

CHARLES UNIVERSITY IN PRAGUE

Faculty of Social Science

Institute of Political Science

Noora Mattsson



Immigration policies – Challenges and Changes that
European Union is Facing

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Author : Noora Mattsson

Supervisor : Vit Stritecky

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Thesis Supervisor: PhDr. Vit Stritecky Ph.D

Abstract

As long as European Union has existed, as long there has been discussion of how long will the union stay as a whole. The differences between the member states are visible and because of this common policies are hard to achieve. European Union has done a lot in trying to create a harmonized immigration policies, yet there have been challenges. The refugee crisis that started in 2015 was something that EU as well as its member states were not prepared for. Different policies were done and cooperation was created, yet many member states turned against the EU and decided not to follow its rules. There was a fear that was a lot affected by the securitization of the immigrants.

Key words:

securitization, European Union, immigration, refugee crisis 2015, realism,

Range of thesis: 22,000

Declaration of Authorship

1. The author hereby declares that she compiled this thesis independently, using only the listed resources and literature.
2. The author hereby declares that all sources and literature have been properly cited.
3. The author hereby declares that the thesis has not been used to obtain a different or similar degree.

In Prague, 28th July 2016

Noora Mattsson

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Methodology

The author will use qualitative research method to try to explain what European Union has done considering immigration policies, how the refugee crisis in 2015 have brought new type of challenges and how European Union has not overcome these challenges but instead has lost credibility. The phenomena is tried to explain by introducing different policies done by the European Union and also how member states are willing to follow them, but also by showing the securitization theory and realism theory as the bases to show why immigrants are seen as a threat and how it can lead countries to concentrate on their self-interests policies and prove that realism is not completely old-fashioned international relations theory. Securitization theory is used also as a support when arguing how immigration has become a topic of political debate which will move countries away from the EU more than make immigration policies harmonized. The refugee crisis started in 2015 is used as the main example while explaining how different interests the member states are and how they are not all the time willing to listen to the EU. The author will use multiple examples of what have been done considering the EU immigration policies done and how well it has worked. Using these theories will the author try to explain:

- Has European Union created effective policies considering immigration?
- Is cooperation between EU member states making the EU stronger?
- How has the refugee crisis started in 2015 affected on European Union?
- Has European Union succeeded in dealing with the refugee crisis?
- Why and what kind of challenges the refugee crisis has brought to European Union and will European Union survive from these challenges?

And the most important question in this thesis is:

- How has securitization of immigrants affected on European Union as an union?

The Structure of the Thesis

Chapter 1. will look at the securitization theory as the whole base of this thesis. It uses as its source Jef Huysmans' article The European Union and the Securitization of Migration to describe the securitization happening towards migrants. This article has been written before the on-going refugee crisis but is very current in describing the possible securitization happening at the moment.

Chapter 2. will talk about the realist point of view; countries have very different interests when it comes to immigration policies and because of this different nations want to follow their different interests in contrast to what European Union wants. To this chapter I have also attached a short review of Euroscepticism since it proves how there is the negative way of seeing the EU.

Chapter 3. will discuss about the immigration policies done at the EU level. It proves how there are many policies but also that they are not legally binding and so the countries have the possibility of not to follow these policies. The chapter is using European Union's own web pages to describe the EU immigration policies. At the same time it will describe the threats of irregular immigration, return policies, legal rights and the Green paper.

Chapter 4 shows the differences between the member states by using Byrne, Noll and Vedsted-Hansen and their recommendations. It proves how EU member states have very different views and because of this a common immigration system is hard to implement.

Chapter 5 describes the Dublin system as well as the resettlement and how they are part of the responsibility sharing as well as that kind of issues they have faced.

Chapter 6 is about security in EU and touches especially the terrorism and what kind of actions European Union has done to fight against terrorism. It is importantly showing the fears also immigrants are bringing to EU.

Chapter 7 addresses the fear among people that securitization of immigrants has caused. It also shows by using examples from Finland how people's behaviour has turned into violent and how demands in changing policies have occurred since the refugee crisis 2015.

Chapter 8 shows in details the refugee crisis started in 2015. without going into details, it explains the regions of the crisis and how the asylum seekers have reached Europe. It will show what kind of proposition Human Rights Watch has given to EU and how EU has not succeeded in fulfilling them. The recommendations of the HRW show how cooperation is needed; EU has succeeded in some parts in creating cooperation but unfortunately all states are not willing to take part in these cooperation programs. Also the chapter introduces the human security threats and how while Finland is getting closer to the EU, the Hungary is moving away.

Criteria for Sources and References

This thesis has succeeded in using research papers as sources – especially while explaining the theoretical part. The European Union's own internet sites have been an important part of the informational part. Several academic articles has also been used. However, considering the topic about refugee crisis in 2015, it is clear that newspaper articles have been used a lot since they are offering current knowledge that has not yet written as academic studies since the topic is new and changing.

Introduction

In 2015 European Union faced an event that it has not been expecting; massive flows of asylum seekers arrived to the soil of Europe. There was no preparation for this, not on EU level nor nations' own level. However, as an union, EU has earlier created many policies considering immigration issues. I will closely look into these to prove that there has been a lot made so that European Union's immigration system would work. However, it is not so simple as it sounds like, although EU has done a lot, it is not demanding many actions from the member states and the member states follow EU as they like.

I will argue how the refugee crisis has proven that European Union is not a strong and working union. Although a lot of cooperation has been done considering the immigration policies, the member states are not participating on them equally. European Union member states are not similar, and so they all have very different ways of seeing the immigrants. History, economics and many other things are affecting on this. Also, countries are affected by refugees very unevenly; a lot of immigrants are coming via sea routes and because of this countries next to the Mediterranean sea are facing completely different challenges than countries in continental Europe. While European Union is trying to control this, at the same time countries are not willing to do burden sharing. One very important reason for this is the securitization of the immigrants.

The fear has caused EU member states to move away from the European Union since it has been quite inefficient in dealing with the on-going immigration crisis. While there are many policies done by the European Union, still flows of asylum seekers are coming to EU countries and some of the

countries are not willing to take the immigrants. There is fear how European culture can be affected by the immigrants but I argue that the most visible securitization at the moment is terrorism and seeing the immigrants as a possible threat of terrorism.

There has not been a success in switching off the securitization of immigrants and far-right parties have benefited from this. Often right-wing parties also drive the policies of nationalism and so they do not want to be part of the European Union. Although I find it too strong to conclude that European Union member states are returning into realism because of the differences in immigration policies as well as the whole securitization of the immigrants and the on-going refugee crisis, there has been a growing support in sovereignty of states. For example UK has proven this by the Brexit and Hungary also has showed that it is not keen on following European Union's common rules when it comes to immigrants.

This thesis tries to prove that European Union has faced new challenges because of the refugee crisis 2015 and that the securitization of the immigrants is a major aspect why European Union member states are moving away from the European Union.

1. Securitization

Jef Huysmans writes on his article *The European Union and the Securitization of Migration* how different regulations done by European Union considering migration are first of all making migration process challenging and how there is are aspects indication that migration can be a security threat. Mainly immigration has been securitized since it is see as a threat to economics, culture and domestic security ¹.

The border control has been highlighted since it is the one official authority that has the control to keep people away who are defined as security threat by many. Border control is not the only thing that is keeping people away, but there are many other policy areas which make it hard for people to migrate to EU; for example laws favouring the member states' nationals. ²

The migration has been claimed to bring “terrorism [and] transnational crime” ³. Because of securitization of migration the regulations considering migration are very clearly regulating aspects that are seen as security threats. Huysmans argues that one way the securitization has happened is that police has become the person who deals with immigration processes; this can lead the way of thinking to the point that immigrants are a security threat since they are dealing with a police, an officer who is seen as someone who brings security. Irregular migration is one big reason also for securitization of migration since it is not controlled in a way than legal migration is ⁴. If we think of the on-going refugee crisis we can easily conclude that a lot of fear brings this irregular migration which is a huge problem on the EU area. When European Union does not have a control over the

1 Huysmans, Jef. "The European Union And The Securitization Of Migration". *JCMS: Journal of Common Market Studies* 38.5 (2000): 751-777. Web. pg. 751-752

2 Ibid. pg. 753

3 Ibid. pg. 756

4 Ibid. pg. 756-757

migration there is a bigger possibility that criminals or terrorists also are able to come to EU and challenge its security.

One other reason for securitization of migration is a fear of losing Western civilization because of people coming from other cultures. This we can easily see if we look for example at the chapter describing the Soldier of Odin. A lot of racist thinking can have behind it a fear of how 'aliens' come with their new habits and take away the countries' old traditions⁵. During the on-going immigration crisis the fact that most of them are Muslims also must bring these kinds of fear since the European Union is mostly Christian and so Islamic habits seem weird as well as can be mixed with terrorism in the minds of people.

Huysmans continues how migration is nowadays in political debates as a sort of symbol for issues. The questions concerning migrants have gotten in politics much of a negative picture. Since immigrants are seen as a challenge to politics more than as an opportunity to new development in many areas the securitization is an indispensable effect. Media continues to build this picture when showing migrants in negative light. The integration process can be seen harmful when it is seen as a threat to culture and society. Nationalism can rise from this kind of fear and it has been seen lately also in the European Union since there has been a growth in nationalistic political parties. Integration also assumes that cultural homogeneity is needed in a well-working society, and this can lead to the assumption that alien cultures cannot bring any good. The European Union has tried to supervise against racism for example by creating the same rules for everyone, yet I can argue that they have not succeeded in it and the refugee crisis is not making it any better. The European Union's fears of racism are caused by the fear of returning to the 20th century. If we think about Nazi Germany for example, it is quite clear why the EU wants to prevent racism and nationalism from rising again. The problem in the European Union's immigration policies is that it can quite easily lead to the way of thinking that

⁵ Ibid. pg. 758

immigrants are a threat to European society and so immigrants are once again securitized ⁶.

The other very straightforward fear considering immigration is economical. They are not seen only as people who may steal jobs but also it is believed that immigrants can arrive to European Union to improve their living standards because of social welfare systems. This exploitation is something Europeans fear, especially now after the economics of EU has suffered from great recession ⁷.

⁶ Ibid. pg. 762-763, 765-766

⁷ Ibid. pg. 767

2. Realism in European Union

World Wars are a huge part of the whole Europeanization process since they drove Europe to unify. Europe as a whole was an action against wars and other security issues facing to hurt Europe. However, according to realist point of view, we may argue that inside of European Union the states do not have the same amount of power and so they are in a risk of heading into war all the time. In international relations theory realism states are seen as independent actors that make decision that benefit themselves as states and are all the time in a threat as heading into a war⁸. I argue that although this is way too aggressive way to see the European Union's situation at the moment, there has been in international relations a strengthening role for nation states in contrast to European Union's claim that there is no boundaries between states. The on-going refugee crisis is not driving European Union's member states into a complete realism, but it is clear that states have started to pull back into self-interest set-ups, which then proves that realism is not completely dead.

Refugee crisis has stressed the different roles of member states in immigration questions and because the crisis has been affecting very differently to different countries also different interests are highlighted and so cooperation is harder, just as realists see cooperation between states. This does not mean that European Union has not tried; it has tried to set common rules, although with very little success and also many cooperative programs has been created to fight against human security threats refugees facing. The results however have not been as successful as wanted and many states have turned into independent states following their own rules instead of staying as a whole European Union.

Maya Swisa writes how realists cannot explain the European Union, yet I argue that by realism

⁸ Swisa, Maya. "Future Stability In The European Union: Realism, Constructivism, And Institutionalism". *URCEU* 2011.1 (2011): 125-134. Web. pg. 125-126

some actions done by member states followed by the refugee crisis can be explained by realism. Mainly states have turned into sovereign actors because of the securitization of immigrants and fear followed by this. Swisa supports this claim by using an example by Mearsheimer who claims that realism can be seen as part of European Union if we look at the “future of EU security”⁹. Although Mearsheimer's way of analyzing realism in EU is quite straightforward, he makes a good point how nationalism is growing and can cause member states to turn against each other¹⁰.

2.1. Euroskepticism

European Union is facing Euroskepticism caused for example the complexity of the EU institutions as well as pure distrust. However, even more important aspect in Euroskepticism in this thesis is the fear of loosing identity. If we think of the on-going refugee crisis has there been a clear way how immigrants have been securitized as threat to culture. Euroskeptics see the European Union as a threat for their own national identities and we can conclude from this that since EU is at the moment often blamed from many aspects of failed immigration policies it can also be blamed to bring refugees who can be in the same way a threat to national identities. Europeans rarely see themselves as Europeans but mostly by their nationalities¹¹.

