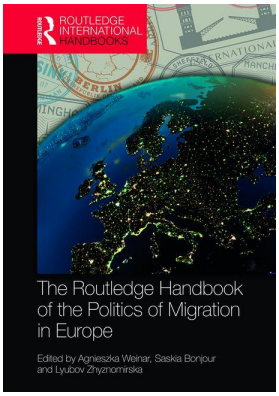

The Routledge Handbook of the Politics of Migration in Europe

Agnieszka Weinar, Saskia Bonjour, Lyubov Zhyznomirska

Contemporary politics of international protection in Europe

Publication details
https://test.routledgehandbooks.com/doi/10.4324/9781315512853-28
Petra Bendel
Published online on: 09 Jul 2018

23

CONTEMPORARY POLITICS OF INTERNATIONAL PROTECTION IN EUROPE

From protection to prevention

Petra Bendel

Introduction

International protection in Europe is largely based on the Geneva Convention, the European Union's (EU) asylum policies, and separate EU member states' refugee policies. This chapter focuses mainly on the EU's international protection regime, in which the author distinguishes the following three related policy circles, from the outside to the inside of the EU: (1) cooperation with refugees' countries of origin and transit, (2) monitoring of transit routes and external border controls and, lastly, (3) within the EU and its member states, development and implementation of the measures regarding registration, admission and distribution of asylum seekers and refugees, and all rights to which they are entitled as soon as they reach the territory of a member state (Bendel 2016, 2017).

The focus of the asylum policy in the EU has increasingly moved to external issues. It originally focused on internal and justice policy, before successively concentrating more on external, security and defence policy, and the latest changes – in response to the massive influx of refugees and migrants since 2015 – have further intensified this change. Regarding this tendency, critics speak of an 'outsourcing' of the European responsibility to provide protection, mirrored in a tendency to make use of developmental partnerships with countries of origin and transit in order to put a stop to migration. The lack of legal access to the territory of its member states, the enforcement of controls at the external borders and, finally, the lack of a solidary responsibility among the EU member states leading to a 'race to the bottom' of protection standards, are the recent issues of concern in the politics of international protection in Europe.

Elements and principles underlying the European Union asylum and refugee policy

Before becoming harmonised in the EU, refugee and asylum policies in (western) European countries were determined on the basis of the international refugee regime, in particular by the Universal Declaration of Human Rights (especially, Art. 14 (1) – a consequence of the Holocaust ad the Second World War), the 1951 Geneva Convention relating to the Status of

Refugees, and the 1967 New York Protocol relating to the Status of Refugees. The latter determined the definition of a refugee and the prohibition of refoulement. These principles remain at the heart of the EU directives and regulations.

In a first phase of European cooperation, between 1957 and 1990, the European Community (EC) did not have competence on migration and asylum as the member states held sovereignty over these issues. The EC governments sporadically coordinated their policies in Justice and Home Affairs, especially on transnational criminal justice and terrorism. It was not until a second phase between 1990 and 1999 when EC states saw an increasing number of asylum seekers from the Balkans that the policy environment changed. This development gave rise to three important pillars in the EU asylum policy: The 1990 Schengen Convention (based on the 1985 Schengen Agreement), the Treaty of Maastricht (in force since 1993) that deemed asylum policy to be a common interest, and the 1997 Dublin Convention which stipulated what member state would be responsible for the processing of an asylum claim. With the Treaty of Amsterdam (in force since 1999), we observed a transfer of competencies in the area of migration and asylum from the member states to the EU, with policies becoming commonly regulated. With a number of common regulations and directives developed in the EU throughout the 2000s, European asylum and refugee policies became the first migration field to be Europeanised, significantly restricting national room for manoeuvre in asylum matters, which had formerly been regarded as a 'domaine réservé' of the national state in decision-making.

Europeanisation was therefore a consequence of the Schengen Agreements, which created the basis to abolish border checks among the member states. This led member states to acknowledge that immigration and asylum could not be managed on the national level alone any more, since mobility and migration were not controlled any more at internal borders. Security and control issues were therefore inherent in EU policies on immigration and asylum right from the start. They also gave way to the Dublin Treaty, contracted in 1990 and in force since 1997, which defined the responsibilities of the member states for asylum claims according to the principle of 'one state only': In principle, the one state which an asylum seeker entered first is responsible for the treatment of the asylum claim. It was designed to prevent asylum seekers from claiming asylum in more than one country or doing so repeatedly ('asylum shopping' or 'hopping', as it was called pejoratively). However, this rule was also established in order to protect persons looking for international protection: It was designed to prevent potential host countries from declaring themselves not to be responsible, so that refugees would be deprived of the opportunity to receive international protection in any country ('refugees in orbit').

