

DECONSTRUCT SOLIDARITY IN THE EU:

**Solidarity with People,
Not between States!**



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April 2023

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DECONSTRUCT SOLIDARITY IN THE EUROPEAN UNION

The European Union prides itself on the concept of "solidarity." We want to look behind the scenes of this concept and ask in this article: **What does solidarity actually mean in the context of the EU-ropean asylum system? With whom is the European Union in solidarity? Where are the borderlines of solidarity in the EU and why do we consider this problematic?** In recent years, public discourse has often diagnosed that the EU-ropean asylum system is in a "crisis of solidarity" due to the continued failure to reform the current EU asylum system, coupled with the fact that solidarity measures are temporary and based on ad hoc solutions (Del Monte and Orav, 2023, p. 8).

In the following, we engage with the example of the EU ad hoc relocation mechanism, used as a blueprint for the so-called Voluntary Solidarity Mechanism (VSM), to illustrate that the concept of solidarity is not only experiencing a crisis but, in our understanding, must be deconstructed and completely rethought within the EU. **In order to show how the EU ad hoc relocation mechanism was put into practice, we explain the content of a Freedom of Information Act request, which depicts an exchange of emails following the relocation of the Sea-Watch 3 in 2019.** This exchange of emails between EU-ropean Member States provides a formative insight into how the concept of solidarity in the EU is exclusively understood as a concept of solidarity among the EU-ropean countries involved in the relocation process and does not include the affected persons on the move who are relocated during the process.

Finally, we conclude by contrasting the EU-ropean understanding of solidarity with a broader perspective of solidarity and point out the demands of people on the move affected by relocation. In line with other researchers, we argue that **EU-ropean migration policies need to shift from relating to solidarity which focuses exclusively on the needs and interests of EU Member States and on inter-state relations to a concept of solidarity based on affected individuals** (Mitsilegas, 2014, p. 181).

Solidarity with people on the move starts by recognising freedom of movement as a fundamental human right.

FROM EU AD HOC RELOCATION MECHANISMS TO THE VOLUNTARY SOLIDARITY MECHANISM

In light of border spectacles[1] (Casa-Cortes et al., 2015) around migratory movements to the European Union, the EU Commission and EU Member States routinely meet to develop “new” strategies for migration management. With diverging positions of economic and political power, EU states push forward practices that range from border deterrence through policing and applying (militarized) surveillance techniques, border externalization[2], to humanitarian interventions at the expense of people on the move.

EU ad hoc relocation mechanism, 2019

One of the migration management practices formalized by a conglomerate of EU Member States was the ad hoc relocation mechanism, decided at a meeting in September 2019 in Malta.[3] The ad hoc relocation mechanism was a consequence of Italy's closed port policy and the refusal of the Italian ministry of Interior to allow search and rescue boats[4] to disembark in Italy's harbors from 2018 onwards. Several EU States decided to accept the relocation of persons rescued from distress at sea to other parts of EU-ropes.[5] The relocation was then negotiated before each disembarkation, creating extensive waiting periods at sea for the respective boats and, of course, for the people on board. Eventually, interview dates for choosing relocation candidates were agreed upon for the Member States delegations and transfer, often after months of waiting, was organized from the Italian hotspots and the Maltese detention centers. Relocation is introduced by the EU as humanitarian measure to alleviate 'migration pressure' on the Med 5 countries (Cyprus, Greece, Malta, Spain and Italy) through the redistribution of persons who seek international protection and fulfill specific vulnerability criteria. **We contradict this depiction of a mechanism that neither presents a humane practice, nor does it support a larger number of persons, as we will show in the following.**[6]

The New Pact on Migration and Asylum, 2020

In 2020, the European Commission proposed a new Pact on Migration and Asylum, which states to “set[...] in balance the principles of fair sharing of responsibility and solidarity” (EC, 2020). **The relocation mechanism was, despite all its**


problematic realization and aspects, again declared one of the main strategies in the proposal for a new Pact on Migration and Asylum (ibid.). As part of the procedure to implement the proposals from the new Pact on Migration and Asylum, the European Council prepared a draft on June 7, 2022, concerning relocation mechanisms (Statewatch, 2022). Three years after the Malta Agreement, the draft stated that relocations should be primarily conducted following disembarkations from search and rescue operations in the Mediterranean Sea and the Western Atlantic route, as well as on the Greek islands or Cyprus (ibid.). It underlines that relocation should “apply to persons in need of international protection, giving priority to the most vulnerable ones” and states the need for a specific number of annual relocations to take place to ensure a predictable volume of operations (ibid.). As we have shown in our previous reports[7] and will discuss here in the following, the proclaimed relocation criteria do not match the Member States relocation procedures in practice. Contrary to the draft's statement, the need for international protection and vulnerability is scarcely considered during relocation procedures.

