

# Immigration, Refugees and Responses

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## Introduction

In 2020, the situation of refugees arriving, or attempting to arrive, in the EU was often largely overshadowed by the wider Covid-19 pandemic. However, reform of EU migration policies and the attempt to arrive at a consensus on these issues amongst Member States remained a priority for the European Commission who on 23 September 2020 presented its New Pact on Migration and Asylum (European Commission, 2020a). Whilst the New Pact was promoted by the Commission as a foundation for a ‘predictable and reliable’ (European Commission, 2020b) migration management system, it did not overcome the pre-existing divisions on these issues. As a matter of fact, it can be seen as a move to strengthen cooperation only in those areas on which there is already broad agreement amongst Member States (namely tightening border controls, increasing returns, and further cooperation with Third Countries), whilst failing to find a consensus on the issue of greater intra-European solidarity with regard to ‘burden sharing’ in refugee reception. At both national and European levels, the Covid-19 pandemic was used to justify further tightening of border controls, through the representation of refugee arrivals as a health ‘threat’. In many cases this supposed threat and the associated state of emergency introduced at national levels allowed States to sidestep international and European law for the protection of the human rights of refugees. This notion that refugees were a threat to European health compounded established securitizing discourse that construct refugee flows as a ‘crisis’ and a threat to European security. However, the various measures of border control and lockdown taken both by individual Member States and by the EU as a whole did not reduce the ‘threat’ of Covid-19 to EU populations, and only served to reinforce the insecurities faced by the refugees themselves, both in their journeys to Europe, and on arrival. In this article I will discuss the various measures taken to control migration and to restrict the movements of refugees in Europe, and the impacts that this has had on the refugees themselves, adopting an intersectional gender perspective to understand the specific impacts on women, for example. I will then go on to discuss the new Pact on Migration and its probable implications for the future of refugee protection in Europe.

## I. Continuing Refugee Arrivals

The Covid-19 pandemic provided further justification at both at national and EU level for increasing border controls and closures, thus increasing difficulties for refugees aiming to reach the EU. A general closure of the EU’s borders to Third Country Nationals was accompanied by various national level measures which rendered journeys to the EU even more complex and dangerous. However, despite this, the arrival of refugees via the

various Mediterranean land and sea routes continued with the UNHCR estimating that 95,031 refugees arrived in Italy, Spain, Greece, Cyprus and Malta in 2020 (UNHCR, 2020). Although a decrease on previous years, this is still a significant number of arrivals, considering the major barriers created by Covid-19 related restrictions. 1401 refugees are estimated to have died in their attempt to reach the EU (UNHCR, 2020), although again it is important to note that this figure probably underestimates the number of deaths and does not take into consideration the many refugees who die crossing the Sahara or whilst in Libya. The majority of the refugees arriving on these routes are men, but there are also increasingly many women attempting the journey. NGOs working with refugees have noted a specific increase in women migrating alone, or alone with their children. Single women may be particularly at risk of sexual and gender-based forms of violence on these migration routes (Freedman, 2016) and are amongst those groups who are often singled out as 'vulnerable' both within EU policy frameworks and by NGOs working in the field (Freedman, 2019). Whilst the frequency of SGBV and the publicization of this through various media and NGOs reports has made this a widely acknowledged risk for this migrant population, the public discourses on protection of these 'vulnerable' populations are generally trumped in reality by the desire to control migration and to limit the number of those who arrive in Europe, or who are granted asylum once they do arrive.