Confronted with an increasing influx of asylum seekers, Germany, having taken most of the persons fleeing from the Yugoslavian wars in the 1990s, pioneered such policy innovations as the 'safe third country' and the 'safe country of origin' concepts, as well as introduced a special procedure for persons coming in through the airports. It even reformed the more generous article 16 of its Constitution in order to restrict access for persons looking for protection. Several of these measures were later on also introduced in a Common European Asylum System (CEAS).

It was with the Treaty of Amsterdam (in force since 1999) that the Geneva Refugee Convention and the European Convention on Human Rights were incorporated into the EU Treaties, effectively communitarising asylum policies in the Union. Member states agreed on developing CEAS for the reception and acceptance of asylum seekers, and further developing the Dublin System to form the foundation for the CEAS. The idea was to create a common European protection system, based on solidarity and shared responsibility for persons seeking international protection. In spite of a rapid development of common protection standards, this system suffers from structural deficiencies. In particular, it does not have a real mechanism that

would balance the unequal distribution of refugees and asylum seekers nor does it possess remedies to monitor and enforce the application of its standards, since the implementation of the common rules depends largely on the member states (for wider discussion on CEAS, see Zaun, this volume).

The extraordinary path of communitarisation of the asylum policy in the EU explains why scholarly debates, especially in political science and law, have closely followed the steps taken by the EU institutions and the policies resulting from this process of Europeanisation. They differ, therefore, from debates about asylum and international protection in other parts of the world. Unlike other countries, EU scholars are engaged in debates about: (a) why member states agreed in transferring their sovereignty, at least partially, to the EU level, (b) how the principles of 'burden sharing' and 'solidarity' regarding the numbers of refugees and asylum seekers are regulated and implemented, and (c) whether and how to harmonise standards for qualification as a refugee, the reception conditions for refugees, and the asylum procedures. A particular European tendency is also to be found in the fact that not only academics have critically examined these developments, but also representatives of Brussels-based think tanks have added important contributions to research and assessment of the state of affairs. Such situation resulted in a partly normative, sometimes even activist orientation of writing with regard to the underlying norms of policies, discussing the policy outputs and outcomes of asylum and refugee protection policies with an occasionally strong normative focus (cf. Bendel and Ripoll Servent 2018).

Academic writing on EU asylum policies has related mainly to the question of whether communitarisation has actually resulted in more supranational effects through the European Commission, the European Parliament or the Court of Justice of the European Union (Lavenex 2006), or whether it basically remained intergovernmental, with member states governments circumventing 'liberal domestic constraints' (relating back to Hollifield 1992) in a sort of venue shopping (Guiraudon 2000; Bendel *et al.* 2011), with restrictive parts of the asylum legislation remaining untouched (Trauner and Ripoll Servent 2016; Bonjour *et al.* 2017). There have also been analyses of the impact of EU policies on domestic asylum regimes (see El-Enany and Thielemann 2011). Within a field that has largely been dominated not only by political science but also by scholars of EU law (de Bruycker 2004, 2005; Hailbronner 2000), a strong focus on the analysis of 'securitisation' of asylum policies throughout this period, underlining that security-related aspects have been prevailing over more rights-based, protection-related issues in EU asylum legislation (Huysmans 2006), which is still being called for (Bendel 2016; Keudel-Kaiser *et al.* 2016).

Whereas harmonisation of laws and solidarity among the member states and the tendency of further passing decision-making power to supranational institutions or agencies are probably exclusive European problems and that of mainly European academia, the requirement of protecting people in need is not. It is based on international law and human rights standards and as such, provides important benchmarks for EU member states, the EU itself (Roos and Zaun 2014), as well as for other countries worldwide. If it is true that '[a]sylum policies seem to migrate across borders with notably greater ease than asylum seekers themselves' (Macklin 2013, p. 99), scholars will have to closely monitor and evaluate their development and implementation in order to learn lessons about the implication in asylum rights developments across continents.

Externalisation of refugee protection?

