

CRITICAL EVALUATION OF EU MIGRATION POLICY IN CRISIS AGENDA WITHIN FRAMEWORK OF BORDER MANAGEMENT

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Abstract

If we try to define the concept of migration, which is one of the critical issues faced by all countries today, we will see that it is more a search for innovation stemming from a "problem", and this process has tried to preserve this feature from the very beginning of history until today. When we open the concept of "problem" here, it can be seen that sometimes there can be a direct threat to human existence, such as natural disaster, war, oppression and persecution, and sometimes this process can occur for personal reasons, such as unemployment, the desire for a better life. At the same time, the issue of migration can be considered optional as well as mandatory within the framework of interstate agreements and various difficulties experienced.

It is known that the migration crisis observed in 2015 as a result of the fragmentation trend among the member states turned into an integration crisis in the EU migration policy. In this regard, this study aims to reveal the validity of independent national policy requirements by analyzing them. The secondary data methods have applied for this study by using different official sources from EU and other statistical sources. With this aim, the evaluation of the EU's migration policy goals, financial, legal and institutional tools in the context of inter-national and intergovernmental tension in the example of border management is considered as the main final goal of the study.

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Key words: *Border management, migration policy, migration crisis, institutional tools*

JEL Classification: F22

Introduction

In recent times, the widespread human mobility at the international level, which each of us faces, is considered one of the most important international problems of the modern era. From this point of view, migration, which is perceived as a threat or an opportunity depending on the character of the immigrant and the current situation of the destination country, is one of the important issues that the European Union is sensitive to and tries to solve (Rosamond, B., 2000). As it can be seen, the political environment in African countries and the Middle East and the intense human mobility that occurred as a result of it and the inability of the European Union states to develop effective policies within the framework of the union at any level in the face of this situation have caused this issue to become a global crisis (Bale, T., 2008).

It is known that in the period after 2011, although human mobility aimed at European countries took place more intensively, this process was more evident in the first periods after the collapse of the Soviet Union (Ryabov, Y.A., 2012). The countries of the European Union that were most affected by this wave of migration were Austria and Germany. After the collapse of the Soviet Union, the European Union as an organization tried to implement multifaceted policies in order to prevent intensive migration flows. As a result, the member countries of the European Union, which once migrated to the north and west, have now started to become a new place of immigration as a result of the processes taking place. Considering the general migration policy implemented in the European Union, it can be easily seen that the migration policy is formed on two different levels. One of them is that some elements of this policy are developed at the national level, and other elements at the Union level, reflecting the seriousness of the issue. Thus, the research conducted in the direction of the development of the general policy of the European Union on both border control and illegal migration fight once again confirms the importance of the two issues mentioned above (European Commission, Relocation and Resettlement, 2017).

Looking at the purposeful policy carried out by the Union in this direction, it can be seen that the European Union (EU) gained the status of a legal entity with

the entry into force of the Treaty of Lisbon in 2009, and as a result, the Charter of Fundamental Rights became binding and the jurisdiction of the Union was expanded. As a result of increasingly limited migration, the arrival of nearly two million asylum seekers in the EU in 2015 led to a "migration crisis" that rekindled the trend of fragmentation in member states (European Commission, Security, Borders, Police, 2017). As a result of this, discussions on leaving the EU membership among the member countries began to gain momentum. In order to make correct assessments within the framework of these ongoing processes, it is necessary to remember the reasons that led member states to adopt a common migration policy by uniting them under the EU umbrella, and to emphasize the great need to review the content and nature of granting supranational powers in this direction. The main purpose of this study is to examine the effectiveness of the migration policy and instruments implemented by the European Union within framework of border management from the point of view of the common tendencies and interests of the member states.

Overview of migration policies of member states

It is known that the European Union has been manifested by various expansion processes since its inception, and this process has led to the strengthening of integration within the Union and the provision of free movement between member countries. At the same time, on the other hand, in order to strengthen the protection of the external borders of the European Union, it aimed to minimize illegal migration (Guiraudon, V., 2003). In accordance with the EU policies aimed at the free movement of people on the one hand, and services, goods and capital on the other hand, the Treaty of Amsterdam signed in 1997 transferred immigration and asylum issues to the policy area where the joint decision-making procedure is valid. As a result, concerns in the field of migration and asylum began to be discussed in the institutional structure of the EU in a broad context for the first time in the Amsterdam agreement (Boswell, C., 2003).