Euroskepticism can prove that realism is in some ways part of international politics since people are trusting in some cases more into the roles of nation states than to EU as a whole. The refugee crisis has cause Euroscepticism, and Douglas Murray uses Eastern European countries as an example to this: they have lately joined EU to enjoy it benefits – yet now they should take refugees because of European Union and this causes dissatisfaction. At the same time in West people want to have more

9 Ibid. pg. 126

10 Ibid. pg. 126

11 McLaren, Lauren. "Explaining Mass-Level Euroscepticism: Identity, Interests, And Institutional Distrust". *Acta Polit* 42.2-3 (2007): 233-251. Web. pg. 5-6

power when it comes to decisions considering EU, and this includes immigration policies. Since European Union was not expecting the massive refugee flows, it is clear why it also was not prepared to it. EU has not been able to take care of the crisis in wanted ways, which has made people trust more their own states to take care of the crisis. In Norway and Iceland joining EU does not seem to interest any more and at the same time pro-EU countries, like Germany and France, are starting to loose the support of EU ¹².

The Euroskeptical parties in Sweden, Poland, Denmark and Greece have risen strongly – they also are against current immigration policies. These parties have used the refugees crisis as an example how badly governed European Union is and how it has failed to take care of the crisis. This has caused them to gain popularity. ¹³

12 Murray, D. Euroscepticism is growing all over Europe. *The Spectator*. [online] Available at: <http://www.spectator.co.uk/2015/10/euroscepticism-is-growing-all-over-europe/>

13 Robins-Early, N. (2015) How The Refugee Crisis Is Fueling The Rise Of Europe's Right. *The World Post*. [online] Available at: http://www.huffingtonpost.com/entry/europe-right-wing-refugees_us_562e9e64e4b06317990f1922

3. Common Immigration policies in EU

There have been a lot of policies done considering immigration policies during the era of European Union. They are policies which are not only a part of the fundamental base of the European Union, but also politically very debatable policies. This paper will describe these policies to create a common picture of how much has been made while trying to regulate the immigration but also how there are responsibilities to every EU states although it does not seem about it all the time.

Especially the refugee crisis that started in 2015 has showed how there are many regulations, but since member states are not legally bound to follow these regulation it is quite clear why member states can easily stop following the regulations: immigrants are easily seen as a security threat and this is why many countries want to limit the amount of immigrants. Terrorism has been lately a lot on the news because of terrorist attacks in Paris, Nice, London or for example Brussels. Because of the nature of the attacks, immigrants are an easy target for hatred and blame. But terrorism is not the only thing that causes negative pictures against immigrants, yet there are also aspects such as economical. Still, European Union has tried to have its member states equally to share responsibilities considering immigrants and now this papers will move into introducing these actions.

Single European Act in 1987 gave the rights that include for example right for people inside of European Union to work in every EU state. These rights have given a lot for the EU nationals considering immigration since people have had the the right to move freely. However, third country nationals were not enjoying the same rights but NGO as well as different business lobbies have intervened into this question and this has lead to a participation in affecting European Commission's and Parliament's policies. Eurocrats have become liberal towards the politics considering third

country nationals' rights, but at the same time many national parties believe that they bring security threats. The Hague Programme, which will be discussed also later in this paper, gave certain rights for the European Union; European Commission got the right to independently “propose new laws”¹⁴ and also it gained rights for “majority voting in the European Council”¹⁵ and so there was not anymore a need for unanimity in voting. This can be seen as a huge lost for Eurosceptic countries and give for more liberal states more benefit than for countries which are against some parts considering certain policies. Immigration and questions considering this have also made national parties rise while questioning different consequences that immigrants may bring. Also, Hague Programme gave more power for the European Parliament¹⁶.

These new decisions can be concluded in one way: they took power from national decision-makers and instead gave power for European Union. The immigration is seen very differently in different countries, and it is quite clear that history is one big reason how immigration is seen in different EU member states. Only legal migration did not become a part of these changes and it is greatly important notion. What this means in practice is that national governments still have their sovereignty when it comes to topics such as family reunification and so there is a huge variations inside of European Union considering extremely important political debates. Because of this European Union cannot be seen as an union with shared and common interests, which obviously proves that also it is not as strong as it could. Yet, Hague Programme at the same time became an important factor in areas such as illegal immigration or refugees¹⁷ and this has to be highlighted since we are discussing about these topics in this thesis when we try to see the obstacles and issues inside of European Union that it is facing during the on-going refugee crisis.

14 Houtum, H. & Roos P. The European Union As A Gated Community: The Two-Faced Border And Immigration Regime Of The EU *.Antipode* 39.2 (2007): 291-309. Web. pg. 2

15 Ibid. pg. 2

16 Ibid. pg. 2-3

17 Houtum, H. & Roos P. The European Union As A Gated Community: The Two-Faced Border And Immigration Regime Of The EU *.Antipode* 39.2 (2007): 291-309. pg. 3

The changes in Hague Programme gave for the left governments an easy way to implement their views since left governments had supremacy in European Union. After the success in creating new hate crime and anti-discrimination laws, which can be seen as common values inside of European Union and also important when looking at the immigrants coming to EU, European Commission took a new proposition on their table: it was the Directive Concerning the Status of Third-Country Nationals who are Long-Term Residents. It was mentioned during this proposition how during Tampere European Council in 1999 the member states had agreed (“informally”) how the member states would harmonize to EU policies considering immigration topics. Commission introduced this proposal as a part of a bigger picture when it comes to EU policies considering immigration. Yet, Commission also was not hiding the fact that Tampere Conclusion had not succeeded in many parts as it had assumed. Instead it had given so many freedoms of choices for countries that for example eurosceptic British were supporting some parts of it. Overall, a lot of new positive rights were not created for the immigrants, opposite to what the Commission had wanted. One big prove on how little actual harmonization was done is that considering the immigration policies, countries' responsibilities were signed with a word “may” instead of “shall”. National sovereignty won once again and we may question the whole common European immigration system and even the hole European Union, which has to give freedoms for countries to follow the policies or countries may leave the union - and so we can conclude that the power of EU is quite questionable¹⁸. When countries gain a lot of freedom it seems quite peculiar that union like EU is even still working. When thinking about the refugee crisis it can also be easily reasoned how some EU member states do not want to take refugees into their countries as much as EU would propose: it is not only expensive but seen also as a security threat especially after different terrorist attacks and when we think of events like New Years Eve in Cologne. These issues will be discussed later.

Still something was also agreed on Tampere European Council since family reunification was

¹⁸ Ibid. pg. 5-7, 9

signed and it is still very important factor in EU immigration policy. Family reunification became a sort of sign of some kind of harmonized immigration policies inside of European Union. The family reunification was unique in the sense that it changed a lot in many EU countries and yet it was successfully admitted. For example Italy did no changes since their domestic legislation was basically same as the one agreed on Tampere European Council. At the same time Belgium, as well as France, both had more rights than what European Council proposed and so the immigrants had rights taken away in these countries. Especially Belgium had been extremely liberal on family reunification; it for example gave same rights for gay couples as for heterosexuals and the new directive had no mention about this right. Many waiting periods also changed longer in some countries, for example the period when to get a residence permit ¹⁹. These changes wake up a question that where does the limit go? European Union takes away some freedoms from some countries, which does not seem fair. Countries do not want to seem more desirable for immigrants than other countries and this has caused EU to take for example from gay couples when considering family reunification. Countries move towards EU when it seems desirable for them and in other situations they are free to move away from the European Union. So, the freedom of choice takes away the credibility from EU.

And so, “ laws governing long-term residents and family reunification are now (despite some exceptions) an area of EU law, bound by EU institutional rules” ²⁰. This quote still does not show the whole truth. EU member states have been keeping in their own hands for example the whole labor migration, something that is also a very important part of migration policies. The Commission has tried to change certain topics to supranational but it has not quite worked as wanted since countries have not been willing to give up their power. While EU was trying to change the labor immigration regulations, the countries which had similar legislation, United Kingdom and Ireland,

had no interest in pushing the EU legislation since they were surviving well without European

¹⁹ Ibid. pg. 12-13

²⁰ Ibid. pg. 15

Union. Cooperation can happen on EU-level in these topics, but the countries have zero interest in harmonization. The EU Commission has had some success in making common regulations inside of the European Union, but it is obvious how countries still want in most parts have their own decision-making rights.²¹ So the immigration policies are not as a whole a topic that could be something that can be argued to be clearly EU topic or national topic. This can be confusing and it shows how European Union member states are not agreeing in many issues. Because of this the struggle of refugee and immigration questions which are now on-going is massive: differences in the views by all the countries make it hard to find a common ground and at the same time there should be cooperation which would ease every party involved. However, the confusing policies may push countries away from following them since they have the possibility to do so.

3.1. European Union's Offices for Immigration Policies

DG Migration and Home Affairs is one active part considering migration as well as asylum, but also considering security inside of European Union. They deal with topics such as migration and integration following the migration but then also security questions such as terrorism or threats on European Union's borders²². This is an important part of the whole on-going refugee crisis since fear of terrorists is growing if we think of for example the events in Paris on November 2015. It is interesting to see how the President of the European Commission saw after the attacks as an important factor to mention how refugee crisis should not be mixed up to the terrorist events in Paris²³. This proves how refugees coming to Europe must be feared by many, otherwise statement like this would have not been showed in public. While this was an important notion from the

21 Ibid. pg. 15-16, 18, 20

22 European Commission (2015) Policies. [online] European Commission, Available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/index_en.htm

23 European Commission (2015) News. Paris Attacks: the European Union stands united. [online] European Commission. Available at: http://ec.europa.eu/news/2015/11/20151116_en.htm

President of European Commission, it does not remove the securitization considering immigrant, but reminds that it is present.

One very important aspect considering immigration to European Union countries has been the family reunification. It gives for immigrants the possibility to continue their family lives but also makes the integration process easier and so promotes European Union's values when it comes to immigration policies. The Directive on the Right to Family Reunification is, as it can be deduced, a common base for family reunification in EU countries. Basically it is the legal base telling when family reunification is possible and what kind of rights will be given. The basic right under The Directive on the Right to Family Reunification is that non-EU nationals who are legally living in a European Union Country “can bring their spouse, under-age children and the children of their spouse to the EU State in which they are residing”²⁴. The regulations are not this strict though, in different circumstances partners who are not married as well as children or elderly people who need to be taken care of may enjoy family reunification²⁵. Obviously the possibility to interpret will give the family reunification a right to live on the situation and countries will then use their own views on the topic. Because of this many countries must change the family reunification policies when there are a bigger amount of immigrants coming - just like the situation has been during recent year.

Basically if there are all legal rights for family reunification the family members will get their residence permit and can ask for an autonomous status after five years. However, the family reunification has to take into account the security of public and because of this EU countries has the right to require from non-EU nationals different conditions like for example insurances. The family reunification in EU countries gives for the non-EU nationals also responsibilities to follow the country's regulations where they have arrived; for example there is only right for one spouse and so

²⁴ European Commission (2015) Family Reunification. [online] European Commission. Available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/legal-migration/family-reunification/index_en.htm

²⁵ Ibid.

polygamy is not seen as legal. This reunification works only between for non-EU citizens and the European Court of Justice demands EU states to follow the regulations so that rights of the immigrants as well as their families are being respected ²⁶.

However, it is important to note that family reunification, which has been a success in showing EU values as well as prove of harmonization of EU immigration regulations, has now because of the refugee crisis experienced a blow. For example Finland changed its regulations tighter to become close to new EU regulations considering family reunification. New regulations for example require people with refugee status to apply family reunification within 3 months after the status has been granted. The Finnish Immigration Service writes on their web page how Finland is making the family reunification more strict because of the reason that they want to influence to the reasons why would asylum seeker come to Finland instead of other country and since other European Union member states are making their regulations more tight Finland has to follow them ²⁷.

This shows how countries inside of European Union are making their own decisions instead of letting EU set the rules and at the same time they follow EU rules if they benefit from it. Seems like in immigration policies often EU is being listened only when states want to stay in the same strict line as other states are. Obviously there are EU regulations which are followed, but at the same time there are many freedoms for countries and this gives for the countries sovereignty which makes the whole European Union quite questionable.