Recent tendencies in the EU's Global Approach to Migration and Mobility (GAMM, cf. Maes *et al.* 2011) – that relate internal guarantees for asylum and refuge to a closer cooperation with

third countries, fighting root causes, irregular migration and smuggling as well as fostering return policies – show a tendency to develop a European external refugee policy and/or policy on irregular migration, but there has been no systematic coupling with development-policy measures yet. As one of the consequences of the recent so-called 'refugee crisis', the EU has recognised that it is not providing the countries of origin and the countries of first reception with adequate support. Instead, asylum seekers face protracted situations with no prospect of integration and ever-deteriorating living conditions, triggering a massive secondary migration from countries such as Turkey, Lebanon and Jordan.

Agreements with transit states and establishment of regional protection centres in countries outside the EU have been regarded with scepticism, especially relating to the conditions for guaranteeing international refugee and human rights (Guild 2007, 2009). The cooperation with third countries has reached the top of the policy agenda in the EU, particularly since the so-called refugee crisis (cf. Bendel 2017). Migration dialogues, mobility partnerships (MPs), Common Agendas on Migration and Mobility (CAMMs), readmission agreements, EU Readmission Agreements (EURAs), Visa Facilitation Agreements (VFAs), migration clauses in association and cooperation agreements, Regional Protection Programmes (RPPs) and Regional Development and Protection Programmes (RDPPs), in addition to operational measures, – have come to form a scattered and often incoherent picture in the EU's cooperation efforts with countries of origin and transit. One of the recent attempts to reformulate the EU's relationship on migration management with third countries is the Commission's new Migration Partnership Framework adopted following the Valletta Summit Conclusions from November 2015. Taking into account the whole migration and flight route approach, the EU wishes to tackle the root causes of flight; to offer people on the move adequate protection; to curb the number of irregular migrants; to combat human smuggling and trafficking; and to improve cooperation on return and readmission. In exchange, it offers third countries positive incentives, such as visa facilitation or other legal access options for their citizens. Such incentives can also extend beyond the narrow policy field of migration and include instruments of European Neighbourhood Policy and development cooperation, as well as trade, energy, security, education, environmental or agricultural policy. Negative incentives largely follow in the familiar tracks of development cooperation conditionalities (cf. Bendel 2016).

However, few signs are there to show that these cooperation efforts have resulted in human rights or developmental benefits, but have had a strong focus on security and migration control. The readmission agreements, too, harbour human rights risks, especially violations of the right of non-refoulement in third states with which agreements have been concluded (United Nations 2015), practices that the European Court of Human Rights has characterised as incompatible in several judgments. The migration partnership agreements, too, have been criticised for their tendency to unilaterally impose more conditionalities on third countries. All too often, little attention is paid to the position of the third states themselves, for which readmission of migrants is scarcely a priority. A consortium of 110 non-governmental organisations (NGOs), for instance, condemned the new Migration Partnership Framework, alleging that the sole aim of the foreign policy pursued in it was to put a stop to migration at the expense of the EU's credibility and basic and human rights (Joint NGO Statement 2016).

Another relevant issue is that EU asylum and refugee policy and EU border protection continues to suffer from the fact that it offers asylum seekers no safe and legal options to come to EU member states (Bokshi 2013; FRA 2015; Collet *et al.* 2016). Providing access to the territory of EU member states in a safe and legal manner and in compliance with the right to 'non-refoulement' of asylum seekers to states in which they might be subject to persecution, has been important in this discussion. Such access routes include: diplomatic asylum, resettlement and

return settlement; the flexible use of visa provisions and procedures for safe entry; and common asylum procedures in third countries. These are debates that by no means have to be resolved by European countries alone. Further development of a global responsibility and development of good practices from which the EU and its member states may learn from each other and from other states (EMN 2016), such as Canada, with its long tradition of resettlement policies, is one of the comparative issues in policy development that might be fostered.

