Infrastructures go beyond the borders, immigration redefines them
A global and regional prospective[1]

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Abstract

Throughout the years, the European Union has changed its standing on the topic of migration, due to increased levels of globalisation that nowadays characterise the planet. In this globalised world, physical borders are nothing but a national interpretation of sovereignty: they are being crossed, regularly, irregularly, by highly-skilled workers and asylum seekers, just to cite some of them. Yet, questions arise: given globalisation and the high amount of people on the move, are we witnessing more or less movement than in the past? If more, are we in a crisis? Is migration a threat to the identity of nations? If not, why there is a common perception it is? Is migration a threat to security? Despite of the answer whether positive or negative, why?
This article wants to look to these issues in more depth, paying particular attention to three points. The first one is that globalisation has created interconnectedness and interdependence which have had impact on migration and the way it has been perceived so far in different countries and realities. The second point focuses on the effects globalisation has had at the European Union level, touching upon one main topic: globalisation has not only shaped relations among nation-States but also levels of governance which affect and are affected by one another. From such a theoretical framework, attention will be drawn upon a more practical point, that is to say how the EU has responded to globalisation and migration both politically and legally.

Keywords: Interconnectedness, interdependence, securitisation, migration, Dublin, European Union

Presentation

The book by Parag Khanna "Connectography. Mapping the Global Network Revolution" (2016) demonstrates how infrastructures go beyond the borders to make the world increasingly connected and sustained by high-tech industrial evolution, production-driven logistic processes that are increasingly decided upon by customers, and electronic and telematic processes capable of "tracking" the movements of means of transport, persons and goods.

In the meantime, a paradox is occurring: "new" borders, as redefined by States in order to contain the process of immigration, are overcoming the "old" borders once determined by physical and immaterial infrastructures.

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This article is specular to economic and infrastructural policies that are being implemented to sustain globalisation, given that it concerns the "modalities" through whom the European Union sustains migration at different levels of governance, global, regional and local.

PART I. INTERCONNECTEDNESS AND THE PARADOX OF BORDERS

"The core of the era in whom we live is that each country, each market, each means of communication, each natural resource, everything is connected". This quote by Simon Anholt helps to understand how in the modern world changes recall the concept of interconnectedness. These changes simply reflect new ways of organising human spaces in different fields: transports, communication, global energetic infrastructures – complex of structures carrying out the performance of public services. Nowadays, whatever the human being does occurs through network technologies, to be considered as that specific factor which pushes humankind towards new opportunities.

The expansion of interconnectedness has generated a global society which is bigger than individual States. This peculiar type of society is the key to understand geo-political dynamics among superpowers, multinationals and regions necessary to fully assess multi-level governance.

With the time passing by, flows of people and resources have started moving increasingly fast in order to eventually find a safe haven, whether an economic or human rights-related one. Indeed, due to the evolution of engineering, individuals have been able to build infrastructures capable of transforming modes of navigation and commerce so deeply that they have simplified how people, goods and capitals move from one continent to the other – the Suez Canal, in Egypt, allows to navigate from the Mediterranean Sea to the Indian Ocean without having to circumnavigate Africa on the side of the Atlantic Ocean, as it happened in the past; or the Marmaray Tunnel, in Turkey, which connects China and Europe. These new infrastructures, together with immaterial infrastructures and supporting IT services, have characterised those technological dynamics at the core of 4.0 processes.

The economic value of the world has increased to the point of facilitating both interconnectedness and border-crossing. Thus, interconnectedness has become the necessary precondition for the global economy to have its momentum.

Yet, such dynamics clash with walls with barbed wire that are currently defining many borders.

Experts of transports have concluded that the construction of material, as well as immaterial, infrastructures is the only instrument capable of developing domestic economies. Nevertheless, in the last few years, in Western countries, there has been a dramatic decrease in investments on infrastructures: in fact, more and more often, wrong programming has provoked traffic jams, crumbling bridges causing accidents and delays, while ports and refineries cannot satisfy anymore the demand on the part of the army. Various analyses and events prove the existence of a gap which increasingly widens between supply and demand of infrastructures.

1.1 Political and human borders

Political borders are made of environmental characteristics in whom both human settlement and cultural differences find their natural space.

Borders as represented in political maps make us believe they are so distinct and clear. On the contrary, reality proves the 3000 km-long USA-Mexico border, despite all border controls, is

crossed by millions of people and goods. There are plenty of regions in which borders are becoming inflexible, for example the security barrier in Israel, and the fence in Hungary to deter undocumented migrants from entering, as well as in Slovenia. Borders are increasingly porous.

If through infrastructures, we have been able to overcome those obstacles created by natural and political geography, the same cannot be said for functional geography. The mapping of obstacles reveals the age of organising the world in terms of political space is giving way to organisation in terms of functional space, that is to say how we use it, with infrastructures being primary for those connected by functional geography. Interconnectedness and geography are not the opposite but often they sustain each other, for example USA and Mexico share continental geography but their increasingly strong interconnection transforms their political division in a mutually structured functional space.

Thus, connectedness leads to a better use of geography, as its branches represent more valid lines if compared to those traced in the past. Connecting infrastructures which cross sovereign borders are becoming something more than mere highways or high-voltage lines, they are becoming common utilities, co-governed by those on the two sides of a border. These types of infrastructures find their legitimacy in both the partnership which has been at the basis of their creation and the fact they are physically more real than law and diplomacy. It is but geopolitics at its maximum, even though the role of the borders changes with time.

Decentralisation, urbanisation, mega-infrastructures and digital connectivity, but also those barriers created by walls to face immigration, will require the production of maps way more complex.

This is the paradox at the basis of the economic politics of transports, with a defined international and global legal support necessary to give a bigger sense of security to citizens and goods on the move in a global economy.

1.2 A supply-chain based world

There is a law that has accompanied us since we were hunters: the demand-supply law. It has to be analysed in a specific way as its two components, i.e. supply and demand, are two dynamic forces in search of equilibrium as it happens in all the aspects of human life.

The closer we get to infrastructural and digital connectedness which embraces the whole world, the more the supply of everything can meet the demand of everything. This scenario is the "supply chain world". This is the definition presented in the Parag Kanna's book.

Nowadays, MAs in Business Administration consider the supply chain management as a central skill due to the high request of experts in fields as retail, defence, IT et cetera.

