take in the refugees (The Star 2015). After seeing a massive influx of refugees to Germany in September, Merkel explained that it was her "damned duty" to help refugees and that stopping the intake was an illusion. On 8 October she said that: "We cannot close our borders, we have got a 3.000 kilometer long frontier. We would have to build a fence. There is no such thing as a stop to the intake" (The Independent 2015c). The reasoning behind Germany's liberal refugee policy is of a human and moral nature. Merkel has clearly expressed that the refugees have a fundamental right to seek asylum and that such a right cannot be limited (The Fiscal Times 2015). Speaking to the German Bundestag on 9 September she further reaffirmed that Germany must lead the way on the refugee issue, saying that it is the only way to achieve a European solution (The Federal Chancellor 2015a). Merkel has further stressed that the EU is a "community of values, rights and responsibilities" and that the way the EU deals with the ongoing crisis will shape the

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<sup>44</sup> Asylum Information Database (2015b)

<sup>45</sup> The Dublin II Regulation (2003) replaced the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities (the Dublin Convention) from 1990.

<sup>46</sup> Germany's suspension of the Dublin procedure was never meant to go public, according to the newspaper Spiegel Online International (2015a). The memo issued by Angelika Wenzl, a senior official at the Federal Office for Migration and Refugees, was only supposed to provide some bureaucratic relief. It was the aid organization "Pro Asyl" that first brought the breaking news.

European continent for a long time to come (The Federal Chancellor 2015b). Germany's image as a country of immigration has definitely been reiterated and the number of asylum applications confirm this characterization. In 2014, Germany received 202.815 asylum applications, clearly the highest amount in the EU.

#### **4.1.4 Sweden**

Sweden takes in more refugees per capita than any other EU country. The country has a long tradition for helping refugees fleeing from conflict and has an open door-policy for Syrian refugees. Between April 2011 and September 2015 Sweden received 80.360 Syrian asylum applications (UNHCR 2015b). Sweden also has the highest recognition rate, which in 2014 was 100 percent for Syrian nationals (Asylum Information Database 2015). Sweden is further one of Europe's largest donors of humanitarian aid in response to the Syrian crisis. Since the Syrian conflict broke out, Sweden has donated 1.6 billion Swedish Kroner in humanitarian aid (Government Offices of Sweden 2015). In terms of resettlement, Sweden has the biggest regular resettlement program in Europe. In 2014 Sweden offered 1200 resettlement places for Syrian refugees (in addition to the 600 of the annual quota that are reserved for Syrian and Palestinians from Syria) (Migrationsverket 2014). Sweden has since 2013 pledged to resettle 2700 Syrian refugees (UNHCR 2015).

Sweden's approach to the Syrian refugee crisis is similar to that of Germany. Sweden is also the only country in the EU to grant Syrian refugees a permanent right of residence, a decision that was taken in the beginning of September 2013. The reason given by the authorities was that the conflict in Syria was likely to last (SVT 2013). Since then the influx of asylum seekers from Syria has continued to increase. The Swedish asylum rules also allow anyone who gains permanent residency to bring their spouse and children to Sweden. Further, following Germany's announcement to suspend the Dublin procedure in August 2015, Sweden announced that it would do the same and allow 8.000 Syrians who originally entered the EU in another country to stay. Sweden's Prime Minister Stefan Löfven has been one of Angela Merkel's closest allies in lobbying for a burden-sharing system where EU countries would commit to accepting new asylum applicants.

The reasoning behind Sweden's liberal policy towards Syrian refugees has much in common with that of Germany. Tobias Billström, Minister of Migration in Sweden, stated in 2013 (in relation to the decision mentioned above): "Sweden's position on granting asylum to those who are in need of protection has always been open and will remain to be an open one"

(BBC 2013). He explained that Sweden and the countries of the European Union have a responsibility to protect and expressed that Sweden would like to see more countries in the EU do the same. In March 2014 Billström asked the European Commission to punish countries for failing to pull their weight in receiving asylum seekers in accordance with the European Union's laws (The Wall Street Journal 2014). He did so and pointed to the fact that nine Member States in the EU receive 90 per cent of all asylum applications annually. Sweden has a long humanitarian tradition for providing protection to those who flee from persecution and conflict. Prime Minister Stefan Löfven reaffirmed this position on 6 September 2015 when he said that: "My Europe takes in refugees. My Europe doesn't build walls" (The Local 2015).

