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REGULATION OF THE MIGRATION CRISIS IN THE EU: A FOREIGN POLICY DIMENSION

Міграційна криза 2015 року в Європі загострила протиріччя в інститутах ЄС. Нездатність і відсутність політичної волі країн-членів ЄС підтримати солідарність і організувати спільні дії з врегулювання ситуації викликала негативні наслідки як для Союзу, так і для окремих країн-учасниць, що виразилися в зростанні популістських рухів, які маніпулюють фобіями європейського суспільства.

Ще з кінця 1990-х років ЄС прагне розвивати так званий «зовнішній вимір» співпраці з питань імміграції та надання притулку, що полягає в спробах управляти міграцією за допомогою співпраці з третіми країнами. В цілому існує 2 концепції «зовнішнього виміру»: перша полягає у виведенні традиційних інструментів контролю міграції (національних і союзних) на міжнародний рівень, друга - в запобіганні причин міграції та потоків біженців через сприяння розвитку третіх країн і вдосконалення інструментів зовнішньої політики. Обидва підходи є взаємодоповнюючими, а їх реалізація може позитивно позначитися на контролі міграційних потоків, захисту біженців та відносинах ЄС з третіми країнами, де Туреччина і Північна Африка є пріоритетними напрямками співпраці.

Крім кризи солідарності і відсутності чітко вироблених механізмів взаємодії, особливість міграційної політики ЄС полягає в її багаторівневому і багатофакторному характері. У зв'язку з цим, прийняті ЄС заходи для вирішення кризи біженців 2015 року не є панацеєю і не виключають повторення подій. Проте в пріоритетах політики і дипломатії ЄС намітилося явне зрушення на користь більш жорсткого реагування на міграційну ситуацію. Головною турботою ЄС є вже не права людини, демократія або хороші відносини з сусідніми державами (наприклад, Туреччиною), а підтримка цілісності і порядку в країнах ЄС. Таким чином, реалістичне мислення, пов'язане з виживанням наднаціонального утворення, превалює над економічними міркуваннями, міжнародними відносинами та ін.

Ключові слова: міграційна криза, ЄС, зовнішній вимір, інструменти зовнішньої політики, міжнародні відносини.

Миграционный кризис 2015 года в Европе обострил противоречия в институтах ЕС. Неспособность и отсутствие политической воли стран-членов ЕС поддержать солидарность и организовать совместные действия по урегулированию ситуации вызвала негативные последствия как для Союза, так и для отдельных стран-участниц, выразившиеся в росте популистских движений, манипулирующих фобиями европейского общества.

Еще с конца 1990-х годов ЕС стремится развивать так называемое «внешнее измерение» сотрудничества по вопросам иммиграции и предоставления убежища, заключающееся в попытках управлять миграцией посредством сотрудничества с третьими странами. В целом существует 2 концепции «внешнего измерения»: первая заключается в выведении традиционных инструментов контроля миграции (национальных и союзных) на международный уровень, вторая – в предотвращении причин миграции и потоков беженцев с помощью содействия развитию третьих стран и совершенствования инструментов внешней политики. Оба подхода представляются взаимодополняющими, а их реализация может позитивно сказаться на контроле миграционных потоков, защите беженцев и отношениях ЕС с третьими странами, где Турция и Северная Африка являются приоритетными направлениями сотрудничества.

Помимо кризиса солидарности и отсутствия четко выработанных механизмов взаимодействия, особенность миграционной политики ЕС заключается в ее многоуровневом и многофакторном характере. В связи с этим, принятые ЕС меры для решения кризиса беженцев 2015 года не являются панацеей и не исключают повтора событий. Тем не менее, в приоритетах политики и дипломатии ЕС наметился явный сдвиг в пользу более жесткого реагирования на миграционную ситуацию. Главной заботой ЕС являются уже не права человека, демократия или хорошие отношения с соседними государствами (например, Турцией), а поддержание целостности, мощи и порядка в странах ЕС. Таким образом, реалистическое мышление, связанное с выживанием наднационального образования, превалирует над экономическими соображениями, международными отношениями и др.

