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## Equal Yet Inequitable: EU's Relocation System of Shared Responsibility

By Raluca Bejan

*This essay critically analyses the reasoning behind the European Union (EU)'s temporary relocation system for internally re-distributing refugees. It argues that the current distributive quota fails to equitably allocate inter-state responsibility, especially as the weighted indicators do not fully account for the inherent economic, social, cultural and political differences between the EU Member States.*

### The Situation

Several coastal areas of Italy and Greece had long seen significant numbers of boat arrivals from the Middle East and Africa. In 2015, the arrivals of irregular migrants at the Italian coasts of Augusta, Lampedusa, Porte Empedocle, Pozzalo, Taranto and Trapani, and the Greek shores of Lesbos, Chios, Leros, Samos and Kos, had reached unprecedented levels. Hungary later became an entry 'hot spot' (via the Western Balkan route), once people could no longer claim asylum in Greece due to long backlogs and limited reception capacities (European Commission 2015a). The European Commission invoked a quota-based provisional relocation system to ease the burden felt by these front line states and to relocate refugees to other EU nations.

### Temporary Relocation

*Relocation* is different from *resettlement*. Relocation refers to the transfer of persons already located within another EU Member State, while resettlement includes the transfer of people from outside the EU (European Commission 2015b). Under principles of solidarity, mutual assistance and shared responsibility (European Commission 2015a), the European Commission proposed two relocation decisions with the aim of transferring a total of 160,000 people. The first scheme was intended to transfer 40,000 people from Italy and Greece to other Member States over the next 2 years (European Commission 2015c). The second decision added a new relocation goal of 120,000 people: 15,600 from Italy, 50,400 from Greece and 54,000 from Hungary (European Commission 2015d) and calculated a distribution key on four weighted indicators: GDP (40%), size of the population (40%), unemployment rates (10%) and past number of asylum seekers applications (10%).

The plan was formulated as mandatory for all Member States. However, the United Kingdom (UK), Ireland and Denmark were not bound by the proposal, based on *opt-out* and *opt-in* rights under the Lisbon Treaty. Ireland exercised its *opt-in* right, as did the Dublin Associated States of Norway, Switzerland, and Liechtenstein (Guild, Costello and Moreno-Lax 2017). Under the Lisbon Treaty, an 'opt-in' right means that certain states (i.e UK and Ireland) are only bound if they choose to participate. An 'opt-out' right (i.e. Denmark) means the country is not bound at all by any of the European Commission rules on migration (European Commission 2015a). UK pledged to take in a number of 20,000 refugees for the next 5 years (Dearden 2016), numbers irrelevant to the relocation efforts, since they solely refer to persons in need of international protection at the Syrian borders (Nardelli and Arnett 2015). Most likely, the 'opt-in' right will no longer apply to the UK after the Brexit vote. Hungary asked to be excluded from the relocation mechanism and around the same time built a fence at the Serbian border, to reduce the number of refugees transiting through the country (Al Jazeera 2016).

The relocation process was unsuccessful for the most part. There was a lack of thorough implementation and several states failed to launch (or accommodate) pledges (Guild, Costello and Moreno-Lax 2017). Challenges resembled those encountered within the former 2009 and 2011 Maltese relocation scheme (EUREMA), where countries similarly failed to follow with pledged commitments (Morga and Rapoport 2014). As of July 2016, a total of 3,056 persons were relocated based on the 2015 decisions (European Commission 2016). According to a recent study commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs (Guild, Costello and Moreno-Lax 2017), 11,966 asylum seekers were transferred by February 2017. The last months have seen a rise in numbers—up to 80,000 people were relocated by April 2017 from Italy and Greece (European Council 2017).

The increasing number of refugees has led to political and ideological frictions amongst the EU Member States. Some countries simply refused to comply and several Eastern Bloc states (Slovakia, Poland, Romania) opposed the plan (Bejan, 2016). Strong anti-refugee sentiments in Hungary have led to a referendum call on the relocation scheme. Poland had formerly pledged 100 places, yet it failed to relocate any numbers (European Council 2017). While Austria was granted a 30% suspension from its quota, due to its high influx (230% increase from November 2014 to November 2015) of regular asylum applications, it did not make efforts to relocate the remaining 70% (Guild, Costello and Moreno\_Lax 2017). On June 13<sup>th</sup>, 2017, the European Commission had launched legal infringement procedures against Czech Republic, Hungary and Poland, for failing to relocate any numbers and for refusing to submit any pledges (European Commission 2017).

