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4. THE EUROPEAN ASYLUM POLICIES: AN EMERGING SECURITY AGENDA?

Abstract: The human security concept within the EU framework was first introduced in Madrid and Barcelona reports respectively. Even within the general policy of the EU, asylum policy as a part of the Human Security approach was marginalized due to resolving the inter-member states freedom of movement.

Since the Schengen agreement became a crucial document which resolved the issue of movement within the EU borders, European decision makers have devoted themselves to finding solution for the citizens of the third countries (asylum seekers). As one of the key cornerstones of the human security policy, the EU asylum policy had been regulated by the Dublin system consisting of the Dublin III Regulation, EU Qualification Directive and the EURODAC Regulation, until the ongoing military clashes in the Middle East caused the immigration crisis. The inability of both the EU institutions as executive supranational bodies of the Union, and the EU regulations as a legislative component, led to the failure of the Dublin System. With the leading idea to provide the essential role of the System, to allow efficient and rapid responses to the asylum requests, the System was effective and in force until the beginning of the refugee crisis in 2014. A huge influx of the immigrants was the first serious test for EU institutions' ability to manage the number of asylum applications.

This paper aims to study the EU asylum policy from the Human Security perspective. Failure of the Dublin System has significantly influenced the securitization of asylum problem. The *interregnum* followed by the System suspension meant that new policy should be established. Absence of alternative mechanisms for dealing with the crisis and external relations with its neighbouring states had set this question on the emerging security agenda of the Union.

The authors apply the securitization theory to explain how the new asylum policy has become the security issue in everyday EU policy. Furthermore, one of the research questions analysed in this paper seeks to provide an adequate answer to how the European Union will manage one of its key principles (free movement) *vis-à-vis* upcoming global migration processes from the point of human security.

Keywords: *asylum policy, EU, securitization, Dublin system*

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1. INTRODUCTION

Human Security concept within the EU framework has been successfully applied for more than a decade. In the official EU legislative and normative documents, it was first introduced in Human Security doctrine for Europe (2004), a document created by the Study Group on Europe's security capabilities, in Barcelona. The report focuses on the capabilities needed for dealing with situations of severe physical insecurity, 'freedom from fear', rather than on the whole range of possibilities and instruments of European foreign and security policy.⁵ This Report also puts emphasis on the "traditional Western security policy", which has evolved from simple defence of the external borders, to the issues that even include military interventions of the peace maintenance, despite the consequences for people living in the countries in question.⁶

Simultaneously, the EU asylum policy in the supranational level was first introduced during the 1999 Tampere summit. Its member states committed themselves to developing a comprehensive immigration and asylum policy. Although directives have harmonized border controls and anti-discrimination instruments have been adopted, it has remained an "incomplete and complex European policy area" (Guiraudon 2003). The EU as a *sui generis* entity provides possibility for asylum seekers to use their right guaranteed by the international legislative.⁷

Over the last five years European asylum policies have been challenged by new political and security changes in the Middle East and Northern Africa (MENA region). As the EU external borders are open for four recognized freedoms of movement: goods, capital, services and people, they have never been faced with such an influx of immigrants and asylum seekers as in 2015 and 2016. Before the crisis took place, it was quite bureaucratic and low level political issue (Hatton 2016).

This article aims to inspect whether the asylum policy within the EU has been securitized, and therefore, set high on the EU's security agenda. Furthermore, one of the research questions analysed in this paper is how European Union manages one of its key principles (free movement) vis-à-vis upcoming global migration processes from the point of view of human security.

Some authors claim that in the case of general migration control, bureaucrats sitting in interior ministries seek to regain the discretion taken away by courts and the leeway lost to inter-ministerial arbitrage (Guiraudon 2003).

In this paper, we argue that the migrant crisis was a trigger for the EU to prioritize and securitize its immigrant, and therefore, its asylum policy. Once it had been securitized, the asylum policy (as a major part of immigration policy), could be placed high on the EU security agenda. Securitized immigrant policy (politico-bureaucratic risk of granting the asylum which has evolved into security problem) then became enhanced policy in practice. This paper is structured as follows: first, we will present a short review of the evolution of

5 Full Report text available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/solana/040915CapBar.pdf (20.07.2016)

6 Ibid.

7 The term "asylum seeker" in context of this article relates to a person fleeing persecution or serious harm in their own country and therefore in need of international protection.

the EU asylum policy (especially the CEAS),⁸ after that, based on the fulfilment of all five securitization theory criteria, we will try to demonstrate that the immigrant policy has become fully securitized (and not only politicized) during the migrant crisis; at the end, we will indicate the relation between the securitized object and the enhancement of the asylum policy system, and main political meetings that followed, as preconditions for higher level of immigrants' life quality.