The Dublin System, at the heart of the CEAS, which aimed at regulating the state's responsibility for asylum procedure, collapsed inside the EU under the pressure of the massive influx of refugees in the years 2015 and 2016 (Costello and Mouzourakis 2016). The Dublin Regulation (in its fourth version currently under revision) is used in 31 European countries (EU member states except Denmark, plus Iceland, Norway, Switzerland and Liechtenstein), but it was not intended to be a refugee allocation system. The regulation rather established the criteria and mechanisms for determining the member state responsible for examining an asylum application – this should be 'one state only' in order to prevent secondary movements within the EU; in principle, the rule determines that the state an applicant entered first is responsible. All persons in need of international protection should thus be guaranteed effective access to asylum procedures throughout the whole EU in order to avoid the 'refugees in orbit' phenomenon. From the member states´ point of view, the system produces a situation in which some countries have to bear a disproportionate share of the burden. In principle, countries with external borders are especially concerned. These countries were burdened additionally through the Dublin transfers and tended to lay more emphasis on processing as many application claims as possible, than on guaranteeing the quality of the application examination (ECRE *et al*. 2013). Empirically and in the light of the fact that a lot of refugees do not even claim asylum in the states with external borders but prefer to travel on to other member states, such as Germany or Sweden, the small and medium-sized countries for some time had to take care of the highest numbers of refugees in relative terms, if we take figures in relation to the population size in. Given this situation, the system awaits a solution for a fair and permanent distribution of refugees. The member states have to play a key role in this scenario, but have increasingly been divided as regards an obligatory quota. Their failure to adhere to the Dublin Principle triggered a chain reaction that cannot be resolved by means of temporary border controls on people. Although these are permitted under the Schengen Borders Code and may slow the rate of entry, domino effects are triggered in the other member states that put the European protection system and refugees at risk. Scholars will need to closely follow these developments, both underlining normative standards, analysing national solutions provided by individual member states and comparing them. With regard to integration of refugees and asylum seekers, which is largely a competence of the member states, there are major differences in welcome and integration policies. Integration, however, 'might transform a challenge into an opportunity for aging European economies' (Bordignon and Moriconi 2017).

The so-called 'refugee crisis' – or rather, the crisis of the EU asylum policy – has also provoked a strong polarisation in the perception of asylum seekers and policies and the need to guarantee international protection among the member states. Indeed, it was the Visegrád group which most strongly opposed accepting an (obligatory) relocation of refugees among the member states and initiated highly restrictive national policies, even reinstalling or building new fences and border controls. Recognising that a fair distribution of refugees among EU member states, let alone among other European states, would not be possible, also Germany and northern European states, formerly known for a more liberal and rights-based asylum policy, began to introduce increasingly restrictive policies and focus on return policies.

This more restrictive tendency and a new renationalisation of asylum policies was mirrored in the relaunch of the regulations and directives of the CEAS, which has been developing since

the early 2000s: In a first phase between 1999 and 2007 in which the EU member states tried to harmonise asylum laws, the establishment of a common system failed. The result was more often than not harshly criticised for representing a 'protection lottery', as it was called by UNCHR (2010). Indeed, it still makes a very big difference in recognition rates whether an asylum seeker arrives in Greece, in Malta, or in Finland, and the same is true with regard to reception conditions and asylum procedures. A first recast of the CEAS, passed in June 2013, aimed at ending this asylum lottery by further harmonising legislation, raising the common standards for refugee protection, and establishing a system of responsibility and solidarity among the member states. Consisting basically of two regulations – Dublin III (Regulation (EU) No. 604/2013) and EURODAC (Regulation (EU) No. 603/2013), which determine the EU member state responsible to examine applications for asylum seekers and the data collection necessary for this process, and of four directives, the CEAS lays down the standards for qualification as a refugee (Directive 2011/95 EU), the status of third-country nationals who are long-term residents (Directive 2011/51/EU), standards for the reception and treatment of applicants and refugees (Directive 2013/33 EU), and standards of common asylum procedures (Directive 2013/32/EU). As to harmonisation, it can be stated that the Union took the line away from previous minimum requirements to common standards. Nevertheless, with regard to some directives, it left ample room for manoeuvere to the member states enabling them to even cement existing asynchronicities. This became most obvious with matters having an extreme focus on sovereignty, where the member states continue to cling to their exceptional rules, such as asylum seekers' access to the labour market or the duration of asylum procedures. However, the reform took into account the special needs of vulnerable persons and unaccompanied minors. The debate on alternative distribution keys to replace the Dublin Regulation had previously been taken up by the European Parliament, different scientists (for instance: Czaika 2009; Thielemann *et al.* 2010; Thielemann and Armstrong 2013), the European Commission and the Council of the European Union, and NGOs. They all have repeatedly called for an equitable and solidarity-based refugee allocation system. However, member states have not been able to agree on a different allocation system so far, and even the proposed relocation of 160,000 refugees from the 'hotspots' in Italy and Greece has only gradually picked up momentum. A lack of adequate cooperation from member states with the most affected states at the external borders was therefore criticised (Guild *et al.* 2017).