²⁶ Ibid.

²⁷ Sisäministeriö (2016) Perheenyhdistämisen edellytykset tiukentuvat myös Suomessa [online] Mediatiedote.

Available at:

http://www.intermin.fi/fi/ajankohtaista/uutiset/maahanmuutto/1/0/perheenyhdistamisen_edellytykset_tiukentuvat_m_yos_suomessa_65175?language=fi

3.2. Irregular Immigration to European Union

It can be argued that irregular immigration brings a greater security threat, not only to the people who are migrating, but also to European Union which can be incapable keeping track of the people arriving into EU. From 2013 to 2014 there has been 138 per cent increase of immigrants who have arrived irregularly to European Union and the numbers are getting higher now during the refugee crisis. I will get into that later. Most of the immigrants who are arriving to European Union in illegal ways are using the help of criminals. This has grown into a world-wide criminal activity called the migrant smuggling. People desperate to leave their homes because of different crisis have turned into getting help from the smugglers²⁸. While smugglers can bring people who are a security threat to European Union's soil at they same time they use questionable ways to smuggle them and so refugees face also huge risks.

More than ten years has the European Union tried to stop migrant smuggling. In 2002 a Directive and Framework Decision were done to help to fight against irregular immigration. These actions try to prevent irregular immigration and also guide EU states to fight against migrant smuggling. This has not stopped however the smuggling threatening human lives. Irregular migration has actually grown, especially by the sea. The Central and Eastern Mediterranean routes have faced an exponential growth during past years: in 2014 220 000 irregular immigrants used this route which means 310 per cent growth from the year 2013. The human lives are not respected on this route and about 3000 people died in the Central and Eastern Mediterranean routes in 2014²⁹.

The people traveling across the Mediterranean have become sort of a symbol picturing the crisis happening. Accidents causing human lives are part of irregular migration. Smuggling via sea routes

²⁸ European Commission (2015) Irregular Migration & Return [online] European Commission. Available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/irregular-migration-return-policy/index_en.htm

²⁹ Ibid.

is extremely dangerous and because of this actions against it has been done. European Union member states have started cooperation to save irregular migrants from emergencies in the sea, but also cooperation with the European Agency for the Management of Operational Cooperation at the External Borders is needed ³⁰. The threat taking possible lives has had an impact of EU member states to cooperate, but it cannot be forgotten how countries with closer to sea, especially the Mediterranean Sea have much more interest in cooperating than countries which are not necessarily in any ways affected by people using this route.

The Commission's an EU Action Plan against Migrant Smuggling has been established to try to not only stop but also prevent the immigrant smuggling. This includes cooperation between countries from which the immigrants leave and to where they arrive. The criminal actions however do not end after the smuggling in many cases, and although European Union has criminalized for example faked documents, still it is happening in many cases. ³¹ Cooperation makes the union stronger, but as mentioned earlier there are not only common goals but countries drive their own benefits as well.

If immigrants survive the dangerous trips crossing borders there are still other threats for them. Because of this European Union is not only trying to prevent different forms of exploitations but is also offering help for victims. Job markets in European Union are one factor that pulls non-EU nationals to immigrant illegally to EU countries and they can become easily exploited in the job markets. Because of this EU states have intervened by creating regulations and started to make hiring irregular immigrants hard and punishable ³².

Yet, it is not only smugglers that irregular immigrant use when coming to Europe. Many come to Europe in legal ways but stay illegally. This means that they have gotten a short term visa, but after

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

it has expired the immigrants stay in European Union, often this is because of some economical causes. This has caused EU to collect data, for example by taking fingerprints, to find out if there are irregular immigrants staying inside of European Union's borders³³. People who are staying illegally in EU cannot be maybe as easily found when needed. They can be the criminals on some cases as well as the victims of the criminals. This may cause huge security threats and all countries must have same goals in preventing them. Because of this preventing crimes must be for all member states something that creates unity and cooperation. In cases like this it is easy to argue that the refugee crisis has made EU more united, yet countries have in so many other areas different interests and this brings out the possible problems.

The Commission is fighting against irregular immigration. It wants to create for each EU country their own possibilities to take part of control of the borders, but also The Commission is seeking to create trustworthy immigration system in the European Union as a whole and create respect of human rights of the immigrants. One important action has been to create laws working across the European Union. Some important parts of this new legislation has been: give more rights and responsibilities for the European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX) to improve its work, "Establishing an evaluation mechanism to verify the correct application of the Schengen rules"³⁴, create a base where the border control authorities can cooperate and possibly even integrate and create common border control systems, and also laws have been made so that a success in the control of sea borders would work³⁵.

3.3. Return Policy

33 European Commission (2015) Irregular Migration & Return [online] European Commission. Available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/irregular-migration-return-policy/index_en.htm

34 Ibid.

35 Ibid.

EU Charter of Fundamental Rights as well as encouragement of possible voluntary return are the ground for European Union's humane and workable return policy. The return policy is extremely important and has to be same in all EU countries as a part of coherent immigration policy. This is why European Union is trying to create a common Return Directive which does not only guide each country's exertions in battle of irregular immigration but also gives shared rules for EU countries to deal with illegal immigrants. It works closely with the Asylum, Migration and Integration Fund. One challenge with the return policy is that also non-EU countries has to cooperate with European Union so that the returns will happen in humane and effective ways. ³⁶

Schengen rules have included also return policy. The Commission with the help of different specialists is trying to monitor this return policy. "So far the Commission has been formally authorised to negotiate EU readmission agreements with Russia, Morocco, Pakistan, Sri Lanka, Ukraine, the Chinese Special Administrative Regions of Hong Kong and Macao, Algeria, Turkey, Albania, China, Former Yugoslav Republic of Macedonia, Serbia, Montenegro, Bosnia-Herzegovina, the Republic of Moldova, Georgia, Cape Verde, Tunisia, Armenia, Azerbaijan and Belarus... [and]... Agreements with the two Chinese Special Administrative Regions, Sri Lanka, Russia, Ukraine, the Western Balkan countries, the Republic of Moldova, Georgia Turkey, Armenia, Azerbaijan, Cape Verde and Pakistan have entered into force." ³⁷ The Commission has made important work on this, at it would be hard to find reasons why member states would act against return policy.

3.4. Legal Rights for Asylum

When a person is being persecuted or in any other ways may confront a serious threat where this

³⁶ Ibid.

³⁷ Ibid.

person is living, then this person should get an asylum. Since the 1951 Geneva Convention of the protection of the refugees the asylum has been recognized as a human right and so all countries are obligated to give one when needed. Since European Union has a free movement of people inside of its borders, should the European Union states share the same moral obligations and have shared rules in granting asylum. This means that the methods considering granting asylums need to work in fair and efficient ways in EU countries and be impossible for any kind of exploitation. Because of these goals the Common European Asylum System has been agreed on ³⁸.

There has been talks considering the Common European Asylum System already in 1999 as well as developing the politics about asylum in European Union. From 1999 to 2005 there were several laws harmonized inside of EU considering asylum and also certain common standards were agreed on. European Refugee Fund was established to give shared financial aid and Temporary Protection Directive was created to help people in need. During this time however there was not actual crisis going on, which obviously made agreeing on something easier. Family Reunification was part of these pacts. This was followed a Green Paper that showed how well new instruments had worked and it gave directions for European Commission's Policy Plan on Asylum. It basically deals with the same topics as the Common European Asylum System already was managing: topics such as the harmonization, cooperation inside of European Union as well as between EU and non-EU countries, and moral liabilities. These new rules set to European Union:

- The revised Asylum Procedures Directive:
 - its goal is to make the decisions as conveniently as possible
- The revised Reception Conditions Directive:
 - its goal is that for example housing is available for the asylum seekers

³⁸ European Commission (2015) Common European Asylum System [online] Available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/index_en.htm

- The revised Qualification Directive:
 - its goal is to ensure the international protection mentioned earlier³⁹
- Before a person can enjoy the rights given by The Qualification Directive that person must be given the status of a refugee. In addition to the international protection the Qualification Directive also takes care of different rights for refugees that are part of protective manners, for example rights of the children. Before the international protection was mainly in the hands of every state and this caused obvious problems of interpretation. Now with the harmonization the courts' decisions inside of EU should treat the questions considering asylum seekers in same ways.⁴⁰
- The revised Dublin Regulation:
 - its goal is to give rules and regulations considering states' responsibilities
- The revised EURODAC:
 - gives a access in serious circumstances to asylum seeker's fingerprints.⁴¹

The uniqueness of the region of Europe can be proven when looking more into detail with the legal rights and actions done considering asylum policies. European Union is an union where all member states become responsible to implement the obligations from the Status of the Refugees, convention 1951. The European decision-makers made policies from the convention 1951 that became part of the asylum policies. The immigration and asylum policies have also become an important requirement for possible new member states; they have to have the common ground which are in the level of the European Union and also they have to be willing to make changes to their

39 European Commission (2015) Common European Asylum System [online] Available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/index_en.htm

40 European Commission (2015) Who qualifies for international protection. [online] European Commission. Available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/refugee-status/index_en.htm

41 European Commission (2015) Common European Asylum System [online] Available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/index_en.htm

legislation and take European Union's asylum laws as part of their national laws.⁴²

The relationships between different European countries also play a big role in understanding the asylum laws. Many states are affected a lot by their neighbouring countries when it comes to asylum goals. Different countries want different things and also affected by other states close-by. Countries do not necessarily take asylum policies to their legislation immediately but states around have also an effect how the asylum questions are dealt with. Although bilateral and multilateral relations are both important part of European Union, has the bilateral effects considering asylum policies became a more important part of asylum policies. Many countries have made their asylum policies strict from the simple reason that they are afraid that otherwise asylum seekers move from the neighboring countries to countries that are more convenient and easier for them. As already mentioned earlier, this has caused that domestic policy makers take from neighboring countries asylum policies if they are more strict. For example to Austria this has meant that from their Eastern border asylum seekers have often moved to Austria which has less strict policies and this has obviously caused for Austria sort of problematic consequences⁴³.

The Amsterdam Treaty is one important factor in creating a common asylum system in European Union. From 1985 the treaty has been doing actions to improve the asylum policies in the same way as it is still done: to better national law and harmonize asylum policies between member states. Three stages were included to succeed in these goals: formative, transformative and reform stages. Firstly, during formative stage the asylum policies were planned in domestic level. This was followed the transformative stage, in which obviously these policies were integrated to the European level. Now, the reform stage is happening in which the asylum policies are compared and integrated and harmonized to European Union level. In the beginning, during formative stage,

42 Mayda, Anna Maria. "Who Is Against Immigration? A Cross-Country Investigation Of Individual Attitudes Toward Immigrants." *Review of Economics and Statistics*. 88.3 (2006): 510-530. Web. pg. 355-356

43 Ibid. pg. 357-360

asylum policies became a legal part of West Europe's states' legislation. Strict refugee laws were done in domestic level to take part on something seen as “domestic problem”. Asylum policies were comprised at domestic level as an overload. Asylum seekers suffered from procedures that were shortened and so maybe not as convenient as needed as well as groundless explanations why the asylum seekers did not need the asylum they were seeking. At the beginning of 90's many countries tried to regionalize these asylum policies ⁴⁴. However, while asylum policies are tried to harmonized on EU level, at the moment it seems that a lot of countries are actually trying to make their policies more sovereign. Fear can cause this, but also views on seeing EU as insufficient and unreliable power when it comes to immigration policies.

The Danish Clause was part of formative stage of asylum policies. Danish Clause means that an asylum seeker can be removed from one country to a third country if there was a possibility that protection could be available at the third country. The third country rule became very popular immediately since all countries wanted to have the option of transferring asylum seekers instead of taking all them. The European Court of Human Rights as well as national courts knowledge that the international law can easily be against the third country rule, but yet the rule has succeeded very well. States have done very little changes since, main actions have been implementing neighboring states' legislation ⁴⁵.

From 1990 until 1999, which is in practice the time period between Dublin and Schengen Conventions until the Amsterdam Treaty, asylum policies were done behind public's eyes and they were part of domestic legislation. Mainly it was considered to be the concept of soft law. These policies had different layers on them, part taken from European practices; for example practices considering the arrivals of asylum seekers or what kind of aid will be given to them. While the harmonized asylum policies had a lot of challenges, it still started to develop. Chapter VII in

⁴⁴ Ibid. pg. 358-359

⁴⁵ Ibid. pg. 360-363

Schengen convention had different “binding legal obligations”⁴⁶ considering asylum policies which then became part of the asylum policies, helped with the harmonization and shared the responsibilities equally. The treaties has a very simple goal; to establish a common ground for member states to follow so that asylum seekers would get fair treatments in respect of their human rights⁴⁷.

