



The migration crisis? Facts, challenges and possible solutions

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Key messages

- The current surge in migration to the European Union (EU) is rapidly becoming the largest and most complex facing Europe since the Second World War.
- EU governments are facing huge policy and practical challenges in determining and addressing the immediate and longer-term needs of refugees and other migrants.
- EU governments must ensure the protection of all migrants, irrespective of their status, and ensure that they are treated in accordance with international law, including with regard to the right to seek asylum.
- The EU urgently needs to put in place a coherent, long-term and comprehensive strategy that maximises the benefits of migration and minimises its human and economic costs, including as part of a wider international effort to manage global migration.

Since the beginning of 2014, approximately 800,000 people have arrived at European Union (EU) borders through irregular channels, fleeing conflict and violence at home or in search of a better life abroad. This migration surge is rapidly becoming the largest and most challenging that Europe has faced since the Second World War. Although it is not unique in either its causes or its drivers, it has become a highly sensitive political issue, generating intense political and public debate and exacerbating pre-existing weaknesses in immigration systems across Europe. Meanwhile, the lack of an adequate response by EU governments has left hundreds of thousands of refugees and other migrants increasingly vulnerable.

This policy brief outlines key facts relating to the current surge in irregular migration to Europe; sets out the policy and practical challenges facing EU governments in this regard; and offers suggestions on how to reframe current approaches to facilitate a more effective and appropriate response.

The current situation

The flow of refugees and others seeking irregular access to Europe has increased dramatically: according to the UN High Commissioner for Refugees (UNHCR), over 590,000 people have arrived by sea so far in 2015 – more than twice the number reaching Europe this way in the whole of 2014. Almost 630,000 new asylum claims were made last year to EU countries (EC, 2015a), compared with just over 430,000 in 2013.¹ The profile of those arriving is also changing. Traditionally, the majority of migrants seeking entry to Europe through irregular channels were individual males. Today, however, whole families are making the journey together, in some cases with elderly or disabled relatives and often with very young children: according to UNHCR, 13% of new arrivals in 2015 were women and 18% children. The routes they take are highly dynamic, often shifting quickly in response to new restrictions at borders or security concerns in transit countries. People are also taking greater risks. According to the International Organisation for Migration (IOM), over 3,100 people have died en route to Europe so far in 2015, the vast majority on the perilous sea journey across the Mediterranean from North Africa or Turkey. The situation of migrant children, particularly those travelling alone, is particularly concerning. There are reports of unaccompanied children disappearing after their arrival in Europe, raising fears that they have fallen prey to human traffickers (Squires, 2015).

According to UNHCR, in 2015 more than 80% of people arriving in Europe by sea are from the world's ten top refugee-producing countries. Over 50% are from Syria, 15% from Afghanistan, 6% from Eritrea and 4% from Iraq – all countries in conflict or crisis. The largest number of asylum applications to the EU in 2014 – 19% – were made by Syrians. Applications from Afghans and Eritreans have also increased significantly (EASO, 2015). There are also large numbers of people seeking access to Europe whose eligibility for international protection is more complex, or who may be travelling primarily for economic reasons. These people are necessarily using the same routes as those fleeing conflict or violence. Whilst refugees are often considered particularly vulnerable, this current surge illustrates that, whatever the drivers of migration or an individual's status, the risks facing all migrants using irregular routes are considerable, including physical danger, exploitation and abuse, human trafficking, sexual violence, theft and extortion.

Even before the current situation, EU states tended to view any large-scale international migration as a threat to the sovereignty of their national and regional borders, their economies and their societies. Most member states have reacted accordingly, tightening controls on irregular access to their territories and, in some cases, on legal channels (Hagen-Zanker and Mallett, 2015).² These increased restrictions have not been effective in staving off the influx of refugees and other migrants; instead, they have resulted in increased clandestine efforts to reach Europe, in turn exposing vulnerable migrants to even greater physical and other risks.

Why has this crisis developed now?

The majority of people seeking entry to Europe are fleeing conflict and violence in their home countries. Over 12 million people inside Syria are in need of humanitarian assistance and over four million have fled the country, according to the UN. Iraqis too are facing a resurgence of violence and conflict, including in relation to so-called Islamic State: over four million Iraqis are currently displaced within and outside the country, according to UNHCR. In Afghanistan, Somalia, South Sudan, the Central African Republic, Mali, Nigeria and Eritrea, protracted conflicts and crises threaten the lives of millions of civilians, forcing many to leave their home country in search of safety and security in Europe and elsewhere.