The movement of human beings seeking a better life is the proof that we have entered a supply chain world. In 1960 only, 73 million people lived outside their own country of origin; today, the number is around 500 million and it is dramatically increasing.

The future of human society is strictly linked to the way we manage supply chains. This massive war revolving around supply chains is not a race towards conquest but towards physical and economic connection and closeness to the most important basins of raw material in the world, high technology and increasingly growing markets. This does not necessarily entail the most powerful state will win, the winner will be the most connected one.

In the supply chain world, it does not matter who owns a territory, but who uses it.

The long-lasting mantra of the de jure world is "this territory is mine"; the new mantra of the de facto world is "either you use it or you lose it".

1.3 Flows and friction can be overcome through connections

A conceptual dynamic we borrow from physics is the one concerning flow and friction.

There are plenty of flows in the global connected system: resources, goods, capitals, technology, people, data, ideas. Similarly, there are different kinds of friction borders, wars, sanctions, distance, rules. Flows are the way we distribute the "big energy" in both our ecosystem and civilisation and make it work somewhere on the planet; frictions are all those obstacles, barriers and crashes that intervene in the process.

The fundamental aim in each system is to maximise flows, i.e. allowing connection among parts.

The history of our emergent civilisation in the global network is a history of flow and friction on a constant expanding scale, due to heavy friction. This is the paradox we are trying to analyse.

A softer friction permits more flows, yet bigger flows amplify risks. Each country that refuses to open itself to flows is obliged to build barriers.

1.4 Nations, Commonwealth cities, Community, enterprises: it is not a unitary system

One of the most relevant mistakes in traditional maps consists of representing nations as units. Some countries are so culturally and politically different in themselves that only geography keep them together.

Other nations instead are linked only by the common national name labelling infrastructures of transports and communication which remains the key national cohesive element.

Cities

Cities are the longest and most stable way of social organisation; they are the real timeless global structure. In the XXI century, cities are the deepest infrastructures of humankind; they are the most visible human creation, even from far away as in the space, going from villages to cities and metropolitan areas and megalopolis up until the mega-corridors which spread for kilometres but upon whom barriers are being erected.

In 1950, there were only two megalopolis with a population over 10 million inhabitants: Tokyo and New York. In 2025, there will be forty.

Global cities substitute States as gravitational centres in the world. These global cities are aggregates of finance, technology, diversity and vibrancy. They get the status of World-Cities on grounds of their ability to attract foreign investments and political stability. Connectedness is more important than dimensions and national sovereignty. Demographic weight gives cities higher influence on domestic policies and allows them to negotiate higher autonomy, as well as to establish direct diplomacy with other cities → diplomacity.

The twenty richest cities host more than 75% of the biggest industries which invest in their own expansion in these same cities and that network that connects them. Truthfully, these global cities have given the input to an alliance by attracting strong companies from all over the world and accumulating a lot of capital. The rise of new megalopolis is the strongest contribution resulting from global economy. In the whole world, urban governing groups open ZES and attract investors to create employment for their own citizens and local, rather than national, benefits.

Commonwealths

Regional commonwealths are a more realistic way of sharing capacity and organising colective action. They help the weakest members to modernise, as the EU has done with Eastern Europe and the Balkans. Adhesion to the EU standards is necessary, up until globalisation redefines borders. The strong infrastructures-market integration which has been going on in plenty of regions is making them stronger than those nations that are, in some cases, collapsing because of struggling at regulating numerous borders.

Megaregions are non homogenous empires, politically decentralised and characterised by cultural divides. On the contrary, the reality of economically integrated megaregions is way different, far more convincing. Civilisations tend to connect rather than clash.

Communities

Diasporas are one of the most meaningful harbinger in a world which moves to share ways of thinking rather than territories. We are talking of States-relation:States in whom neither their physical footprint nor the number of their members are as important as their capacity of activng through both a virtual and real world. Today, these two realities have merged in one, giving in such a way the possibility to people of satisfying their well-being through social networks.

Global connectedness eradicates traditional roots and replaces them with a new variety of links and transnational identities.

PARTE II. A GLOBAL AND REGIONAL PROSPECTIVE

Introduction

Interconnectedness, interdependence and integration. These are the three key words inherent with the globalisation discourse and that, altogether, have innovated international relations. In a world of continuous changes, States cannot be isolated anymore if they want to respond to the effects of globalisation. Its impact does not affect anymore only one State, but the whole global context. A perfect example is the 2008 economic crisis: the bubble exploded in the United States of America, but pretty soon it became of global interest, with States needing to work together to overcome it. Cooperation can be reached only if States are willing to do so, otherwise chaos is predictable, because each State will aim at imposing itself and its concerns over the others. If this is true at the global level, presumably, it is even more true at the regional level, where States are less present and the search of compromise is harder.

As it is well known, the European Union is one of the most integrated regions from the economic point of view but one of the least integrated from a political perspective. That being said, how has the European Union responded to globalisation so far? More than globalisation, how has it responded to its consequence, that is to say international migration? This paper aims at answering to this last question, by drawing upon the securitisation approach adopted by the European Union in its policies and its legislative setting.

For the purposes of this paper, however, not all the policies will be touched upon, but the European Agenda on Migration, policy-wise, and the Common European Asylum System, law-wise will be prioritised. Nonetheless, this work does not want only to offer a descriptive story-telling, but wants to go further proving that the European Union is deeply focused on sovereignty and national interests leaving aside human rights.

This paper is divided in tree main parts. The first part provides for a theoretical framework which analyses globalisation and its consequences, with particular focus on the raise of insecurity triggered by intense migration flows. Additionally, this part examines the topic of

interconnectedness, with the purpose of demonstrating that it does not only exist among States, but also among levels and that the national, regional and global ones mutually influence each other. The second part deals with the European Union as practical and applied example by focussing on the Common European Asylum System and its policy-making at European level. The last part offers a critical assessment of the EU policy making from the perspective of the securitisation of migration.

I: Theoretical framework

1.1 The perceived threats of globalisation: the case of migration

"Globalisation refers to a multidimensional set of social processes that create, multiply, stretch and intensify the worldwide social interdependencies and exchange while at the same time fostering in people a growing awareness of deepening connections between the local and the distant"[2].