During the transformative stage first the member states still had some options and freedoms to use their domestic policy decisions. However, it has now changed and the asylum policies should happen on European Union level instead of domestic level. This means in practice that EU gives for its member states the obligations that they need to follow. The European Commission has had the leading role in creating these regulations to Amsterdam Treaty. Commission's proposals have also been made into better or less strict, and the interesting part is that many member states actually have affected on the proposals more than the proposals have affected on the member states. This was only the benefit for Western European states – the states that were only EU applicants had no saying on the asylum policies. So the applicant countries had no other choice than to take the asylum policies part of theirs when they were also doing the democratization processes to support them in joining the European Union⁴⁸. This obviously has lead asylum policies to be for some countries undesirable and for other countries the best possible deal. This makes the rules in EU unequal and may cause a turn into sovereign policy solutions.

3.5. Green Paper

In 2007 Green Paper included for example following topics; European Union became one area for

46 Ibid. pg. 362

47 Ibid. pg. 362-363

48 Ibid. pg. 365-366, 368-369

all refugees to receive protection needed. Geneva Convention and EU member states' values are all part of the Green Paper. For bettering Common European Asylum System Green Paper is trying to recognize possible legal ways to develop it. During Tampere Programme, confirmed by the Hague Programme, the shared EU asylum politics were done. The basic idea is, as mentioned before, to have a common rules all over EU member states so that the asylum seekers will get the protection needed and if not, are still treated in fair manners. "The goal pursued in the first stage was to harmonise Member States' legal frameworks on the basis of common minimum standards ensuring fairness, efficiency, and transparency"⁴⁹. It is Commission's job to follow that these laws are followed in all member states⁵⁰.

The Green Paper has named as its second phase that all EU member states hav to have same way to deal with the process in which asylum seeker is searching an asylum until it has been decided if that person needs protection. The asylum seekers must be able to have their explanations heard and get a respond from the EU and all parties involved have to take care of their responsibilities. All states must have their own officials who take care of the success of asylum seekers.⁵¹

As we have seen during history and also now we are witnessing again, the amount of asylum seekers is changing all the time. Also, the asylum seekers are not applying asylum evenly across the European Union states. Still because of shared values should all European Union states be ready to treat asylum seekers in same respectful ways⁵². Hungary case, or the situation in Greece has proven it differently. The on-going refugee crisis has exposed many cases where asylum seekers have not treated in the ways that EU has regulated and expected. What this shows is that although good intentions have been made, every country independently does their actions how to deal with asylum

49 Byrne, R. , Noll, G., and Vedsted-Hansen, J. Understanding Refugee Law In An Enlarged European Union. *SSRN Electronic Journal*. Web. pg. 2

50 Ibid. pg. 2

51 Ibid. pg. 2

52 European Commission (2015) Common European Asylum System [online] Available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/index_en.htm

seekers and it may not always be as fair and good as expected. The member states seem not to be bothered to follow the rules in some cases and this can have inhumane treatment of the asylum seekers.

The burden of the amount of refugees is for some countries much more challenging than for others. Since into some territories there comes more refugees than to others and also since EU member states are not identical the challenges the countries face vary greatly. Because of this the EU countries should together via cooperation deal with these issues. The European Refugee Fund is one important part of the solidarity shared between EU member states. The European Refugee Fund helps countries to give a fair treatment in asylum seeking processes and also takes part in resettlement and integration. In addition to these, the European Refugee Fund gives support when unexpected refugee flows arrive. However, during the on-going crisis it is not so simple anymore since challenges that EU is facing are much more than how it has been earlier. The only EU member state which is not part of The European Refugee Fund is Denmark⁵³. Although only one country is missing, it shows the freedom of choice and in the future many countries which want to leave their responsibilities, for example because of the fear what asylum seekers can bring to their countries, can do it.

The important actions of the European Refugee Fund includes the help in building accommodations and other infrastructures for immigrants, take part in offering guidance for asylum procedures, also help for refugees and asylum seekers in issues like legal help and take part in giving integration related help like language courses and also “resettlement or relocation (i.e. intra-EU transfer) operations, etc.”⁵⁴

53 European Commission (2014) Refugee Fund [online]. Available at: http://ec.europa.eu/dgs/home-affairs/financing/fundings/migration-asylum-borders/refugee-fund/index_en.htm

54 Ibid.

The changing flows of refugees to European Union were the reason that EU in 2001 created the Directive on Temporary Protection. It was claimed during the 90's after crisis in Kosovo and Yugoslavia that there may appear huge floods of refugees to EU and to this scenario temporary protection was needed. Temporary protection gives, as its name claims, temporary protection immediately for people coming from countries where they are not capable to return during that time because of various reasons. Especially when there is a huge group of people arriving to European Union can temporary protection be needed to give fast results. ⁵⁵

European Union has two reasons for the creation of the Directive on Temporary Protection. First of all, the differences between EU countries when there is a mass of refugees arriving can be excluded when everyone follows the directive. Also, the second reason is that under this directive all EU countries share same responsibilities in the event of mass influx. Basically the directive is the guideline when temporary protection must continue and when not. It also gives certain rights that temporary protected refugees need, such as housing, medical help, social care and schooling, etc. For EU countries it gives the shared values and guides when a person will not receive and asylum also. The directive gives for EU countries the right to transfer these refugees but the transfer countries must do it voluntarily ⁵⁶.

EU Regional Protection Programmes and Resettlements schemes has been created to guide EU countries with the cooperation with non-EU countries considering flows of asylum seekers. The Regional Protection Programmes try to make non-EU countries to have better conditions for refugees, this includes countries where the asylum seekers are leaving as well as countries where they are trying to get an asylum. This includes knowledge exchange considering things like integration, also economical help and for example protection. These actions should ease the

⁵⁵ European Commission (2015) Temporary protection. [online] Available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/temporary-protection/index_en.htm

⁵⁶ Ibid.

procedures and make them more convenient for everyone ⁵⁷. Still, if we consider the on-going refugee crisis it can easily be concluded that the success has not been great.

The Regional Protection Programmes have been done in cooperation with Commission, EU member states, the United Nations High Commissioner for Refugees and countries that get more refugees than EU, countries where refugees leave and countries where refugees come. “The first two Regional Protection Programmes targeted Eastern Europe (in particular Belarus, the Republic of Moldova and Ukraine) as a region of transit and the African Great Lakes Region (particularly Tanzania) as a region of origin. In 2010, the Commission decided to prolong the Regional Protection Programmes in Eastern Europe and in Tanzania and to apply the Regional Protection Programme concept to two new regions: the Horn of Africa (including Kenya, Yemen and Djibouti) and eastern North Africa (Egypt, Libya and Tunisia)” ⁵⁸. The important parts of these programmes include shared values considering resettlement and financially give right kind of aid. Also cooperation as well as sharing and developing refugee policies occurs thanks to the programmes and yearly the commission can review and change the policies. ⁵⁹

⁵⁷ European Commission (2015) External aspects [online] Available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/external-aspects/index_en.htm

⁵⁸ Ibid.

⁵⁹ Ibid.

4. Differences between EU States

Although there are common EU rules considering the asylum policies, member states are also mainly thinking themselves. This has created its own challenges. The labour market is one example: member states have own rules and regulations when can asylum seekers enter into the labour market. Also there are differences of what kind of economical help, as well as for example health care, asylum seekers can get. It can be linked to labour market differences since without a job the immigrants are dependent on the social help of the country they are staying. The harmonization of member states' refugee policies need to be deeper so that the rights for asylum seekers would be same across European Union. In practice this would mean that the member states should not have such many options in interpreting the legal frameworks considering what kinds of rights asylum seekers can get as well as what kind of rights can be taken away from them. Other possible option to make the harmonization better could be that the statuses given to refugees and protection seekers would all be the same. This would put the asylum seekers all in one same category and also it would be more clear when a person would be protected – not because of law – but because of the status would give for member states an obligation. Also there should be common rules how to deal with people who under legislation would not get protection but who should not be removed because of human rights. To these cases a guidance could be found from the European Court of Human Rights. The harmonized regulations considering asylum seekers would make it easier for the beneficiary of protection to have rights when changing a country inside of European Union. These legal decisions should be discussed between all member states⁶⁰. But since member states have very different ways to follow EU rules and also very different views to take asylum seekers to their countries it is quite obvious how they may want to drive their own benefits.

⁶⁰ Byrne, R. , Noll, G., and Vedsted-Hansen, J. Understanding Refugee Law In An Enlarged European Union. *SSRN Electronic Journal*. Web. pg. 4-6

The asylum seekers with special needs are not yet clearly identified in all member states and that is why the member states also are lacking in giving response to needed disabilities. One big issue that should be more taken into consideration is to give proper counselling since a lot of asylum seekers are traumatized and psychologically as well as physically often hurt. Also “appropriate interview techniques”⁶¹ should be used for example with children to succeed in asylum procedures. Everyone involved with these procedures, from doctors to interpreters, should be trained with a program working in the EU level to achieve wanted results with the asylum seekers. This would also make it easier for EU member states to practice things such as the information exchange when all states would have the similar ways in dealing these challenges and also all EU states would treat the people who need specific kind of help in fair and same ways⁶². In practise it is not so simple since the member states vary a lot from each other and so while one country may be willing to do everything proposed, there is another that is not.

The Council Directive 2003/109/EC, The Long-Term Residents Directive, is suggesting EU member states in similar ways to integrate the persons who are in an a need of international protection. What this means in practice is that there should be improvement in “the standards prescribed by the Qualification Directive regarding the integration of beneficiaries of subsidiary protection and on developing integration programmes designed to take into account the specific needs (in terms for example of housing and access to healthcare and social services)”⁶³ and also include persons needing international protection. All representatives of professions who are dealing with asylum seekers should have the same inter-cultural knowledge. At the same time integration should be enhanced for the asylum seekers with different integration facilitation programs. Yet, while some member states have a long history of dealing with asylum seekers, some countries have not. The Hague Programme has been calling for different kind of actions that ease different asylum

61 Ibid. pg. 7

62 Ibid. pg. 7

63 Ibid. pg. 9

seeking processes. Eurasil, Commission's expert group, is following different actions which could help on developing member states cooperation. The next thing that EU member states should think of is how to improve the cooperation between member states to make the asylum seeking process much better. As mentioned before, general guidelines and harmonized legislation are needed ⁶⁴.

64 Ibid. pg. 9

5. The Dublin System

The Dublin Regulation gave for Member States the responsibilities considering asylum. It first meant that the country where asylum seekers enter is responsible from that person. In practice this state has to conclude the whole asylum process. The regulation entered into force in July 2013 and it gives the people under Dublin system the same rights as well as responsibilities. These rights are for example an interview that all EU member states need to offer for their asylum seekers. Under Dublin system Eurodac files has been formed, which means that fingerprints are taken from the asylum seekers in the country where he or she first arrives. This has been harmonized EU regulation⁶⁵.