All in all, the EU has largely failed to actually harmonise reception and asylum procedures' protection standards among the member states because these make large use of their discretions in implementation. Large divergences in admission, the asylum procedure and finally admission rates continued or even increased, as the rising number of people arriving triggered a 'race to the bottom'. This resulted in a lowering of standards and stricter barriers to entry. The European Commission had started 40 infringement procedures relating to transposition and implementation of CEAS directives, but these could hardly have any effect before the European Commission started a revision of the directives and regulations of the CEAS.

The aim of this new reform is to speed up the asylum process and harmonise standards across the EU. The CEAS reforms, negotiated from 2016 onwards, have to take into account the divergent interests of the European Commission as the agenda-setter, the member states represented in the Council, and the European Parliament, with its newly-gained competences in this area. The reforms, above all, aimed at reforming the much collapsed Dublin System, transforming the previously temporary relocation system into a permanent 'corrective allocation mechanism' – a distribution system based on population size and gross domestic product (GDP), which would automatically come into force, as soon as a member state had admitted 150 per cent of the number of asylum seekers allotted to it. This was one of the most controversial proposals, as this threshold would once more place the asylum systems of countries of first arrival

under excessive strain, and cement the notion of an 'emergency mechanism' rather than a proactive distribution system. The second highly contested proposal was the introduction of a 'financial solidarity mechanism': If member states refused to admit asylum seekers, this mechanism would force them to pay €250,000 for each asylum seeker that would otherwise have been allotted it within 12 months. Replacing the previous directives grounds for granting refugee status (Qualification Directive) and the Asylum Procedures Directive with new regulations, the Commission there might be less friction losses and stronger harmonisation during the implementation of existing EU rules: Unlike directives, regulations apply directly in the member states and do not have to be transposed and implemented first into national law. It is, however, to be expected that member states will be keen to ensure they get as much leeway as possible from the negotiation stage. Although the regulations foresee some improvements, such as compulsory access to legal support from the start, NGOs as well as several groups in the European Parliament have been highly critical of the fact that more duties are imposed overall on member states and above all on asylum seekers.

Challenges

With regard to EU integration, the described polarisation among the member states shows a deep normative gap that opens up debates about the future not only of the policy, but also of the EU as a whole. As a genuine crisis, it involves the risk of further division of interests, renationalisation and an increasing drop in levels of solidarity regarding the issue of refugees in Europe. However, it also implies an opportunity to rethink and refocus on the basic principles of human rights and the values of the EU. It may be possible to resolve it through a 'two-speed' or 'multi-speed' Europe as in other policies, with appropriate incentives for countries that finally participate in a distribution mechanism based on solidarity. Another option is a division of tasks ('job-sharing'), where the countries on the external borders permanently act as a hub for admitting, redirecting and returning possible refugees, while states in the centre and the north work more with integration. In view of the upcoming elections in important member states and the clear polarisation of public opinion, stronger supranational control of EU refugee and migration policy seems unlikely, although recent individual policies, giving the European Border and Coast Guard (former Frontex) and the European Asylum Support Office (EASO) as fully fledged EU agencies more coordinated competences, indicate a possible move in this direction. In a system with a more supranational approach, in which the EU could overcome its fragmentation and control the movement of refugees effectively and in line with international law, EU policy could even help improve global protection of refugees.

Although a certain renationalisation of asylum policies and increasingly restrictive policies may lead to more convergence of asylum and refugee policies, recent tendencies have to be examined in detail, especially with regard to the consequences these latest tendencies may have for the guarantees of international protection.

Conclusions

All in all, asylum policies in the EU have been characterised by a fast communitarisation in political decision-making, although implementation of the commonly decided rules still relies on the member states. This has led to a gap between common standard setting and a lack of standard implementation and thus a wide difference of reception, procedures and recognition rates between the member states. These differences also resulted in a huge difference in the numbers of asylum seekers among the member states during the so-called refugee crisis in 2015 and 2016.

Policies have further shifted from the Justice and Home Affairs towards external policies, and from protecting persons in need to preventing these persons from reaching the territory of the member states. However, the focuses on 'burden sharing' or 'solidarity and shared responsibility' among the member states still represent one of the main conflicts. The political polarisation stemming from this conflict, however, does not remain in the asylum area alone, but expands to endanger fundamental achievements of the EU like free movement of goods and persons, and thus the common internal territory. Academic research will have to follow these tendencies closely and in responsible interaction with politics.