For many refugees, in the Middle East and elsewhere,

1 See http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics.

2 Data analysis by ODI suggests that restrictions on legal and irregular access to the EU has fluctuated and that, whilst some national policies have made legal entry harder, access for some groups has become easier.

there is little or no real prospect of integration or even real security in their countries of first destination. Consequently, many choose to move on to Europe where, as outlined by the High Commissioner for Refugees, the right to seek asylum must be guaranteed. In the case of Syrian refugees, for example, host governments in the Middle East are overwhelmed by the volume of arrivals and some are becoming increasingly hostile, tightening borders, increasing visa or residency restrictions and in some cases effectively denying legal access to work. The security situation in some host countries is also deteriorating, as demonstrated by recent bomb attacks in Turkey and prevailing insecurity in Lebanon. Meanwhile, the international community's response to the situation in these countries has been wholly inadequate. Responses to UNHCR calls for resettlement places have been slow, and only a third of the estimated 400,000 places needed have been pledged. Funding for the refugee response in the Middle East is less than half what is required, and emergency programmes have been cut as a result. UNHCR estimates that 86% of Syrian refugees in Jordan and 70% in Lebanon are living below the poverty line.

The failure of the international community to address conflicts, violence and human rights violations in countries of origin has been another key factor in the surge in irregular migration to Europe. There is no international political framework for ending the Syria conflict and no clear international strategy for addressing the related conflict in Iraq. Afghanistan is still far from any real stability despite years of international intervention, and the international community seems to be out of ideas on how to end the decades-long conflict in Somalia. Efforts to address the chronic poverty, inequality, weak governance and climate and environmental changes that constitute 'push' factors in many developing countries have also been inadequate.

International legal frameworks

EU member states have made long-term legal commitments under international human rights and refugee law, most recently reaffirmed by member states in UN General Assembly Resolution 69/167 of December 2014, to protect and promote the human rights of all migrants, irrespective of their status. As signatories to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, these states have specific responsibilities to provide international protection for people fleeing 'persecution or serious harm'. The Convention obliges states to grant refugees' rights to work, education, housing and the judicial system, and protects them from punishment for entering a country illegally. The principle of *non-refoulement* outlined

in the Convention is a norm of customary international law and therefore binding on all states irrespective of whether they are signatories to the Convention. Migrants who do not fall within the definition outlined in the Convention are protected under the broader international human rights framework. However, there is currently no universally accepted legal definition of 'migrant'.

Unlike other regional bodies – namely the African Union and the Organisation of American States – the EU

Terminology

Migrant: The United Nations defines a migrant as 'an individual who has resided in a foreign country for more than one year irrespective of the causes, voluntary or involuntary, and the means, regular or irregular, used to migrate'.³ This definition formally encompasses refugees, asylum-seekers and economic migrants.

Refugee: A refugee is an individual who 'owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country'.⁴ As articulated by UNHCR, whole groups may be considered as 'prima facie' refugees: '[s]ituations have ... arisen in which entire groups have been displaced under circumstances indicating that members of the group could be considered individually as refugees. In such situations the need to provide assistance is often extremely urgent and it may not be possible for purely practical reasons to carry out an individual determination of refugee status for each member of the group. Recourse has therefore been had to so-called "group determination" of refugee status, whereby each member of the group is regarded prima facie (i.e. in the absence of evidence to the contrary) as a refugee' (UNHCR, 2011).

Asylum-seeker: An asylum-seeker is 'A person who seeks safety from persecution or serious harm in a country other than his or her own and awaits a decision on the application for refugee status under relevant international and national instruments. In case of a negative decision, the person must leave the country and may be expelled, as may any non-national in an irregular or unlawful situation, unless permission to stay is provided on humanitarian or other related grounds'.⁵

3 See <https://www.iom.int/key-migration-terms>.

4 Article 1 A (2), 1951 Convention relating to the Status of Refugees.

5 See <http://www.iom.int/key-migration-terms>.

does not have a regional convention on refugees or a fully integrated common asylum or migration policy, though European human rights law does apply to the protection of all migrants. The current EU asylum system attempts to harmonise the rules and conditions that apply to asylum-seekers across all EU member states. The core issue – the number admitted – is a national decision, however, and there are stark differences among member states in the regulation and level of compliance with EU Directives on asylum. As a result, people seeking asylum tend to apply to states they consider to have more favourable policies: in 2014, almost three-quarters of asylum applications went to just five of the EU's 28 member states (EC, 2015b). Although the European Commission has put forward a number of proposals to enhance joint migration and asylum policies at the EU level in recent months, progress has been slow.