The Dublin II regulation rule responsibilities for countries and it involves Switzerland, Norway and Iceland to the Dublin system. All countries under this regulation give the same claims for asylum status. Countries' national laws have to include the minimum standards from the regulation.⁶⁶

The Dublin system is not a some sort of burden sharing system but it was created to make asylum policies convenient. The main goal of this system is that it gives rules for the member state which deals a person's asylum application in a right way as well as does not “allow secondary movement”⁶⁷. According to Evaluation Report done in 2007 by many parts the Dublin system has achieved the wanted goal, however secondary movement has been problematic⁶⁸. Many asylum seekers do not stay in the country that they enter, but often illegally continue their trip, this is what secondary

⁶⁵ European Council on Refugees and Exiles (2015) The Dublin Regulation [online] Available at <http://www.ecre.org/topics/areas-of-work/protection-in-europe/10-dublin-regulation.html>

⁶⁶ UNHCR(2011) Refugee Protection and Mixed Migration: The 10-Point Plan in action. Available at; <http://www.unhcr.org/50a4c1c39.pdf> pg. 217-218

⁶⁷ Byrne, R. , Noll, G., and Vedsted-Hansen, J. Understanding Refugee Law In An Enlarged European Union. *SSRN Electronic Journal*. Web. pg. 4

⁶⁸ Ibid. pg. 4-6, 10

movement is all about. It creates many security threats, not only for the asylum seekers who may be smuggled in suspicious and dangerous ways, but also to countries where the movement is happening since common fear of terrorists and criminals spreading through secondary movement is a current worry. Also, refugees moving from one country to another may have issues getting the protection needed since it can be unclear for all parties where has that person arrived and which country should then offer help. Countries may be driven into conflicts with each other in unclear situations who should take the responsibility ⁶⁹. Since the Dublin Regulation is quite new, it is still hard to measure its success yet considering these issues. A study 'Dublin II Regulation: Lives on Hold' is in many ways criticizing the Dublin II Regulation. The report sees the whole system as injuring the refugees. One major issue is how Dublin slows down the whole process of asylum seeking and may in some cases even make the hearing process non-existent. Other issues include for example the families to be separated or forcing a refugee to live in a country where he or she has no connection and then hamper the integration. Court cases have become visible because of the problems caused by Dublin regulation. European Council on Refugees and Exiles mentions a court case M.S.S. V Belgium & Greece as an example on how Belgium's decision to send asylum seeker to Greece because of Dublin Regulation was not only unfair, but also a violation of Human Rights. These kind of exception cases can cause serious end results. There are other similar cases which prove that every case should be examined separately to see if Dublin Regulation can be used ⁷⁰.

A positive thing is that with the help of Dublin system there has been a balanced moving of asylum seekers between member states, so all asylum seekers do not just go to apply asylum from a country with best 'offers'. However, problem is that countries situated in certain geographical locations suffer from Dublin system since they are not capable on taking care of massive flows of asylum

69 UNHCR(2011) Refugee Protection and Mixed Migration: The 10-Point Plan in action. Available at; <http://www.unhcr.org/50a4c1c39.pdf> pg. 210

70 European Council on Refugees and Exiles (2015) The Dublin Regulation [online] Available at <http://www.ecre.org/topics/areas-of-work/protection-in-europe/10-dublin-regulation.html>

seekers that the countries get⁷¹. Other interesting 'trend' has been how countries may let asylum seekers to continue their travels without taking fingerprints so that they will not be responsible from the asylum seekers. This, again, gives for the member states a possibility not to follow the rules EU is giving.

5.1. Resettlement

Resettlement policy is an important part of EU asylum policy to have a workable share of responsibility. It also gives directions for all member states on how to deal with asylum policies. The resettlement shows how EU member states are willing to take responsibility all in same ways. However the resettlement policy needs commitments and actions taken by everyone. The Commission is for example trying to solve financial issues for resettlement policy and make it easier for the member states to participate in asylum policies. The other important assistance from the Commission is to help member states when they are facing a unexpected flows of refugees and the member states have problem in solving these issue⁷². This is something that is now very current. On September 2015 the European Union had to deal with 120 000 people's resettlement. While NGOs saw the negotiations as European Union's try to solve the massive issue with refugee crisis, some countries saw that their sovereignty was hurt during the negotiations. As it has been mentioned already, the differences between European Union member states once again rose into everyone's attention while countries had very contradictory views considering the resettlement as well as the refugee crisis as a whole. While even United Nations had warned that the European unity may be destroyed European Union decision-makers still had a vote to share the refugees fairly among member states."Czech Republic, Hungary, Romania and Slovakia"⁷³ were against the

71 Byrne, R. , Noll, G., and Vedsted-Hansen, J. Understanding Refugee Law In An Enlarged European Union. *SSRN Electronic Journal*. Web. pg. 4-6 pg. 10

72 Ibid. pg. 13-14

73 Traynor, Ian and Patrick Kingsley. "EU Governments Push Through Divisive Deal To Share 120,000 Refugees". *The Guardian* [online] Available at: https://www.theguardian.com/world/2015/sep/22/eu-governments-divisive-quotas-deal-share-120000-refugees_

resettlement and analyzed the voting process as Western European countries' "bullying"⁷⁴. The two camps made Eastern European countries doubt on the power of European Union and question how much can EU decide on behalf of national governments. It is interesting to see how Eastern European countries demonstrated against the voting result although Germany and France were willing to take most of the refugees into their territories. EU stepped into the toes of certain countries and may have lost credibility in these countries. While Eastern European countries' politicians complained about the end result, at the same time Western European's politicians praised the unity in European Union and the voting as a proof of a common goals of the Europe. Hungarian government spokesman Kovács claimed that people (asylum seekers) cannot be kept in a country where they do not wish to be. This is a valid point, yet it can also be excuse in letting people move away from Eastern Europe. While EU was admired from finding a common solution, at least by most of the member states, at the same time UN highlighted that this amount of people is not all the refugees and there will be more challenges as long as refugee flow keep coming to EU soil. It is quite questionable if EU can find solution when already the first resettlement negotiations divided EU member states into two clear camps. UNHCR spokeswoman questioned the EU's resettlement policy immediately by stating that the numbers are way too small. Also, once again the European Union's problematic decision-making became visible; although draft was made a lot was not agreed on. And, at the same time Britain has simply declined from the resettlement deal⁷⁵. The differences between member states while facing a crisis as large as the refugee crisis 2015 can not only cause disobedience by member states against European Union but also a destruction of the whole European Union. The uniqueness of the union makes it vulnerable when member states have very different views and at the same time the union tries to save human lives. The resettlement program is one proof more how European Union is not capable on making a common system to battle major crisis like this one.

⁷⁴ Ibid.

⁷⁵ Ibid.

6. Security in EU

The security policies of European Union should become harmonized, just like it has been tried to do with the refugee policies. The Commission has started with “airport screening equipment and alarm systems”⁷⁶. The funding for this projects is coming from Commission's new funding plans. The new security plans will be accepted by people if their privacy has been included to the plans. These security aspects have to take in consideration that they cannot overlap the civilian security.⁷⁷

6.1. Security in the EU: terrorism

Open borders inside of European Union create a great threat of terrorism. It is obvious that EU has to fight against terrorists taking advantage of EU's free movement. An overall counter-terrorism actions has created in the EU Counter-Terrorism Strategy. It was adopted in 2005 and its main goals is to fight against terrorism worldwide – yet to respect human rights and create secure ground for people to live. The strategy includes four points:

1. PREVENT

- this includes prevention of people to join terrorist groups and make terrorism not desirable for younger generations

2. PROTECT

- this obviously means to protect people but also infrastructure from the attacks

3. PURSUE

⁷⁶ European Commission (2016) Industry for Security [online] Available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/industry-for-security/index_en.htm

⁷⁷ Ibid.

- EU tries to intervene on terrorists' actions and make them as hard as possible for them

4. RESPOND

- this means that in the strategy EU is also prepared to actions after the possible terrorist attack⁷⁸

It is important for the EU to try to stop the terrorist ideologies and recruiting from spreading. In addition to this the victims are offered a help from the Commission. New technologies are needed to succeed in tracking terrorists and because of this the Commission is taking part on different security research projects that ease the actions against terrorists. Since terrorism is a global phenomena the Commission's work is not enough, but they need cooperation with other countries and organizations. Although EU states should take care of the events happened in their territories the Commission does take part of European Crisis Management.⁷⁹ Terrorism has been lately a very current topic and talked everywhere. There has been many attacks in the EU soil which have caused fear among people. EU has been quite unsuccessful in fighting against terrorism since so many attacks have happened. The asylum seekers coming to EU at the moment are often from countries that are also affiliated to Islam and terrorism and because of this the securitization of asylum seekers is very possible.

⁷⁸ European Commission (2015) Crisis & Terrorism [online] European Commission. Available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/crisis-and-terrorism/index_en.htm

⁷⁹ Ibid.

7. Public's Opinions

The refugee crisis has not only divided EU countries' policy makers, but also regular people living in EU states. Fear, hate and especially securitization has divided people into different camps when talking about EU as well as policies considering asylum seekers.

7.1. Movement of people

In European Union the immigration has become an important political debate. It has a huge effect on political parties and also the immigration questions have caused new political parties to rise. Also immigration is a major part of European Union's single market as a part of one of the four freedoms. In 1986 freedom of labor became an unique part of European Union. These four freedoms gave in Schengen Agreement the freedom for European Union states to have a shared border control and no border control between the states. The freedom of movement takes responsibility from independent states and is instead governed by European Commission and Parliament plus legally followed by the European Court of Justice. The problem that is more visible is not the freedom of movement inside of the European Union, but the border control happening between external borders. Also, third country national may stay in one EU country with legal residence permit, and that person should also then enjoy the freedom of movement inside of the European Union. This causes worries in EU states, mainly economical and security fears when this person has the whole EU where to move. 9/11 for example did bring fears about terrorist actions coming from third country nationals. Although there has been many tries to create a common European Union immigration system, it has not worked quite in wanted ways. Major issue has been

the contradictory views on immigration policies between different European Union states⁸⁰. Media has not only showed how there is a possibility that third country nationals may cause security threats but also there has been a lot on news lately how people who have lived in EU their whole lives have radicalized. These kind of pictures create fear that is not surprising and easily make all immigrants seen as a possible security threat. Securitization of immigrants causes fear which drives people to demand tighter immigration policies. The on-going crisis must make this even more possible.

The harmonization of policies considering free movement of labor or people has not succeeded because of the different ways of seeing these policies in different member states. The states are clashing in European Council meetings and are not finding a common ground to solve these questions. The liberal harmonization is not happening since there are different views but also very strict ways of looking immigration as it is now. There is no one way that would work in every European Union member state to harmonize the immigration policies. “There is unexplained variation in four areas of this harmonization: throughout time, across countries, across policy areas, and between “subjects” (EU nationals vs. third country nationals, who are legally resident in an EU country but do not hold citizenship)”⁸¹. The whole harmonization process is less likely to happen as long as many immigration topics are not regulated in EU law. Also it is arguable that while some EU countries may see the EU immigration policies too liberal, can others see it as strict in the sense that they actually have to give away some rights that they used to have for immigrants⁸².

Immigration policies have always been much talked topic. If we consider for example the previous terrorist attacks, can we see that there is a pattern of a huge discussion considering the immigration policies every time a terrorist attack has happened inside of European Union's ground. Also member states have different views on the whole harmonization process; while other countries want to have

80 Luedtke, A. Uncovering European Union Immigration Legislation: Policy Dynamics And Outcomes. *International Migration* 49.2 (2011): 1-27. Web. pg. 145-146

81 Ibid. pg. 145

82 Ibid. Pg 146-147

overall harmonization at the same time some countries support harmonization only in some parts and some very minimum harmonization processes. The topic of harmonization is also something that hugely effects on how much countries are willing to give into it; it is clear why more countries support topics such as integration of immigrants than topics like how freely can immigrants move to other European Union countries. For EU citizens the rights have become same in all EU member states and so everyone can enjoy the same freedoms. The third country nationals do not have the same freedoms and so they cannot enjoy same rights as EU residents although the European Commission and Parliament have wanted a change into this and some EU member states have much more liberal views than others ⁸³. Also inside of the states people are definitely divided, for example age or education can have a huge impact on how people see the asylum policies as well as what they consider as security threats. The opinions about immigrants also vary because of history, for example Finland was still few decades ago very closed country with no immigrants and this must effect on people's way of thinking.

The immigration became more security issue during the 1970's and then also made political debate more divided. The debate is still on-going: some countries' political parties see immigration issues as their own national topics to solve and in some countries shared views between EU member states is more popular as well a supranational element willing to solve and follow immigration questions ⁸⁴. There is no clear answer to which one is better, but it is clear that since EU has been quite insufficient to solve the immigration crisis may this cause a turn to more sovereign way of solving the issue.

