ATHENÆUM
Polish Political Science Studies
Polskie Studia Politologiczne

vol. 64(4)/2019, pp. 24–44
DOI:10.15804/athena.2019.64.02
www.athenaeum.umk.pl
ISSN 1505-2192

TOO MUCH OR TOO LITTLE INTEGRATION? EU AND ASEAN RESPONSES TO THE 2015 MIGRATION CRISIS: A COMPARATIVE ANALYSIS

ZA DUŻO CZY ZA MAŁO INTEGRACJI? REAKCJE UNII EUROPEJSKIEJ I ASEAN NA KRYZYS MIGRACYJNY Z 2015 ROKU – ANALIZA PORÓWNAWCZA

*Katarzyna Marzęda-Młynarska**

ABSTRACT

The study analyzes the responses of the European Union (EU) and the Association of South-East Asian Nations (ASEAN) to the 2015 migration crisis and answers two questions: first, why did those two regional organizations prove ineffective in dealing with 2015 migration crisis? Second, why despite different legal, institutional and functional frameworks for cooperation in the migration field, the process by which both organizations made their decisions was very similar? The analysis of the EU and ASEAN migration governance frameworks shows neither too much integration (EU) nor too little (ASEAN) favor regional migration crisis solving.

Keywords: EU; ASEAN; 2015 migration crisis

ABSTRAKT

Celem artykułu jest analiza reakcji Unii Europejskiej (UE) i Stowarzyszenia Narodów Azji Południowo-Wschodniej (ASEAN) na kryzys migracyjny 2015 roku oraz uzyskanie odpowiedzi na dwa pytania badawcze: po pierwsze, dlaczego oba ugrupowania integracyjne okazały się nieskuteczne w rozwiązaniu kryzysu migracyjnego z 2015 roku? Po drugie, dlaczego pomimo różnych normatywnych, instytucjonalnych i funkcjonalnych ram współpracy w obszarze migracji proces podejmowania decyzji w związku z kryzysem migracyjnym wyglądał podobnie w obu ugrupowaniach? Analiza modelu zarządzania problemem migracji w UE i ASEAN wykazała, że zarówno za dużo, jak i za mało integracji nie sprzyja rozwiązywaniu regionalnych kryzysów migracyjnych.

Słowa kluczowe: UE; ASEAN; kryzys migracyjny 2015

* Maria Curie-Skłodowska University in Lublin, Faculty of Political Science and Jurnalism.

INTRODUCTION

The year 2015 marks a turning point in the perception of migration crises. While international migrations are well known phenomena from the beginning of time, recent migration waves have completely changed public perceptions, by contributing to the deep polarization of attitudes and levels of social acceptance. Although the study does not aim to analyze the essence and the specificity of modern migrations, it is necessary to stress that the migration flows observed in 2015 were a mixture of well-known push and pull factors (Rosenblum & Tichenor, 2012) influenced by information sharing (new communication devices, social media and Internet propaganda), traffickers and human rights NGO operations, and a growing consciousness of rights and obligations derived from international law. All of these contributed to a large-scale migration that individual states were unable to deal with.

The inability of individual states to deal effectively with transnational challenges (Caballero-Anthony, 2016, pp. 3–19) creates a need for multilateral cooperation. In the case of the 2015 migration crises in Southeast Asia and Europe, their scale, speed and scope made regional responses necessary, yet the results of actions taken by the European Union (EU) and Association of South-East Asian Nations – ASEAN – were unsatisfactory in both cases.

The study aims to analyze the responses of the EU and ASEAN to the 2015 migration crisis and answer two questions: why, despite different legal, institutional and functional governance frameworks, did those two regional cooperation mechanisms prove ineffective in dealing with 2015 crisis? and, why the process by which both organizations made their decisions was so similar?

The paper consists of four parts. The first presents the context, with a brief description of the 2015 crises in Europe and Southeast Asia. The second compares regional migration governance frameworks of the EU and ASEAN according three dimensions: legal, institutional, and functional. The third section analyzes the responses of both regional organizations to the crisis, addressing following questions: how was the problem perceived? what kind of actions were taken to solve it? and what were the results of the actions taken? The final section presents conclusions derived a comparison of the cases.