Voluntary Solidarity Mechanism, 2022

Thereafter, on June 27, 2022, the EU's Directorate General on Migration and Home affairs (DG Home) conducted a meeting with representatives from EU Member States, Schengen Associated States, EU Agencies (EUAA, FRONTEX), and Council General Secretariat with a proposal on the new so-called Solidarity Platform Pact (Migration Control, 2022). In this meeting, the participants opted for an **annual quota of 10,000 relocations for the year 2022 from Italy and Greece** and declared the need for enhancing standard operating procedures (SOPs). With the help of EU Agencies such as the European Union Agency for Asylum (EUAA former EASO) and the International Organization of Migration (IOM), **relocation is once again advanced as “the solution” for hindering secondary movement[8]** of people on the move within the EU, ensuring faster relocation processes. Nevertheless, **another meeting in December 2022 on the Solidarity Platform Pact revealed that only 200 relocations had taken place until then** (Statewatch, 2023). The internal document on the meeting, published by Statewatch in January 2023, shows that **the EU is talking about standardizing operations from “relocation hubs”** (ibid.), which are not further specified in the document, but are alarming in the context of already existing hot-spots all over the EU Border and their extensive rights violations.

Furthermore, the suggested standard operating procedures should include online interviews with relocation candidates (ibid.). This practice increases the probability of rights violations for asylum applicants, as relocation should not be misused as fast-track asylum procedures at the external borders, lacking legal grounds in EU law. Conducting interviews online, without the possibility of accessing legal support for asylum seekers, enhances stress and anxiety for already traumatized persons in vulnerable situations.

It has been, and continues to be, highly problematic for Member States to connect civil search and rescue operations to relocation mechanisms, as it constructs different categories of asylum-seeking persons based on how they arrived. Yet, we wonder about Norway's statement in the document to exclude persons rescued from distress at sea from its relocation mechanism lists.



“NO (Norway) informed to have decided to activate its pledges of 200 as follows: 75 from IT (Italy), 75 EL (Greece) and 50 CY (Cyprus), with preferences for asylum seekers with specification of the nationalities with high recognition rate in NO (Norway), and the need to avoid a direct link with search and rescue operations conducted by NGO vessels.” (Statewatch, 2023)

The EU meetings on relocation in 2022 do not show any significant changes to earlier attempts to formalize relocation procedures or conduct them in humane forms. The following retrospective glance on the relocation of a small number of persons to the Netherlands in 2019 underlines this point.

DISTRIBUTING PERSONS FOR DEPORTATION: THE FOIA REQUEST ON A SEA-WATCH MISSION

The Solidary Platform Pact is built upon the earlier concepts of ad hoc relocation and therefore relies on the very same principles. How these principles were put into practice is shown strikingly by the example of internal state communication extracts from the Netherlands following the relocation of the Sea-Watch 3 in 2019. As the result of a request under the Freedom of Information Act (FOIA), the communication regarding the persons to be relocated to the Netherlands was published in September 2022 on the website of the Dutch Immigration and Naturalisation Service (IND), a government agency within the Ministry of Justice and Security (Immigratie- en Naturalisatiedienst [in the following: IND], 2022a).

The people relocated during this process had been rescued by the Sea-Watch 3 (SW3) in December 2018 and were denied disembarkation in a safe harbor for 18 days. On 9 January 2019, 49 rescued persons from the SW3 and the Professor Albrecht Penck (operated by the NGO Sea-Eye) were finally allowed to disembark in Malta after eight EU Member States had agreed to participate in their relocation (Dortmund Netzwerk Geflüchtete, 2019). What happened next, behind ‘closed doors,’ can be read in an extensive email exchange between ministries of the cooperating states, the Maltese Ministry of Home Affairs and National Security (MHAS) as well as other actors such as the International Organization for Migration (IOM).