Many political parties that have opposition on immigration have risen after the growth in immigration. Yet, they have had very little success in intervening to certain topics: family

reunification has given the rights for immigrants to bring their family members to the country where

⁸³ Ibid. Pg 147-148

⁸⁴ Ibid. Pg 147

they are and this makes the amount of 'foreigners' bigger than expected, political asylum is an obligation for countries because of Geneva Convention as well as the laws regulated domestically and also illegal labor is continuously moving to countries that can be called developed. These topics have cause a lot of discussion and since domestic political parties have not succeeded in battling with them and finding solutions is has also created more EU cooperation. Adam Luedtke is using an example of Wilson's (1980), Freeman's (2002) and Joppke's (1999) works to describe “client politics”. During this model the immigration policies are not something that has a pressure from the population. This way of dealing with immigration policies was popular during the 1970's in the Western Europe, when immigration was not a major question nor did it have a part in economics. Luedtke argues client politics is still a view in countries where immigration is not so popular – yet, I argue that this is not anymore the case since the new refugee crisis have been affecting the whole Europe. In client politics the benefits of immigrant can be measured and seen in different areas. Because of this, groups that can benefit from immigrants also support immigration policies. During client politics immigration gained huge support from for example business groups that benefited from cheap labor. Yet, although a free movement of people was supported because of the factors described before, at the same time for example asylum or giving a citizenship were seen as threats to things such as security and were not gaining support. But from the point of client politics these topics are inessential if we look at the benefits coming from the free movement of people and so policy harmonization is recommended ⁸⁵. Now EU soil is getting so many immigrants that it can be argued that there is no economical benefits for anyone any more. Economics has been one current topic of debate when discussing about the immigrants coming to European Union.

7.2. Demand of changes in immigration policies

85 Ibid. pg. 148-149

Adam Luedtke continues by analyzing the work of Baumgartner and Jones (1993) who have researched the case of United States. It can be compared to the European case since the main topic is how the government works in United States and from this Luedtke has concluded to the continuous question which is how much power should Brussels get and how much can countries decide on their own. According to Baumgartner and Jones the policies face new challenges and will be changed when a certain policy becomes part of public's interests. Policy-makers are forced to make changes, they can be long-term or short-term, depending on what is tried to be changed. According to Baumgartner and Jones the public demand actions on topics that are relevant on that time period, and they hear about these topics all the time for example from the newspapers ⁸⁶. If we look at the European Union's refugee crisis, it can be said that the topic has been very visible the whole time, newspapers continuously write about the situation. Also, we can think that there has been a lot written about European Union's failures throughout time. In combining these two, there is no question doubted why people are worried about European Union dealing with refugee flows, especially when there is a lot written how much mistakes and problems there has been, not to forget how terrorism especially in Europe is often covering the news.

The changes however do not only come from the demands of people, but also from governments that use European Union as a base to change policies. What this means in practice is that countries give up their sovereignty to EU because the EU policies actually turn their direction to wanted policies and so EU regulates these policies also. In 1993 Germany gave an example how to use harmonization as part of their political asylum policies: they harmonized with European Union so that the responsibility moved from national court to EU court. It can be easily analyzed how Germany benefited from this: they got a new authorities to take care of a big issue. At the same time however United Kingdom wants to have all the possible power to have an impact when it comes to immigration policies and so they are against EU harmonization. This has caused the UK to prepare

⁸⁶ Ibid. pg. 150

in leaving the whole European Union. Countries can easily seek harmonization when needed, but if a country wants to follow its own regulations this is also possible⁸⁷. This does not only wake up the question how much power should EU have over national courts, but also how much should countries have the right 'play' with EU and so change their own immigration policies? It is clear that there is no one country that wants to take responsibility from the massive flows of refugee that EU is facing, but at the same time EU is not a power that can demand whatever it wants from its members. There has been and will be demands on changes in refugee policies and from that we can think that probably many countries will also still want more changes at some point.

During elections some changes may occur because of the clear reason that parties in charge want to stop the rise of far-right parties. In this case parties are forced to act although it may not be the parties own goal. When immigration becomes a topic of discussion also anti-immigration views and debates around it obviously becomes important factors which also politicians have to take into consideration. Issues like political asylum and illegal immigration are something that fast will and have grown into security topics. The far right political parties grab into these topics that worry the nation and campaign against them to gain attention and support. It is clear that these kind of political parties also slow down the harmonization process and makes the refugee policies more chaotic when all countries have not agreed on the same rules and regulations under European Union

⁸⁸.

7.3. Public's Violent Responses

Racism has always been an issue and something that immigrants have suffered from. The immigration crisis have created new violent responses by people against asylum seekers arriving to

⁸⁷ Ibid. Pg 151

⁸⁸ Ibid. pg. 151, 155

their home countries. In Finland the national press, as well as police and politicians has headed their interests towards a group calling themselves as Soldiers of Odin. This group believes to bring justice by street patrolling and giving protection for Finnish people from immigrants. Because of a large number of refugees arriving to Finland, there has risen huge opposition against this topic. One major argument for anti-immigration demonstrations by Soldiers of Odin has been a believed safety issues for women to which they blame to be caused by immigrants. The news telling about sexual harassment in Helsinki during New Year's Eve did not make the situation any better ⁸⁹.

The group Soldiers of Odin has been opposed for example straight by the Finland's Prime Minister Juha Sipilä who publicly highlighted how police should take care of crimes instead of local people. The group is not hiding its racist agendas, but instead admits that they want to have “white Finland” ⁹⁰. There have been fears in Finland if Soldiers of Odin will act in violent ways, and for no reason since there has been threats. ⁹¹ Now Soldiers of Odin has spread also to other countries. In Germany Soldier of Odin has gotten 600 members since its establishment. People from neo-Nazi groups as well as motorcycle gangs has been mostly joining to the group. In Norway also people from racist groups have joined to Soldiers of Odin. In Norway the group has gotten opponents since group called Soldiers of Allah has been established ⁹².

Other issue in Finland has been that there have been attacks on reception centres where refugees are staying. People have tried to set the centres on fire or for example have drilled holes on the ceilings of the buildings. It is racist vandalism according to YLE news, but it is clear that later this can correlate into more serious ⁹³.

89 Forsell, T. & Rosendahl, J. (2016) Anti-immigrant 'Soldiers of Odin' raise concern in Finland [online] Available at: <http://www.reuters.com/article/us-europe-migrants-finland-idUSKCN0UR20G20160113>

90 Ibid.

91 Ibid.

92 Rajamäki, T. (2016) Kemistä johdettu Soldiers of Odin -liike leviää kaikkialle Eurooppaan – tällaisia ovat Saksan ja Pohjoismaiden partiot. *Helsingin Sanomat*. [online] . <http://www.hs.fi/ulkomaat/a1461914782311?ref=a-luet-#8>

93 Mäntymaa, E. (2015) Polttopulloja ja katon poraamista – Poliisi: Vastaanottokeskuksiin iskevät Suomessa humalaiset rasistit [online] YLE uutiset. Available at http://yle.fi/uutiset/polttopulloja_ja_katon_poraamista__poliisi_vastaanottokeskuksiin_iskevät_suomessa_humalaise

Finland is not the only country with these kinds of issues but there have been events all over European Union. For example in Cologne groups of foreigners suffered from attacks and neo-Nazis held a demonstration in Leipzig. This group for example attacked to a Turkish restaurant and set cars on fire⁹⁴. This was followed by unpleasant news from the New Year's Eve, similar to Helsinki's events. About 80 women had reported how men had attacked on them for example by sexually harassing in Cologne, and the attackers were described as North African or Arabs, like most of the asylum seekers are. It has believed that estimated of 1000 men had planned these attacks in advance⁹⁵. These kinds of news can cause more racism which can then lead population to act against valid immigration laws. Finland's leading newspaper Helsingin Sanomat wrote how the events in Cologne have become a "symbol"⁹⁶ of the fears against refugees. The events can very much support of the way many people see the refugee seekers and they gave for people an argument that this could be the future if asylum seekers are let to European Union. The German media has been claimed to make conclusions from very little information and this is the reason why asylum seekers now are blamed to be the perpetrators. The German media was in a major role in creating symbols considering the events and they lead people very fast to blame the refugees. Even Angela Merkel gave a speech in which she highlighted the importance of how the investigation has to come to an end before blaming is even possible⁹⁷. But no matter what will be found out, it is already clear that these events are creating a picture part of the whole refugee crisis in 2015 that cannot be erased away anymore. As we can conclude from these actions, certain secularization of refugees has happened and it is affecting on the safety of the refugees and creating horror inside of European Union. Many countries want to close their borders and move away from European Union which is

t_rasistit/8549219

94 Dreier, C. (2016) Hundreds of Neo-Nazis riot in Leipzig, Germany. [online] World Socialist Website. Available at: <https://www.wsws.org/en/articles/2016/01/13/leip-j13.html>

95 BBC. (2016) Germany shocked by Cologne New Year gang assaults on women. [online] Available at: <http://www.bbc.com/news/world-europe-35231046>

96 Pullinen, J. (2016) Miksi Kölnin tapahtumat ovat iso uutinen – ja mitä ne Suomessa merkitsevät? *Helsingin Sanomat*. [online] <http://www.hs.fi/kotimaa/a1452224820722>

97 Ibid.

expecting countries to share their immigration policies and have common rules on how to deal with the immigrants.

8. The on-going refugee crisis

The immigration bureau of Finland gave in total 7466 decisions considering asylum seeking in 2015. In 2014 the same number was 3706 ⁹⁸. This is only how many decision were made, which is by the way twice as much, but also from the table below we can see that Finland received in 2015 32 476 asylum seekers and it is easy to conclude that Finland was not prepared for a number like that if we think how most of the asylum seekers' applications were not managed in 2015. There was an explosive growth in the number of asylum seekers and as it has been mentioned many times, it caused fear. This fear easily became a racist way of thinking and far-right parties, with often anti-EU agendas also, got the possibility to grew fast.

Chart 1



99

98 Maahanmuuttovirasto (2015) Turvapaikkapäätökset 1.1.-31.12.2014

99 Maahanmuuttovirasto. (2016) Turvapaikka- ja pakolaistilastot. [online] Maahanmuuttovirasto. Available at: http://www.migri.fi/tietoa_virastosta/tilastot/turvapaikka- ja_pakolaistilastot

8.1. Regions of the Crisis

The refugee crisis which started in 2015 has been analysed as the worst one since World War II and the numbers back up this argument. Patrick Boehler and Sergio Pecanha describe from where the refugees are coming from in their New York Times article *The Global Refugee Crisis, Region by Region* (2015). Migrants use Balkan routes on their way to Western Europe. On this route it is common for the refugees to move in small groups and use for example buses to travel across borders. When Hungary made a decision that it will build a wall it caused refugees to move faster towards Western Europe. The route may include for example crossing Greece, Macedonia, Serbia and Hungary, and many refugees are staying temporarily in these countries. A lot of criticism has caused the unfortunate events happened at this route ¹⁰⁰. For example refugees have tried to cross Macedonia to get to Schengen country Hungary and at Greece's and Macedonia's border inhumane actions have been taken towards refugees: the Macedonian police has for example used tear gas against refugees who have tried to cross the border and barbed wire has spread out the railways so that refugees cannot walk on them ¹⁰¹.

People from especially Iraq and Syria have been fleeing their home countries and are now moving to other Middle Eastern countries. Jordan and Lebanon have received huge numbers of refugees, but not as many as the Turkey. At the same time in Southeast Asia minorities from Bangladesh travel illegally by boats to Malaysia and Indonesia. From “Libya, South Sudan, Eritrea and Nigeria” immigrants are taking a dangerous Mediterranean Sea route to reach Southern Europe. At the same time Ukrainians are leaving behind their country which is battling its own issues. Most people have

100Boehler, P. & Pecanha S. (2015) The Global Refugee Crisis, Region by Region. *The New York Times*. [online] http://www.nytimes.com/interactive/2015/06/09/world/migrants-global-refugee-crisis-mediterranean-ukraine-syria-rohingya-malaysia-iraq.html?_r=1

101Tapiola, P. (2015) Pakolaiset yrittivät väkisin Makedoniaan – poliisi käytti kyynelkaasua ja tainnutuskraanaatteja. [online] Available at: http://yle.fi/uutiset/pakolaiset_yrittivat_vakisin_makedoniaan__poliisi_kaytti_kyynelkaasua_ja_tainnutuskraanaatteja/8244071

moved to neighbouring Russia. ¹⁰²

8.2. The refugee crisis in Europe

I will concentrate on the crisis in Europe and how the European decision-makers have issues to deal with the crisis. The flow of refugees has been massive, especially from Syria, since thousands of people are every day arriving to Europe. European Union has been struggling in finding solutions to the issue. From the chart 2 we can immediately see the massive number from 2015, already 292 540 asylum applications have been approved, most of them in Germany. The number is even bigger if we count all the people waiting the decisions, only from January to September 2015 more than 500 000 asylum seekers travelled to Europe, ¹⁰³ and according to the United Nations Refugee Agency the number rose to 911 000 refugees in the December 2015. The United nations have defined a refugee and most of the people arriving to Europe at the moment go under this definition ¹⁰⁴.