The research aim will be addressed by a review of both regional organizations' legal regulations before the crisis; analysis of statements, declarations, policies, and new regulations adopted during the crisis as well as actions taken by the EU and ASEAN in response to the 2015 migration crisis. The time frame of the

analysis is limited to the two years: 2015 – when the crisis arose, and 2016 – when the first results of actions taken have occurred.

THE CONTEXT

The definition of a migration crisis adopted by International Organization for Migration (IOM) identifies four elements: scale, speed, scope, and extraordinary results (IOM, 2012). Migration flows can easily transform into migration crises due to a rapidly growing flow of migrants, observed in one time and in one place, that is hard to control and manage and often extends beyond national border. Undoubtedly above-mentioned elements characterized situation the EU and ASEAN have faced in 2015.

The scale. More than one million people arrived in Europe and over 1,5 million applied for asylum in 2015 (IOM, 2015a). According to IOM data, total arrivals to Europe in 2015 exceeded slightly more than one million and reached 1,046,599 (IOM, 2015a). According to Frontex – the EU's Border and Cost Guard Agency – the number of illegal entries into EU territory increased six-fold in 2015: from 282,962 people in 2014 to 1,822,337 in 2015 (FRONTEX, 2016). In some cases, this meant more than a one thousand per cent increase in migrant inflows, especially from Syria, Afghanistan, and Iraq (FRONTEX, 2016).

The scale of the migration crisis in Southeast Asia was comparable. According to the UN Refugee Agency (UNHCR), in 2014 the number of refugees and asylum seekers exceeded 520,000 and most of them originated from Myanmar. In addition, there were 1,5 million stateless persons and 20,000 illegal maritime migrants (UNHCR, 2014). In 2015, the situation did not improve and the number of refugees and asylum seekers remained unchanged (UNHCR, 2015). Most of migrants were members of the Muslim Rohingya minority from Myanmar. The Rohingya exodus re-emerged as a point of concern in Southeast Asia in late April 2015. The oppressive policy of the Myanmar government, which resulted in the withdrawal of citizenship from the Rohingyas, made them stateless and unwelcome in Myanmar (Parnini, 2013, pp. 281–297). Many of them migrated to neighboring Bangladesh, yet harsh conditions there, the absence of prospects for the future, and the activities of people smugglers contributed to their movement towards more promising destinations such as Australia, Malaysia, and Indonesia.

The next big exodus occurred in the summer of 2017, when more than 700,000 people arrived in Bangladesh (IOM, 2018).

The scope. The massive inflow of migrants in 2015 was a burden to only some EU member states, those located at the external borders of the most popular migration routes and those chosen as destination or asylum claims countries. Since the largest number of migrants have entered the EU through the Eastern Mediterranean and Western Balkan routes, the massive influx of immigrants has been a burden for Greece, Italy, and Hungary, where migrants first arrived. According to the IOM, in 2015, more than 850,000 immigrants arrived in Greece, more than 150,000 in Italy and more than 400,000 in Hungary (IOM, 2015b). This placed enormous pressure on immigration services in those countries and contributed to many social, economic and political issues. The next group of countries where the migration crisis became particularly visible were destination and asylum claim states. According to Eurostat, there were over 1.2 million asylum applications in EU in 2015 compared to 560,000 in 2014 (EUROSTAT, 2016). The highest number of first-time applicants per million inhabitants in 2015 were recorded in Hungary (17,699), Sweden (16,006), Austria (9,970), and Germany (5,441; EUROSTAT, 2016). In absolute numbers, the highest number of applicants were in Germany (more than 400,000), in Hungary (more than 170,000), and in Sweden (more than 150,000; EUROSTAT, 2016).