#### **4.1.5 Reinstatement of border controls in the European Union**

The influx of migrants has led EU Member States to reinstate border controls, among them Germany, Hungary, Slovakia, Austria, the Netherlands and Sweden. Germany was the first country to introduce controls on 13 September 2015 and was soon followed by others. The Schengen Agreement allows Member States to briefly reinstate border controls for reasons of national security. Angela Merkel and Interior minister Thomas de Maizière stated that measures were needed to restore order in the asylum process (The Guardian 2015f). While the main reason for introducing border controls was to stem the influx of refugees. The measures were announced after German officials said record numbers of refugees had stretched the system to the breaking point (The Guardian 2015f). The introduction of border checks came just two weeks after Chancellor Merkel said that the controls are detrimental to "the Europe we want" (Press TV 2015). De Maizière, explained the move by saying: "this step has become necessary" and stressed that asylum seekers must understand that "they cannot choose the states where they are seeking protection" (The Guardian 2015f). The timing of the decision was remarkable as emergency talks among European ministers were to take place in Brussels on 14 September. Hungarian Prime Minister Viktor Orbán welcomed Germany's decision and sealed Hungary's border with Serbia. The same day, Austrian Interior Minister Johanna Mikl-Leitner announced that her country's officials would start regular border checks immediately. So did the Dutch and Slovakian authorities. While the Netherlands announced that the police would carry out mobile controls in the border regions, Slovakia renewed its border checks along the Hungarian and Austrian border. On 23 September 2015, the European Commission stated that the temporary reintroduction of border controls can be

justified in crisis situations under the Schengen Borders Code, “but it can never be more than a short-term measure” (European Commission 2015i).

## **4.2 EU’s response**

The contrasting views among EU Member States have had a galvanizing effect on the EU institutions. The European Commission has since 23 April 2014<sup>47</sup> encouraged Member States to act in solidarity with the countries on the external border of the EU, but only a few countries (among them Sweden and Germany) have taken the request seriously. This has caused frustration and led Member States to criticize each other for not taking a “fair share of the burden” (similar to what happened during the sovereign debt crisis). However, after a peak in the influx of migrants and persons seeking international protection in the EU in 2014, several Member States got together and called on the European Commission to adopt a burden sharing system. This led to increased efforts and finally resulted in a system for relocation and resettlement of persons in need of protection<sup>48</sup>. This system is one of the two initiatives that will be addressed in this section. The other initiative is the “Madad” Fund.

### **4.2.1 EU’s Regional Trust Fund**

The EU’s Regional Trust Fund (the “Madad” Fund) was established in December 2014 and represents a new financing tool to mobilize more aid in response to the Syrian refugee crisis. The Fund was a result of an international conference in Berlin in October arranged on the request from Syria’s neighboring countries and the United Nations, on the initiative of the German Foreign Ministry<sup>49</sup>. It was no surprise that the conference was held in Berlin, as Germany is one of the biggest donors of international aid to the Syrian people. The Trust Fund focuses on support to refugees and host communities in Syria’s neighboring countries by addressing the massive and increasing resilience and stabilization needs in Lebanon, Jordan, Turkey, Iraq and Egypt. It is an instrument designed to maximize efficiency, coherence, visibility, flexibility and speed of delivery of EU support across various financial

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<sup>47</sup> On 23 April 2014, in Malta, Jean-Claude Juncker presented a five-point plan on immigration, calling for more solidarity in the EU’s migration policy as part of his campaign to become President of the European Commission (European Commission 2015i).

<sup>48</sup> Italy and Greece have demanded help from the EU to deal with the influx of asylum seekers for a long time. And the Italian Prime Minister, Matteo Renzi, is said to have lobbied the Commission hard to come up with a solution (Euractiv 2015a).

<sup>49</sup> The conference in Berlin was hosted by Foreign Minister, Frank-Walter Steinmeier, Federal Minister for Economic Cooperation and Development, Gerd Müller, and the UN High Commissioner for Refugees, Antonio Guterres. Representatives of some 40 countries and international organizations attended the conference (Federal Foreign Office 2014).



instruments and countries<sup>50</sup> (European Commission 2015f). The initial funding of 40 million euro comes from the EU budget and Italy<sup>51</sup>, while Germany has announced an additional 5 million euro contribution.

The first Board meetings of the Madad Fund, on 29 May 2015, adopted strategic orientations and priorities for the Fund's first one-two years of operation. The Fund's Operational Board also adopted selection criteria for projects, as well as the first package of response programs for 40 million euro (which will provide aid to about 400.000 Syrian refugees and most affected host communities in Lebanon, Turkey and Jordan, focusing on education, livelihoods and food security). The first of the three response programs aims to provide more than 200.000 Syrian refugee children in Turkey with additional second-shift Arabic teaching, life skills education, educational materials and school supplies, and psychological support. The second program will address the forced dropout of almost half of Syrian students from university since the beginning of the refugee crisis. In Lebanon, Jordan, Turkey, Iraq and Syria, this program's aim is to reach and assist up to 20.000 young Syrians. The third program aims to sustain livelihoods by increasing short-, medium- and long-term economic opportunities for Syrian refugees and host communities in Lebanon, Jordan, Iraq and Turkey, reaching up to 190.000 people in 90 communities most affected by the refugee influx.

In a Communication presented 23 September 2015, the Commission states that the EU Trust Fund enhances EU and Member States' visibility (which is often absent in the case of EU contributions to the UN, World Bank and other Trust Funds). It further states "by enhancing Europe's profile in a crisis, the EU Trust Fund gives more political leverage to Member States and the EU institutions on the ground." In other words, the establishment of the fund has several objectives.