2. THE EU ASYLUM POLICY (D)EVOLUTION

The European migrant crisis has increased the level of interest in the European migrant policy in academia. Some authors support the idea that the EU's migrant policy does not actually exist in practice and therefore it is not necessary to do academic research on it (Henry 2016). The evolution of the asylum policy has lasted for a long time and has been predominantly introduced within the EU reform treaties.

The Treaty of Maastricht entered into force in 1993 and created "citizenship of the Union",⁹ although predicated on possessing the citizenship of one of the EU Member States. This concept has been widely used to buttress freedom of movement for citizens and their family members of any nationality. In 1985, the Schengen Agreement was signed, which led to the abolition of internal border controls within participating EU Member States. By 1995, a complex system for applying external controls was put in place, regulating access to the Schengen area. In 1997, the Schengen system – regulated until then at an international level – became part of the EU legal order.

It continued to evolve and develop in the context of the Schengen Borders Code, which consolidated EU rules relating to border management. In 2004, the EU agency Frontex was created to assist EU Member States in the management of the external borders of the Union.¹⁰ Since the Treaty of Rome in 1957, successive treaty amendments have enlarged the competence of the European Communities (EC), now the EU, on issues affecting migration; the Treaty of Amsterdam gave the EU new competence across the field of borders, immigration and asylum, including visas and returns. It has culminated with the Treaty of Lisbon which provided the EU with new competences in the field of integration of third-country nationals.¹¹

Acquiscommunautaire of the EU, especially the legislation adopted through Common European Asylum System (CEAS), dating from 1999, is a major part of the asylum policy. To indicate the significant level of securitization of the migrant crisis, authors will briefly present the most notable decisions. The 'Schengen' and 'Dublin' agreements, both dating back to the mid-1980s and 1990s, are of central importance to this study. One of the most significant decisions of this period was Council Regulation 1612/68 which distinguished between the right to free movement of nationals of Member States and the right to free movement of nationals from third countries (Ugur, 1995, p. 967). Ugur argues that this

8 Common European Asylum System.

9 Article No.8c of the Maastricht Treaty, **Official Journal C 224**, 31/08/1992 p. 11

10 The EU Council Regulation (EC) No 2007/2004 of 26 October 2004

11 Article No.79.4 of Lisbon Treaty (2007/C 306/01)

decision laid the foundation for 'fortress Europe' in the area of immigration (Ugur 1995). The CEAS *de facto* consists of Dublin regulative and Schengen agreement. The Dublin Convention (1990) was initially signed as an intergovernmental treaty outside the EU's legal framework and was later incorporated into the EU law (2003/343/EC, the 'Dublin II Regulation'). The central principle of the Dublin regime is that only one member state is responsible for the examination of an asylum seeker application, usually the country of first entry.

The problem of perceiving the EU asylum policy is becoming especially tangible when it comes to supranational integration process. In the article "European Security Identities", Ole Wæver argues that European integration is a process whereby societal security emerges as a specific field of reflection, separated from state security. As he further explains, the process of integration probably depends on the willingness of 'the nations' to handle these perceived security risks by their own cultural security policy, and not call the state back in (Wæver 1996). Cultural policy and societal/national values, combined with the elements of securitization theory, create fruitful area for announcing the migrant crisis the "security crisis".¹² As a result, immigrants, and especially asylum seekers, are being framed as a security problem which is different from an approach by means of a policy which emphasizes that asylum is a human rights question and/or which proposes human rights instruments to deal with the issue.

3. SECURITIZATION AND NOT POLITICIZATION OF THE ASYLUM POLICY

As a part of wider migration policy (recognized as the one which is enforced in a communitarian regime), the asylum policy had not been securitized until the beginning of the migrant crisis. As stated in the introduction of this paper, the analytical tool for inspecting whether the EU asylum policy has become securitized will be the securitization theory, developed within the Copenhagen school by Ole Wæver.

There is a unique way of analytical checking whether something *is* or it *is not* an item of the wider security significance. When some policy, relationship or general issue is in focus of public, it is the matter of its politicization. But, as Buzan claims, "securitization can be seen as a more extreme version of politicization" (Buzan 1998). This means that if not all five criteria are met, the issue is being politicized and not securitized. The EU asylum policy was securitized during the immigrant crisis, and several arguments in favour will be offered.