Also, the CEAS and its currently debated reforms might have a strong 'ripple effect' (Lambert *et al*. 2013) beyond the EU and on international or global policy making. A revision of international law might be debated, especially when it comes to distinguishing refuge from migration. Although international law seems to clearly distinguish between the two concepts, international development shows that root causes have changed significantly since the coming into force of the 1951 Refugee Convention and the 1967 New York Protocol. It is particularly the change in generalised and gender specific violence that has replaced the former individual or group-specific persecution which formed the basis for the Geneva Refugee Convention. Destruction of economic and/or ecologic livelihoods has not yet been included into the current refugee protection system. Migration and refuge overlap, trigger one another or follow each other in sequence; and mixed migration flows are the rule rather than the exception on the main refugee routes. Migrants and refugees, more often than not, literally sit in the same boat, as both groups largely depend on smugglers or even traffickers. We still lack approaches and concepts on how to unbundle refuge from migration in a sense that grants refugees protection, fulfils migration-related interests of receiving countries, and respect and secure rights of migrants and refugees. This is even more important as recent trends show that the numbers of migrants or of mixed migration flows are increasing considerably.

This is also where international and interdisciplinary research should come together in a near future, combining the study of root causes, triggers for people to seek refuge in other countries and triggers for secondary migration, the effects of asylum standards in countries of first reception, the study of international relations, peace and conflict as well as ethnology and development or area studies. EU scholars may profit, therefore, from studies realised abroad and vice versa.

References

Attinà, F. (2016) Migration Drivers, the EU External Migration Policy and Crisis Management, *Romanian Journal of European Affairs* 16(4), December, pp. 15–31.

Bendel, P. (2016) Refugee Policy in the European Union – Protect Human Rights!, WISO-Diskurs 03/2016, Bonn. http://library.fes.de/pdf-files/wiso/12405.pdf.

Bendel, P. (2017) EU Refugee Policy in Crisis: Blockades, Decisions, Solutions, # 2017 Plus Politics for Europe, Bonn. http://library.fes.de/pdf-files/wiso/13536.pdf.

Bendel, P. and Ripoll Servent, A. (2018) Asylum and refugee protection: EU policies in crisis', in Ripoll Servent, A. and Trauner, F. (eds) *Routledge Handbook of Justice and Home Affairs Research*, London, pp. 59–70.

Bendel, P., Ette, A. and Parkes, R. (2011) *The Europeanization of Control: Venues and Outcomes of EU Justice and Home Affairs Cooperation*, Münster.

Betts, A. and Collier, P. (2017) *Refuge: Transforming a Broken Refugee System*, Oxford.

Bokshi, E. (2013) *Refugee Resettlement in the EU: The Capacity to Do it Better and to Do it More*, KNOW RESET RR 2013/04, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI).

Bonjour, S., Ripoll Servent, A. and Thielemann, E. (2017) Beyond Venue Shopping and Liberal Constraint: A New Research Agenda for EU Migration Policies and Politics, *Journal of European Public Policy* 25(3), pp. 409–421.

Bordignon, M. and Moriconi, S. (2017) The Case for a Common European Refugee Policy, *Bruegel Policy Contribution*, Issue 8. http://bruegel.org/2017/03/the-case-for-a-common-european-refugee-policy/.

Czaika, M. (2009) Asylum Cooperation among Asymmetric Countries: The Case of the European Union. *European Union Politics* 10(1), 89–113.

Collett, E., Clewett, P. and Fratzke, S. (2016) No Way Out? Making Additional Migration Channels Work for Refugees, Migration Policy Institute Europe, Brussels, March.

Costello, C. and Mouzourakis, M. (2016) *The Common European Asylum System – Where Did it All Go Wrong?*, London.

de Bruycker, P. (2004) *The Emergence of a European Asylum Policy/L'émergence d'une politique européenne d'asile*, Brussels.

de Bruycker, P. (2005) *Immigration and Asylum Law of the EU: Current Debates/Actualité du droit de l'immigration et de l'asile en Europe*, Brussels.