## II. Border Closures and Pushbacks: Making Journeys Increasingly Insecure

As noted above, the Covid-19 pandemic provided justification for the closure of national and European borders, thus reinforcing a trend towards border closure and restriction which had already been accelerated since the so-called European refugee 'crisis' from 2015 onwards in what Kriesi *et al.* (2021) describe as a process of rebordering as 'defensive integration'. On 17 March 2020 the EU Schengen border was closed to non-residents (Ní Ghráinne, 2020; Ramji-Nogales and Goldner-Lang, 2020). Moreover, individual Member States also began to introduce their own border restrictions so that by July 2020, seventeen States had re-introduced controls on their intra-Schengen borders (European Commission, 2020c). The pandemic thus led to a real infringement on the free movement which has been a core part of EU integration. Whilst the Schengen Border Code does not include any provisions for closing intra-Schengen borders as a public health measure, these individual decisions were accepted by the Commission on the grounds that the risk posed by Covid-19 could be equated to an internal security threat (Ramji-Nogales and Goldner-Lang, 2020; European Commission, 2020d). The 'threat' of refugees spreading Covid-19 which underlay the decisions to close borders was clearly articulated by some leaders. For instance, in March 2020 Viktor Orbán justified the transfer of refugees into Hungary's transit zones (rather than letting them enter the territory directly) by claiming a clear link between Covid-19 and 'illegal migration' (Hungary Today, 2020).

The Covid-19 crisis was in fact an opportunity for the EU to further securitize asylum and migration policies, using the supposed 'risk' of migrants and refugees 'importing' Covid-19 into Europe to justify new border closures and restrictions. But the results of this increased securitization of migration were in fact to increase various insecurities both

for EU populations and for the migrants and refugees attempting to enter Europe. As UNHCR argues (UNHCR and IOM, 2020):

In the absence of protection-sensitive border management which would enable regular means to enter at the borders of States – subject to health checks and quarantine where needed – migrants, asylum seekers and refugees might be forced to resort to irregular and often dangerous movements to access assistance and international protection, often facilitated by smugglers, which increases the risk of human trafficking, exploitation and abuse.

These border securitization measures can thus be seen as counterproductive in that they increase insecurities and risks on the one hand for migrants and refugees who are forced to resort to more dangerous and more expensive routes, and are increasingly dependent on smugglers and traffickers. And on the other hand these measures also increased health risks of Covid-19 spreading as in their attempts to avoid border checks, these migrants and refugees also avoided any kind of Covid-19 testing or quarantine measures that Member States had put in place. As such they can be understood as another step in what Andersson (2016) labels as the EU's 'failed fight' against migration. Ultimately, by using the ongoing public health crisis to justify further securitizing migration, Member States thus increased both the insecurity of migrants and refugees and of European populations who they were claiming to protect.

Border closures resulting in the inability of a refugee to gain access to a country in order to claim asylum therefore can be seen to be in contradiction of the 1951 Refugee Convention of which all EU Member States are signatories. The European Commission did issue a recommendation that border closures should contain an exemption for those who had an essential need to travel, including those people who had an essential need to cross borders in order to claim international protection as refugees (Marin, 2020). However, many States seemed to ignore this recommendation and several reports point to an increase in refoulement of refugees by various EU Member States. These included mass 'pushbacks' at the Greek-Turkish border which followed an announcement by the Turkish government on 28 February 2020 that it would open its land border with Greece and freely allow (even encourage) refugees to cross (Cortinovis, 2021). Turkey was reported to be facilitating this movement by providing free buses for refugees to arrive at the Evros border and encouraging them to walk towards the Evros River (Cortinovis, 2021). Officially the Turkish government justified this decision on humanitarian grounds with reference to the difficult living conditions in refugee camps in Turkey due to new arrivals from Idlib in Syria, however it can be seen as a political move to put pressure on the EU and to highlight the EU's failure to live up to its commitments under the EU-Turkey Statement of March 2016 (Border Violence Monitoring Network, 2020). As the refugees attempted to cross the border, Greece deployed large numbers of police and armed forces and engaged in what many NGOs and human rights organizations decried as indiscriminate violence to push them back to Turkey (Human Rights Watch, 2020). Some accused Greece of using the new 'crisis' at the borders to openly break its own asylum laws (Souli, 2020). The EU was in turn criticised in turn for its failure to condemn the violence of the Greek reaction, and indeed its support for Greece in its role as a 'protector' or 'shield' of the EU borders (Cortinovis, 2021).