#### **4.2.2 A system for relocation and resettlement**

In the communication, A European Agenda on Migration<sup>52</sup>, published 13 May 2015, the European Commission announced that it later that month would make a Recommendation<sup>53</sup> proposing an EU-wide resettlement scheme to offer 20.000 resettlement places in the EU (a

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<sup>50</sup> The European Commission has stated that the EU Trust Fund brings efficiency gains on the financial side, as it can operate with overhead costs of significantly less than 5 per cent, depending on the size of overall contributions (European Commission 2015b).

<sup>51</sup> Italy was the first founding donor with 3 million euro.

<sup>52</sup> European Commission (2015h)

<sup>53</sup> European Commission (2015d)

number set by the UNHCR). The scheme, presented on 8 June, covers all Member States and is based on a distribution key, which consists of the size of population (40 per cent), total Gross Domestic Product (40 per cent), average number of spontaneous asylum applications and the number of refugees resettled per 1 million inhabitants over the period 2010-2014 (10 per cent), and unemployment rate (10 per cent). The Commission's reason for a scheme was the situation in the Mediterranean and the significant imbalance between Member States regarding the commitment to resettle persons (European Commission 2015d). Only fifteen Member States and three Associated States had a resettlement program at the time.

The first implementation package of the Agenda presented on 27 May included a proposal for a Council Decision to trigger an emergency relocation of 40.000 persons in clear need of international protection from Italy and Greece based on Article 78 (3) of the TFEU. The Extraordinary Home Affairs Council adopted the proposal on 14 September 2015. Article 78 (3) states:

*In the event of one or more Member States being confronted by an emergency situation characterized by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament.*

The scheme applies to Syrian and Eritrean nationals in need of international protection that arrived in either Italy or Greece after 15 April 2015. The resettlement scheme and the proposal for a Council Decision on emergency relocation of refugees have certain similarities with a proposal first suggested in consultations held by the European and North American states and Australia (IGC) in 1992. The IGC-proposal was a response to the refugee emergency created by the war in former Yugoslavia and was designed to function as a continuous mechanism over a period of time (Suhrke 1998).

The resettlement scheme first proposed led to objections from several Member States, among them Hungary, Poland, the Czech Republic and Slovakia. Only days after the Commission's proposal was presented, Germany and France urged the EU to revise its plan, decrying an insufficient balance, saying the scheme must take better account of the efforts already made by Member States on international protection (Reuters 2015). Under the plan, Germany and France would together take nearly 40 percent of the 40.000 migrants. While Germany and Austria have backed a "quota" system for long, France has seemed hesitant (it

first supported the immigration strategy, but changed its mind after the Commission unveiled the quota system). The Spanish government rejected the plan by pointing to the constant flow of illegal immigrants from the Spanish North African exclaves of Melilla and Ceuta.

On 9 September 2015, the European Commission proposed to relocate 120.000 people in clear need of international protection to other EU Member States during the next two years (European Commission 2015e). This number comes on top of the 40.000 that the Commission proposed in May to relocate from Greece and Italy. The proposal involves relocating 120.000 people from Italy (15.600), Greece (50.400) and Hungary (54.000). The Ministers agreed to the Commission's proposal on 22 September against the will of Hungary, Poland, the Czech Republic and Slovakia. Since Hungary does not wish to be included as beneficiary of the emergency relocation scheme, the Council agreed that (an) other Member State(s) confronted with a similarly evolving pressure could benefit instead. The relocation will be done according to a mandatory distribution key explained in the previous paragraph. The relocation will be accompanied by 780 million euro EU budget support for participating Member States, including a 50 per cent pre-financing rate to ensure that governments on national, regional and local level have the means to act swiftly. The Commission also proposed a Permanent Relocation Mechanism for all Member States that can be triggered any time by the Commission to help any EU-Member State experiencing a crisis situation and extreme pressure on its asylum system as a result of a large and disproportionate inflow of third country nationals<sup>54</sup>.

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<sup>54</sup> Such future emergency situations would be defined by the Commission based on the number of asylum applications in the last 6 months, per capita as well as the number of irregular border crossings in the last 6 months (European Commission 2015e).

## **Chapter 5 – What does the response tell us?**

The aim of this chapter is to explain the EU's response, to identify similarities and variations in the response to that of previous crises and, on a more general level, to discuss what the response tells us about the EU. The discussion in the first part of the chapter provides an explanation to the response of Member States by looking at previous history, the role of state leaders, public opinion and the economic situation. The discussion continues with an explanation of the response of EU institutions. The thesis argues that a combination of previous history, leadership, public opinion and economic situation have influenced the response of Member States. In the case of the European institutions the thesis argues that the response has been influenced by conflicting opinions among Member States and lobbying by countries most affected by the influx. It further argues that the response is similar (ad hoc) to how Europe reacted to the crisis following the collapse of Yugoslavia. A mechanism for a more equal distribution of refugees was also suggested in the 1990s, but opposing Member States finally rejected the proposal. The thesis further argues that the activation of the Temporary Protection Directive could have provided a solution to the Syrian refugee crisis. Finally, the thesis argues that the EU's response to Syrian refugee crisis tells us that the EU wants to, but not quite manages to be a uniform promoter of peace and human rights.