The same problems were observed in Southeast Asia, where the massive influx of Rohingya migrants was a particular burden for Bangladesh and several ASEAN member-states, including Thailand, Indonesia and Malaysia. According the UNHCR statistics in 2018, there are almost 1.5 million Rohingya refugees in Bangladesh (ASEAN Post, 2018), 150,000 in Malaysia, 5,000 in Thailand, and 1,000 in Indonesia. The total number of refugees and people in refugee-like situation at the end of 2016 was highest in three from ASEAN member states: Indonesia – 197,851; Malaysia – 92,263 and Thailand – 106,447 (UNHCR, 2016a). Despite the relatively low number of Rohingya refugees in the ASEAN member states, the countries affected were unable, for a number of reasons, to effectively address the problem, especially growing number of "boat people" (UNHCR, 2016b).

The speed. The massive inflows of migrants to the EU were unexpected even though the signs of it were observed in many parts of the EU. While there was little change in 2014 during the first five months of 2015, it changed dramatically

in June 2015. During the following months, the number of immigrants increased rapidly, peaking in October 2015. While the outbreak of the crisis is associated with the German Chancellor's September 2015 decision to allow free movement for all migrants to chosen EU states, increased numbers were observed as early as June 2015, when the number of immigrants doubled. Within the next three months it was clear that the rapid inflow of migrants was not a temporary situation that could be prevented by existing policies and regulations but the beginning of a migration crisis. Its speed surprised most of the affected countries as well as EU institutions.

The outbreak of the migration crisis in Southeast Asia in 2015 is associated with the sudden increase of maritime migrants, among whose Rohingya refugees had dominated. It was a direct effect of many factors: continuation of Myanmar oppressive policy towards Rohingya, disclosure of smugglers ruthlessness towards migrants through discovery of mass graves in southern Thailand, and changes in policy towards people smugglers in Thailand. While for many years Thai authorities turned the blind eye for illegal Rohingya migration, the situation changed in 2015. In the face of shocking discovery, Thai Prime Minister ordered fight against people smugglers and tightened border policy. For migrants who had managed to reach the coast of Thailand by boats it was no longer possible to reach Malaysia. They were abandoned by smugglers, and became a huge humanitarian and political challenge for region countries in May 2015. The essence of the migrant crisis in Southeast Asia, unlike the European Union, was not in the sudden increase of a number of "boat people" but in the reluctance and indifference of the region countries, forced to take decisive steps in the face of the inevitable humanitarian crisis.

The results. Member states and EU institutions were both caught by surprise and unprepared for the unprecedented inflow of people. The results of the 2015 migration crisis can be divided into two categories: those for the affected states, and those for the entire EU. For the individual member states, the migration crisis meant the physical influx of immigrants, followed by problems with providing them with food, water, shelter, and other social services. The sudden influx of people has generated high costs, especially for the first arrival states such as Greece, Italy, and Hungary. It has revealed a lack of preparation of immigration services paralyzed by the "flood" of asylum applications and an inability to identify and register all who were crossing the borders. Chaos and improvisation are the best characterizations of the actions taken by individual states in the face

of the crisis. The situation stabilized, yet new problems have emerged: social tensions, terrorist attacks and increased violence and crime. At the EU level, the migration crisis has exposed several problems, from ineffective border protection, through asylum procedures, and the ending of the Schengen Agreement on the internal free movement of people.

The results of Rohingya migration crisis in Southeast Asia were not so severe as in Europe. Due to a number of factors, Rohingya migration has been observed since 1970s. ASEAN member states were aware of the problem, yet due to ASEAN's non-interference principle they did not take decisive steps to solve it until the spring of 2015, when global public opinion saw unpleasant pictures of "boat people" denied access to ASEAN ports. The biggest challenge for the ASEAN member states was not, however, how to provide unwelcome migrants with basic needs, but rather how to prevent them from entering their territory due to the growing perception of the Rohingya as a security threat accompanied by the growing reluctance to accept more Rohingya refugees associated with criminal activities and Islamic fundamentalism (Wolf, 2015). At the ASEAN level, the Rohingya crisis has revealed many problems, including the growing challenge of how to accommodate the principles of respect for state sovereignty and non-interference in internal affairs with a humanitarian crisis created by one of the members.