The EU's distributive quota sought to equalise responsibility in relation to states' 'absorption' capacity, generally demarcated by a mixture of economic, geographic and demographic criteria (European Commission 2015b) Although there is a lack of consensus regarding the most appropriate indicators to weigh states' capacity to 'absorb' people, it has been *de facto* acknowledged that financial, geographic and demographic dimensions need to be taken into account. A well-known example comes from Mathias Czaika, who proposed the concept of *egalitarian equity* in developing a refugee burden index. He loosely overlaid adjusted indicators onto the economic, socio-demographic and socio-political dimensions, whereas each dimension would have the same weight within the measurement (Czaika 2005). Indicators would include: GDP per capita for economic capacity, population density for demographics, ethnic composition/ fractionalisation for socio-political acceptance and efficiency of governmental institutions for politico-institutional performance. Czaika also draws attention to the limitations of such a model. Mainly that, in using the egalitarian equity concept, results would be centered on the notion of equal weights, which could oversee country specific characteristics that will differently balance such weighting. Indeed, the drawback of such a model is that it incorporates each dimension within a value system that *proportionally* equalises significance without offering a rationale as to why these dimensions are proportionally valued to matter *equally*.

### **Equalised Versus Fair-Shared Responsibility**

Within such context, responsibility-sharing refers to the *fair* share of refugees each country should absorb according to its own capacities (Moraga and Rapoport 2015). However, in regards to determining what is considered "fair", the concepts of *equality* and *equity* should weigh on the matter. While equality abstractly refers to an identical mathematical value (i.e. amount, number) shared by different parties, here it indicates the adjustment of relocation numbers for equalising *the share* of states' responsibility. Hence, an equalised percentage share

is assumed to be fair and equitable. Yet, only in relation to definitions of equality can the equalising process be valued as equitable (or not). Or differently said, a fair equalizing process depends on how one defines equality.

Equality can be divided into *equality of starting points* and *equality of results*. Equality of starting points levels out the playing field by, for example, facilitating equal access in getting a piece of the pie, equally positioning everyone for a run towards the pie. Whether one ends up with one (or more pieces) of the pie then depends on individualised factors. In turn, the principle of equality of results acknowledges that being equally positioned for a run might not necessarily translate into equal results: some might run more slowly, get tired, sick or thirsty and might therefore not get a piece of the pie. If the goal is to achieve equal results, so that everyone has a piece of the same size, then additional access criteria need to adjust for (i.e. un-equalise) individual ‘running’ capabilities. In starting from unequal premises, we cannot use an abstract ‘one size fits all’ equalising concept to attain fairness, as fairness in such instances might mean the creation of unequal adjustment rates. It is unknown how EU defines equality (i.e. either as starting points or either as equality of results), yet the universality of the concept in-use is problematic since it lacks a delineating conceptual point.

EU Member States are differentially positioned vis-à-vis each other. Some have stronger economic influence (Germany) and others have stronger cultural influence (France). Some exhibit growth on certain measures but not on others. For instance, Romania and Bulgaria have high employment rates, but very low minimum wage levels. Models for integrating immigrants additionally differ between Member States, consider the Swedish multicultural model versus France’s assimilationism. Therefore, applying a mathematically equalised formula to bring Member States to equal footing and to universalise the effects of structural differentiations (impossible to universalise since the differentiation principles have not been in fact equalised) might not necessarily result in fairness. For instance, a country that has stronger immigrant integration schemes and stronger care provision mechanisms might be better equipped to accommodate refugees than a country that has higher demographics but lacks such schemes.

Within the EU relocation system, the proposed indicators are equalising starting points, as in trying to level out the intake of refugee numbers by states’ capacity (mainly economically and demographically). However, they are not equalising results, since they are not incorporating indicators that adjust for much more of the structural differentiation processes that exist within EU (i.e. the East/West ideological divide; the political dominance of the wealthier, Northern states over Southern Europe, the EU imposed austerity on already bankrupt nations, such as Greece, etc.). It is insufficient to take into consideration only the already-structured differences (as in the outcomes/results of a differentiating process) and to disconsider the structuring processes in themselves that have created the differential results to begin with. Singular economic and demographic measures are unlikely to show the full picture of what they intend to measure. This means that the distribution mechanism might not be fully reflective of the social realities that impact states’ abilities and capacities to receive and integrate migrants.

### **Problematising the Indicators**

The EU’s distribution scheme included four indicators: two are based on economics (GDP - 40% and unemployment rates-10%), one is based on demographics (size of the population, 40%), and one is incentive driven (past number of asylum applications, 10%). A quota seeking to reflect absorption capacities could include additional measures, reflective of socio-political or specific immigrant integration dimensions. Thus, the choice of these indicators and the

weighting scheme require further scrutiny. It is not a matter of critiquing the selection per se but rather a matter of querying its underpinning reasoning and advocating for transparency regarding the logic behind the selection and weighting of indicators.