Ключевые слова: миграционный кризис, ЕС, внешнее измерение, инструменты внешней политики, международные отношения.

The European refugee crisis in 2015 drew attention to the fundamentals of cooperation between the EU countries, specifically concerning asylum and migration management. The uncontrolled flow of the numerous immigrants sparked political crisis in the EU. Physical and emotional incapacity of the EU

member states to support solidarity and organize joint efforts to tackle the situation, backfired on the Union and related policy domains. It greatly influenced on the domestic political situation in the EU countries by the rise of populist movements that try to play with the phobias of the European community.

The EU's migration policy and approach to the formed situation had a great impact on erosion of the solidarity within EU institutions. The experts criticize the actions of the Union's member states and their leaders because of the lack of mechanisms to assess the scale of the crisis on time, develop an effective solution strategy, and overcome disagreement between the European states in order to design an approach to share fairly the responsibility for hosting migrants, including financial obligations. Dealing with short-term tasks the EU missed the opportunity to stop the irregular migration while it was manageable and endangered the EU institutions as well as the Schengen area and the Dublin Regulation [1].

With weakening trust and solidarity between the European Union institutions and its member states, it became difficult for southern countries of the EU to institutionalize shared responsibility and the relocation quotas for refugees, especially when the Czech Republic, Hungary, Poland, and Slovakia (a so-called "the Visegrád Four") avoided any forms of solidarity, while western and northern European countries partially agreed with obligations and suggested limited relocations, prioritizing crisis repeat exclusion.

The migration situation in Europe in 2015 was not unusual. Flows coming mainly from African countries were quite comparable with the waves of migration from West Africa to Spain, which have been observed since 2000; as before, this migration was mainly caused by economic reasons, and migrants traveled to Europe through the Mediterranean Sea mainly via the Italian islands of Lampedusa and Sicily to the shores of mainland Italy. At that time, Europeans were not concerned with the number of migrants as with the frequent cases of the sunken boats and rafts, which were accompanied by numerous casualties and could mean that the organizers of illegal migration are becoming less legible in their means. In other words, Europe was looking south, while it should have looked east and prepared for a completely different flow of migrants from Syria.

Such a sequence of events confused the EU and it decided that a new wave of migration would not differ from the already familiar African one. Therefore, the measures were verified and the countries that were directly involved had to deal with the situation. In this case, Italy and Greece were at the forefront.

Despite the critical situation, the EU countries launched a long-term initiative rare for the migration crisis: they invited the African partners of the EU to meet and discuss systemic issues related to migration. The high-level meeting took place in Valletta only in November 2015, during the second wave of migration from the Middle East, which had already gained full strength.

The migration flow to Europe in spring of 2015 differed from the previous ones both in scale and in reasons: mainly people who escaped from the civil war in

the Middle East and Afghanistan arrived. Europe has not yet encountered anything like it; Syrians and Iraqis fled from the ongoing armed conflicts in their home countries - by the end of 2015, in less than eight months, there were more than 800,000 people in Europe, that is, an average of 6,000 people crossed the EU borders; a new migration route was laid, through Turkey, Greece and the Western Balkans, and then through the EU countries - Hungary, Austria, Germany and further to other European countries [2].

Having recovered from the almost complete collapse of the Schengen and Dublin regulations, in November 2015, the participating countries began coordinated actions. Measures that allowed the EU to regain control of its external borders were very useful. In general terms, it was decided to block the migration route through the Western Balkans and, in the future, only allow those migrants and refugees to Europe who will travel there by legal routes originating in Turkey. Thus, it was assumed that the participating countries will once and for all stop passing migrants and refugees through their territory; Strict entry control will be introduced at the external borders of the EU; Greece will receive substantial financial assistance; An agreement will be reached with Ankara that Turkey will not let illegal migrants cross its border into Europe and will receive back migrants not allowed into the EU.