Globalisation can be identified as both a phenomenon and a process in itself, given that once triggered, it is in constant evolution. Its multifaceted nature leads to increasing interconnectedness, interdependence and integration among actors in a variety of fields which range from economy and finance to migration and security. The level of interconnectedness is so deep that actors influence and affect, andare influenced and affected by, one another in a two-way process. As a consequence, the occurrence of an event in one country will have global repercussions which as a consequence will generate a set of actions and reactions among different actors. This dynamic not only develops among States, but also among levels. In fact, Nation-States shape the regional and international structures and vice versa, simultaneously, continuously and reciprocally.

Globalisation has translated into a more integrated global market with better transportation, communication, the emergence of advanced industrial economies and consequently, large-scale international migration.[3]Albeit migration per se is not a new phenomenon, the way it has been approached has changed with the advent of globalisation. Indeed, the terrorist attacks of 2001 in the United States and the "absolute prioritisation of US national security" above everything else have led to a new global approach based on state security.[4]In a framework in whom migration and security seem to go hand-in-hand, policy-making has become increasingly complex.[5] In fact, policy makers have to weigh the pressures of international economic migration and the effects it might have on social welfare and economic growth, while paying due attention to the control of borders, in order to avoid endangering national security and identity.[6] If on one side migration undoubtedly creates positive economic consequences,[7] as in the case of highly skilled labour and seasonal workers, on the other side it might be perceived as a threat to national security, order and identity.[8] Migration as a threat will be analysed in the next paragraph.

1.2 Globalisation and global threats: the raise of insecurity in the EU

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[2] Manfred B. Steger, *Globalization: A Very Short Introduction* (New York: Oxford University Press, 2003), p. 13.

[3] Fiona B. Adamson, 'Crossing Borders: International Migration and National Security'(2006) 31 International Security 1, p. 169 [hereinafter Adamson], available at https://www.jstor.org/stable/4137542#metadata_info_tab_contents, accessed 5 June 2019.

[4] Ronaldo Munck, 'Globalisation, Governance and Migration: an Introduction' (2008) 29 Third World Quarterly 7, p. 1231 [hereinafter Munck], available at https://www.tandfonline.com/doi/abs/10.1080/01436590802386252, accessed 5 June 2019; Marie McAuliffe; Victoria Mence, 'Irregular maritime migration as a global phenomenon' in Marie McAuliffe and Khalid Koser*A Long Way to Go: Irregular Migration Patterns, Processes, Drivers and Decision-making* (ANU Press., 2017), p. 15 [hereianafter McAuliffe]

[5] Adamson, p. 167.

[6] Ibid.

[7] Global Commission on International Migration, Kathleen Newland, 'The governance of international migration: mechanisms, processes and institutions'(2005), p. 4 [hereinafter GCIM], available at https://www.peacepalacelibrary.nl/ebooks/files/GCIM_TS208b.pdf, accessed 5 June 2019.

[8]Munck, p. 1233.

States are gatekeepers and migration control is one of the few remaining attributes of their sovereignty.[9]As a result, *when facing large migration flows, States seem to perceive their sovereign and controlling powers as slipping through their fingers* to such an extent that they identify migration as challenging their national autonomy.[10]This perception derives mainly from the fact that effective border control requires interstate cooperation.[11]In this scenario, policy makers have politicised[12] and securitised migration,[13]shifting the nature of the discourse from societal security-based tostate security-driven.[14]Such rationale has led to the adoption of immigration policies, particularly in the global North, that have increasingly moved towards national protectionism.[15]

With security at the centre of the political attitude, populations around the world have started developing feelings of insecurity to the point of marginalising migrants – mainly in those countries where the national cultural identity is defined by ethnicity.[16]Apart from insecurity, xenophobia and racism represent two other controversial concerns, especially in the case of irregular migrants.[17]If on one side insecurity, xenophobia and racism have been induced by politicians, on the other side they have been fuelled by media.[18] Acting as governments' mouthpieces rather than watchdogs, they have encouraged fear by stigmatizing immigration and associating it with negative threats.[19]

Once they have internalised such angst, already insecure populations have commenced asking their own governments to further move in the direction of protectionism.[20] Thus, a vicious cycle is established with governments securitising migration; citizens being frightened and as a response, asking their governments to securitise even more; and governments being increasingly protectionist. In this vicious cycle, however, I believe there is still a glimmer of light, that is to say the Global Compact for Safe, Orderly and Regular Migration ('Global Compact for Migration'), which will be the topic of next paragraph.

1.3 A global response to migration: the Global Compact for Migration

In a globalised world, where States are becoming more and more protectionist, politicians securitise migration and citizens develop racist sentiments, the Global Compact for Migration might make a difference. Based on the premises of international humanitarian law, human rights law and international refugee law, the Global Compact for Migration aims at creating common principles and approaches to be followed by UN Member States in the field of international migration.[21]Its non-legally binding nature makes it appealing for States that are reluctant to cede further authority

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[9] Ibid, p. 1238.

[10] Adamson, p. 180.

[11] Ibid.

[12] Alexander Betts, 'Introduction' in Alexander Betts *Global Migration Governance* (Oxford University Press, 2011), p. 1.

[13]Munck, p. 1231.

[14]Munck, p. 1231.

[15]Munck, p. 1239.

[16]Munck, p. 1232.

[17]Florian Trauner, 'Asylum policy: the EU's 'crises' and the looming policy regime failure' (2016) 38 Journal of European Integration 3, p. 313 [hereinafter Trauner], available at http://www.dsps.unict.it/sites/default/files/files/JEI_FT.pdf, accessed 5 June 2019; MichałKrzyżanowski, Anna Triandafyllidou& Ruth Wodak, 'The Mediatization and the Politicization of the "Refugee Crisis"' (2018) 16 Europe, Journal of Immigrant & Refugee Studies 1-2, p. 3 [hereinafter Krzyżanowski, Triandafyllidou&Wodak], available at https://www.tandfonline.com/doi/full/10.1080/15562948.2017.1353189, accessed 6 June 2019.

[18] Leen D'Haenens; Willem Joris, 'Images of Immigrants and Refugees in Western Europe: Media' in Leen d'Haenens, Willem Joris, FrancçoisHeinderyckx*Images of Immigrants and Refugees in Western Europe* (Leuven University Press, 2019), p. 8; McAuliffe, p. 16

[19]Krzyżanowski, Triandafyllidou&Wodak, p. 3; Vision Europe Summit, 'Improving the Responses to the Migration and Refugee Crisis in Europe' (2016), p. 19 [hereinafter Vision Europe Summit] available at http://bruegel.org/wp-content/uploads/2017/02/VisionEurope%E2%80%93PolicyPapersweb.pdf, accessed 6 June 2019.

