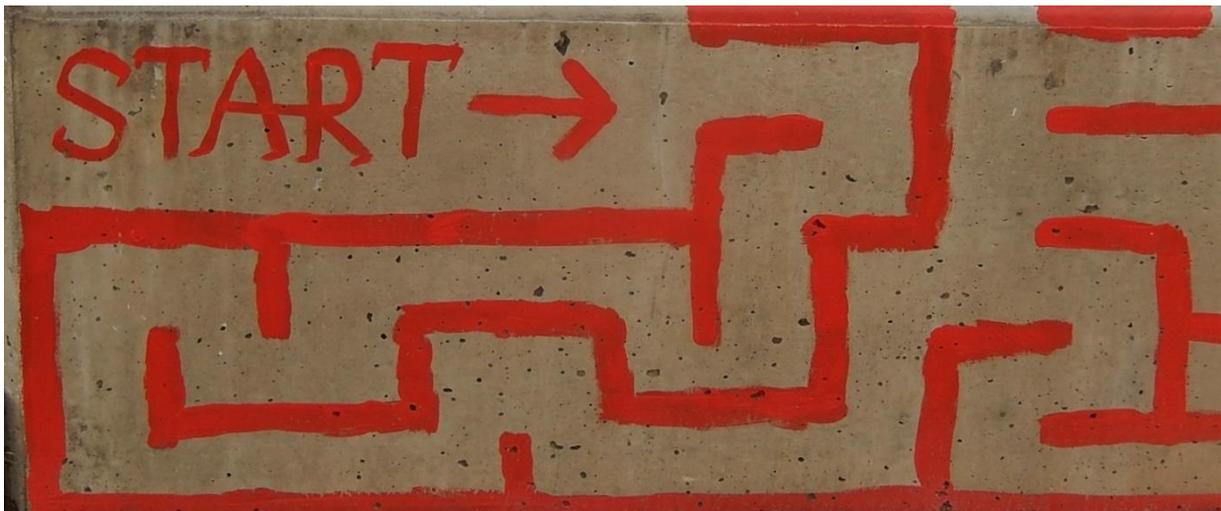


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Far from a fresh start on migration: What to make of the solidarity mechanism for the Mediterranean

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On 23 September, France, Germany, Italy and Malta agreed on a declaration to establish a solidarity mechanism for the disembarkation and redistribution of asylum seekers rescued in the Mediterranean. While the proposal can help ending quarrels over the responsibility to disembark migrants rescued at sea, it applies only to a small fraction of those arriving via the Mediterranean. The Malta mechanism further changes little in the overall direction of EU asylum policy, which continues to prioritise keeping arrival numbers low over establishing a sustainable system of responsibility sharing. Consequently, there is little hope that the mechanism can serve as a blueprint for von der Leyen’s promise of a “fresh start” on migration.

1 A sea change for EU asylum policy?

On 23 September, France, Germany, Italy and Malta agreed on a temporary solidarity mechanism to disembark and redistribute asylum seekers rescued in the Mediterranean. This in itself was positive news. At a time when Europeans started getting used to the idea that common ground on migration was unattainable, the declaration sparked hope for a sea change in EU asylum policy. Yet, the Malta declaration was soon followed by a reality check. At a meeting of EU interior ministers in Luxembourg on Tuesday 8 October, no other member state formally committed to join the mechanism. The meeting was widely regarded as yet another failure to find a way out of the solidarity impasse that continues to undermine the Common European Asylum System (CEAS). Despite continued discussion on technical details at a ministerial meeting on Friday 11 October, no other EU country has yet confirmed its participation.

In light of all the back and forth of the past weeks, it is worth taking a step back to assess how the proposed solidarity mechanism came about in the first place and whether it can bring relief to the situation in the Mediterranean Sea? Without being able to significantly broaden the group of participating countries, the Malta mechanism is bound to remain largely ineffective. On the positive side, it ends the unworthy quarrels over the responsibility to disembark migrants rescued at sea. However, the proposed mechanism applies only to a small fraction of migrants arriving via the Mediterranean. The Malta proposal further changes little in the overall direction of EU asylum policy, which continues to prioritise keeping arrival numbers low over establishing a sustainable system of responsibility sharing. Consequently, there is little hope that the mechanism can provide necessary momentum to von der Leyen's promise of a "fresh start" on migration.

2 Relocation reloaded

The last bid to establish a mechanism for the relocation of asylum seekers dates back to 2015, when roughly [1 million](#) irregular migrants arrived in the EU. The emergency scheme foresaw the transfer of 160.000 asylum seekers from "hotspots" in Greece and Italy to other EU member states. Yet, it failed to deliver the anticipated results. By October 2018, merely 34.705 migrants had been [relocated](#) and the instalment of mandatory relocation quotas caused deep frictions among the member states. Although the idea resurfaced briefly in the [Commission](#) and [Parliament](#) proposals for a revised Dublin regulation, it was effectively swiped off the negotiation table by the four Visegrad governments plus Austria in the Council.