The first economic indicator that the EU uses in its distribution scheme is GDP per capita, a widely acknowledged measure of strength and economic growth. Within the relocation scheme, it was taken to reflect wealth in terms of Member States' economic capacity. It is doubtful, however, whether GDP per capita is the paramount measure to gauge economic well-being (i.e. GDP can be high due to significant economic inequality—hence the rich members of society are so rich that they pull up the average). Not indicative per se of social and human capital, GDP rather accounts for marketed economic activity and it merely measures economic quantity, hence not economic quality (Costanza, Hart, Talberth and Posner 2009; Lightman 2003).

The second economic indicator that the EU relies on, the unemployment rate, was preferred over poverty levels, average income ranks, or aggregates of minimum wage. Like its alternatives, the unemployment rate does not fully reflect the overall standard of living in a society. For instance, according to this indicator, the economies of the newest EU entry states (i.e. Romania, Bulgaria) 'outperform' those of older EU countries. However, these very same states rank the highest in Europe in terms of poverty risks, lack of financial resources and truncated purchasing power (Bejan, Iorga- Curpan & Amza in press).

The demographic indicator considered within the EU distribution scheme is the size of the population. There is comparatively less debate around this indicator. For example, it would be difficult to argue for the inclusion of the population density ratio per 'arable' land as an additional indicator. Arable land is nowadays 'farmed' by transnational corporations and not by communities of peasants. In fact, most people, particularly most migrants, end up settling within urban areas and taking up lower skilled employment within the service industries.

The incentive based indicator considers the past number of applications by asylum seekers. This indicator aims to downwardly adjust the scale by rewarding states' previous efforts to accommodate refugees. However, the incentive indicator of settled past number of asylum applications reinforces an unnecessary, competitive meritocracy of deserving/undeserving divisions, of good versus bad states, scapegoating those having difficulties in navigating the situation, hence creating a pejorative labeling that could inversely just disincentivize the relocation of future migrants.

## **Conclusions and Recommendations**

The EU distributive quota for relocation is difficult to assess since little is known about the reasoning that guided the selection of the weighted indicators. The overall aim of the distributive scheme is also unclear in relation to broader goals of equality, equity or equalised equity, as is the subsequent logic underpinning such determinacy.

Additional indicators could be selected to suitably account for the existent economic, social and political inequalities amongst the Member States. Economic criteria should have higher preponderance over demographic measures (since oftentimes the material conditions are the ones dividing EU members into first and second tier states) yet the economic indicators should be better-fitted to assess activity related to economic quality versus quantity. That said, while adding indicators will offer a better approximation of states' 'absorption' capacity, a perfect

reflection of socio-economic realities is impossible. However, improvements to the current distributive scheme are possible.

This paper recommends that the EU Commission:

**1. Consider adjacent indicators to measure economic performance.** The GDP per capita alone does not fully capture economic performance. It is not possible to know to what extent a state's GDP per capita indicates ability to integrate refugees. Economists, especially, have warned about the use of GDP as a well-being measure. Alternative economic indicators could include: a) the Genuine Progress Indicator (GPI) which measures income sustainability by differentiating between economic activity that diminishes natural and social capital and activity that enhances such forms of capital, hence controlling for income inequality and environmental degradation; b) the Genuine Savings (GE) indicator, which considers levels of savings after human capital investment and governmental expenditures; c) the GDP Purchasing Power Parity (PPP), which accounts for national income per population while considering living costs; or d) the GDP per working hours, which divides national income by the number of hours worked within a country (Bejan 2016; Costanza, Hart, Talberth and Posner 2009; Lightman 2003).

**2. Lower the weighting on demographics (40%)** or at minimum, provide a strong rationale for keeping the value as such. It is difficult to understand why demographics are considered as significant (i.e. more than a third percentile) in determining states' absorption capacity and what is the supporting evidence to sustain that states with higher population levels have a higher ability to integrate migrants.

**3. Scrap the incentive indicator and add socio-political indicators.** These could include: a) measures to gauge the political national climate or the ideological (i.e. parliamentary) party-structure, especially since countries with strong right wing political factions, such as Austria or Poland, seemed less likely to commit to the relocation scheme; b) direct measures of settlement and immigrant integration (i.e. care provision mechanisms, number of reception centers, etc.); c) political economy regimes (i.e. strong welfare states); and d) states' commitment/willingness to host refugees.