[20]Munck, p. 1239.

[21] UN Refugees and Migrants, '2016 Global Response', available at https://refugeesmigrants.un.org/global-response, accessed 10 June 2019.

to supra-national organisations because they might interfere with their own domestic affairs. The Global Compact for Migration provides for twenty-three objectives in a cooperative framework and it is rooted in common understanding, shared responsibilities and unity for purpose.[22] The document has been drafted so as not to threaten at all that sovereignty so dear to Nation-States. Indeed, the agreement specifically highlights it "reaffirms the sovereign right of States to determine their national migration policy and their prerogative to govern migration within their jurisdiction, in conformity of international law".[23]Albeit taking into due consideration the issue of sovereignty and being an instrument of soft law, the Global Compact has not been signed by all UN Member States, especially by some EU States, as Austria, Hungary and Italy, and non-EU countries as Australia. Said countries have in common hostile migration regimes and have adopted a securitisation approach to migration, without distinction among irregular migrants, asylum seekers and economic migrants. Securitisation and how it has been transmitted from one level of governance to the other will be the topic of the next Chapter.

2. Interconnectedness among levels: the mutual shaping of attitudes

As mentioned, globalisation has created profound interconnectedness which translates in a two-way constructivist process in whom actors mutually shape attitudes. Due to this interconnectedness, the perception of migration as a threat has spread among a multitude of countries to the point it has been securitised at the national, regional and global levels of governance. Before entering into the substance of the matter, it is however fundamental to provide for a definition of securitisation.

Securitisation occurs when an issue is "presented as an existential threat, requiring emergency measures and justifying actions outside the normal bounds of political procedure" and the audience accepts it as such.[24] As Buzan argued, for securitisation to happen, it is not necessary that a real existential threat exists but that the issue is presented as such through a specific rhetorical structure that makes it of supreme priority.[25] Securitisation of international migration has been at the core of national and European political discourses for some years now. States have shaped the EU perspective and vice versa, with a prominent role being played by other international actors at the global level as the UN. This topic will be discussed in the following paragraphs.

2.1 From national to regional: national securitisation frameworks shaping the EU attitude

In a regional context as the EU, policy interdependence and interconnectedness are so rooted that Member States have the power to bias the EU and its policy-making. In the case of migration, an impacting role has been played by far-right governments, as Italy which has adopted a securitising rhetoric built upon the "help them at home" ideology.[26] An example is its recent manifesto: "Stop bureaucrats, stop bankers, stop 'soft hearted people' and stop the [migrant] boats".[27]

With extremely nationalist ruling classes, the EU has adopted strict immigration rules which are nothing but the projection of the protectionist plans of anti-immigration States and represent the EU public resistance to immigration.[28]Fortunately, not all European countries have the same standing

[22] United Nations General Assembly, *Global Compact for Safe, Orderly and Regular Migration,* 11 July 2018, at [9] and [16] [hereinafter Global Compact].

[23] Global Compact, at [15].

[24] Barry Buzan, Ole Wæver and Jaap de Wilde, 'Security Analysis: Conceptual Apparatus' in *SECURITY: A New Framework for Analysis* (Lynne Rienner Publishers, Inc., 1998) p. 23-4 [hereinafter Buzan, Wæver& de Wilde].

[25] Buzan, Wæver& de Wilde, p. 24 and 26

[26] The European Union in International Affairs, Emanuele Toscano, 'The Rise of Italian Populism and 'Fascism of the Third Millennium' in the Age of Migration and Security' in Gabriella Lazaridis and Khursheed Wadia *Securitisationof Migration in the EU: Debates since 9/11* (Palgrave Macmillan, 2015) p. 175 [hereinafter Lazaridis and Wadia]

[27] INFOMIGRANTS, 'What the European Parliament elections results could mean for migration, 29 May 2019 [hereinafter INFOMIGRANTS], available at https://www.infomigrants.net/en/post/17132/what-the-european-parliament-election-results-could-mean-for-migration accessed 5 June 2019.

[28] Massimo Bordignon; Simone Moriconi, 'The case for a common European refugee policy' (2017) Policy Contribution 8, p. 1, available at http://bruegel.org/wp-content/uploads/2017/03/PC-08-2017.pdf, accessed 5 June 2019.

and the context can be said to be heterogeneous. Yet, heterogeneity does not come without any cost. In fact, while the presence of governments with completely opposite political ideologies has counterweighed extremism, it has also led to a deadlock in the policy-making as the search for compromise is time-consuming.[29] Despite the standoff, policies are approved at the EU level and eventually, they tend to be of an anti-immigration nature. In these circumstances, also pro-immigration countries are affected as the European norms have to be applied in all Member States, regardless of the political standing. The role played by the EU on States will be discussed in the forthcoming paragraph.

2.2 From regional to national: the EU adopts a securitising approach to the "refugee crisis"

With the arrival of high numbers of migrants, the EU has started depicting the migratory influx as "refugee crisis". The point is that the so-called "refugee crisis" is *not* a crisis. The phenomenon has been "overly represented, or misrepresented, by the use of ever-bigger figures about migrants arriving on Europe's shores, asylum seekers, people intercepted or even dead at sea".[30] These "record" numbers have only increased insecurity and fear in citizens,[31] and have been developed to legitimise the special measures taken by the EU to tackle the emergency. These measures consist of a series of security-driven policies which gave priority to military concerns and interests that concentrate on border controls, return and readmission rather than fundamental human rights.[32] Said policies have slowly become legislation, particularly Regulations and Directives which formed, and still do, the Common European Asylum System ('CEAS'). Throughout the time, the CEAS has proved itself to be inappropriate to deal with mass influxes. For said reason, these legal instruments underwent continuous reform procedures**.**

If on one side the political management of the crisis was a disaster, on the other side States were unilaterally and antagonistically taking decisions,[33] fuelling public fear.[34] Hence, the EU decided to start a new legal Recast Procedure while launching Operation Sophia, with the support of the United Nations ('UN').[35]

2.3 From the global to regional: the UNSC Res. 2240 supports the EU

In 2015, the EU launched Operation Sophia, a humanitarian and anti-people smuggling naval operation in the Mediterranean Sea, very similar to the Italian Mare Nostrum.[36] When deployed, the

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[29] Vision Europe Summit, p. 70.