### **5.1 Explaining Member States' response**

#### **5.1.1 Italy: economic recession and public opinion**

The Italian response to the Syrian refugee crisis can be divided into three phases characterized by securitization (2011-2013), moral responsibility (2013-2014) and pressure on the EU (2014-2015). Italy has had four Prime Ministers (Silvio Berlusconi, Mario Monti, Enrico Letta and now Matteo Renzi) since the Syrian crisis broke out in April 2011. Mario Monti was the head of a technocratic government from November 2011 to April 2013. He pursued Berlusconi's line through policies of securitization<sup>55</sup> and by declaring a "state of emergency". A consequence of the latter is that migrants' human rights are sidelined by the focus on temporary remedies instead of long-term solutions (Perkowski 2012). Enrico Letta replaced Monti in 2013 and became the leader of a grand centrist coalition, which only lasted less than a year. However, in his period illegal immigration was decriminalized and Operation Mare

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<sup>55</sup> In April 2012 a new Memorandum of Understanding on Security was concluded between Italy and Libya, on the initiative of Prime Minister Monti. The objective was to curb irregular migration by stopping migrants from departing and returning those who did (referred to as a push-back agreement) (Perkowski 2012).

Nostrum was established. In February 2014 Matteo Renzi became Prime Minister of a centre-left government, and Italy has since then “stepped up the game” by exercising its power to put pressure on the European institutions.

The fact that Italy has struggled (and still does) with high debt (156 percent of GDP in 2014), economic recession (annual growth rate -0.35 percent) and high unemployment rates (12.7 percent in 2014) is likely to have influenced the country’s response (OECD 2015a-b). Assistance from the EU has in turn been highly necessary. The Italian public has expressed that they dislike the constant flow of arrivals on their coastline. And there has been a series of protests reflecting frustration to what some Italians believe are an untenable burden foisted on their economically challenged country (The Guardian 2015d and Reuters 2015). The escalation of protests and clashes in 2014/2015 between the police, the migrants and the public may have contributed to the increased efforts to come up with a European solution.

### **5.1.2 Hungary: short history of immigration**

Hungary has a relatively short history of immigration, a homogenous population and a leader with a strong anti-immigration stand. Prime Minister Viktor Orbán has stated that Hungary cannot cope with immigration, as it has no experience of “multiculturalism”, but this is in fact not true (Tremlett and Messing 2015). In the early 20<sup>th</sup> century, the Kingdom of Hungary, as part of the Austro-Hungarian Monarchy was a multi-ethnic country. It was the decrease in territory and population after World War I and the extensive population movements after World War II that changed the ethnic composition of the population. By the second half of the 20<sup>th</sup> century Hungary was an ethnically almost homogeneous country. Hungary was at that time, similar to other countries of Central and Eastern Europe, an emigration country. However, during the four decades of Communist rule, Hungary became a closed country, with limited and state-controlled inward and outward migration. This changed after the Hungarian revolution in 1956 when a continuous moderate emigration flow from Hungary started and lasted until 1989. The turning point from emigration to immigration came in the early 1990s (IDEA 2009:12). Hungary’s history of immigration is relevant in explaining anti-immigration sentiments in Hungary today.

Viktor Orbán has a key role in the Hungarian response to the refugee influx. He belongs to the National Conservative Party, Fidesz<sup>56</sup>, and has been the Prime Minister since

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<sup>56</sup> The National Conservative Party emphasizes a strong role for the Catholic Church and believes that European integration must be based on the cooperation of nation states.

2010. Orbán, as any other elected leader, is preoccupied with gaining support from his voters in order to win the next election. And he has been particularly eager to convince the Hungarians about his anti-immigration stand, referring to the “Consultation on Immigration”. A poll in April 2015 found that 46 percent of Hungarians classified themselves as anti-immigrant, more than three times higher than in the 1990s when the polling began (The Guardian 2015e). Hungary’s economy cannot explain the country’s anti-immigration stand, but it is important to acknowledge that it’s not among the prosperous European countries. Hungary has a GDP of 24.709 US dollar per capita (2014), an annual growth rate of 3.6 percent (2014), an unemployment rate of 7.7 percent (2014), and government debt equivalent to 99 percent of GDP (2014) (OECD 2015a-d).

### **5.1.3 Germany: a strong leader**

The importance of Germany’s long history of dealing with refugees<sup>57</sup>, its strong economy and the fact that it’s dependent on immigration should not be neglected when explaining the country’s response to the Syrian refugee crisis. Germany has a GDP of 43.282 US dollar per capita (2014), an annual growth rate of 1.6 percent (2014), an unemployment rate of 5.0 percent and debt equivalent to 82 percent of GDP (2014) (OECD 2015a-d). The country has an aging population and needs people in terms of labor if its strong economy shall sustain. In other words, there might be a long-term economic element<sup>58</sup> to the German position as well. The figures tell us that Germany is capable of handling an influx of refugees.