THE EU AND ASEAN GOVERNANCE FRAMEWORK IN THE FIELD OF MIGRATION

The European Union has the most comprehensive model of regional migration governance in the world. It addresses mobility, social rights, and security and provides supranational enforcement mechanisms (Lavenex et al., 2015). It consists of two governance mechanisms: inward, i.e., the internal movement of EU citizens, and outward, i.e., the migration of people from third states. These cannot be treated separately, but rather as two sides of the same coin.

The free movement of people within the EU (EU nationals) is a part of the broader concept of the single market. It is one of the four fundamental freedoms of the EU's single market, along with the movement of capital, goods, and services (Lavenex et al. 2015). The right to free movement is treated as a fundamental EU principle and enshrined in the Treaty of the Functioning of the European Union.

The current governance framework in this area is a result of the evolution of the concept of the free movement of people. Starting with the Treaty of Rome,

when the first provisions were included on free movement of workers, through the Treaty of Maastricht, which introduced the notion of EU citizenship to all nationals of member states, and ending with the Treaty of Lisbon, which confirmed this right.

Without doubt, adoption of the Schengen Agreement and its transfer to the EU *acquis* constituted the key point in establishing a true free movement of people. It applies the same rules to twenty-two EU full Schengen members (with the exemption of Denmark which enjoys an opt-out) plus Switzerland, Norway, Iceland, and Liechtenstein. Of the six remaining EU members, the UK and Ireland are not part of Schengen, Romania, Bulgaria and Cyprus are due to join, and Croatia has begun its accession procedure. The internal migration mechanism also includes some rights for third country nationals; these are addressed in two EU directives: the EU Long Terms Residents Directive (EU, 2003b) and the EU Family Reunification Directive (EU, 2003a).

While the Schengen Agreement can be treated as a tangible manifestation of the internal free movement of EU citizens, it is inseparable from the European governance mechanism dealing with external migration. The obligations of Schengen membership, including the abolition of internal border controls for all persons, measures to strengthen and harmonize external borders, a common visa policy for nationals of third states, police and judicial cooperation, and the establishment of the Schengen Information System, have profound consequences for effective governance in this area.

The second EU migration governance mechanism applies to third-state nationals who want to enter EU territory. It includes legal and illegal migration policies as well as an asylum policy. Since this study concentrates on the migration crisis, the analysis will concentrate mostly on asylum policy.

The European Union framework on asylum consists of three levels, international, supranational and national (Nancheva, 2015; Langford, 2013), and can be analyzed from legal, institutional and functional perspectives.

Legal. The legal basis for European asylum policy is enshrined in the Treaty on the Functioning of the European Union (Art. 67 (2) and 78; EU, 2012) and the EU Charter of Fundamental Rights (Art. 18; EU, 2000) with strong reference to core international legal instruments in this area, the Geneva Convention of 1951, the Protocol Relating to the Status of Refugees of 1967, and the non-refoulement principle. The legal instruments consist of directives, regulations and decisions that cover many issues and that in most cases provide answers to emerging prob-

lems and issues. Most recent are the European Council decisions and proposed regulations that addressed the European migration crisis. EU secondary law has a profound impact on national asylum policy, since it must be transposed to domestic legislation in the context of procedures, reception, treatment, and protection of refugees. The member states' close cooperation on asylum is framed by the Lisbon Treaty, which transformed the measures on asylum into a common policy.

Institutional. While from a legal point of view the milestone for European asylum policy was the Treaty of Lisbon, from an institutional point of view the milestone was the Treaty of Amsterdam, which shifted visa, immigration and asylum policy from the EU's intergovernmental third pillar to the first pillar and provided EU institutions with new competencies in asylum and migration policy. The Lisbon Treaty changed the way the Council of the European Union decides in the immigration and asylum area from the unanimity required by the Treaty of Nice to qualified majority voting. That is, individual member states have no veto power on asylum and immigration and must accept decisions even if they are contrary to their interests. What is more, the institutional dimension of European Asylum policy is strongly influenced by the interplay between supranational and national governance (Nancheva, 2015; Langford, 2013). While member states are bound by European regulations, they are reluctant to further "Europeanize" asylum due to their fears of losing sovereign control over such a sensitive issue as immigration.