Key challenges facing European governments

Whilst much of the criticism of Europe's management of the current crisis is warranted, member states face a number of genuine challenges – in policy and practical terms – in instituting a more effective response.

First, the practical challenge presented by the sheer scale of the crisis should not be underestimated. The volume of people moving, the diversity of their profiles, countries of origin and vulnerabilities and the dynamic nature of their routes of entry and the clandestine means they often use all present an incredibly complex and demanding situation. For Italy, Greece, Croatia and Hungary – the EU countries on the frontline – the volume and speed of the influx has simply overwhelmed their asylum systems at a time when their economies are particularly weak.

Second, identifying those in need of international protection and those who are not is complex. Whilst the refugee status of people fleeing Syria or other conflicts is more clear-cut, others needing international protection may not fit within the legal definition of a refugee. As highlighted in previous research, for many of these people the line between 'forced' and 'voluntary' international migration is increasingly blurred: their migration is driven by an array of overlapping 'push' factors relating to chronic poverty, inequality, environmental degradation and the effects of climate change, as well as 'pull' factors including real and perceived economic and educational opportunities in Europe. The complex nature of contemporary global migration patterns and drivers is presenting huge challenges to existing international, regional and national legal and policy frameworks (Zetter, 2015). Notwithstanding specific legal protections for refugees, the current use of simplistic categories of 'forced' and 'voluntary' migration risks creating a two-tiered system of protection and assistance in which the rights and needs of those not qualifying as 'refugees' under the legal definition are effectively disregarded (Carling, 2015).

In addition, dealing humanely and appropriately with large numbers of people arriving through irregular channels, whose individual claims for asylum are subsequently rejected, is resource-intensive. Receiving governments also face major challenges in the process of returning failed asylum-seekers, including unsafe conditions in countries of origin or a refusal by their respective governments to accept those being returned.

Third, there is a substantial financial cost to countries receiving large-scale influxes of refugees and others granted international protection in terms of integration support (e.g. housing, education, health and other welfare services). Given the slow economic recovery in many EU states, this is not a cost that all are willing to bear. There are also concerns about how long refugees will remain in Europe, and thus how long they will need such support. Certainly, global trends suggest that many arrivals may have to remain for years: of the total global refugee population in 2014, more than half had been displaced for more than ten years (Crawford et al., 2015). The financial costs of integration can be offset against longer-term economic and other gains and, as past experience has shown, the earlier the provision of adequate integration support, the quicker refugees can become self-sufficient, gain employment and contribute taxes (OECD, 2015). However, many governments are more concerned about the immediate strain on welfare services, perceived competition over jobs and the possible impact on social cohesion.

Fourth, the onward movement of refugees and other migrants within the EU is a key concern for many governments. Most refugees and asylum-seekers have endured multiple rounds of displacement even before their arduous journey to Europe, and with early and adequate integration support they may be more likely to invest in building a life in the country where they were formally relocated or resettled. Inevitably, however, there are individuals who want to move on to other countries where they have relatives or where they believe their economic opportunities will be better, either through employment or welfare support. The significant discrepancies between standards of protection and assistance provided by national asylum systems and integration programmes within the EU exacerbate this.

Fifth, public opinion in Europe on international migration is highly divided, affecting both government policies and integration prospects for refugees and other migrants. Media images conveying the terrible risks refugees from Syria are taking to get to Europe have to a degree altered the public discourse, but anti-immigration policies remain a key theme in right-wing politics across Europe (Erlanger, 2015). It is unclear how long public sympathy for Syrian refugees will last, or whether it extends to refugees and other forced migrants from countries with a lower profile in European media. Even governments that have been more welcoming have found

winning their voters around to a more measured approach to migration an on-going challenge (Reuters, 2015a).

Finally, obtaining a coherent approach from all 28 EU members is proving extraordinarily difficult. Although in recent months there has been growing recognition of the need for an EU-wide response, the crisis has also compounded underlying political and economic divisions within Europe. Some Central and Eastern European states have rejected what they perceive as a domineering attitude from Germany; arguments over movement across their shared border has reignited tensions between Serbia and Croatia; and the UK has declined to participate in a plan to relocate within the EU a further 120,000 refugees currently in Greece, Hungary and Italy, agreed by EU leaders on 22 September.⁶

Ways forward?

The relocation plan has generally been viewed as a tentative step forward. However, there are concerns about how enforceable the agreement is, particularly given that four EU states voted against it, one of which, Slovakia, has indicated that it will launch a legal challenge. More generally, the repeated calls for a more robust, strategic and comprehensive response have yet to see results.