Chancellor Angela Merkel definitely plays a key role in the German response. The decision to open the doors for refugees, referred to as the “September fairytale”, seems to have been a result of public opinion and Merkel’s personal conviction about Germany leading the way as an example, at least partially. Merkel’s decision to guarantee Syrian refugees safe passage was a surprise to state and local officials in Germany, according to Roger Lewentz, the president of Germany’s conference of state interior ministers (El Politico 2015). The German summer was marked by a series of attacks on asylum seeker centers, and in a country that is highly sensitive to this sort of behavior, the attacks played a decisive role in shaping support for asylum seekers among the moderate German public (Euractiv 2015b). What the Chancellor failed to realize was the instant effect her announcement had on the flow of

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<sup>57</sup> Referring to the refugees after the Second World War, the Hungarian revolution and the collapse of Yugoslavia.

<sup>58</sup> The federal government has decided to make access to the labor market easier for migrants by reducing the minimum waiting time before they can look for work from four to three months (Euractiv 2015b).

refugees. In spite of harsh criticism by European leaders like Viktor Orbán Merkel has stood up for her liberal policy up until recently (when Germany had to introduce border controls). According to the press, Germany has suddenly become an image of openness, generosity and solidarity, a total change from the hard image the country acquired during the Greek crisis (Euractiv 2015b).

#### **5.1.4 Sweden: humanitarian tradition and economic stability**

Sweden has a strong economy and a long humanitarian tradition. It has a GDP of 45.153 US dollar per capita (2014), an annual growth rate of 2.26 percent (2014), an unemployment rate of 8.0 percent (2014), and government debt equivalent to 62 percent of GDP (2014) (OECD 2015a-d). In other words, it is highly capable of handling an influx of refugees. Sweden further has a long humanitarian tradition of providing protection to those who need it. It was the refugees from Germany, the neighboring Nordic countries and the Baltic countries who, over the course of World War II, turned the country into an immigration country (Migrationsverket 2015). Sweden welcomed political refugees from Hungary and the former Czechoslovakia after the Soviet invasion in 1956 and 1958. And two decades later, in the mid-80s, asylum seekers came from Iran and Iraq, Lebanon, Syria, Turkey and Eritrea to seek protection in Sweden (Migrationsverket 2015). Sweden was also among the top receiving countries of refugees from the former Yugoslavia in the 1990s.

Sweden's Prime Minister Stefan Löfven has further had a key role in the response by supporting Germany and expressing Sweden's obligation to protect persons fleeing from war and persecution.

### **5.2 Explaining the response of the EU institutions**

#### **5.2.1 A divided Union**

The response of the European institutions can be explained as a result of conflicting opinions among EU Member States. It's not easy to come up with a common solution when EU Member States strongly disagree on what to do. The Visegrad countries, Eastern European countries, UK and Denmark have been particularly negative to agree on a common solution to the influx of Syrian refugees. When the EU finally agreed on a temporary measure in terms of relocation of 160.000 persons in need of international protection from Italy, Greece and Hungary, it was a result of efforts by Germany, Italy, Sweden and Austria in particular. Three of these countries (Germany, Sweden and Austria) also carried the issue (by suggesting a

burden sharing mechanism) in European forums in the 1990s. Still, they did not accomplish what they wanted this time either – a permanent mechanism for the distribution of persons in need of protection. The European Commission has scheduled this to happen next year, in March 2016 (a proposal for a permanent relocation mechanism is apparently already on the table).

### **5.2.2 The missing piece: the Temporary Protection Directive**

The EU has a directive that can be activated in the event of a mass influx and that could have been a solution to the Syrian refugee crisis, yet it is not. The Temporary Protection Directive was developed as a consequence of the refugee crisis created by the collapse of Yugoslavia in order for the EU to be better prepared in the event of a future mass influx. Still, the Directive has so far never been implemented. The Council considered activating it when the number of asylum-seekers from Iraq and Afghanistan rose in the beginning of the 2000s, but no decision was reached. For the directive to be implemented the existence of a mass influx situation has to be established by a Council decision adopted with a qualified majority. The activation of the Directive can be triggered by a Member State (followed by a proposal from the Commission). The Temporary Protection Directive defines a mass influx situation as the “arrival in the community of a large number of displaced persons, who came from a specific country or geographical area, whether the arrival in the Community was spontaneous or aided” (Article 2 (d)). One of the initial purposes for drafting the Directive was “avoiding a total bottleneck in national asylum systems”, which is exactly what several EU Member States (among them Italy) has experienced as a consequence of the influx of Syrian refugees. So why hasn’t the directive been activated? A working document from the European Parliament on 15 July 2015 states that the directive never has been activated, “presumably because the concept of mass influx<sup>59</sup> is not defined and the provision on “mass influx” shall be considered only, when the whole of the EU is affected, and not as will most likely be the case, when one or a few Member States are affected” (European Parliament 2015). The Committee concludes that the provisions should be revised “in order for it to be useful in a situation, like the Syrian refugee crisis the EU currently is faced with”.