It was Italy's former Interior Minister Matteo Salvini who put the issue of relocation back on the agenda. Following his decision to close Italian ports to foreign-flagged NGO boats, Salvini took a hard-line stance, enforcing the relocation of rescued asylum seekers onto other member states as a precondition for allowing their disembarkation. Whereas Salvini's well-staged public crackdown on humanitarian NGOs raised his domestic support, these ad hoc transfers proved to be not only inhumane but also largely ineffective. [Research](#) from the Italian Institute for International Political Studies (ISPI) shows that roughly 15.000 irregular migrants disembarked in Italy between July 2018 and August 2019. While the Italian government sought to "enforce" the disembarkation of 1.300 asylum seekers, a mere 600 migrants were indeed transferred to other member states. This is less than 4% of total arrivals.

The instalment of a new Italian government, consisting of the Five Star Movement and the Democratic Party, recently opened a window of opportunity to replace the previous ship-by-ship approach with a structured mechanism. Given the [popularity](#) of Salvini's policy of closed ports, Italy's new government faces ongoing domestic pressure to prove that its more pro-EU rhetoric can persuade other member states to assist Italy's burdened asylum system. At the same time, other EU member states are keen to strengthen the post-Salvini coalition.

3 What has been agreed thus far?

The solidarity mechanism drafted in Valetta by France, Germany Italy and Malta seeks to add structure and reliability to the previous ad hoc transfers of migrants rescued along the central Mediterranean route. It is based on three pillars:

- First, the mechanism foresees that Italy and Malta allow vessels with rescued asylum seekers aboard to disembark in their ports. If a spike in arrivals leads to “disproportionate pressure” in one of the two countries, other member states shall – on a voluntary basis – offer alternative places of disembarkation. Yet, the declaration does not further specify the level of pressure necessary to call for alternative landing ports.
- Second, the participating member states make voluntary pledges to relocate asylum seekers rescued at sea within a period of four weeks after disembarkation. France and Germany each declared their willingness to relocate 25% of rescued asylum seekers. The remaining share is then to be allocated among other participating countries. Asylum seekers undergo an initial security screening in the country of disembarkation, but their asylum claim will only be processed after being transferred to another member state. Given that just a small percentage of those who arrive in Italy or Malta have a chance to receive asylum, this provision is a concession to the countries located at the EU’s external border, which would otherwise be solely responsible for returning failed asylum seekers.
- Third, the solidarity mechanism is temporary in nature. It is reduced to a limited time span of at least six months in order to grant the new European Commission the possibility of picking up on the proposal and integrating it into its “fresh start” on migration. Participating member states have also retained the right to withdraw from the mechanism, should it lead to a substantial increase in the number of arrivals.

While no adjustments to the text were made following the Malta summit, initial expectations were proven wrong as no other member state has thus far confirmed its participation in the mechanism. Following the Luxembourg meeting, Germany’s interior minister, Horst Seehofer, and French secretary of state for European affairs, Amélie de Montchalin, nevertheless referred to at least twelve member states generally supporting the solidarity mechanism. 15 member states continued technical discussions on Friday 11 October. Some of them (Luxembourg, Portugal, Ireland, Lithuania and Croatia) have regularly contributed to ad hoc transfers in the past and might continue to do so on a case by case basis. Others – such as Spain or Greece – are already taking in large numbers of asylum seekers themselves. Interestingly, both countries were praised by Seehofer for their bilateral cooperation with Morocco and Turkey. According to the minister, such arrangements were crucial to help stem the flow of irregular migrants.

Rather than enlisting as many member states as possible to relocate rescued asylum seekers under the proposed solidarity mechanism, it thus seems that the Malta declaration is a first step for putting into practice a system of “flexible solidarity”. Proposals for such a system have come up time and time again. The essential idea being that member states each contribute through a variety of different tasks in line with their national capacities.

4 Implications for the Mediterranean

Agreement on a reliable mechanism for the disembarkation and relocation of asylum seekers rescued along the central Mediterranean route is certainly a positive step forward – even if it currently includes just four member states. It can help facilitate a swift transfer of rescued migrants and it replaces the unworthy haggling among EU member states with a (thus far limited) system of responsibility sharing.