Functional. The aim of EU asylum policy is to harmonize asylum procedures in member states by establishing common asylum arrangements. This work was initiated in 1999. During the next six years (1999–2005), several legislative measures harmonizing common minimum standards for asylum were adopted. These include the Temporary Protection Directive that allowed for a common EU response to a mass influx of displaced people unable to return to their country of origin (EU, 2001) and the creation of the European Refugee Fund (EU, 2007) aimed at strengthening financial solidarity between member states. The establishment of the new common European asylum system – CEAS[1] – was

[1] The present rules of the Common European Asylum System (CEAS) consist of the following elements: 1/ the revised Asylum Procedures Directive seeks to improve decision-making in the area of asylum; 2/ the revised Reception Condition Directive aims to improve and harmonize reception

completed in 2013 with the adoption of the amended Dublin Regulation and the Regulation on Eurodac – European Dactyloscopy. European regional governance also includes the protection of the EU's external border. Despite the fact the main responsibility still rests with states, some competencies in this area have been granted to Frontex. Its main responsibility is to facilitate cooperation between border authorities in member states. While not considered a part of the CEAS, it plays an important role in border management and fighting against illegal migration fueled by people smuggling.

Unlike the EU, ASEAN does not have an extensive regional migration governance model. It is limited to regulations on labor mobility between member states that cover selected categories of skilled persons for limited periods of time and limited market access (Levenex & Panizzon, 2013). Since ASEAN remains an intergovernmental organization, there are no institutions or bodies responsible for the creation, monitoring, implementation, or enforcement of regional asylum or immigration policy. What is more, there is no division between internal and external migration but rather between economic and forced migration (Petcharamesree, 2016). This does not mean, however, that there is no cooperation in the migration area. As with the previous analysis of the EU, the legal, institutional and functional dimension of ASEAN regional migration governance will be assessed.

Legal. The legal basis for ASEAN's regional migration governance can be divided into two categories. The first consists of regulations on trade, services, and investments, where the problem of labor mobility is addressed. It includes the Framework Agreement on Services (ASEAN, 1995), which stressed the need for a freer flow of labor and professionals among member states, the Agreement on Movement of Natural Persons (ASEAN, 2012a), where the mobility is linked to trade and investments, the Mutual Recognition Arrangements for professional services (Engineering 2005, Nursing 2006; Architectural 2007, Surveying Qualification 2007, Dental 2009, Medical 2009, Accountancy 2009, Tourism 2012), and

conditions (humanitarian and material) offered to asylum seekers in the entire EU; 3/ the revised Qualification Directive seeks to clarify and harmonize the conditions of granting protection; 4/ the regulation on establishing the European Asylum Support Office; 5/ the revised Dublin Regulation to establish the responsibility of member states for processing asylum application (first member state the asylum seeker reaches); and 6/ the revised Eurodac Regulation to create an EU database of the fingerprints of asylum seekers to avoid the multiplication of asylum application by a single asylum seeker in different states.

the Declaration on Protection and Promotion of the Rights of Migrant Workers (ASEAN, 2007) signed in 2007 by ASEAN leaders (not yet ratified).

The second category is regulations that address the human rights dimension of migration, however, as Petcharamesree argues, "[…] although ASEAN has shown commitment to human rights and international law the political will to address [it in the contexts of] forced migration is not yet present" (Petcharamesree, 2016, p. 181). This category includes the ASEAN Declaration Against Trafficking in Persons, Particularly Women and Children (ASEAN, 2004), and the ASEAN Human Rights Declaration (ASEAN, 2012b). Both documents operate according to the main ASEAN principle of respect for state sovereignty and non-interference in internal affairs and, therefore, the way they are interpreted and implemented depends on individual member states. What is more, most ASEAN member states are not signatories to the UN Refugee Convention (the exemptions are Philippines and Cambodia) and its Protocol meaning that, from the legal point of view, the problem of asylum seekers and refugees does not exist in ASEAN regional migration governance.