### **5.3 History repeats itself**

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<sup>59</sup> When called for by the UNHCR, during the crisis in Libya in 2011, the Commission found that neither was it a mass influx, nor were all people fleeing in need of international protection (European Parliament 2015).



When comparing the EU's response to the Syrian refugees with previous refugee crises, common features appear. The refugee crisis following the Hungarian revolution in 1956 resulted in a large-scale resettlement operation. Austria, which experienced an influx of approximately 180.000 Hungarian refugees, reacted in the same way as Italy, by asking the UNHCR for help (in Italy's case the EU). When the request didn't lead through, Austria suggested a resettlement quota, which was what Italy did in 2014. The proposal was back in 1957 discussed, but never agreed upon. A similar discussion took place in 1992 based on the refugee emergency<sup>60</sup> created by the war in the former Yugoslavia. The proposal that would have established a mechanism for a more equal distribution of refugees was first suggested in 1992. At that time Austria, Sweden, Germany and Switzerland had the highest intake of refugees from Yugoslavia on a per capita basis. This picture is somewhat similar to today<sup>61</sup>. It is striking that the same countries argued for a more equal distribution of refugees in European forums in 1993/1994 as well as in 2014/2015. Both UK and France disagreed to the proposal in the 1990s. While UK strongly opposed the quota system involving Syrian refugees, France finally voted in favor of a quota system, after massive pressure from Germany.

What distinguish these two initiatives is the role of Italy, the scale of the crisis<sup>62</sup> and the fact that the refugees come from countries outside of Europe. The general situation in Europe is also different. The European Union has grown in size, now including 28 Member States, and the competences of the European institutions are extended. In other words, a number of factors have contributed to a different outcome in this round. In September 2015 the EU finally agreed upon a proposal from the European Commission to trigger an emergency relocation of 40.000 persons in clear need of international protection from Italy and Greece (involving Syrian and Eritrean nationals). This was again followed by a decision to relocate 120.000 people in clear need of protection from Italy, Greece and Hungary<sup>63</sup> to other EU Member States during the next two years. However, the system is only a temporary measure and the crisis is not over.

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<sup>60</sup> From 1991 to 1993, 700.000 people fled to Western Europe from Serbia, Croatia and Bosnia-Herzegovina (Fassman and Munz 1994).

<sup>61</sup> Sweden had the highest intake of Syrian refugees on a per capita basis in 2014. Germany and Switzerland were among the top five countries receiving new Syrian asylum applications.

<sup>62</sup> Between April 2011 and September 2015, Europe received 512.909 Syrian asylum applications (UNHCR 2015b). However, the total refugee flow including Afghans, Iraqis, Eritreans and others, amount to the biggest refugee flow since World War Two.

<sup>63</sup> However, Hungary doesn't want to be included as a beneficiary of the emergency relocation scheme. The amount of refugees will be relocated from other countries (possibly Sweden).

## 5.4 The nature of the EU

American political scientist Donald Puchala (1972) once compared the scholarly effort to conceptualize international integration to the tale of the blind men and the elephant (Puchala 1972). The story is about the blind men that approached an elephant and each touched the animal in an effort to discover what the beast looked like. Each man touched different parts of the animal, and concluded that the elephant had the appearance of the part he had touched. The result was that no man arrived at a very accurate description of the elephant. More than four decades later, Puchala's article has not lost its relevance. May the EU's handling of the refugee crisis shed light on the larger question of what the EU fundamentally is?

When awarding the Nobel Peace Prize to the EU in 2012, the Norwegian Nobel Committee said its decision was based on the stabilizing role the EU had played in transforming most of Europe from a continent of war to a continent of peace<sup>64</sup>. In his speech, the Chairman of the Norwegian Nobel Committee, Thorbjørn Jagland, emphasized that Europe and the European Union was built on human rights, democracy and enforceable principles of rule of law (Nobelprize 2012). He further stressed the importance of collective responsibility and solidarity across borders in order for the EU to face future challenges. The award created conflicting reactions among the public in a time of economic crisis. Chrisoula Panagiotiodi, a beautician in Athens, stated: "Is this a joke?" "It mocks us and what we are going through right now. All it will do is infuriate people here" (Reuters 2012). Meanwhile many European leaders and politicians applauded the decision. German Foreign Minister Guido Westerwelle said: "That is a fantastic decision which makes me proud and happy. European integration is the most successful project for peace in history" (Reuters 2012).