**4. Take into account refugees' preferred destinations.** Refugees are not objects of economic commodification but rather individual agents whose preferences and choices should also be considered. An inter-state matching mechanism to include refugees' choices will not only ease the political deadlock among the EU member states and create a more equitable process for sharing responsibility (Jones and Teytelboym 2016), but it will also increase the protection of refugees based on the principle of satisfying their best interests.

**5. Provide full transparency on the reasoning behind the selected indicators.** Terminology needs to be clearly defined: How are ideas and ideals of fairness, equality, and equity understood and described? What are the ideological, political and social objectives of the relocation plan? How can equality and equity be simultaneously achieved, since participating states are unequal players at the EU table? How equitable is the share-equalising process, when an equal playing field might not be synonymous with a fair playing field?

If states are equal, responsibility needs to be equally shared. If states are unequal, responsibility needs to be unequally shared, in order for the *sharing* in itself to be equitably distributed.

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**The views in this article are those of the author alone and do not necessarily reflect the views of OxMo.**



## BIBLIOGRAPHY

**AL JAZEERA** (2016) *Hungary to Build Second Border Fence to Stop Refugees*, Al Jazeera. Available from: <http://www.aljazeera.com/news/2016/08/hungary-build-border-fence-stop-refugees-160826084509375.html>

**BEJAN, R., IORGA-CURPAN, A. & AMZA, O.** (In press) *The situation of unaccompanied minors in Romania in the course of Europe's refugee crisis*, Social Work and Society.

**BEJAN, R.** (2016) *The 'East/West' divide and Europe's relocation system for asylum seekers*, Journal of Social Policy/ Ревија за Социјална Политика, 9(12): 9-40.

**BOVENS, L., CHATKUP, C. & SMEAD, L.** (2012) *Measuring Common Standards and Equal Responsibility-Sharing in EU Asylum Outcome Data*, European Union Politics, 13(1): 70-93.

**COSTANZA, R., HART, M., TALBERT, J. & POSNER, S.** (2009) *Beyond GDP: The need for new measures of progress*, The Pardee Papers.

**CZAIKA, M.** (2005) *A Refugee Burden Index: Methodology and its Application*, Migration Letters, 2(2):101.

**DEARDEN, L.** (2016 23 January). *Refugee Crisis: From border controls to cash seizures, how Germany turned its back on refugees*, The Independent. Available from: <http://www.independent.co.uk/news/world/europe/refugee-crisis-germany-turning-its-back-on-asylum-seekers-with-border-controls-cash-seizures-and-a6829801.html>

**EUROPEAN COMMISSION** (2017 13 June). *Press Release: European Agenda on Migration: Commission calls on all parties to sustain progress and make further efforts*, Strasbourg, European Commission.

**EUROPEAN COMMISSION** (2016 13 July) *Press Release: Relocation and Resettlement: Positive Trends Continue but More Efforts Needed*, Brussels, European Commission.

**EUROPEAN COMMISSION** (2015a 23 October) *Communication from the Commission to the European Parliament, the European Council and the Council. Managing the Refugee Crisis: State of play of the Implementation of the Priority Actions under the European Agenda on Migration*, Brussels, European Commission.

**EUROPEAN COMMISSION** (2015b 22 September) *Refugee Crisis. Q&A on Emergency Relocation*, Brussels, European Commission.

**EUROPEAN COMMISSION** (2015c 27 May) *European Commission Makes Progress on Agenda on Migration*, Brussels, European Commission.

**EUROPEAN COMMISSION** (2015b 9 September) *Refugee Crisis: European Commission Takes Decisive Action*, Brussels, European Commission.

**EUROPEAN COUNCIL** (2017 6 April) *State of Play. Member States' Support to Emergency Relocation Mechanism, Brussels*, European Council.

**GUILD, E., COSTELLO, C. & MORENO-LAX, V.** (2017) *Implementation of the 2015 Council Decisions Establishing Provisional Measures in the Area of International Protection for the Benefit of Italy and of Greece*, Brussels, European Union.

**JONES, W. & TEYTELBOYM, A.** (2016) *Choices, Preferences and Priorities in a Matching System for Refugees*, *Forced Migration Review*, (51): 80 -82.

**LIGHTMAN, E.** (2003) *Social Policy in Canada*, Oxford University Press.

**MORAGA, J.F.H. & RAPOPORT, H.** (2015). Tradable Refugee-Admission Quotas (TRAQs), the Syrian crisis and the new European agenda on migration. *IZA Journal of European Labor Studies*, 4(1): 23.

**MORAGA, J.F.H. & RAPOPORT, H.** (2015). *Tradable Refugee-Admission Quotas and EU Asylum Policy*, *CESifo Economic Studies*, 61(3-4): 638-672.