The pandemic was also used to justify further restrictive measures over sea arrivals, both by Greece and other Mediterranean countries, and a scaling down even further of European search and rescue operations in the Mediterranean. As Müller and Slominski (2020) argue, since the 2012 Hirsi judgement of the ECtHR, EU States have been increasingly ‘orchestrating’ intermediaries in the Central Mediterranean to reduce their involvement in rescuing refugees without breaking the law. The circumstances of Covid-19 have given States an excuse to further reduce their involvement in search and rescue and to go further towards direct refoulement of refugees, invoking health risks to deny disembarkation to boats carrying rescued refugees. Italy, Malta and Cyprus all cited Covid-19 related health risks to justify closing their ports to nearly all boats, including those boats which were carrying refugees rescued at sea. The Italian government declared that its ports were ‘unsafe’ for the disembarkation of refugees who had been rescued at sea during the duration of the Covid-19 public health crisis (Carrera and Luk, 2020). Malta even resorted to using private boats to detain refugees at sea or to return them directly to Libya (Ghezelbash and Tan, 2020; Kingsley, 2020). The closure of ports led to incidences of refugees being stranded on boats at sea for long periods, provoking death in various cases (Tazzioli and Stierl, 2021) or being returned to countries on the other side of the Mediterranean. Disembarkations in Libya increased by 60 per cent in the first five months of 2020 compared with the same period in 2019, despite the deteriorating political situation and IOM’s call to suspend the return of refugees to the country (Schöfberger and Rango, 2020). At the same time, NGO search and rescue operations in the Mediterranean were completely suspended from April to June 2020, again increasing the dangers of the crossing. The Covid-19 pandemic and states of emergency thus allowed EU Member States to sidestep their obligations under international and European law. By proclaiming that their ports were ‘not safe’ because of the health risks of Covid-19, for example, they could carry out refoulements without breaking international law which requires States to disembark people rescued at sea where they are safe (Keller *et al.*, 2020).

### III. Lockdowns and Quarantine: Differential Treatment for Refugees

The lockdowns imposed in most EU countries as an attempt to control the spread of Covid-19 had specific impacts on many refugees, exacerbating the forms of structural violence and discrimination to which they had been exposed during pre-Covid times, exposing them to direct health risks, and also restricting their access to support, especially from various NGOs and civil society organizations who were forced to suspend or massively scale back their activities during lockdown. For those refugees living in informal camps or squats in other locations throughout Europe, the Covid-19 lockdowns also brought serious deteriorations in living conditions and exacerbation of the conditions of structural violence and neglect in which they had been living (Davies *et al.*, 2017).

Many refugee camps and accommodation centres were subjected to strict quarantine measures during the Covid-19 pandemic, often with restrictions that were harsher than those for the general population in each country. In these camps and centres, overcrowding and communal living conditions made it impossible to comply with social distancing or other hygiene measures that were widely adopted to control the spread of Covid-19. Limited access to running water and washing facilities, for example, make regular

handwashing difficult, and refugees are often forced to share cooking and living facilities with other people from outside of their family groups thus making it impossible to limit social contacts. In some of the Greek islands hostpots, for example, it was reported in April 2020 that there was one shower for every 500 people and one toilet for every 160 people (Greek Council for Refugees and Oxfam, 2020). Refugees within these camps were thus exposed to increased risk of contracting and spreading Covid-19, all the while access to medical resources remained scarce. When the Covid pandemic reached Greece, the government closed off the camps. Residents were prohibited from leaving except to buy necessities at the local shops, informal schools inside the camps were closed and non-essential visitors were forbidden from accessing the camps, thus restricting the activities of many NGOs. The Moria Camp fire in September 2020 illustrate the dire conditions that refugees have been subjected to. The destruction of the camp by the fire did not lead to the rehousing of refugees in better conditions. In fact, reported conditions in the temporary camps that were put in place to replace Moria were reportedly even worse (Ozguc, 2021).

In Italy the policy of confining refugees for their own 'protection' during the pandemic resulted in the installation of quarantine ships in which all those arriving by boat were immediately detained. Some refugees from mainland reception centres were also transferred to these ships, even some of those who had tested positive for Covid-19, revealing that the logic of 'confining to protect' (Tazzioli, 2020) was primarily concerned with the protection of European populations and neglected the health and well-being of refugees themselves. Similar measures of forced confinement of refugee populations occurred in other EU States with Cyprus, for example, forcing refugees living in independent accommodation to move into the Pournara camp where they were held in lockdown even after national restrictions were eased (Bennett, 2020).