The preambles to the treaties are an important source to understand how the EU has chosen to present itself. The preambles to each of the three original treaties establishing the European Communities (1957) reflect the founders' vision for building, through economic integration, "an ever closer union among the peoples of Europe" (Europa 1987). The deep desire for peace runs through the preambles, but the documents also represent a shift in emphasis away from peace to economic prosperity as the driving motive for unity. The shift is

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<sup>64</sup> The main objective of European cooperation in the 1950s, involving the establishment of the European Coal and Steel Community (ECSC), was to prevent another war between France and Germany. Pooling coal and steel production would "make war not only unthinkable but materially impossible" as spelled out in the Schuman Declaration (European Union 2015).

evident in the treaty on the European Economic Communities (EEC), where “economic and social progress” take precedence over preserving and strengthening “peace and liberty” (Nelsen and Stubb 2003). The preamble to the Single European Act (1987) also differed from its predecessors. Here the vision of a united Europe as an alternative to war was gone. In its place was a vision of an evolving European Union ready to act in the world as a single entity to protect the interests of its members, promote democracy and human rights, contribute to the “preservation of international peace” and “improve the economic situation in Europe” (Nelsen and Stubb 2003:45). The preamble to the Maastricht Treaty (1992) reflected yet another step towards integration by focusing on economic goals. It set out to “achieve the strengthening and the convergence” of economies and to “establish an economic and monetary union” including “a single and stable currency” (Council of the European Communities, Commission of the European Communities 1992: 3).

The EU’s response to the refugee crisis can be related to the development in the preambles because Member States’ response is based on perceptions of what the EU is and should be<sup>65</sup>. Their response can be characterized as normative, pragmatic or something in between. Germany, as a founding member of the Union, has a normative perception of the EU as a value-based community (Schmidt 2012). Its open door-policy for Syrian refugees is based on solidarity, human rights and “the right thing to do” (normative ideas) – values that were central in the first preambles. Hungary, on the other hand, has a pragmatic perception<sup>66</sup> of the EU, meaning that it regards the Union as a problem-solving entity promoting free markets and regional security (Schmidt 2012). Its anti-immigration policies are justified by arguments based on logic and necessity (cognitive ideas). Sweden’s response is similar to that of Germany and thus reflects a normative perception of the EU. Italy’s response to the crisis is more difficult to identify as either pragmatic or normative. Its immediate response to the crisis focused on security (pragmatic discourse). However, as Italy became severely affected by the influx of refugees, it seems like the normative discourse became more relevant.

The EU’s response to the Syrian refugee crisis tells us that Member States have

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<sup>65</sup> Each member state naturally has its own answer to what the EU should be and do, but according to Schmidt (2012) the answers can be divided into four basic discourses about the EU as a free market, a values-based community, a rights-based union, and/or a strategic global actor. The first two discourses focus on the nature of European integration.

<sup>66</sup> The pragmatic discourse is opposed to a normative discourse of the EU as values-based community ensuring solidarity. These discourses concern the institutions as well, whether Member States see the EU as a more of an intergovernmental or supranational organization.

contrasting views on what the EU is, should be and do. The response further tells us that the EU wants to do more than it manages to do. The EU institutions have asked for a collective response to the Syrian refugee crisis by means of burden sharing, but have met firm resistance from many Member States (the Visegrad countries, Eastern Europe, UK and Denmark).



## **Chapter 6 – Conclusion**

This thesis has investigated the EU response to the Syrian refugee crisis and discussed how this response may be explained. The thesis argues that the EU Member States' response can be divided into three distinctive categories: the liberal response, the moderate response and the restrictive response. It argues that state leaders, previous history, public opinion and economic situation have influenced the response of Italy, Germany, Hungary and Sweden. It further argues that the response of Member States have had a galvanizing effect on the EU institutions. It argues that the EU institutions have been influenced by conflicting opinions among Member States and lobbying by countries most affected by the influx. The thesis claims that the EU has a long way to go before the objective of the CEAS – creating a single protection area for refugees, is accomplished. Finally, it claims that the EU's response to the refugee crisis reflects that the EU wants to, but not quite manages to be a uniform promoter of peace and human rights.

### **6.1 The EU's response**

The thesis establishes that the response of EU Member States to the Syrian refugee crisis can be described as a study in contrasts (Orchard and Miller 2014). The study has demonstrated that the response can be divided into three distinctive categories: the liberal response, the moderate response and the restrictive response. The liberal response, constructed by Germany and Sweden, consists of open door-policies where Syrian asylum seekers are welcomed and granted protection. Their response is founded in human rhetoric and a normative perception of the EU as a value-based community. The restrictive response, on the other hand, is constructed by Hungary and is founded in xenophobia and anti-immigration policies. Hungary's response is based on a pragmatic perception of the EU, meaning that it regards the EU as a problem-solving entity promoting regional security. Finally, the moderate response, constructed by Italy, consists of policies that depend on assistance from the EU. Its response has elements of both a pragmatic and a normative perception of the EU.

Germany and Sweden have opened their borders for Syrian refugees and called for European solidarity. Chancellor Angela Merkel in September 2015 said that Syrians and others in need of international protection were welcome to Germany. Prime Minister Stefan Löfven in Sweden sent the same message. The two leaders have called for a European burden-sharing system and suspended the Dublin procedure (Germany followed by Sweden), meaning that all Syrian asylum seekers were welcome to remain in Germany and Sweden, no

matter which EU country they first had entered. Hungary on the other hand, has responded to the influx of Syrian refugees by strengthening border controls, declaring a state of emergency and changing its Asylum act. It has built a 175-kilometer fence on the border to Serbia and done everything it can to prevent asylum seekers and migrants from entering the country. Italy has responded to the influx of Syrian refugees by calling on the EU for assistance, claiming that it's not fear nor feasible for the country to handle the influx by itself. It has called for a European burden-sharing system and threatened to let asylum seekers loose across the EU.