Decisions on the migration crisis of 2015 were formulated in the final documents of the European Council, adopted on February 18, March 7 and 18, 2016. They can be divided into three main areas.

Firstly, the EU has provided support, including financial and expert support, to countries that have accepted the main migration flow, in particular Greece, which facilitated the provision of humanitarian assistance to refugees and the observance of administrative procedures for border control and asylum applications in accordance with the rules EU

Secondly, in accordance with the obligation undertaken by all EU countries to return to compliance with the Schengen rules and establish strict border controls, additional resources are allocated to specialized services, including the European Union External Border Security Agency (Frontex) and the European Support Service for persons applying for obtaining asylum (EASO). At the same time, the EU hastily created a new agency for the protection of external land and sea borders.

Thirdly, regarding the foreign policy dimension, the EU agreed with Turkey, clearly defining the rights and obligations of both parties in connection with the influx of refugees and migrants traveling through Turkey to Europe. According to this agreement, migrants who illegally arrived in Greece from Turkey will be sent back to Turkey, and Europe will accept migrants only on condition that their asylum requests are submitted and approved in Turkish territory. Also, the Turkish authorities undertake to block the channels of smuggling and illegal transportation of people to Europe. The EU, for its part, has taken care of making life easier for Syrian refugees

in Turkey - they have received the right to legal employment and education of children in Turkish schools. In exchange, the European leaders agreed to pay compensation of € 6 million to Turkey in 2016-2017, expedite the abolition of visas for Turkish citizens entering the Schengen zone, and resume stalled negotiations on Turkey's accession to the EU⁴. Finally, which is very important for Turkey, the EU officially renewed its strategic partnership with Ankara, promising to hold bilateral high-level meetings annually [2].

In general, the EU has been developing the so-called "external dimension" of cooperation on migration and asylum since the late 1990s. It which consists in attempts to manage migration through cooperation with third countries. In general, there are 2 concepts of the "external dimension":

- the first is to bring traditional instruments of migration control (national and union) to the international level,
- the second is to prevent the causes of migration and refugee flows by promoting the development of third countries and improving foreign policy instruments[3].

Both approaches seem to be complementary, and their implementation can have a positive effect on the control of migration flows, refugee protection and EU relations with third countries.

External migration policy of the European Union implies an incorporation of migration into external relations. The EU policy documents have always highlighted the need to cooperate with non-EU countries in order to achieve its migration policy objectives. The externalization of migration policy resulted in development of the set of EU policy instruments of the non-binding and "soft policy" nature (such as political dialogue and information tools) and of the legally binding international agreements (related to the readmission of irregular migrants and the facilitated issuance of visas to citizens of non-EU countries) [4, p. 32].

Due to the number of the actors, the EU's external migration policy is considered to be complicated. According to Czaika and de Haas "ministries of social affairs, justice, foreign affairs, economic affairs, and international development are often involved in a continuous tug-of-war in trying to influence migration policy outcomes" [5, p. 491]. In the EU's context the situation is worsened with 27 member states with different interests, engagement and approaches. These differences definitely do not add to the strengthening solidarity within the EU institutions.

There is a strong link between external and internal factors that influence the EU. For example, the positive outcome from the EU-Turkey deal declined the necessity of schemes for relocating asylum-seekers. Furthermore, the externalization of migration policy is a result of increased irregular migration, which is in turn an unintended consequence of the limited options for regular migration to the EU. The linkages between different external policy areas can be considered as another source of unintended consequences. For example,

interconnection between development policy and migration policy. There are both negative and positive outputs related to the development level of the sending country (migrants' country of origin) [4, p. 40].

Another flaw in the approach of the EU is no transparency in rules and procedures of the sustainable approach to search and rescue (SAR), disembarkation, or relocation. The European Union prefers informal, locally negotiated initiatives on migration governance, including those on cooperation with third countries (the EU-Turkey agreement on migration, and the Emergency Trust Fund for Africa, etc.), reassigning responsibility to others. In 2017, the EU member states criminalized rescue operations of the NGOs' at sea and imposed hefty fines on the organizations. This led to another disputes on who has to accept vessels carrying migrants.