In France, NGOs working with migrants and refugees sent an open letter to the government, denouncing the conditions of refugees in informal camps in the Calais region and in and around Paris. They called for urgent measures to provide shelter, access to water and hygiene facilities, and mobile medical services for refugees living in these camps. But although the Mayor of Paris did open up some extra places in gymnasiums and other communal spaces to provide temporary accommodation to refugees during the Covid lockdowns, these places were clearly insufficient to meet the needs of all those who had been sleeping in informal camps in the city. In Calais, on the contrary, no special services were opened for refugees, and their situation worsened as places where they had been able to go to wash or get food during the day were closed down. This means that they were left with access to one water point, nowhere to charge their telephones, and very little information or access to medical help (Secours Catholique, 2020).

Along with lockdowns and quarantines of refugee camps and 'hotspots', many EU States temporarily suspended all asylum procedures during the first wave of the Covid-19 pandemic (FRA, 2020). The UNHCR argued that these suspensions in addition to the border closures put in place were putting the 'core principles' of international refugee protection to the test (Meer *et al.*, 2021). This suspension created an additional source of insecurity for asylum seekers. The time of waiting for a decision on an asylum application is a time of constant stress and uncertainty, a limbo in which the violence of the refugee regime reveals itself through 'chronic waiting', a waiting



which can be understood as a disciplining mechanism to control ‘unwanted’ mobilities (Chattopadhyay and Tyner, 2020). Further, the suspension of normal asylum procedures included a suspension of the processes which were in place to identify ‘vulnerable’ refugees and offer them specific protections. This contributed to the increasing risks of gender-based violence and further limited support for survivors of violence.

#### IV. Vulnerability and Violence

Lockdown and confinement measures increased situations of violence and insecurity for refugees but did not affect all equally. In what was named by UN Women as a ‘shadow pandemic’ (UN Women, 2020), there was a general increase in gender-based violence, and specifically intimate partner violence during Covid-19 lockdowns, with women confined with violent partners, and in many cases unable to leave and seek support. This was also the case for refugee populations. As has previously been shown, refugees are at increased risk of sexual and gender-based violence at all stages of their migratory journey (Freedman, 2016) and these structural vulnerabilities have been exacerbated by the Covid-19 pandemic and subsequent lockdown measures.

The reduced registration procedures and suspension of many refugee support services across Europe meant that many ‘vulnerable’ refugees including those who have suffered from sexual and gender-based forms of violence were left without any specialist services (Erskine, 2020). Under EU regulations, refugees’ reception and registration procedures should include a vulnerability assessment to ensure that those who are in situation of particular vulnerability and risk should gain special support. The integration of vulnerability as a central concept in international and European asylum procedures has been criticised for the ways in which is considered in an essentialised manner, categorizing certain groups as ‘naturally’ vulnerable. And there have also been criticisms of the ways in which vulnerability assessments have been carried out, with insufficient means to ensure that the complex and often hidden situations of vulnerability are identified (Freedman, 2019). The suspension of asylum procedures during Covid-19 meant in many cases also a suspension of the identification procedures for vulnerable refugees, leaving these people, including victims of violence without increased protection.

There were also reports of increased incidents of gender-based violence whilst refugee reception centres and camps were facing lockdowns. For example, reports show that during the lockdown in the Moria camp on Lesbos, incidences of sexual assault and violence against women increased (Pallister-Wilkins *et al.*, 2020). At the same time, services available to refugees were restricted. For refugees in the Moria camp, for example, external referrals to psychological and psycho-social support services became unavailable, as the NGOs which had been providing these services prior to the pandemic were forced to suspend their operations (Pallister-Wilkins *et al.*, 2020). A report by the Diotima NGO which focuses on SGBV reported that survivors of GBV remained trapped on Lesbos and have extremely limited protection which has been further limited by the Covid-19 restrictions. They give an example of a case where a woman from the camp wished to report domestic violence to the police but was prevented from doing so because ‘this was not considered a sufficient reason for travel’ (DIOTIMA, 2020).