State leaders, public opinion, economic situation and previous history have influenced the response of EU Member States to the Syrian refugee crisis. Germany and Sweden are the two primary destinations in the EU for Syrian asylum seekers. They both have high recognition rates for Syrian nationals (respectively 94 and 100 percent in 2014), and a long tradition for providing protection to persons fleeing from conflict and persecution. The two countries further have strong economies and state leaders that believe in European solidarity and common solutions. Chancellor Angela Merkel and Prime Minister Stefan Löfven have repeated that European countries need to act in solidarity with southern Member States, and share the burden in terms of providing protection to Syrian refugees. Germany and Sweden's response to the refugee crisis can be explained on the basis of such factors. The public opinion in Germany also seems to have affected Merkel and in turn the German response.

Hungary and Italy's response to the Syrian refugee crisis is influenced by the fact that they have been overloaded by an influx of migrants and refugees in recent years. The two countries share a common destiny as countries of first entry on the external border of the EU. Italy has further suffered from economic recession for several years and Hungary is far from having the GDP of Western European countries. Hungary's relatively short history of immigration and its homogenous population may also explain the country's response to the refugee crisis. In the case of Italy, shifting political leadership and rising frustration among the public may have influenced the Italian response.

The European institutions have responded to the Syrian refugee crisis by leading the international response in terms of humanitarian aid and by encouraging Member States to act in solidarity with countries on the external border of the EU. They have further initiated a new financing tool to mobilize more humanitarian aid (the "Madad" Fund) and proposed an EU-wide relocation and resettlement scheme for persons in need of international protection. Their response can be explained by the conflicting opinions among Member States, which in turn

have limited their ability to act. The institutions also seem to have been affected of lobbying by countries most affected by the influx, Italy, Germany and Sweden in particular, which have pushed for a European burden-sharing system. The European institutions have though not activated the Temporary Protection Directive that could have been a solution to the Syrian refugee crisis. The European Parliament has explained that the Directive hasn't been activated because the concept of a mass influx is not clearly defined and that the Directive only should be considered when the whole of the EU is affected. The Parliament has further argued that the Directive should be revised in order to be useful in a situation like the one the EU currently is facing.

## **6.2 The EU – a single protection area for refugees?**

The EU's response to the Syrian crisis tells us that that the ancient divide between Eastern and Western Europe still exist and that the Common European Asylum System (CEAS) is far from complete. As pointed out in Chapter 3, immigration and asylum is a field where the EU and its Member States share competences. Member States are responsible for determining the procedures for immigrants' entry into their territory (including refugees). However, when an asylum seeker first enters the territory of a EU member state and applies for asylum, common rules apply. This is where CEAS becomes applicable. While the directives under CEAS are meant to provide joint guarantees for protection and guaranteed access to uniform regimes across the EU, this is not the case (Euractiv 2015c). Reception conditions and recognition rates differ considerably. For Syrian nationals the recognition rates in 2014 ranged from 43 percent in Slovakia to 100 percent in Sweden (Asylum Information Database 2015)<sup>67</sup>. The fact that 94 percent of Syrian refugees arriving in Italy (where the recognition rate is 64 percent) seek to continue to other European countries is all but hard to admit (UNHCR 2014e: 17). The EU's aim to prevent secondary movements of asylum seekers and a massive influx in countries with better infrastructures and reception procedures has proven unsuccessful. Between April 2011 and March 2014, two EU countries, Sweden and Germany, received 56 percent of all new Syrian asylum applications in the EU<sup>68</sup> (UNHCR 2014e: 15). These figures tell us that the EU has a long way to go before the objective of creating a single protection area for refugees is accomplished.

## **6.3 The EU – a uniform promoter of peace and human rights?**

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<sup>67</sup> The recognition rate was 60 percent in Greece and 94 percent in Germany.

<sup>68</sup> The top five receiving countries<sup>68</sup> received 70 per cent of all new asylum applications in the EU.



The EU's handling of the Syrian refugee crisis tells us that Member States have different perceptions of what the EU is and should do. The awarding of the Nobel Peace Prize in 2012 reminded us that the European Union is a project for peace. The predecessor of the European Union, the European Coal and Steel Community, was founded to prevent another war between France and Germany and provide peace to the European continent. However, the preambles to the treaties illustrate that the EU over time has emphasized different goals. The preambles indicate a shift in emphasis away from peace to economic prosperity as the motive for unity. Conflicting opinions among Member States on what the EU is, in relation to the Syrian refugee crisis, tell us that the EU wants to, but not quite manages to be a uniform promoter of peace and human rights.

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