In some cases, modern political elites use the phenomenon of securitization as an instrument in their attempts to marginalize essential political and economic issues on national and regional level (Lazaridis 2016). At first, European officials presented phenomenon of migration as an additional load for the current economic crisis within EU, later it was clearly outlined that the process of migration opened new security implications in the European neighbourhood and inside the European borders. The fact that more than 43% of total world's asylum seekers in 2014 were registered in the EU helped out the politicians to further securitize the issue.¹³

12 Statement of Federica Mogherini in the UN Security Council, 11th of May 2015 (Full speech text available on: http://eeas.europa.eu/statements-eeas/2015/150511_03_en.htm 02.07.2016)

13 The official data provided by the UNHCR for 2015. More available at: <http://data.unhcr.org/mediterranean/regional.php> (05.07.2016)

Both EU officials and member states, should be included in this analysis as *securitizing actors*. However, despite the fact that member states still have significant role in EU decision making process, the main securitizing actor in case of CEAS is the EU.

An object of securitization does not necessarily need to be securitized by the state, but it could be any other entity. Buzan admits that politicization as well as securitization can be enacted in other fora as well. (Buzan 1998) The EU is a perfect example of a forum where the decisions and (some) policies are being created and conducted on the supranational level. That can consequently lead to the EU's capability to be the securitizing actor.¹⁴

Several months after the major wave of migrant crisis occurred, there were many initiatives to reform the EU asylum policy.¹⁵ While German government welcomed asylum seekers within German borders, Great Britain used a kind of policy in the process of intimidation of its citizens not to accept migrants in the UK. The differentiation between the other EU member states has also been more visible as the crisis went on. This leads to the *functional actor* in the context of the crisis and securitization. However, it could not be fully clear who or what will be the only functional actor, due to the complexity of the EU "political system" (Ibrahim 2016) (Bourbeau 2011).

Very important element of whether something becomes securitized issue or not is *the public*. In case of the EU, this element could be specific since it is a supranational and complex entity. The public could be the EU parliament, and also parliaments of national member states. Also, it could be the EU's population, but also immigrant population. In the end, it could even be the whole world's population. The EU officials (securitizing actors), needed to justify why it was important to put the asylum issue on top of the EU security agenda. Terrorist attacks which occurred during 2015 and 2016 contributed to the securitization process.

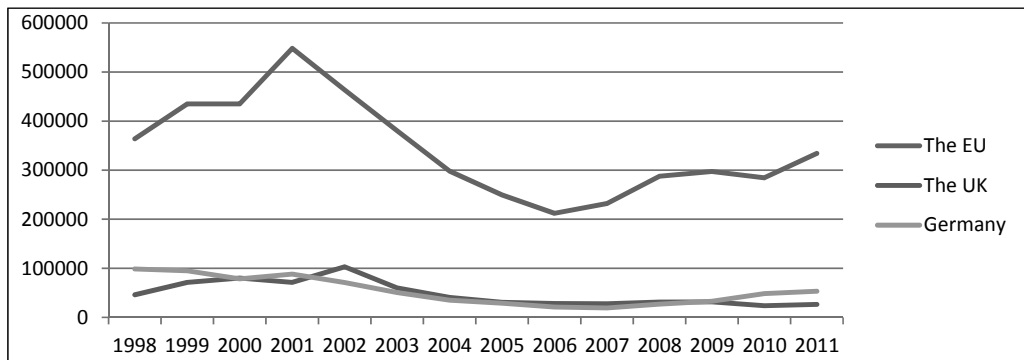
The speech act is the most visible element of securitization. It derives from someone's ability to exert influence on the public. In naming a certain development a security problem, the "state" can claim a special right, one that will, in the final instance, always be defined by the state and its elites. Political rhetoric has, however, increasingly linked migration to the destabilization of public order (Doty, 1996; Marie, 1988; Ugur, 1995). Trying to impose a kind of unwanted fundamental political change on ruling elite is similar to playing a game in which one's opponent can change the rules at any time she/he likes. Power holders can always try to use the instrument of securitization of an issue to gain control over it (Wæver, Securitization and Desecuritization 1995).

In January 2016, Director General of the International Organisation for Migrations announced that Europe needs long-term migration policies that could balance national security and human security. This was triggered by the national EU officials who claimed that the "level of security needs to be higher than usual one, and that it is not only European but the security matter for the USA national security."¹⁶ The speech act was followed by the number of the asylum seekers in the EU and especially in Germany and the UK.

¹⁴ Ibid.

¹⁵ See more at: <http://www.dw.com/en/eu-needs-to-rethink-its-refugee-policy/a-17188912> (Accessed on 4.7.2016)

¹⁶ Full interview available at: <http://www.breitbart.com/radio/2016/03/31/john-bolton-migrant-crisis-in-europe-is-a-national-security-crisis-for-america/> (Accessed on 20.7.2016)



The number of asylum seekers in the EU and its two most receiving member states (1998-2011)

Source: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/docs/asylum_eu_98_11_en.pdf (Accessed on 1.7.2016)

Special measures in context of the crisis are the final outcomes which have been seen in dropping out the Schengen agreement and reforming the asylum policy. Besides, several main funds have been established in order to deal with the “security topic”. The Asylum, Migration and Integration Fund (AMIF) was set up for the period 2014-20, with a total of EUR 3.137 billion for seven years. It will promote the efficient management of migration flows and the implementation, strengthening and development of a common Union approach to asylum and immigration.¹⁷

It is also interesting how intensive were the meetings of the European Council and the Council of the EU during 2015 and the first half of 2016.