ECRE, Forumréfugiés, Cosí, Hungarian Helsinki Committee, Irish Refugee Council (2013) Not There Yet: An NGO Perspective on Challenges to a Fair and Effective Common European Asylum System, aida Annual Report 2012/2013, Brussels.

El-Enany, N. and Thielemann, E. (2011) The impact of EU asylum policy on national asylum regimes, in Wolff, S., Goudappel, F. and De Zwaan, J.W. (eds) *Freedom, Security and Justice after Lisbon and Stockholm*, The Hague, pp. 91–117.

European Migration Network (EMN) (2016) *Resettlement and Humanitarian Admission Programmes in Europe – What Works?*, Brussels.

Fundamental Rights Agency (FRA) (2015) *Legal Entry Channels to the EU for Persons in Need of International Protection: A Toolbox*, Vienna 2.

Guild, E. (2007) *Security and European Human Rights: Protecting Individual Rights in Times of Exception and Military Action*, Wolf.

Guild, E. (2009) *Security and Migration in the 21st Century Polit*y, Cambridge.

Guild, E., Costello, C. and 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 Greece, European Parliament, Directorate General for Internal Policies, Policy Department C: Citizens' Rights and Constitutional Affairs, Civil Liberties, Justice and Home Affairs, PE 583 132.

Guiraudon, V. (2000). European Integration and Migration Policy: Vertical Policy-making as Venue-Shopping, *Journal of Common Market Studies* 38(2), 251–271.

Hailbronner, K. (2000) *Immigration and Asylum Law and Policy of the European Union*, The Hague/London/Boston 2000.

Hollifield, J. (1992) *Immigrants, Markets, and States: the Political Economy of Postwar Europe*, Cambridge.

Huysmans, J. (2006) *The Politics of Insecurity. Fear, Migration and Asylum in the EU*, London.

Joint NGO Statement (2016) Joint NGO Statement Ahead of the European Council of 28–29 June 2016. NGOs Strongly Condemn New EU Policies to Contain Migration, no place of publication. www.oxfam.de/system/files/eu-migration-joint-ngo-statement-with-signatories.pdf.

Keudel-Kaiser, D., Monina, G., Giuliana Monina, G., Scholdan, B. and Wladasch, K. (2016) A New Asylum Policy for Europe?! Opting for a Rights-Based Approach and What This would Mean, Ludwig Boltzmann Institute of Human Rights, Vienna, June.

Lambert, H., McAdam, J. and Fullerton, M. (eds) (2013) *The Global Reach of European Refugee Law*, Cambridge.

Lavenex, S. (2006) Towards the Constitutionalization of Aliens' Rights in the European Union?, *Journal of European Public Policy* 13(8), 1284–1301.

Macklin, A. (2013) A safe country to emulate? Canada and the European refugee, in Lambert, H., McAdam, J. and Fullerton, M. (eds) *The Global Reach of European Refugee Law*, Cambridge, 99–116.

Maes, M., Foblets, M-C. and de Bruycker, P. (eds) (2011) *External Dimensions of EU Migration and Asylum Law and Policy*, Brussels.

Roos, C. and Zaun, N. (2014) Norms Matter! The Role of International Norms in EU Policies on Asylum and Immigration, *European Journal of Migration and Law* 16(1), 45–68.

Thielemann, E.R. and Armstrong, C. (2013) Understanding European Asylum Cooperation under the Schengen/Dublin System: A Public Goods Framework, *European Security*, 22(2), 148–164.

Thielemann, E.R., William, R. and Boswell, C. (2010) What System of Burden-Sharing Between Member States for the Reception of Asylum Seekers? Study Requested by the European Parliament's Committee on Civil Liberties, Justice and Home Affairs, Brussels.

Trauner, F. and Ripoll Servent, A. (2016) The Communitarization of the Area of Freedom, Security and Justice: Why Institutional Change Does Not Translate into Policy Change, *Journal of Common Market Studies* 54(6), 1417–1432.

United Nations (2015) General Assembly, Human Rights Council, Twenty-ninth Session, Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Banking on Mobility over a Generation: Follow-up to the Regional Study on the Management of the External Borders of the European Union and its Impact on the Human Rights of Migrants, A/HRC/29/36, 8 May 2015.

UNHCR I2010) Improving Asylum Procedures. Comparative Analysis and Recommendations for Law and Practice. A UNHCR Research Project on the Application of Key Provisions on the Asylum Procedures Directive in Selected Member States, Brussels, March.