[30] Vision Europe Summit, p. 19.

[31] Vision Europe Summit, p. 19.

[32] Sergio Carrera; Steven Blockmans; Daniel Gros and Elspeth Guild, 'The EU's Response to the Refugee Crisis: Taking Stock and Setting Policy Priorities' (2015) CEPS 20, p. 2 [hereinafter Carrera and Others], available at https://www.ceps.eu/ceps-publications/eus-response-refugee-crisis-taking-stock-and-setting-policy-priorities/, accessed 5 June 2019.

[33] Yves Pascouau, 'The EU, immigration and the "refugee crisis": reasons to hope?' (European Migration Law, 2016) available at http://www.europeanmigrationlaw.eu/documents/UE-Migrations_RaisonsEspoir_EN.pdf, accessed 7 June 2019.

[34] Ibid

[35] European Parliament, 'Fact Sheets on the European Union: Asylum Policy', available at http://www.europarl.europa.eu/factsheets/en/sheet/151/asylum-policy accessed 7 June 2019; European Commission, High Representative of The Union for Foreign Affairs and Security Policy, *Joint Communication to the European Parliament, the European Council and the Council, Migration on the Central Mediterranean route: Managing flows, saving lives* JOIN(2017) 4 final, 25 January 2017, p. 5-6, available at https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20170125_migration_on_the_central_mediterranean_route_-_managing_flows_saving_lives_en.pdf accessed 5 June 2019; Carrera and Others, p.17.

[36] Gino J. Naldi; Konstantinos D. Magliveras, 'Operation Sophia: Policing the Mediterranean, the EU Way' (2016-2017) 25 Sri Lanka J. Int'l L. 43, p. 47 [hereinafter Naldi] available at https://heinonline.org/HOL/Page?handle=hein.journals/sljinl25&div=4&g_sent=1&casa_token=MVjyIXQY2kcAAAAA:cqAsI1wSZ-Oksi0dNI_nDGN9PEx5UgvCFWaMgUmiCzCOaiizg2Nek-Y-0zkFHuY7VnK9JUufuQk&collection=journals&t=1561394759, accessed 8 June 2019.

UN Security Council ('UNSC') intervened with Resolution 2240. Under this Resolution, Operation Sophia is no longer only a EU operation but a mission authorised under Chapter VII of the UN Charter,[37] and application of this Chapter of the Charter to a humanitarian crisis sets a precedent not easy to circumvent in the future.[38] It could be wondered why the UNSC has approved Res. 2240. The answer can be found in the composition of the Security Council itself. The United Kingdom and France, both members of the UNSC, have veto power,
and thus, it is unlikely that the UNSC will adopt provisions incompatible with the EU's interests.[39]

With mandate given by Res. 2240, the UNSC has been since 2016 in the position to "prescribe its [of the Operation] activities, powers and functions".[40] The Resolution foresees that Member States, either acting nationally or through regional organisations, are authorised to inspect, seize and dispose vessels on the high seas off the coast of Libya, and use of all measures commensurate to the specific circumstances against migrant smugglers or vessels thought to be operated for purposes of migrant smuggling and/or trafficking.[41] Albeit the deep commitment to international law and the rule of law is enshrined, the Resolution seems to leave open room for violations of human rights. Indeed, the legality of actions undertaken in pursuance of Operation Sophia is bypassed by the adoption of said Resolution which also allows for the use of "all measures commensurate to the specific circumstances"[42], i.e. use of force.[43]In fact, the Resolution has been purposely drafted with the objective of eradicating any claim of legal impropriety by Member States.[44]Operation Sophia is only one part of the long spectrum of policies put in place by the EU. If military operation Sophia is on one side, on the other side there are norms and their reforms. All these topics will be at the centre of the next chapter.

II: European policy framework

1. The EU policy making: strengthening or weakening migration securitisation?
In 1999, the EU adopted the Tampere Conclusions. Such document represents the first outline of a new EU policy aiming at creating common rules and standards with regard to asylum and migration, i.e. the future CEAS. It was however understood from the very beginning how difficult it would be to establish common rules all at once, given that Member States had diverse internal laws. Thus, the EU opted for a two-phases approach. The first phase went from 1999 to 2004; the second one was supposed to last from 2004 to 2010, but was concluded only in 2015.

The ending of the second phase of the CEA Scoincided with the beginning of the refugee crisis and pretty soon the EU acknowledged its legislation was not sufficient to face the large influx. For this reason, the EU abandoned its policies and adopted new ones mainly focused on securitisation of migration. Both the legislative and policies actions are proof that the EU has moved towards the securitisation of migration. The topics will be analysed in the following paragraphs.

1.1 Policy making: incorporating securitisation
Recently adopted, the European Agenda on Migration represents an important policy step taken by the EU. Proposed by the EU Commission in 2015 to fill the gaps existing between the legal EU asylum system and national practices,[45]the Agenda is based on the premises that migration is a

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[37]Naldi, p. 50.

[38] Naldi, p. 65.

[39] Naldi, p. 51.

[40]Naldi, p. 51.

[41] UN Security Council, *Security Council Resolution 2240 (2015) [on migrant smuggling and human trafficking into, through and from the Libyan territory and off the coast of Libya],* 14 October 2015, S/RES/2240 (2015) at [7- 8] and [10], [hereinafter Res. 2240]; Carrera and Others, p. 17.

[42] Res. 2240, at [10].

[43]Naldi, p. 65.

[44]Naldi, p. 62.

[45]Trauner, p. 319.

common European issue and hence, it has to be addressed through a European approach.[46]Two points deserve particular attention.