Notwithstanding the enormity of the task, there are a number of concrete actions that European governments could take to institute a more effective and appropriate response to the current crisis.

*First and foremost, in line with their existing legal commitments, EU governments must ensure that the protection of all migrants, but particularly women, children and other vulnerable groups, irrespective of their migration status, is the basis for their decision-making and action.*⁷ Providing appropriate protection for migrants does not mean that governments should allow blanket access. Rather, it means identifying those who are in need of international protection and affording them such protection accordingly, and, for those whose asylum claims are rejected, ensuring their humane and appropriate treatment, including safe return to their country of origin.

In the most immediate and practical terms, providing minimum protection for all migrants arriving in Europe through irregular channels means ensuring that EU search and rescue operations at sea are robust and cover the widest geographic area possible; ensuring that reception facilities are adequate for the volume and diversity of arrivals; and ensuring swift and fair processing of asylum claims and appropriate action once status has been determined.

As repeatedly urged by the UN High Commissioner for Refugees and others, there is an equally urgent need to extend, improve and harmonise legal channels of access to the EU. This includes significantly expanding current

resettlement programmes, increasing humanitarian visas or establishing temporary international protection for those with a *prima facie* case for refugee status and increasing student, work and family reunification visas for those in need of international protection but who may not fall easily within the legal definition of a refugee. This would improve the management of the current migration surge, and more importantly reduce the need for refugees and other migrants to resort to dangerous irregular channels.

Second, EU states must adopt a coherent, long-term and comprehensive strategy that tackles both the causes and the consequences of the current influx, including as part of a wider international effort to maximise the benefits and minimise the human and economic costs of global migration. This must provide for adequate political-diplomatic and economic investments in countries of origin, transit or first destination outside the EU, as well as improving asylum systems and resettlement in destination countries within the EU. The concepts of burden-sharing and solidarity must be at the heart of this approach. Given the ever-increasing numbers of arrivals, failure to ensure swift and fair relocation across the EU risks collapsing the asylum systems of even the wealthiest states (Reuters, 2015b). Sharing the financial burden with refugee hosting states in regions of origin through increased financial and other investments is also crucial: the recent EU pledge of up to €1 billion to Turkey in 2015–16 is a welcome move, but a more strategic approach is needed (EC, 2015c).

Moving away from short-term approaches to refugee crises overseas and instituting multi-year funding and programme cycles is necessary to ensure adequate support for the integration of refugees in their regions of origin. In political terms, such investments also demonstrate the international solidarity needed to ensure an adequate international response to the situation of refugees globally. Europe cannot be effective in lobbying for more appropriate asylum policies in first destination or transit countries if it is not willing to demonstrate its own commitments to international legal standards of protection.

Greater political-diplomatic efforts in countries of origin could help bring a swifter end to the crises that are generating large-scale forced migration. In addition, although there is some debate about the impact of development aid on migration from developing countries, a more targeted aid approach may help address the instability, chronic poverty and inequality that are understood to be key drivers of irregular migration (Clemens, 2014).

Third, the current situation must be reframed not simply as a crisis for Europe, but also as an opportunity. The human capital of refugees and other migrants has barely featured in political and public discourse. In practice,

6 The 120,000 is in addition to 40,000 whom EU leaders agreed to relocate in May. EC (2015).

7 See, for example, Guterres et al. (2015).

however, they invariably bring skills, entrepreneurial expertise and capacities that may help address the labour market and income gaps that many EU states face as their populations age and birth rates decline (Bodewig, 2015). Business leaders including Germany's industrial federation BDI and the UK's Institute of Directors have argued for migration policies that meet these needs (Richter, 2015; Wilkinson, 2015), and recent analysis by the UK Office for Budget Responsibility (OBR) concludes that 'overall migration has a positive impact on the sustainability of the public finances' (OBR, 2013; Migration Observatory, 2015).

There is no doubt that the challenges faced by European governments as a result of the current surge in irregular migration are significant, but decisive action is now long overdue. Legally, practically and morally, Europe must come together to institute a more humane and effective response. As articulated by the Special Representative of the UN Secretary General on International Migration:

there is no reason to require people seeking asylum to run a gamut of desert crossings, abuse by smugglers, beatings, extortion, rape and exploitation – or to have them experience the trauma of watching their friends and family die along the way. Doing so is cruel and inhuman and it violates the spirit of all refugee, human rights and immigration laws (Sutherland, 2015).

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