Since the signing of that agreement, the EU has focused its policy on unwanted migration, as well as strengthening border controls in the EU and neighboring countries (<https://eur-lex.europa.eu/EN/legal-content/summary/the-hague-programme-10-priorities-for-the-next-five-years.html#:~:text=The%20Hague%20Programme%20provides%20for,readmission%20and%20return%20of%20migrants>). As a result of both the driving force of the continuously developing globalization processes and the several enlargement policies of the EU, the member countries of the European Union have fallen into a

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framework where the borders are sometimes uncertain, and in this regard, the member countries emphasized the need to revise their border policies. It was considered one of the most important issues faced by the Union countries to clarify the issues of which groups will be accepted from their national borders under which conditions with the immigration policy covering issues such as work permits, visas, residence permits, and the right to settle in general (Geddes, 2003).

Economic migration (Sasse, G.,2005), which is considered one of the main purposes of coming to the countries of the European Union, and the immigration policy, which includes asylum, controlled the classification of the flow of immigrants to these countries according to their origin and form. At the same time, it controlled the classification of immigrants according to the duration and forms of settlement. Issues such as cross-border human trafficking, the fight against organized crime and terrorism, the situation of illegal migrants and deportation are also within the scope of migration policy (Hollifield, J.F., 2004).

At the same time, many areas of concern to both immigrants and society, for example, the rights of immigrants to the Union countries and the principles of acquiring citizenship after a certain period of time, formed important contours of the integration policy that regulated their interaction with society and the state. Here the focus should be on the concept of migration mode. According to the approach of Doble and Rutledge, the system of national and international rules and laws that form the framework of immigration and integration policies with the possibilities of immigrants to enter and settle in any Union country and what rights and opportunities they have there is generally called the "migration regime". (Doble and Rutledge, 2010).

Development of eu migration policy by authorities and targets

Today, migration, which is the main target of research, has always been considered a human rights issue regulated by international law, except for the EU and its member states. As a result of the Geneva Convention signed in 1951, the developed international legal regime came to Europe from different countries and supported the granting of rights and opportunities to asylum seekers, especially guaranteeing the principle of non-refoulement (Hansen, R.,2011). As a continuation of this process, although the issue of migration was first tried to be resolved informally at the intergovernmental level, later this issue began to be resolved formally and was gradually included in the founding treaties of the European Union. It is known that the basis of the first such regulation among European Union members was laid by the Schengen Protocol signed in 1985

(Papagianni G., 2006). As a result, the main goal of the organization was to gradually abolish the internal borders of the European Union and adopt a common external borders policy. As a continuation of this protocol, the Maastricht Treaty was signed in 1992 (Polat C., 2006), where the issue of "justice and home affairs" was brought to the fore and designated as the third pillar after the common foreign and security policy with the Union. This agreement further strengthened the terms of the Schengen Agreement and declared the goal of turning the Union into a security zone of the European Union in accordance with the principle of free movement of people, including asylum and migration issues (https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF).

However, since the Union does not have legislative authority, only the general position of the Council as a structural tool of the organization was considered sufficient for provisions on cooperation and coordination of member states and regulatory issues. According to the Treaty of Amsterdam signed in 1997, the discussion process started with the proposal of the European Commission is intended to make a decision on the issue of migration, but at this stage it is not possible to talk about full nationalization, that is, a unified migration policy of the union. The decisions taken at the Tampere Summit, taken in parallel with the entry into force of the Treaty of Amsterdam in 1999, can be considered as the first systematic attempt to develop a common immigration and asylum policy as a whole (https://ec.europa.eu/economy_finance/publications/european_economy/2009/index_en.htm).

However, in 2009, after the rejection of the draft Constitutional Treaty, the Treaty of Lisbon was signed between the member states of the European Union, which changed both the institutional structure and the immigration policy of the Union. The content and obligations of the Treaty of Lisbon are distinguished from those of the previous treaties, in which "policies related to border control, immigration and asylum" have already been regulated under a separate title (European Commission, 2017). While the policies reflected here are governed by the principle of devolution at EU level, it basically confirms that the ordinary legal procedure applies. Under the agreement, the principle of unanimity in border management was partially preserved, and the issue of harmonization in integration policy was also prohibited. In the Stockholm Program (2009-2014), established within the framework of the aforementioned Lisbon Treaty, it was seen that the goals of protecting the rights of asylum seekers and immigrants, ensuring their

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security and strict border control, as well as reducing costs in the fight against illegal immigration were judged. (Council of the European Union, 2009).