The chart below shows where most of the asylum seekers are from and to which countries have they gone mostly. As we see, Germany has an outstanding number in taking refugees and it can be seen as taking most of the burden from other European Union countries since there are many other countries the same size as Germany, yet no willing to take as many asylum seekers. If Germany was not willing to do this, the European Union would suffer even worse loose of credibility; Germany is one of the abutments in EU. UK has taken very little amount of refugees but overall the UK's euroscepticism and the on-going events of Brexit has not made UK to seem as a country that has an

102Boehler, P. & Pecnha S. (2015) The Global Refugee Crisis, Region by Region. *The New York Times*. [online] http://www.nytimes.com/interactive/2015/06/09/world/migrants-global-refugee-crisis-mediterranean-ukraine-syria-rohingya-malaysia-iraq.html?_r=1

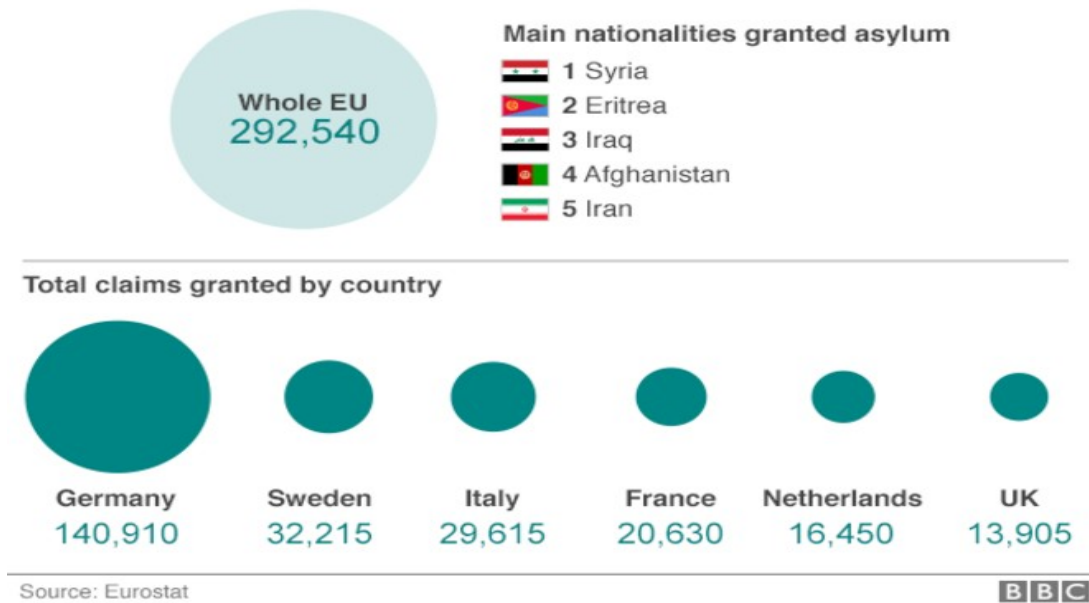
103Mchugh, J. (2015) Refugee Crisis 2015 Explained: Who Is Coming To Europe; Where They're Headed And Why. *International Business Times*. [online] <http://www.ibtimes.com/refugee-crisis-2015-explained-who-coming-europe-where-theyre-headed-why-2112352>

104Spindler, W. (2015) 2015: The Year of Europe's Refugee Crisis [online] Available at: <http://tracks.unhcr.org/2015/12/2015-the-year-of-europes-refugee-crisis/>

interests in even keeping EU as a whole.

Chart 2

Asylum applications approved 2015



105

Most of the refugees arriving at the moment are men. It has been counted that the refugees are mostly arriving by boats from the Mediterranean route and from there arrived mostly to Greece or Turkey. This route has taken lives of many when the smuggling boats have sank because of the heavy weight of many refugees or because of crash of boats. After European countries have started to close their borders because of the refugee flows, have refugees started to favor more of the extremely dangerous sea routes. For example the wall built to the Hungary's border is taking away lives since refugees trying to reach Western Europe desperately use more dangerous routes. Balkans route, which was mentioned also earlier, has lost its popularity while countries have made border crossing more challenging¹⁰⁶.

Countries such as Sweden, Germany and United Kingdom are mostly the wanted destinations by

105BBC (2016) Migrant crisis: Migration to Europe explained in seven charts [online] Available at: <http://www.bbc.com/news/world-europe-34131911>

106Mchugh, J. (2015) Refugee Crisis 2015 Explained: Who Is Coming To Europe; Where They're Headed And Why. *International Business Times*. [online] <http://www.ibtimes.com/refugee-crisis-2015-explained-who-coming-europe-where-theyre-headed-why-2112352>

the refugees from obvious reasons like the economy or social welfare of the countries. UK is high in the list also because of the opportunity to use English as preferred language, yet the politicians in UK are not excited in taking refugees. As mentioned earlier, this can even be concluded when watching the Chart 2; UK has taken very small amount of refugees compared to for example Sweden, which has much smaller population than UK. Germany has received the most asylum seekers and it is no wonder that it is one of the top destinations of refugees since the German politicians have been talking about liberal refugee policies in keeping their borders open. However, Germany has after these statements closed its borders with Austria ¹⁰⁷.

The International Business Times makes a distinction between Eastern and Western Europe in refugee policies. Eastern Europe in this sense includes countries which are for refugees mainly transit countries. While Eastern European countries can be said to have more negative view on refugee policies, at the same time Western European countries are in some sense trying to create a common burden sharing program that would be fair and equal inside of European Union. Also criticism has issued from public, especially since many European countries have had lately economic problems and use of money to third country nationals seems unfair. Economic issues has also been given as the reason for closed borders in Eastern Europe – in addition to fear for the national security for example because of possible terrorism ¹⁰⁸.

Next we will view certain events listed by United Nations Refugee Agency as important news from 2015 refugee crisis, which prove the dangers the asylum seekers are facing and how horrible events have to occur before certain seriousness will be taken and cooperation will be created. On April more than 600 people drowned on their way from Libya to Italy. People were shocked when witnessing the event and also the event woke up European authorities and cooperation in sea to secure peoples' lives and preventing this kind of shocking things to happen was established. Next

¹⁰⁷Ibid.

¹⁰⁸Ibid.

Austrian authorities found refrigeration truck and inside of it 71 dead refugees. These people had been victims of smuggling and because of that deeper cooperation between European police forces as well as other agencies was promoted. On September media filled with pictures of dead Syrian child and it fast became a sort of a symbol of the struggles people are facing while crossing the sea. The picture was very powerful and impassioned and it made policy makers to make statements about how they will start to operate so that there will not be more of these sad events. Ironically, before this picture and those statements, already more than 2600 people had died in similar ways as the Syrian child. Also on September over 1000 refugees decided to go by foot from Budapest to Austria after Hungary had declined in providing trains for the refugees. Later Hungary however offered bus rides for the tired walkers and Austria as well as Germany were praised from letting refugees to enter their countries. At the same time Hungary finished its fence between Serbian border, closing the movement to European Union from their side. Criticism was extremely strong since the illegal ways to enter into European Union was believed to grow after this, and setting danger the victims of smugglers as well as EU security. On October the relocation from Italy and Greece started, an event analysed already in this thesis as an important part in examining the European Union's responses ¹⁰⁹. The media showing asylum seekers in dangerous situations may cause same kind of interests as showing them as criminals and so the public can easily start demanding EU to have better actions in saving lives of thousands of people.

8.3. Human Rights Watch's Propositions for European Union

As we can see from Chart 2, most of the refugees are arriving from Syria from the obvious reason that there is extremely violent civil war. Other refugees, mainly arriving to Greece and Italy are also escaping wars and violence, but also looking for better lives overall. According to Human Rights

¹⁰⁹Spindler, W. (2015) 2015: The Year of Europe's Refugee Crisis [online] Available at: <http://tracks.unhcr.org/2015/12/2015-the-year-of-europes-refugee-crisis/>

Watch all these people should be however put into same category of refugees. Although the international community have to participate in solving the refugee crisis, it is clear the European Union “have specific legal obligations to individuals on its territory and at its land and sea borders”¹¹⁰. The unique European Union has to carry its responsibilities – yet it is not easy with the current atmosphere in which the member states have very different interests in solving the issue and the EU has failed to govern its member states because of sovereignty of the states that they want to keep¹¹¹.

European Commission has given large amounts of propositions how to battle refugee crisis and the EU member states are doing all individually their parts. Many member states are not any more as interested on solving the problematic situation of refugees inside of European Union as they are in trying to stop the refugee flows. While the Human Rights Watch admits the importance on border control and for example attempts to stop dangerous smuggling it also highlights that people involved to these problems have to have some other ways to seek for help. EU's actions are important, not only because they are legally bound to help, but also because globally there are many on-going situations to which human rights violations are affiliated¹¹².

Human Rights Watch recommends European Union to find common ground on how to battle and solve the refugee crisis. It “recommends action by the European Union and its member states in four broad areas: (1) reducing the need for dangerous journeys; (2) addressing the crisis at Europe’s borders; (3) fixing the EU’s broken asylum system; and (4) ensuring that EU cooperation with other countries improves refugee protection and respect for human rights.”¹¹³. These actions include especially embracing the dangers coming from the Mediterranean Sea route. I have dealt with this issue in separate chapter. Also Human Right Watch proposes EU member states to make sure that

¹¹⁰Human Right Watch (2015) Europe’s Refugee Crisis An Agenda for Action [online] Available at: <https://www.hrw.org/report/2015/11/16/europes-refugee-crisis/agenda-action>

¹¹¹Ibid.

¹¹²Ibid.

¹¹³Ibid.

the asylum seekers arrive to a place that is safe for them instead of letting them land into territories with possible dangers. Also European Union should in respected ways deal with the smugglers and at the same time while battling against smuggling take care that people who have counted on the help of smugglers will get aid to travel in other safe ways instead of staying in a country where they may face human right violations. Human Rights Watch proposes other ways than smuggling for asylum seekers to arrive to European Union – yet this sounds quite naïve if we analyze from this text the resistance of many EU member states and other European countries considering taking refugees. EU law should be followed in dealing with the asylum procedures and also resettlement should take place much more. Importantly the Human Rights Watch is enhancing how the EU asylum laws should be enforced. This is extremely important point which is proving the weakness of EU to deal with the refugee crisis; as long as there is not compulsion on following certain rules, the countries have so much freedom on dealing with the crisis that how could common solutions be found? Also, the European Asylum Support Office as well as European Refugee Fund both are encouraged to help countries which are not doing their best in the battle against this crisis. Yet, the under performance can be intentional by countries which do not want to have more asylum seekers into their territories and so they are not in that sense in a need for help. Also Dublin Regulation is criticized as something that needs to be changed. European Union is requested to also follow non-EU countries' actions if asylum seekers are sent there. The cooperation should be transparent and include intelligence change. This is very current topic now, when Turkey is taking its part of immigration policies, is how it is not EU member state and so maybe it is not supervised and violations can occur. At the same time EU should try to better the current situations that people are running away from ¹¹⁴.

114 Ibid.

8.4. Mediterranean route – a major threat on human security

The UN Refugee Agency mentions the maritime refugee crisis as one of the biggest challenges European Union has faced during the 21st century. The human security aspect is obvious when analysing the Mediterranean route's issues; people travel by boats that are not clearly in the condition that it would be safe to cross an open sea. The dying of people while taking this route have forced the European decision-makers to try to find some kind of solution and showed the need and importance of cooperation. Not only that people have died, also many have gone missing, and new actions have been proposed as well as done to seek some kind of solutions. Europe has also tried to understand the root causes of why people are leaving and possibilities how Europe could help in that way ¹¹⁵.

An important note from UNHCR is how European Union has to take care of the refugees but also how European Union has a clear responsibility to help people who already are in danger while crossing the Mediterranean Sea. European Union has already succeeded in reducing the accidents if compared to previous months, yet growing number of refugees can change these counts. When the number of refugees during 2015 started to grow, it was a great challenge for Greece and Italy, two countries where most of the refugees arrived from Mediterranean route. This became great challenge which then easily could cause for weaker people troubles against European Union's basic principles: for example minors travelling alone easily could experience abuse since not getting support from the states overwhelmed from the amount of refugees arriving. Because of this the UNHCR is mentioning how countries that are facing different pressures of flow of refugees all has to be better prepared how to deal with the people so that they will encounter humane treatment ¹¹⁶. It was not this easy though since no one was prepared of the immigration flows that occurred in 2015.