## V. The New Pact on Migration and Asylum

The securitization of migration and attempts to block refugee arrivals during the Covid-19 pandemic was not a new phenomenon but a continuation of ongoing trends in EU migration and refugee policies. This trend continued with the publication of the New Pact on Migration and Asylum in September 2020. The Pact was heralded by some as a new beginning for EU asylum and immigration policies (Dimitriadi, 2020) following the failure of the previous EU Commission to reach agreement on the reform of the Common European Asylum System (CEAS) or the Dublin Regulation. But the failure to oppose further securitization and to agree on any measures which would permit more inclusive measures for refugees, has led to a Pact which emphasises the need for border control, and which plans for accelerated decision-making on whether an individual has the right to enter EU territory at external border points, and expedited return procedures for those who are not deemed eligible to enter the EU (Carrera, 2021). Several researchers have underlined the fact that this New Pact should in fact be viewed overall as a pragmatic solution to the almost impossible task of agreeing on reform and of a status quo which 'has been locked in for decades' (Hadj-Abdou, 2021). The Dublin Regulation is symptomatic of this. It is worth reiterating here that it has been a long-standing point of contention, placing as it does the responsibility for treating asylum claims on the first country of entry, and thus largely on countries such as Italy and Greece. The New Pact promises to replace the Dublin Regulation. However, although in theory Dublin is gone, its main principle remains and responsibility for processing asylum claims remains with the first country of entry, even though various other criteria, such as the existence of close family networks in other countries within the EU, should be taken into account. Further, the Commission has abandoned the seemingly futile quest to get all Member States including the Visegrád countries, to agree to obligatory relocation quotas for refugees, and has instead introduced the idea of solidarity measures whereby instead of agreeing to accept relocated refugees, a Member State can 'sponsor' a refugee return, or 'help' receiving states with expertise or practical help such as the organization of reception centres. The mechanisms of how these solidarity measures would actually be put into practice remain fuzzy, and it can be argued that the Visegrád group have succeeded in 'cross-loading' their policy preferences (Aggestam and Bicchi, 2019), and that the attainment of any real and meaningful forms of solidarity in refugee reception in the EU is thus further away than ever. Instead, the security agenda within migration and refugee policy is further strengthened with proposals for compulsory screening of all asylum seekers at the external borders of the EU, strengthening of the Eurodac database, and quicker and more efficient returns of all those whose asylum applications are likely to be unsuccessful through accelerated procedures and new agreements with Third Countries. The organization of these would be reinforced by the creation of a new post of European coordinator for returns under the aegis of Frontex (Bloj and Buzmaniuk, 2020).

## Conclusions

As the Covid-19 pandemic hit Europe, many proclaimed it as a 'great leveller', impacting all layers and categories of society. But it was quickly shown that the contrary was in fact true and that Covid-19 and the subsequent measures put in place to contain the pandemic

had far worse impacts on those who were already marginalised in society through the intersection of racialised and gendered structures of inequality and violence, including refugees (Crawley, 2021). There were some glimpses of hope for improvement in the conditions for refugee reception, such as Portugal's decision to grant full citizenship rights to all migrant and refugees for the duration of the pandemic in order to ensure that they could freely access healthcare, testing and vaccination, or the Spanish government's decision to release detainees from migrant detention centres where they were at risk of catching Covid-19 (Libal *et al.*, 2021), and these policies showed that there are other less securitized means of promoting health without marginalising migrant and refugee populations. However, these types of decisions unfortunately remained the exception as most EU States used the pandemic to justify tightening border controls and exclusionary measures aimed at refugees. From both a public health and a human rights approach, there are strong arguments to suggest that the securitized management of migration adopted by the EU was both ineffective in containing infection and damaging to the human rights and well-being of migrants and refugees. And it seems that the precedents set during the Covid-19 pandemic are set to continue with the implementation of the New Pact on Migration, which can be seen as a 'pragmatic' solution to the realities of Member States policy priorities on migration, but at the same time promises a continuing exclusion and marginalisation of refugees, and a diminishing respect for migrant and refugee rights in Europe.

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