The action plan prepared by the Commission under the Stockholm Program includes border control, visa policy, common asylum system initiatives, determining the impact of immigration policy on other policies of the Union, combating illegal immigration and human smuggling and supporting victims, common standards for reception of third country nationals, family preparation, examining the impact of immigration on development in countries of immigration, as well as improving the rights of immigrants, harmonizing immigration statistics, improving relations with third countries and signing readmission agreements (European Commission, 2010). At the end of the Stockholm Program adopted in 2009, a common asylum system of the European Union countries was formed in the field of migration and asylum, and as a result, the entry and admission conditions for legal migration were further specified and some common rights of immigrants were accepted (<http://www.votewatch.eu/>). At the same time, the Union's foreign policy framework was defined and relations with third countries began to be continued in accordance with the adopted foreign policy framework, and there were certain improvements in the visa policy. (European Commission, 2014).



Figure 1. *Non-EU citizens subject to immigration law enforcement in 2021 (number)*

Source: Eurostat (May 2022)

The indicators described above explained the official record of persons subject to the application of immigration legislation in the member states by assessing the results of the current situation on territorial control and control procedures in the EU.

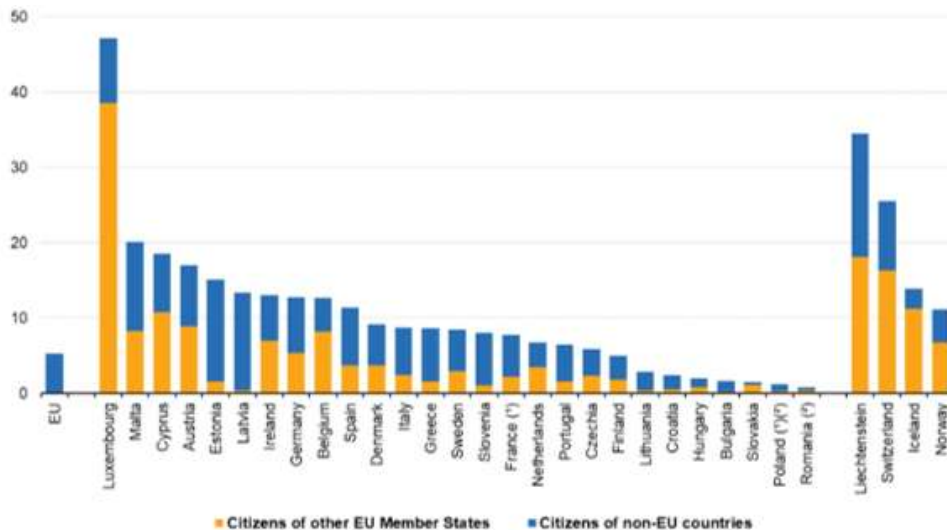


Figure 2: Share of non-nationals in the resident population, (January 2021 (%))

Source: Eurostat

If we analyze the number of non-citizens who have become citizens in the EU member states, then based on the 2021 statistics presented above, it can be clearly seen that the EU Member State with the highest share in relative terms is Luxembourg, which is about 47% of its total population. is made up of non-citizens. However, a high proportion of foreign citizens (more than 10% of the permanent population) was also observed in Belgium, Malta, Ireland, Austria, Estonia, Cyprus, Latvia, Germany and Spain. In contrast, non-citizens made up almost less than 1% of the population (0.8%) in Romania. However, the relative share of foreign nationals in the total population was highest in Luxembourg (49%), Malta (23%) and Cyprus (22%).

Management of external and internal borders

In the management of the external borders of the European Union, the integrity of the union is at the forefront of risk minimization and entry control (Zaiotti, R., 2011). The process of creating common standards between the European Union and its member states to ensure integrated border management will play a decisive role in ensuring information exchange and increasing border security (European Union, 2014). These mechanisms and standards are closely related to each other and to other areas of immigration and security policy. The Schengen Borders Regulation (SBR), which is considered one of these mechanisms, under the heading of "external border control" defines the objectives of external border control, approval and rejection procedures, the rules and controls to be applied at border crossings as a whole, the qualifications of personnel responsible for border control of member states, and members in border operations. regulates the principles of coordination between states (<https://op.europa.eu/en/publication-detail/-/publication/42fba6c3-f0c5-11e5-8529-01aa75ed71a1>).