The essential part in externalization of the migration policy belongs to cooperation with third countries. The EU develops the idea in humanitarian context that implies building local capacities for preventing irregular migration.

Cooperation with third countries in migration management was highlighted by the European leaders in 1999. Externalization forms part of the EU's attempt to get around a problem in which the first country of arrival is always responsible for taking in migrants. It does so by ensuring that a state can make decisions on whether to accept migrants before they arrive in the EU. In these terms, north African countries are very important for European migration governance. In 2015 the Union established the Emergency Trust Fund for Africa, where North African share is to "contribute to safe, secure, legal and orderly migration from, to and within the region and support an effective management of migration flows that protects human rights" [6].

The EU's former high representative for foreign affairs, Federica Mogherini stated her speech on the implementation of the EU Global Strategy in 2019 that: "our partners look at Europe to find a reliable, credible, predictable partner; someone you can cooperate with; someone that invests always in peace, democracy, human rights, and cooperation". This reassures the EU positioning itself as an international actor with principles and values-based agenda. However, the EU's practice in North African countries questions this claim.

Trying to manage migration at a distance and shift responsibility for it to third countries the European Union developed the idea of establishing regional disembarkation platforms. Though the North African countries rejected the idea, it is partially implemented – through returns of migrants and asylum seekers to countries such as Libya, Morocco, Tunisia, and Turkey, as well as outsourced asylum processing that enables only a select few to enter the EU [6].

In order to tackle irregular migration flows there were some actions on national level (for example, Spanish-Moroccan or Italian-Libyan cooperation) as well as on supranational level (for example, the EU-Libya cooperation). Also the

EU interacted with international organizations and third countries in improving conditions for migrant returns.

The flaws in international law and national migration policies allow to the EU member states to cherry-pick their international obligations. It can be probably applied in the framework of the EU-North Africa cooperation. The European Neighborhood Policy in the region is aimed at establishing the rule of law and human rights, and promoting democracy. Such goals can be undermined by the EU's support of the counterproductive migration practices (for example, in Libya). Also, as it was already mentioned, the EU often seeks any mechanisms to transfer responsibility – whether it is the member states or safe third countries.

In order to improve the EU-North Africa cooperation, the EU member states should take into account the following:

- the procedures covering migration and asylum application need to be accelerated,
- the return of migrants and refugees to unsafe places should not be supported,
- SAR operations should be organized in the area (like Mare Nostrum),
- the implementation of national asylum laws should be supported (with the help of international organizations, especially UNHCR),
- legal and institutional protection of the refugees and asylum seekers needs more resources and has to be improved.

All these steps would help the EU and its member states establish more effective externalized migration policies. The EU's cooperation with North African countries implies a transfer of responsibility for border security to latter. The Morocco and Tunisia's asylum systems do not meet the international standards. Attempts to reform these systems have come to a standstill, partially because these countries aware of the EU that can declare them as safe third countries and responsible for the region's asylum seekers. Pressured by the EU, Libya prevents NGO's operations by expanding its SAR zone.

Decline in the annual number of migrants coming to Europe proved the efficiency of the EU-North African migration agreements, though the rate of migrants deaths increased. This is an outcome of the policy of delegation responsibility to countries with low democracy index and non-signatories to the 1951 Geneva Convention [6].

In December 2018, 152 countries ratified the Global Compact for Safe, Orderly and Regular Migration. The agreement sets out 23 objectives on good migration governance, based on the values of state sovereignty, shared responsibility, and human rights. Even though nine countries – including the United States and the members of the Visegrád group – did not sign it, the agreement demonstrates that most nations desire change, and unfortunately, not all EU member states.