Firstly, the European Agenda on Migration has proposed the implementation of a new 'Hotspot' approach,[47] as immediate action in response to the refugee crisis.[48] A 'hotspot' is defined as "an area at the Union's external borders facing significant migratory pressure",[49] meaning a reception facility for initial reception, identification, registration and fingerprinting of asylum seekers and irregular maritime migrants.[50] The work of the hotspots consists of registration and screening of new arrivals; provision of information on irregular entry and international protection to irregular migrants; investigation and intelligence gathering on smuggling; and transfer of asylum seekers to reception centres for status determination, relocation or return.[51] All the tasks have to be carried out in compliance with international human rights law, the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights, together with the CEAS norms.[52] On the contrary, the treatment asylum seekers and irregular migrants undergo demonstrates the perpetration of multiple human rights violations occurring in these hotspots, particularly in Italy and Greece which are burdened by too much responsibility.[53] Still none of the two countries has been held responsible for the crimes committed, except for rare episodes in which concerns have been raised by the EU.[54]The hotspot approach also represents a deterrence measure to "persuade prospective refugees and migrants not to attempt to enter".[55]

Secondly, the Commission has proposed the establishment of a temporary and emergency relocation mechanism for asylum seekers within the EU for States hit by large migration influx. This point has been under intense policy debate, given that it is based upon a temporary derogation of the "country of first entry rule", as provided in the CEAS, on whose grounds it is provided that the first country of entry is responsible for examination of asylum application, unless under specific circumstances.[56] Derogation would mean that responsibility for examination will be allocated on grounds of Gross Domestic Product, size of population and unemployment rate. While countries as Italy and Greece might take advantage from such a measure, other EU Member States do not seem keen to accept it especially because it would entail interference with their autonomy and the EU further deciding upon their migratory rules.

These policies have not occurred in a legislative vacuum. Indeed, the CEAS will be the topic of the next paragraph aiming at providing a chronological and critical perspective of the system as it has been for almost twenty years now.

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[46] European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A European Agenda on Migration,* 13 May 2015, COM(2015) 240, p.2 [hereinafter European Agenda on Migration]
[47] European Agenda on Migration, p. 6.
[48] Danish Refugee Council, 'Fundamental Rights and the EU Hotspot Approach' (2017) p. 8 [hereinafter Danish Refugee Council], available at https://drc.ngo/media/4051855/fundamental-rights_web.pdf, accessed 8 June 2019.
[49] Danish Refugee Council, p. 8.
[50] Maria Margarita Mentzelopoulou; Katrien Luyten 'Hotspots at EU external borders: State of play' (2018), p. 2, available at http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/623563/EPRS_BRI(2018)623563_EN.pdf, accessed 8 June 2019.
[51] Danish Refugee Council, p.10
[52] Danish Refugee Council, p. 12
[53] Danish Refugee Council, p. 15
[54] Italian Coalition for Civil Liberties and Rights, Human Rights Commissioner Denounces Italy Over Migration, 06 March 2019, available at https://www.liberties.eu/en/news/council-of-europe-concerned-about-the-new-italy-s-migration-policy/17085; Neos Kosmos, 'Council of Europe denounces Greece in damning report on conditions in migrant camps', available at https://neoskosmos.com/en/129796/council-of-europe-denounces-greece/
[55] Danish Refugee Council, p. 26.
[56] Carrera and Others, p. 5.

1.2 Legislative measures and migration: the Dublin system continuously reformed

In 1985, the EU adopted the Schengen Agreement whose objective has been to establish an area with no internal frontiers with free movement of goods, capital, services and persons. Having this Agreement entered into force, and in order to guarantee an Area of Freedom, Security and Justice based on inter-State cooperation, the EU started focusing on the external borders. Cooperation was the key word at that historical moment: States could not legislate on mass influx on their own anymore, as their effort was not sufficient to face the situation, and asylum shopping was a huge issue to deal with.

In 1990, the Dublin Convention was enacted and it enshrined criteria on the examination of asylum applications in the EU territory.[57]Among the other provisions, the Convention foresaw that irregular immigrants' applications for asylum had to be examined by the country of first entry.[58] The Dublin Convention represents the cornerstone upon whom the EU migration policies have been built, the so-called Dublin system. Following the Tampere Conclusions in 1999, the EU opted for a two-steps approach to align migration norms among its Member States. This approach entails two phases.

The first phase, going from 1999 and 2004, sought to harmonise national legislations step by step, so that after five years the asylum system would be more or less aligned, despite some national specificities. During this phase, the Dublin Convention was replaced by the Dublin II Regulation and further legislation was adopted: the EURODAC Regulation, the Qualification Directive, the Asylum Procedure Directive, the Reception Conditions Directive and the Temporary Protection Directive. In the meantime, the European Council opposed any extension of rights and benefits for asylum seekers and argued for the maintenance of flexibility within Member States.[59]

To be started in 2004 and finished in 2010, the second phase sought to establish standards applicable in all Member States, thus a complete and full harmonisation in the field of migration. To reach this aim, all the aforementioned legislative measures were supposed to be recast. Yet, the negotiations on the second generation of asylum laws lasted for long time and their outcomes quite re-affirmed the status quo. Because States had just implemented the first generation of norms, they did not perceive as urgent to agree upon new laws.[60] That being said, by the end of 2013, the whole CEAS had been recast. The Dublin II Regulation Recast, now the Dublin III Regulation, deserves particular attention.

Entered into force in 2013, the Dublin III Regulation enshrines criteria and mechanisms for allocation of responsibility on Member States in the field of examination of asylum seekers' applications,[61] in light of the provisions enshrined in the Dublin Convention and Dublin II Regulation. The provided criteria are built upon the principle of mutual trust among Member States, meaning that "one Member State can be confident that other Member States respect and ensure an equivalent level of certain common values, in particular the principles of freedom, democracy, respect for human rights and the rule of law".[62]Despite the existence of such principle, it has been demonstrated that different countries apply different standards, as proved in the judgment *NS v Secretary of State for the Home Department*.[63]

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[57] European Union, *Convention Determining the States Responsible for Examining Applications for Asylum lodged in one of the Member States of the European Communities ("Dublin Convention"),* 15 June 1990, Official Journal C254, art. 3 [hereinafter Dublin Convention]

[58] Dublin Convention, art. 6.

[59]Trauner, p. 316.

[60]Trauner, p. 316.

[61] Council of the European Union, *Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member Sate responsible for examining an application for internaitional protection lodged in one of the Member States by a third-country national or a stateless person (recast)* 29 June 2013, OJ L. 189/31-180/59, art. 7-13.

[62]Sacha Prechal, 'Mutual Trust before the Court of Justice of the European Union' (2017) 2 European Papers 1, p. 81, available at http://www.europeanpapers.eu/it/system/files/pdf_version/EP_EJ_2017_1_7_Article_Sacha_Prechal_2.pdf

[63] C-411/10 *NS v Secretary of State for the Home Department* [2011] at [105] In said judgment, the European Court of Justice maintained that there is no "conclusive presumption that the Member State which Article 3(1) of Regulation No

Albeit being strategically planned so as to give the necessary time to Member States to adjust to the novelties of the new EU policy, it became clear pretty soon that the time-frame of the second phase was too short to discuss and to negotiate upon minimum standards, given that in those years asylum systems worked completely differently among Member States. Therefore, because of the delay in reaching agreement among Member States and their eagerness to maintain the last bit of sovereignty, the deadlines were not met and the phase was completed in 2015 which marked the year of the beginning of the refugee crisis.