Both councils have held 56 meetings dedicated to the migrant crisis in 18 months.¹⁸ Dozens of official decisions were made in this period.¹⁹ The most pragmatic was the one adopted by the Council EUCO 26/16, on 28th June 2016. It stipulated the so-called “new approach” to resolving the immigrant crisis and establishing the reform process for the asylum policy. It also included the High Representative as the highest political figure within the EU and the member states involved in the process:

“The High Representative, including her role as the Vice-President of the Commission, will lead the implementation of this new approach and ensure close and effective coordination between the EU institutions and services and the Member States, with a view to concluding the first compacts before the end of the year.”

Some other instruments and mechanisms have also not fulfilled their key purposes as many officials admitted. This is the case with the European Asylum Support Office (EASO) which was marginalized 6 years after it had been established.²⁰

17 More data available at: http://ec.europa.eu/dgs/home-affairs/financing/fundings/migration-asylum-borders/asylum-migration-integration-fund/index_en.htm (21.07.2016)

18 Detailed timeline available at: <http://www.consilium.europa.eu/en/policies/migratory-pressure/history-migratory-pressure/> (24.7.2016)

19 Ibid.

20 Following regulation 439/2010, the EASO was established as a formal agency of the European Union on 19th May 2011.

4. DISCUSSION

In this part we will try to present the correlation between the securitized object (the EU asylum policy) and the enhancement of the asylum policy system, as a precondition for increasing the level of immigrants' human security. The central question in debate over this issue is whether the immigrant policy has been "Europeanized" or not (Huysmans 2000). Huysmans further argues that only Europeanized asylum policy could survive despite any challenges, but not in this shape where every single member state can change rules "during the game".²¹ The first major and official step towards "Europeanized" asylum policy was the Valleta Summit held in November 2015. Valleta Summit brought Valleta declaration and Valleta Action Plan, a comprehensive document which presents 16 big areas of activities for the EU in 2016 concerning the immigrant and asylum policy. The third part of the document defines the importance of international protection and asylum policy by the EU:

*"(The EU shall)....reinforce the protection of refugees and other displaced persons, uphold the human rights of all migrants, refugees and asylum-seekers, support the integration of long term refugees and displaced persons in host communities and strengthen capacities of countries of first asylum, transit and destination."*²²

This high political meeting was held after the leaders of the EU member states had repeated facts against illegal integration of immigrants into European society.

Mainstream media were also reporting about tremendous terrorist attacks occurring across the EU as a potential argument against the immigrants on the European soil (Berry 2016). The EU leaders were addressed to enhance and reform the EU asylum policy. However, it was very hard to do so since there were complex legal mechanisms, but this meeting was the culmination and a clear sign for them to prepare changes in the asylum granting system. The provider of human security then became a member state, not the EU. Legally based and asylum granted persons became users of social welfare of the residing country.

5. CONCLUDING REMARKS

The immigrant crisis has opened a new chapter in the EU asylum policy development and positioned itself high on the EU's security agenda. As Castaneda claims "if we do care about refugees, they can be viewed as a locally-provided public good, which in the absence of cooperation will be under-provided" (Castaneda 2016). On the other side, Stephen Castles believes that failure of migration policies can be caused by three factors: factors arising from social dynamics, factors within political systems and factors linked with globalization, transnationalism and North-South relationships (Castles 2004). The first two have been annulled due to the EU's historic political development. But the third one (especially the globalisation part) is the most significant when it comes to the potential list of causes of the migrant policy failure. The North-South divide is a useful general term for the growing disparities in income, social conditions, human rights and security linked to globalization (Castles 2004). These create considerable pressure to migrate in search of better living conditions and greater personal freedom and security.

²¹ Ibid.

²² Valletta Action Plan, 12th November, 2015.

In this article authors aim to maintain deeper insight into the securitized asylum policy and its correlation with further reforms of this policy. The question of which country is the best to receive the most asylum seekers has been the most debated issue in everyday political life (Bufon 2015). The proposed quota system has been refused by several member states. The evolution of asylum policy is probably being experiencing its “devolution”. This was the issue over which 28 member states had the deepest disagreements, and it could have possibly led to the deeper political crisis in the EU, which became obvious as citizens of Britain decided to leave the Union.

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