At the beginning of enforcement mechanisms, the Schengen Information System (SIS) was created to enhance border security by exchanging information between Schengen member states, Europol and Eurojust. Bulgaria, the UK, Ireland and Romania only participate in SIS in the framework of security cooperation (European Commission, 2017c).

This system is for the purpose of identification and the purpose of protecting personal data, and if we look at 2016 alone, we will see that this system, where all crossings from the borders of the Schengen area are questioned and recorded, was accessed by member states about four billion times in that year (EU-Lisa, 2017, <https://www.eulisa.europa.eu/Publications/Corporate/eu-LISA%20Annual%20Activity%20Report%202017.pdf>).

Another mechanism put forward by the Union is the Entry-Exit System (EES) and Passenger Registration System (PRS), proposed by the European Commission as part of the fight against illegal migration, which were rejected by the European Council and Parliament for a long time due to technical and financial difficulties (European Commission, 2018a). However, since the recent migration crisis and the 2015 Paris terror attacks, it has come into force in a revised form. The EES was established in 2017 by amending the Schengen Borders Regulations. Now, in addition to checking all border crossings in SIS and other databases, the authorities must confirm that there is no threat to "the public policy, internal security, public

health or international relations of any Member State" (European Commission, 2018b).

An interesting fact to note is that the illegal migration flow within the Union decreased dramatically during 2015-2018, an exceptional period in terms of global human mobility, which can be seen more clearly in the figure below:

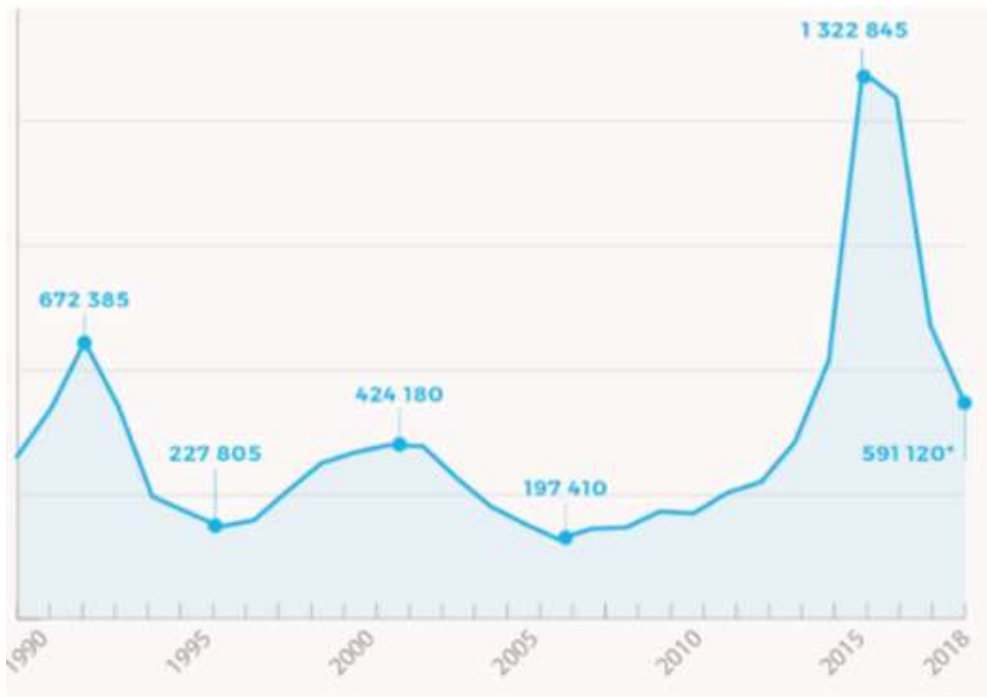


Figure 3: *Illegal migration flows in EU (1990-2018)*

Source: *Conseil de l'Europe*

It is considered that there are serious concerns about the reception of migrants in Europe, especially migrants from African countries, which raises fears of a possible threat to European society and its culture. According to this approach, as a result, Europe is firstly invaded by migrants from different countries who want to benefit from the economic advantages and social laws of Europe, as well as to change their existing traditions by not integrating.