Xenophobia and nationalism among Europeans, caused by a massive influx of immigrants from the poorest countries of Asia and Africa, gave strength and influence to political parties and nationalist movements. In some countries, politicians actively opposing the influx of “strangers” have been able to significantly strengthen their positions in parliaments or even come to power. For example, the election campaign of Viktor Orbán in Hungary. It is even reasonable, after all according to opinion polls, about 40% of Europeans consider immigration to be one of the most painful problems of the European Union [7].

Some countries of Eastern Europe and the Baltic states opposed the use of mandatory quotas in the future and did not fulfill their obligations to receive and equip more than 500 immigrants. These countries are inclined to the option of “repayments”, which will be transferred to those countries where illegal immigrants arrive. Europeans also like the idea of arranging for their money, but in the territory of third countries, temporary camps for the preliminary selection of potential refugees. From this point of view, the most relevant is cooperation with the African Union and the UN to help people in greatest need, solve the problems that cause migration, destroy the networks of smugglers and establish ways for safe, organized and legal migration.

The 2019 marked several achievements for the EU’s migration agenda. In May, 2019 Green parties succeeded in the European Parliament election, given that these parties generally welcome migrants as a matter of both human rights and economic planning for ageing populations. In July 2019, 14 EU member states agreed on the “solidarity mechanism” for relocating migrants across the Union. In September 2019, there were some changes in the Italian government that resulted in the will to depoliticize migration situation and deal with as with administrative matter, easing thereby the public discontent. In December 2019, the newly appointed president of the European Commission, Ursula von der Leyen, declared the need called for the bloc to develop “a new way of burden sharing” and “a more sustainable approach to search and rescue” (SAR). At the same time, she has advocated stronger humanitarian cooperation with third countries and affirmed Europe’s “moral duty” to help those fleeing persecution and conflict [6].

Despite of some serious advancements, the EU is still not ready for rekindling of the migration crisis. In March 2020, the situation escalated on the Greek-Turkish and Bulgarian-Turkish borderlands with thousands of asylum seekers who were let to the EU border by Turkish government. According to the EU Commission President Ursula von der Leyen, Greece took the role of the “Europe’s shield” and was promised 700 million euros to maintain border security [8].

There is the most obvious and easiest scenario for the current situation: the EU-Turkey deal, with the EU giving Turkey more money to support refugees in exchange for Turkey controlling migration from its borders. This approach won’t

fix the situation in Greece and that is why the European Union has to come up with “a more sustainable humane and humanitarian solution” [9].

In February 2020, the EU’s cooperation agreement with the countries of Africa, the Caribbean and the Pacific expired. The Agreement defined the main directions of relations between the European Union and 79 states in three areas: political dialogue, development assistance and trade cooperation. It is obvious that during negotiations on a new agreement, the issue of regulating migration processes will occupy an extremely important place. The issue of migration is stipulated by Article 13 of the Agreement, which is very general and declarative in nature. It can be assumed that in the negotiations the European Union will most likely advocate the inclusion of more specific measures in the text, pursuing, first of all, its own interest, which consists in ensuring security and combating irregular migration. Contradictions can arise in the context of significant differences between the short-term and long-term goals of the foreign policy of the EU and third countries.

Thus, the current world order affects with emerging international and global threats to collective security systems. Multilevel and multi-actor nature of the EU and its policies imply complex interdependence links between numerous institutions and units in charge. The migration policy of the EU is not an exception. Though the refugee crisis of 2015 was overcome, its consequences are still of the urgent relevance for the Union. It still needs to improve the mechanisms of the so-called “flexible solidarity” that will allow to share fairly the responsibilities of the member states within the EU and thereby reconfirm European values. In this regard, the measures taken by the European Union to solve the crisis of 2015 are not a “panacea” and do not exclude a repeat of events. Nevertheless, there has been a clear shift in the EU policy and diplomacy priorities in favor of a tougher response to the migration situation. The main concern of the EU is no longer human rights, democracy or good relations with neighboring states, but the maintenance of integrity and peace within the EU. The realist approach favors the supranational entity, moving economic interests and international norms to the background.

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