However, there are some crucial caveats to the declaration. Besides the lack of sufficient direct support from other EU countries, the solidarity mechanism applies only to migrants who were rescued at sea. Yet, out of the 7.923 people who [arrived in Italy](#) since the start of the year, [6.135](#)

crossed the Mediterranean autonomously in small rubber boats or dinghies. Thus, merely a small fraction of arrivals would be eligible to benefit from the solidarity mechanism. In that regard, the declaration bears no prospect of strengthening search and rescue activities in the Mediterranean. Instead, the proposal continues discouraging the work of humanitarian NGOs by asking them “to comply with instructions given by the competent Rescue Coordination centre [RCC]”. Under international law, rescued persons must be brought to the “nearest port of safety”. Given that most shipwrecks occur in the vast stretch of sea that is monitored by the Libyan RCC, NGOs would most commonly be instructed to disembark migrants in Libya. This is putting the rescuers in a difficult position: If they follow the instructions of the Libyan RCC, they risk refuting international law since Libya can hardly be considered a “safe place”.

Another shortcoming of the proposed mechanism is its limited geographical scope. By October 2019, approximately 82.550 asylum seekers [irregularly arrived](#) at the EU’s external border in Italy, Malta, Spain and Greece. Yet, not more than 12% (9.980) made use of the central Mediterranean route, arriving in either Italy or Malta. The vast majority of migrants entered the EU in Greece, via the Eastern Mediterranean route (59% or 48.518), and in Spain, via the Western route (29% or 24.052). It therefore came as no surprise that Bulgaria, Cyprus and Greece demanded a similar support mechanism for migrants arriving on their territory.

5 Implications for the “fresh start” on migration

The fact that France, Germany, Italy and Malta declared they would continue efforts to relocate asylum seekers rescued at sea, regardless of the number of member states joining them, is a success. Given the disproportionate pressure put on some member states through the current Dublin rules, relocation remains part and parcel of a fair system of responsibility sharing.

Yet, there is doubt whether the progress reached in the past weeks can provide the necessary momentum for von der Leyen’s promise of a “fresh start” on migration. Thus far, the Commission President-elect has remained rather vague about her plans to implement a “New Pact for Asylum and Migration”. A time of reflection is supposed to build the consensus necessary to reform the Common European Asylum System. In her hearing with the European Parliament, Home Affairs Commissioner-designate Ylva Johansson accordingly stressed the need to first and foremost engage in bilateral meetings with the member states in order to facilitate a common position in the Council. However, the relocation mechanism outlined in Malta is unlikely to change minds in member states that refuse to host asylum seekers altogether. Hungary’s Prime Minister Orbán already [dismissed](#) the solidarity mechanism, having warned in the past that a quota system would constitute a so-called “pull factor”, allegedly attracting ever more migrants to cross the Mediterranean. Although there is [no scientific evidence](#) supporting such hypotheses, the envisioned solidarity mechanism can hardly serve as a successful blueprint for a revised Dublin regulation that is able to secure the backing of all 28 member states.

The declaration formulated in Malta and the process leading up to it have indeed shown that, at the moment, the only possibility to overcome the differences among EU member states is to move ahead in smaller formats. Following the negotiations in Luxembourg, German interior minister Horst Seehofer declared that “if we’re waiting for all 27 [member states], there will never be a common European asylum policy”. Yet, the aftermath of the Malta declaration has shown how difficult it still is to forge even a small alliance of member states willing to commit to a relocation scheme. It remains to be seen whether or not further member states decide to join the mechanism proposed by France, Germany, Malta and Italy. In any case, such decisions are likely to take time. Rather than growing in numbers, the Malta mechanism could therefore become a “pilot project” – as Seehofer has put it – for establishing a flexible framework of solidarity. As part of such a framework, some member states could permanently relocate rescued asylum seekers, while others participate on an ad hoc basis and still others contribute through bilateral arrangements with third countries.

Yet, such a framework has obvious pitfalls. Besides the fact that some member states are allowed to effectively freeride the system, the sudden display of solidarity essentially depends on keeping

the number of new arrivals low. Both the German and Maltese interior ministers have already stressed their intention to step away from the solidarity mechanism, should there be a substantial spike in arrivals – without however specifying at what rate of arrivals that would happen. The Malta declaration can therefore hardly be perceived as being crisis-proof.

Meanwhile, the proposed mechanism does little to change the EU's overall emphasis on strengthening external border controls and the often-problematic cooperation with third countries, such as Morocco, Libya or Turkey. For a truly “fresh start”, the new Commission should thus aim at establishing a meaningful system of responsibility sharing. This would include broadening the scope of asylum seekers benefitting from relocation activities, by also relocating people from the overcrowded refugee camps in Greece and from Spain. It would have to include expanding the number of EU member states contributing to such a scheme. Moreover, a “fresh start” on EU migration policy should shift the current focus on securitising asylum and migration policies to facilitating more legal pathways for migrants to reach the EU.

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