¹¹⁵UNHCR (2015) The sea route to Europe: The Mediterranean passage in the age of refugees [online] Available at: <http://www.unhcr.org/5592bd059.html> pg. 2

¹¹⁶Ibid. pg. 2-3

More, EU states were more worried about their own situations than about other countries' situations and so although cooperation was done, most of the countries thought of themselves. Preparation for this kind of crisis was non-existent and still EU has not reached the goal of getting common policies into the area of European Union.

8.5. Humanitarian protection

Finland has had unique set of rules to give protection also to people who are not filling the preconditions for asylum. This has been called as humanitarian protection and it means that on the base of it a person can get residence permit if he or she comes from a region that has faced natural catastrophe or that region is classified as unsafe ¹¹⁷.

The humanitarian protection is Finland's own set of rules and it is distinguishing Finland from other EU member states in a way that can be seen also as having freer refugee policies because for asylum seekers there is also this option to stay ¹¹⁸.

While countries in European Union have in many ways stopped listening to EU rules when it comes to refugee politics and are now setting their own rules as sovereign states after the refugee crisis has hit EU, Finland is making other turn and trying to get closer to EU by abandoning its humanitarian protection regulation. This is making Finland stricter and it is believed to make Finland less desirable in the eyes of asylum seekers. Obvious reasons has pushed Finland into this; the fear of the amount of refugees arriving to Finland. The Home Office made also a proposition at the same

¹¹⁷Maahanmuuttovirasto (2016) Kansainvälistä suojelua koskevat päätökset [online] Available at: http://www.migri.fi/turvapaikka_suomesta/turvapaikan_hakeminen/paatos/turvapaikka_ja_kansainv%C3%A4linen_suojelu

¹¹⁸Sisäasiainministeriö. Kansainvälinen suojelu pähkinäkuoressa .*Kansainvälistä suojelua koskeva pyöreän pöydän keskustelu 27.3.2012* (2012). Web.

time when discussing about stopping giving humanitarian protection that Finland should take all EU's directives from family reunification. This, also, makes Finland's refugee policies closer to EU standards and can so stricter ¹¹⁹. This is a proof of something that was mentioned earlier, it seems that the immigration crisis in 2015 drive countries closer to EU only when they have this option of making their own policies stricter.

While we can see how other countries get closer to EU to make their migration politics stricter and at the same time other countries are moving away from EU to make their migration policies more controlled, mainly now it has been seen that countries however work towards more independent policies ¹²⁰. What this proves is that EU member states are willing to stay close to EU when it gives them the possibility to tighten up different political rights of asylum seekers and it other cases member states move away from the EU. European Union's demands on sharing the burden pushes countries away from the common immigration policies.

4th of February 2016 the government of Finland presented the removal of humanitarian protection law. It was asked to be executed as fast as possible ¹²¹. Since the refugees flows started also Finland needed to make other changes to its immigration policies. The fear can be seen when all the sudden, in the summer 2015, the government started to talk about "controlled immigration" ¹²². It is quite obvious that why Finland is making changes to become closer to EU politics but it is also important to mention that Basic Finns, a party that has been described even as racist, is part of the government ¹²³. They have a great opportunity in sharing their policies especially now since there has been the

119Ahtokivi, I. (2015) Suomi luopumassa humanitaarisen suojelun perusteella myönnettävästä oleskeluluvasta. [online] Available at: http://www.verkkouutiset.fi/kotimaa/humanitaarisen_suojelun_peruste_oleskelulupa-42828

120Varjoparlamenti. (2015) Humanitaarinen suojelu [online] Available at: <http://www.varjoparlamenti.fi/esitykset/humanitaarinensuojelu>

121Ibid.

122Hallitusneuvottelut 2015 (2015) Maahanmuuttopolitiikka [online] Available at: <http://valtioneuvosto.fi/documents/10184/1407704/Maahanmuutto-linjaus.pdf/c626bb18-e37e-4a39-b163-cc2e34d18502>

123Pudas, M. (2015) Näin maahanmuutto-politiikka muuttuu. *Iltalehti*. [online] Available at: http://www.iltalehti.fi/uutiset/2015051319682455_uu.shtml

securitization of immigrants.

8.6. *The Hungary Case*

Hungary has showed how easily EU member state can be without following the EU rules considering the immigration and do its own decisions completely while being part of the EU. Hungary does not take any more refugees back under the Dublin regulation.¹²⁴ Finland made a decision not to return people to Hungary under Dublin Regulation from the reason that Hungary is not trusted in treating immigrants in respectful manners. Greece has earlier also had the same faith since Dublin regulation is not considering Greece because it does not have the needed capacities to take care of all the refugees¹²⁵. Here again, we can see the proof that EU member states are very different and by their actions they can easily change the policies considering asylum seekers

Hungary did not only build a fence to stop refugee flows but is also independently stated that it will not follow the Dublin regulation¹²⁶. EU stated that the fence is illegal and now EU has also stated that since Hungary is not following the European Human Rights, it cannot receive refugees from other member states although the EU demands that. Also, when member states were doing the returns, Hungary was not willing to execute these returns. Hungary has basically stopped caring about EU regulations as well as its international obligations by treating refugees in its own ways¹²⁷.

124 European Council on Refugees and Exiles (2016) Case Law Fact Sheet: Prevention of Dublin Transfers to Hungary, pg. 3

125 Miettinen, V. (2016) Turvapaikanhakijoita ei palauteta Unkariin – Tavio: ”Suomi ottaa mallioppilaana ylimääräiset siirtolaiset”. *Suomen Uutiset*. [online] Available at: <https://www.suomenuutiset.fi/turvapaikanhakijoita-ei-palauteta-unkariin-tavio-suomi-ottaa-mallioppilaana-ylimaaraiset-siirtolaiset/>

126 MTV3. (2015) Unkari kyllästyi pakolaisvirtaan – hylkäsi myös merkittävän EU-sopimuksen. [online] Available at: <http://www.mtv.fi/uutiset/ulkomaat/artikkeli/unkari-kyllastyi-pakolaisvirtaan-hylkasi-myos-merkittavan-eu-sopimuksen/5197962>

127 European Council on Refugees and Exiles (2016) Case Law Fact Sheet: Prevention of Dublin Transfers to Hungary, pg. 13

Policy Recommendations

The on-going immigration crisis has not reached to its end and it will not be definitely the last time EU will face similar problem. The removal of the securitization of the immigrants would be in long-term beneficial for the European Union, however it is unlikely that the union will last that long as the same union it is now. Brexit could start a wave for countries to become even more sovereign. European Union should make their immigration policies more legally binding to every country so that they were forced to follow them and also forced to do cooperation. This could however lead countries to leave EU.

European Union should invest in cooperation programmes to get people safely to the continent and also this would make it easier to check the people coming to Europe. It would improve security of many. While European Union cannot force its member states to follow its every immigration policy recommendations, could it easily advert cooperation programs as something that all would benefit and it could also affect on the securitization if it was more closely followed who are coming to Europe. EU should also invest in integration programs more to make third country nationals faster tie relations with EU citizens and so slowly make the securitization disappear. These are however time-consuming policies and EU should be willing to punish member states not following their rules.

Conclusion

We can conclude that European Union has faced massive challenges with the refugee crisis and it is as an union suffering from it. Although EU has created throughout time immigration policies, they were not prepared for this. The Member states are very differently responding to the immigration policies and the crisis have brought a completely new aspect to this. While some states are willing to participate in taking the immigrants, other states are strongly against EU regulating how they should deal their immigration policies. This has caused also rise in nationalistic political parties that have gained support from securitization of the immigrants. Of course human security aspects can cause compassion on people and for example the picture of dead Syrian child obviously woke up concerns in people. These kind of pictures of the crisis make people want to help but at the same time it is clear that EU states have very different capacities in doing so and demanding the same actions from all EU states is quite unfair.

Although the refugee crisis has created cooperation between member states, it is clear that the differences in member states have a huge impact on how willing they are to cooperate. While some states, like Germany, are very supporting in taking immigrants, at the same time some states, like Hungary, are not. Like it was introduced on this thesis, Hungary has dealt the situation quite on its own way, and instead of following European Union's common policies it has act completely on its own. Although Hungary is part of European Union, EU is lacking the power to make Hungary follow the principles of EU and this shows how EU does not have very much credibility.

Securitization of migrants and migration are causing the member states of European Union to turn into having nation states role in international relations. The security questions are highlighting even more now since EU has not taken care of the refugee policies in a way that would be effective and controlling enough.

People in EU states have also worried from the situation and so are demanding more sovereign actions from their countries. Fear caused by the securitization of immigrants has made regular EU citizens resist immigration policies if this means taking immigrants to their countries and so resistance of EU is also visible. When people start to demand actions against what EU is proposing, also the country's policies will easily turn into this.

The securitization of the immigrants has happened in many cases because the fear of Islam. The immigrants at the moment mainly come from Islamic states and this is seen as a threat to Western culture and as it was concluded earlier there is a common fear that it is possible to loose identity. Also Islam is very much interpreted to be part of terrorism that is a very current topic of the news. I would like to add to this that in any violent crimes happening at least the Finnish media is adding the nationality of the perpetrator and it seems to make racial profiling very visible and securitization even easier.

It seems that countries are moving away from the European Union since they are worried about the immigrants caused by the securitization of them, except when a country has more liberal immigration policies than EU; in that case they are moving to the opposite direction. However, in many cases the European Union's immigration policies are not seen as desirable and EU has very little power in implementing them. Although policies have been done and cooperation has been built, it is not removing the fact that immigrants are often seen as a security threat and from this reason also not wanted to the EU states. Of course some countries are more liberal than others, this is obvious, but it is not removing the fact that European Union has not proven that it could efficiently deal with crisis. Since the immigrants are often attached to the picture of terrorism,

which EU has not been able to switch off from its soil, the distrust against immigrants as well as European Union must grow because of the current events.

The main challenge is the securitization of the immigrants. Refugee crisis has just brought them much more and the overall situation seems chaotic because of this. Fear of losing identity gets obviously bigger when there are more immigrants coming. Pictures of refugees in badly maintained camps and news about the bureaucratic obstacles is not making EU look any more reliable, but far less.

Hypothesis

- Has European Union created effective policies considering immigration?
 - No. European Union has created many policies and tried this way to guide its member states, but the refugee crisis, securitization of the immigrants as well as the differences in EU member states have made the member states to react in very different ways to European Union's policies.
- Is cooperation between EU member states making the EU stronger?
 - It could be making EU stronger, however the member states have very different agendas and so the cooperation is not covering all the EU states, but mostly the ones that have economic capabilities or possible are the ones that need help. For example the supervision of the Mediterranean Sea is seen as more important for the Greece than for Estonia. Many states try to drive their own benefits and so we get closer to the realist view than institutionalism.
- How has the refugee crisis started in 2015 affected on European Union?
 - European Union was not prepared for the crisis and it did not succeed in making EU all states to follow its policies. I argue that European Union has lost its credibility when countries have done their own policies without caring about the EU.
- Has European Union succeeded in dealing with the refugee crisis?
 - No. European Union has not been able to switch off the securitization of the immigrants and because of this states do not want to participate in many cases to the immigration policies in the way that EU has proposed them. There has been sort of disobedience among the member states which makes European Union look even less credible.

- Why and what kind of challenges the refugee crisis has brought to European Union and will European Union survive from these challenges?
 - The biggest challenge is how the securitization of the immigrant is creating fear and European Union's member states are not finding a common ground how to act. Because of this the states are making own decisions without caring what the European Union is saying and it makes EU look powerless. Challenges are also for example economical, however it is clear that European Union has a moral obligation to act to improve the human security of the people arriving to European Union. The EU has hardly survived and for example is loosing UK but it can still survive since it has the encouragement from big countries like Germany. Yet, the destruction of the union at least to some point is possible and the refugee crisis is not improving the situation at all.

- How has securitization of immigrants affected on European Union as an union?
 - Securitization of the immigrants is making the member states to behave more on their own since they do not want to take immigrants when they are seen as a threat. There is a clear failure of the union when its members start to act on their own. While EU wants to share the burden by for example Dublin regulation, it has only caused some countries to let people move from their countries without taking fingerprints. Fear also has made people inside of EU to demand their policy-makers to make differing solutions than what EU has proposed and this can lead to referendum with similar consequences as we saw in UK.

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