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It is well-known that the common border management, which is considered the main institutional management of the EU, was prepared to abolish the internal borders, but it could not do it completely. Of course, under certain conditions, internal borders can be checked in limited regions and for limited periods. This can be easily seen in practical experiences when traveling to various countries of the Union. Schengen member states in the European Union had the right to implement internal border control within the SBR for the first time after the abolition of internal borders (1995) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32016R0399>). These adopted regulations allow for internal border control under certain justifications and procedures, such as emergency situations.

Financial support to border management of EU

Various programs have been developed in the European Union to ensure effectiveness in the field of border management, and targeted financial resources have been allocated in this direction. One of these programs is the Odysseus Program (1998-2002), which is considered one of the first programs on border management of the Union. By using this program, the Commission provided 12 million Euros of support to provide education and cooperation between relevant institutions of the member states, academics and non-governmental organizations for the reason of border management from asylum, migration and external border crossings together. (European Commission, 1998). After this program, the External Borders Fund (EBF), established under the “Solidarity and migration management programme”, in 2013. Around 1 billion 820 million Euros, would be directed mainly to border countries in financial bottleneck, such as Portugal and Greece. (European Commission, 2017a).

Beside above mentioned, the Internal Security Fund (ISF) (2014-2020) has a total budget of 3.8 billion Euros, is devoted to the subject of “external borders and visas” (European Commission, 2017e). It should be noted that the European Asylum Office (EASO) cooperates with different border management platforms such as Europol in its work on criminal activities and transnational terrorist in the registration and deportation procedures of asylum seekers and migrants (Frontex, 2018). The next platform is called as the European Border Control System (EUROSUR), which is established in 2013. This center through Frontex (<http://frontex.europa.eu/about-frontex/origin/>) and the national coordination centers will establish, determines the specific framework for external border

management for the purpose of combating illegal immigration and identifying unauthorized crossings, cross-border crimes, and coordination.

EU policy for the migration crisis and assessment of requests by national policies of member states

From different periods of history to the present day, mass movements of people to different countries caused by political, economic or security reasons have been evaluated as a "crisis" by the countries to which it is directed (Lenart, J., 2012). Thus, in the history of the Union, many processes took place after the Cold War, in the context of the acceleration of economic migration and asylum movements as a result of the reunification of Germany, at the same time, the expansion of the EU to the countries of Central and Eastern Europe, as well as the disintegration of Yugoslavia, in the context of various international wars and crises, the influx of asylum seekers justified the need to implement urgent measures (Völkel, J.C., 2017). According to the visible picture, there have been significant changes in the number of immigrants entering the borders of the European Union illegally, which led to an increase in this number from 280 thousand in 2014 to 2 million in 2015. About 200,000 of these immigrants, most of whom are of Afghan, Syrian and Iraqi origin, went to Hungary, and the largest group, about 1 million, went to Germany (Schimmelfennig, F., 2017).

The response to this crisis covered all areas of migration policy within the European Union, except for legal migration. Thus, after the emergency meeting of the European Council in 2015, the commission's urgent intervention proposals were put forward, reflecting the separation of 120,000 asylum seekers in Greece, Italy and Hungary to other member states of the European Union, and at the same time accepting 20,000 refugees outside the borders of the Union. proposed the creation of a long-term resettlement scheme within (European Commission, 2015b). As a result, the issue of temporarily sending 20,000 people from third countries and 100,000 people from Greece and Italy to other member countries was approved by two different decisions of the European Council in 2015. Host countries will receive support through EASO through the European Migration and Integration Fund (AMIF) in the amount of 6,000 Euros per resettled person, Greece and Italy. It is reported that the migration crisis in 2014-2017 cost an average of one to two billion euros per year. (<https://www.oecd.org/els/mig/migration-policy-debates-13.pdf>).

Considering the border management dimension of the migration crisis, it can be said that there is a border security crisis

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(http://www.europarl.europa.eu/summits/tam_en.htm). The administration of the external borders has entered into a bottleneck, especially for Italy and Greece, where there are intense entrances to the Union lands. As a solution, the funds allocated to border management have been increased and directed mainly to border countries (European Commission, 2017a). Frontex's functions have been increased, including budget and return support. It has been tried to strengthen the border management in the third countries where the refugees pass through (De Bellis, M., 2017). However, it has been reported that member states continue to carry out border operations, especially return, mainly at the national level, despite the 2016 regulation amendments aimed at increasing Frontex's operational capabilities, and slowing the process by avoiding personnel and ammunition support to joint operations and the border policing unit (European Commission, 2017b). The most striking development in the field of border management is that the control of internal borders has started to turn from the exception to the rule (Table 1).