The correspondence provides highly informative insights into both the internal logic and functioning of the relocation mechanism as well as the barely retained interests of the Member States. The day after the disembarkation, the MHAS shared a list of all disembarked people,[9] including information on their citizenships, age, and family links, with all the states that had agreed to participate. This was followed by two days of intensive email exchanges during which the Dutch authorities compiled their list of preferences to be sent back to Malta. The central concern expressed therein - explicitly stated - is that the group transferred to the Netherlands should be made up of at least 50 percent of people promising to be easily deportable:

“So, we should rather make sure now that we get 6 from SW3, with a best possible estimate of 50/50 asylum eligible and returns.” (IND, 2022a, p. 68)

And later: *“We will send a message to Malta with 50/50 and only SW3. I will go for 50% of Nigerians in favour of deportation.”* (IND, 2022b, p. 10).[10]



Image 1: Screenshot of an email by the Dutch Immigration and Naturalisation Services (IND) as published following the FOIA request (IND, 2022b, p. 10).

The other half should be chosen because of high possibilities for fast and easy acceptances of their asylum claims. **The conversations therefore revolve around nationalities and regions of origins and focus on possible future deportations to an extent that completely ignores upcoming asylum applications and processes.** With regard to the practical implementation of relocation, the Netherlands suggest different practices of detaining relocation candidates after their transfer. They explore, for example, whether it would be possible to deny the candidates official access to the Schengen area on papers—even though they had already disembarked in Malta and had thus legally entered the area—so that they could then be detained in the Netherlands. Even though this did not turn out to be possible in the end (see IND, 2022a, p. 64), the Dutch officials’ preference is again explicitly stated:

“By preference we enforce the denial of access [to Schengen] from Malta, then the migrants can be kept in detention all throughout the asylum procedure. [...] [T]he reality is that the migrants have reached their goal, which is to reach European soil, and will probably go MIA [missing in action] quickly and not be reachable anymore.” (IND, 2022a, p. 66)

Family links to people on the move, let alone their interests or wishes as to where they would like to live, are likewise disregarded, as the example of one person with a cousin in the Netherlands who had been proposed to the Dutch authorities by MHAS shows. The IND declines this proposition for it does not fit their proclaimed aim (IND, 2022a, p. 122).

When this market-like negotiation process came to an end, the Netherlands had agreed on six people. They were interviewed for the first time by Dutch officers in Malta, on 23 January 2019, and flown into Amsterdam a few days later. As of 27 February 2019, only one of their asylum applications had been granted, four had been rejected and one decision had been referred (appeals pending). Most strikingly, all rejections were based “on grounds of implausibility” because their preliminary interviews—while still in Malta—and their subsequent hearings in the Netherlands—which were part of their actual asylum application—were found to be inconsistent (IND, 2023, p. 18). **This contradicts the legal framework of asylum hearings that are to be held only after relocation, and is highly problematic especially regarding the subsequent comparison of interview data** (see Bellezza et al., 2021).

Overall, this correspondence shows that the supposedly humanitarian mechanism of relocation was, by no means, operated in a spirit of solidarity by the Member States. Not only were personal reasons or interests of the persons concerned completely neglected, but options for detention and direct deportation openly discussed. **The so-called “EU solidarity in practice” (DG HOME, 2023) is thus definitely not directed towards the people most affected.**

CONCLUDING REMARKS

The so-called Voluntary Solidarity Mechanism is primarily framed as a practice of solidarity amongst more or less “burdened” EU Member-States, but also as a practice of “caring for vulnerable people and promoting their well-being” (DG HOME, 2023). However, as our analysis has shown, such a mechanism **falls short of both solidarity and humanitarianism, with Member States negotiating the relocation of persons by “cherry-picking” them along the lines of their nationality, the way they arrived in EU-rope, or even how easily they can be deported.**