At this moment, the EU understood its norms were inapt to face the critical scenario. For this reason, in 2016, the EU Commission presented seven legislative proposals that would once again reform the CEAS structure,[64] with the objective of deterring irregular migration and improving migration management in the EU.[65] Among the others, the proposals foresee the shift from Dublin III to Dublin IV Regulation and from Directives to Regulations for the Asylum Procedure and Qualification Directives.

The new Dublin IV Regulation would establish a "corrective allocation mechanism" aiming at alleviating the pressure borne by States of first entry, such as Italy and Greece.[66] The main elements of Dublin IV would be a new automated system to monitor the number of applications received and number of persons resettled by each Member State; a key to determine when a Member State is under disproportionate pressure; and a mechanism to address and alleviate such pressure.[67] Additionally, Dublin IV would introduce an obligatory admissibility screening for all asylum seekers so as to check whether they are from a first country of asylum or a safe third country; if so, they will be returned there. Such procedure would require an immense increase in capacity for Member States at the borders, such as Italy.[68]The new EURODAC Regulation would be extended to the point of tracking secondary movements and better identifying irregular migrants.[69]The Qualifications Regulation would discourage secondary movement,[70] and leave less margin of appreciation to Member States, while the Asylum Procedures Regulation would provide for a harmonised list of safe third countries – thus, lowering the standard of protection.[71]

Overall, in the past twenty years, the Dublin system has undergone three reform procedures. Regardless of the phase, criticism has arisen especially with concern to the fact that first of all standards are not harmonised as they should; secondly, the Dublin system does not take into consideration the personal preferences of migrants; third, as it is now Dublin does not guarantee any mechanism of fair-sharing. Although harmonisation of standards is undoubtedly a necessary step in an economic union that aims at becoming more and more politically integrated, it seems that the European Union has not yet been able to establish a uniform system, and thus, differences in treatment still exist among Member States.[72]

343/2003 (it has to be kept in mind that at the time of the judgment Dublin II Regulation was still into force) indicates as responsible observes the fundamental rights of the European Union".

[64] Council of the European Union, *Interinstitutional file 6600/19*, 26 February 2019, available at https://data.consilium.europa.eu/doc/document/ST-6600-2019-INIT/en/pdf

[65] Vision Europe Summit, p. 37.

[66] Anja Radjenovic, 'Reform of the Dublin System' (1 March 2019) available at http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/586639/EPRS_BRI%282016%29586639_EN.pdf

[67] Ibid.

[68] Danish Refugee Council, p. 25.

[69] European Commission, Migration and Home Affairs, *Communication from the Commission to the European Parliament, the European Council and the Council. Progress Report on the Implementation of the European Agenda on Migration* COM(2019) 126 final (6 March 2019) p. 15 [hereinafter Progress Report]

[70] Progress Report, p. 14.

[71] Danish Refugee Council, p. 25.

[72]Trauner, p. 313.

1.3 Parliamentary elections of 2019: the victory of far-right parties

Far-right nationalist governments have risen within the EU, particularly in Western Europe.[73] Through their influence, they have been imposing constraints on different attempts to improve conditions for migrants.[74] An example is the Council decision not to extend migrants' rights during the first phase of the CEAS or its re-affirmation of the status quo during the second one. In 2015, populist right wing parties formed "the most successful new European family since the end of the Second World War",[75] and the situation has not much changed since then, as also proved by the European Parliamentary elections which took place between the 23rd and 26th May, 2019. In countries as Italy, France, and UK together with Austria, Poland and Denmark, far-right and anti-migration parties won the elections.[76]

At the time of the writing, only one month has passed after the elections, so there is nothing to do but wait and see whether these countries will have a strong voice in the European framework or not. It can be however presumed they will, especially if considering the new EU Commission's "agenda". As the spokesperson of the EU Commission has enunciated in response to the Hungarian Prime Minister Viktor Orban, the EU Commission does not want to introduce mandatory resettlement quotas, but the resettlement of non-EU refugees will always remain on a purely voluntary basis; it has zero plans to introduce humanitarian visas; and its aid does not encourage migration. Thus, it can be seriously questioned whether anti-immigration policies will become of pro-immigration nature.[77]

III: Critical assessment

As it can be understood throughout this paper, I maintain that the EU approach is but the securitisation of migration. The European Union is undoubtedly the greatest example of an economic region with deep integration among countries and respect for the four freedoms of movements. But if it is enviable from an economic perspective, I question its validity at the migration policy level and with regard to human rights especially when it comes to the European Agenda on Migration and its hotspot approach.

Although the latter might work in theory, its implementation has many flaws. In fact, violations of human rights are a daily issue in the reception facilities, especially in the Moria centre in Greece and the Pozzallo centre in Italy.[78] As for the hotspot approach, the same could be said for the temporary emergency system. Theoretically, it could function because it would lift some burden from countries of first entry but practically it does not for two main reasons. Firstly, it only addresses the "symptoms" and not the causes behind the crisis, i.e. "an unfair system of attribution of state responsibility for determining asylum applications, which often results in human rights and protection failures".[79] Secondly, the system is slow,[80] and subject to infringements committed by, among the others, Czech Republic, Hungary and Poland which have refused to nationally apply it.[81]

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[73] Juliet Pietsch, 'Public opinion towards new migration flows in Europe and the increasing role of the EU' in Juliet Pietsch; Marshall Clark *Migration and Integration in Europe, Southeast Asia, and Australia* (Amsterdam University Press, 2015) p. 50 [hereinafter Pietsch]

[74] Pietsch, p. 49.

[75] Pietsch , p. 50.