Table 1: *Schengen Area Internal Border Controls (2006-2017)*

Member states	Number of applications	Requirements
Hungary, Slovenia	1-2	Immigration pressure
Netherland, Spain, Portugal, Italy, Poland, Lithuania, Estonia, Finland, Iceland	1-3	Gatherings
Malta, Belgium	2-3	Gatherings, undocumented immigrants, terrorist threat
Denmark, Germany, Austria	8-13	Gatherings, immigration pressure
Sweden, Norway	9-12	terrorist threat, immigration pressure
France	14	Gatherings, terrorist threat

Source: *European Comission, 2018b*

If the migration processes related to Poland is reviewed, it will be clear that although Poland has been found to be sending back asylum seekers from different countries in violation of the European Union obligations, no sanctions have been applied to this country (Amnesty International, 2017c).

After the referendum on June 23, 2016, Great Britain assessed the current situation and decided to withdraw from the EU membership (Brexit), and as a result, the demand for a national determination of immigration policy for Great

Britain was brought to the fore (The Guardian, 2016). These ongoing processes provide grounds for the re-nationalization of the migration policy and the fragmentation of the Schengen zone, rather than the centralization of the anti-immigration policy in the member states within the EU framework.

Conclusion

According to the result obtained while evaluating the research work, it can be seen that the root of the problem faced by the European Union in connection with immigration and asylum has not been examined in a wider framework. Thus, it can be concluded that the EU is increasingly trying to find more restrictive and short-term solutions to the problem of migration.

As a result of the research, it should be noted that the border management programs and mechanisms implemented by the European Union in order to prevent the flow of migration have not yet been able to fully demonstrate their effectiveness. As the main reason for this, the fact that the member countries of the European Union prioritize their national policies on migration over the general policy of the Union indicates that the European Union has not formed a single migration policy. Of course, if we look at the political goals of the European Union, which have been determined at the intergovernmental level since its inception, it can be seen that this policy, when compared with the general trends and interests of the member states, is not revealed by any serious differences of opinion. On the other hand, in terms of the financial and institutional tools (https://ec.europa.eu/home-affairs/financing/fundings/migrationasylum-borders/external-borders-fund_en) we talked about above, it can be said that effective results can be achieved thanks to the joint initiatives of the member states, unlike the international nature of migration and the principle of border security and subsidiarity. Based on this, especially in the recent migration crisis, these institutional tools have been found to be inadequate instead of replacing or burdening member states. From the visible picture, it is clear that when evaluating the conflicts of the member states regarding the migration crisis, the main difference is that there are serious problems in the distribution of short-term human and financial costs.

Based on the results obtained from the study, it can be seen that the reflection of the migration crisis on border management is not destructive due to the authorization of internal border control, and it is found that the regulations to increase the security of external borders are continued. On the other hand, this process also shows that it is clear that the member states may not fulfill their

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obligations by using the weakness of the relevant sanctions' mechanism adopted by the European Union.

Although various migration border management programs and mechanisms are implemented within the EU, border operations are still mainly managed at the member state level. The current migration crisis shows that the EU member states' immigration and related border management policies confirm a "variable geometry" or "multi-gear" integration process, which may suspend their currently minimal commitments.

In the end, it can be noted that if there were any disruptions in the development process of policies and instruments implemented by the European Union before the migration crisis, and if we take into account the deepening differences between the areas of migration policy, it is clear that the ongoing processes will not lead the migration crisis to a new direction, on the contrary it will affect its further deepening for some time. If in the future, as a way to solve the problem, Europe is based on the mechanism of unification within the framework of a single migration policy, here, first of all, the actions of the member countries in a single context regarding the procedure for accepting migrants should be brought to the fore. Among the countries that will decide to implement a common policy, common standards of treatment should be adopted for the adaptation of asylum seekers, and the existing camps should be systematically inspected and improved to protect the basic human rights of refugees who have arrived in these countries.

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- [35] <https://op.europa.eu/en/publication-detail/-/publication/42fba6c3-f0c5-11e5-8529-01aa75ed71a1>
- [36] <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32016R0399>