To start with, we suggest questioning the EU’s idea of a “burden.” While claiming the “pressure on local reception and asylum systems” (ibid.) of countries such as Greece and Italy, the EU continues to strengthen its deterrence policies, illegalizes persons on the move and prevents their mobility. Thus, **creating pressure on specific localities by forcing people to stay in one place is specifically a burden for the persons forced to stay in those places.** Moreover, as relocation procedures also involve the “solidarity” transfer of larger amounts of money to support Member States accepting relocation, we propose to rather share those resources to alleviate the pressure on people on the move. **Constructing housing, allowing for access to education and work, for social and political rights, would be a positive and effective investment in the possibility for livelihood instead of camps.**

We are also critical of advertising the VSM as one of a great humanitarian character, as it instrumentalizes the vulnerability of people on the move, who are systematically depicted as “desperate victims” (or “illegal migrants”) and with those mechanisms deprived of making decisions for themselves on such personal matters as where to continue their lives. **The relocation mechanism, initially proposed in 2015, follows the same principle of enforced allocation**

underpinning the Dublin Regulation (Picozza, 2017, p. 81). Its focus on inter-state solidarity, combined with the rhetoric of “caring for vulnerable people,” obscures the attempt to reduce the scope of asylum-seekers for self-determination and to suppress secondary movements within the EU. Furthermore, as not even the inter-state solidarity much acclaimed by the EU comes to fruition, since the relocation pledges remain largely unfulfilled, we are calling for an end to the Dublin regulation as a “solidary” solution within the EU and with people on the move.

Finally, we recall the demands that have been put forward by people affected by relocation from Italy and Malta to Germany. Throughout our common research project on relocation (Bellezza et al., 2021), their expressed demands included:

- **immediate transparency on relocation procedures for all people “selected” for relocation procedures;**
- **the right to stay provided on humanitarian grounds for all people who have suffered degrading treatment on their way to Europe, independent of the situation in their country of origin;**
- **safe passage within the EU to reach the country where the person intends to apply for asylum;**
- **no detention or excessive waiting in hotspot facilities upon arrival in Europe;**
- **immediate access to legal and medical assistance, and no discrimination against, nor criminalisation of, people seeking protection in the EU** (Bellezza et al., 2021).

[1] The border spectacle refers to how “[...] the enactment of exclusion through the enforcement of the border produces (illegalized) migration as a category and literally and figuratively renders it visible” (Casas-Cortes et al. 2015, p. 67)

[2] The EU has over the past years increasingly externalised its borders outside its own territory. Externalisation in a nutshell denotes the relocation of border controls and other border functions to the territory of so-called third countries. In practice, that means that individuals, especially migrants and asylum seekers are exposed to certain types of border controls long before they actually reach EU territory.

[3] Joint Declaration of Intent on a Controlled Emergency Procedure. La Valletta, Malta. 23 September 2019. <https://download.repubblica.it/pdf/2019/politica/joint-declaration.pdf>

[4] For a detailed analysis of the port blockages and Civil Search and Rescue boats, merchant vessels and Coast Guard ships, see <https://eu-relocation-watch.info/#port-blockage> in Bellezza et al., 2021.

[5] Despite the much criticized legal framework provided by the Dublin regulation which states that asylum applications need to be done in the first country of arrival in the EU, the regulation also provides the possibility for other MS to process asylum applications, as suggested in Article 17 of the Dublin regulation (Art. 3(2) in Dublin II, detailed explanation in <https://eu-relocation-watch.info/#dublin-regulation> in Bellezza et al., 2021).

[6] See footnotes 2 and 4.

[7] *EU ad hoc relocation. A lottery from the sea to the hotspots and back to unsafety in Bellezza et al., 2021 and Relocation from Greece to Germany: Relief for the Hotspot System or Alibi Policy?* in Edling/ Schenkenberger, 2022.

[8] ‘Secondary movement’ is the EU’s term for describing travel activities of people on the move from the country to which they first arrived to other EU countries. The EU’s agenda on migration has centered on hindering such movement within the EU to prevent people from seeking protection or for permanent resettlement in their desired country.

[9] The list comprised a total of 254 persons because part of the negotiated deal was to include a number of people who have been rescued by the Maltese Coast Guard into the relocation process (see *Immigratie- en Naturalisatiedienst 2022a*; Beisel & Siebert 2019).

[10] All translations from Dutch into English were made by Lotta Mayr, Adrienne Gerhäuser and Weinbrenner.

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