[76] INFOMIGRANTS; BBC News, 'Europe and right-wing nationalism: A country-by-country guide' (24 May 2019), available at https://www.bbc.com/news/world-europe-36130006

[77] Georgi Gotev, 'Commission responds to Orbán's latest anti-immigration campaign' (1 March 2019) EURACTIV, available at https://www.euractiv.com/section/politics/news/commission-responds-to-orbans-latest-anti-immigration-campaign/

[78] Danish Refugee Council, p. 20; UN Office of the High Commissioner for Human Rights, 'Italy's migration hotspot centres raise legal questions' (2 August 2016), available at https://www.ohchr.org/EN/NewsEvents/Pages/LegalQuestionsOverHotspots.aspx

[79] Sergio Carrera; Elspeth Guild, 'Can the new refugee relocation system work? Perils in the Dublin logic and flawed reception conditions in the EU (2015) CEPS 332, p. 2, available at http://aei.pitt.edu/67888/1/SCandEG_RefugeeRelocationProgramme_0.pdf

Moving now from the policy setting to the legislative one, I believe the CEAS needs to be modified as rapidly as possible. As it is now, the CEAS has not managed to establish "a comparable and uniform system" and in other words, it matters where the asylum seekers submit their own applications.[82]The EU Commission proposal for a new Recast of the CEAS might be the step but only if the purpose is to change the status quo rather than re-affirm it.Yet, such a drastic change might not come easily. Indeed, with the last Parliamentary elections and the rise of anti-immigration movements all over the EU, I really doubt the new CEAS will be fully accepted, mainly because the foreseen "burden-sharing" could threaten autonomy and sovereignty of non-first entry countries.

My perception is that the EU is in a phase of confusion and is struggling between the respect of human rights of migrants and security and national interests,[83] with the latter slowly replacing the former in citizens and politicians' minds. This moment of confusion can be easily understood when comparing the European Agenda on Migration which is, at least in theory, human rights-driven and the last statement made by the EU Commission in response to the PM Orban showing a more nationalist/security-driven approach. In this moment of confusion, it needs to be borne in mind that EU law is built upon general principles of law, among whom fundamental rights are of the utmost importance, as also reiterated by the European Court of Justice in plenty of its judgments. The Court indeed could have a very impacting role in changing the existing circumstances. However, it is still limited as its mandate does not foresee it can take action proprio motu, but if and only if appealed by either a Member State, one of the three main European bodies or a national judge. Hence, it seems very unlikely that a Member State will move against legislation that does its own interests and subsequently, the EU Council and Parliament. There is nothing but to wait for a possible intervention of the EU Commission.

The importance of human rights seems to be substituted by the fear of the Other. But who really are these Others who are so feared in the field of migration? Are they all criminals or terrorists as media depict them or are just individuals that have fled their countries on unsafe boats in search of haven? If on one side terrorists might have entered the EU territory alongside refugees,[84]this does *not* entail that all refugees are terrorists. On the contrary, many terrorists have been found to be European nationals.[85] Thus, the recent report by the Nixon Center is in itself wrong when it maintains that "*immigration and terrorism are linked not because all immigrants are terrorists but because all, or nearly all, terrorists in the West have been immigrants*".[86] This type of statement only fuels the feelings of insecurity, racism and xenophobia towards migrants, without any distinction among asylum seekers and irregular migrants.

It seems that the logic is now that they all are the Other, and they all are the Threat. This logic survives even though EU Member States are obliged under EU law, the European Convention of Human Rights and a variety of international treaties to respect human rights. As the Council of Europe itself has put it: "*The current situation in the Central Mediterranean, and Council of Europe member states' (all the EU Member States are under the jurisdiction of the Council of Europe) responses, raise important questions with regard to their obligations under international maritime and human rights law. Firstly, whilst these obligations are, on the whole, clear, there*

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[80] European Commission, Press Release, 'Relocation and Resettlement: Commission calls on all Member States to deliver and meet obligations' (16 May 2017), available at http://europa.eu/rapid/press-release_IP-17-1302_en.htm

[81] European Commission, Press Release, 'Relocation : Commission refers the Czech Republic, Hungary and Poland to the Court of Justice of the EU for non-compliance with their legal obligations on relocation', available at http://europa.eu/rapid/press-release_IP-17-5002_en.htm

[82]Trauner, p. 314.

[83] Global Commission on International Migration, Khalid Koser 'Irregular Migration, state security and human security' (2005) p. 4, available at https://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy_and_research/gcim/tp/TP5.pdf, accessed 8 June 2019.

[84] Danish Refugee Council, p. 10.

[85] Lazaridis and Wadia, p. 23.

[86] Adamson, p. 195.

appears to be an increasing tendency to try to avoid having to assume these obligations, rather than to implement them fully."[87]

I believe the EU has two options before itself. The first one is to keep its pace implementing anti-human rights policies. The second option is for the EU Commission to completely change its attitude and convince Member States of the wrongness of their attitude while appealing the European Court of Justice requiring for sanctions on human rights violations. There is nothing left but to wait and see whether the result of the European elections will lead to a positive debate pro-immigration reforms or not within the European Parliament. Whatever the outcome, I want to highlight that Fortress Europe has been existing for too long and it is time to switch from a security-driven approach to a holistic, human rights-based one.

Conclusion

In this paper I have provided for three main arguments: how globalisation has affected the way international actors work in the global framework; how interconnectedness has influenced relations among the levels of governance; and how the EU has responded to international migration. Regardless from the topic discussed, what is clear throughout this paper is my standing that the European Union and its Member States have been adopting a securitising approach to the refugee crisis leaving aside human rights of migrants. At the global level, instead, the Global Compact for Migration, albeit being an interesting document worth of statists' attention, has not drawn that much of consideration from countries particularly hit by the wave of migration since 2015.

Delineating now the attitude of each level of governance, it can be derived from this paper that some European Member States have been adopting anti-immigration positions to the point of influencing the European Union. The supra-national organisation has responded via anti-immigration positions that have translated in policies and legislation that on one side do not take into sufficient consideration human rights of migrants and on the other side are not strong enough to address the migratory influxes. For said reason, the EU Commission has proposed a new Reform of the asylum legislative framework while adopting an Agenda that seems to be even harsher than the European Agenda on Migration and its hotspots.

With this new Agenda and the rise of plenty of anti-immigration and far-right governments, it is likely the new Agenda will find application. But the docks cannot be closed anymore as many States, like Italy, have decided to do, clearly breaching human rights norms. Closing the docks to irregular migrants, among whom children, is closing the docks to life. And the EU cannot let it happen.

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[87] Council of Europe Commission for Human Rights, 'Lives saved. Rights protected. Bridging the protection gap for refugees and migrants in the Mediterranean' (Council of Europe, 2019) p.49, available at https://rm.coe.int/lives-saved-rights-protected-bridging-the-protection-gap-for-refugees-/168094eb87

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