Institutional. The commitment to the principle of non-interference in internal affairs determines the institutional dimension of ASEAN cooperation in the migration area. Unlike the EU, there are no regional institutions responsible for addressing a regional migration crisis. The authority still rests with national governments, yet there are examples of institutionalization of cooperation in the form of ASEAN Commissions on the Promotion and Protection of the Rights of Women and Children and on Human Rights. It should be stressed, however, that both have an intergovernmental character and operate under the non-interference in internal affairs principle (Petcharamesree, 2016, pp. 183–184).

Functional. The reluctance of ASEAN member states to establish a supranational framework for addressing the regional migration crisis is balanced by their involvement in broader regional cooperation. The Bali Process, established in 2002 as a wider Asia-Pacific framework, gathers not only all ASEAN member states but also the ASEAN Secretariat as an observer. This process sought to address the issue of people smuggling and trafficking, yet its value lay in assisting states cope with illegal migration by adopting international asylum management. It is argued that it has contributed positively to finding regional responses to the 2009 "mini migration crisis" in Southeast Asia (Petcharamesree, 2016, pp.

183–185). Since all ASEAN member states recognize that illegal migration and refugee protection require regional solutions, the consensual mechanism based on support and encouragement rather than imposition of constraints on national sovereignty could better facilitate regional cooperation.

RESPONSES TO THE MIGRATION CRISIS

Despite different models of regional migration governance, the EU and ASEAN undertook concrete actions to address and solve the migration crisis in Europe and Southeast Asia. The analysis of the responses is organized around three issues: the perception of the problem, the actions taken to solve it, and the results of those actions.

PERCEPTION OF THE PROBLEM

EU. At the beginning, the migration crisis was perceived as a humanitarian problem that needed more decisive action in rescuing migrant boats. This interpretation dominated public discourse at the European and national level until the terrorist attacks in Paris in November 2015, when a new "security" interpretation was added. At the national level, in most EU member states the problem was interpreted as a humanitarian challenge yet, from the very beginning, it was also viewed as a security challenge in some – Hungary, Czech Republic, Slovakia, and later Poland, Bulgaria, Denmark, Austria, and the Netherlands. The interpretation of the migration crisis has strongly polarized public opinion in most EU member states and raised support for anti-immigration movements.

ASEAN. The Rohingya migration crisis in Southeast Asia was interpreted both as a humanitarian and security problem by the most affected ASEAN member states – Thailand, Malaysia, and Indonesia. The discovery of mass graves in southern Thailand followed by the rescue of 2000 boat people by Indonesia and Malaysia drew public attention to the Rohingya problem as a humanitarian challenge. However, despite sympathy for the Rohingya, the humanitarian aspects of the crisis were competing with security rhetoric fueled by allegations that the migration of Muslim Rohingya raised the challenge of Islamic terrorism in the region (Wolf, 2015). At the national level, the "security" interpretation of the Rohingya

crisis prevailed. At the ASEAN level, it was interpreted as a political challenge that could be solved through political dialogue rather than political pressure.

ACTIONS TAKEN TO SOLVE THE PROBLEM

EU. At the EU level, the actions taken concentrated on four issues: physical influx of migrants, the protection of the EU's external border, asylum procedures according to CEAS, and maintenance of the internal free movement of people granted by the Schengen Agreement. Four types of actions were taken to deal with the physical influx of migrants:

- rescue operations aimed at boat migrants;
- enhancing the European solidarity quota system to help the states (Italy, Greece, Hungary) where the largest groups of immigrants had arrived;
- a relocation mechanism sought to share the burden of arriving immigrants between EU member states;
- agreements with and support for third-countries (Lebanon, Turkey, Jordan).

Actions regarding the external border concentrated on three problems:

- strengthening the border;
- regaining control of external borders, including effective fighting against people smuggling;
- external border management, including effective registration of migrants and creating hotspots where migrants could be registered.

On October 15, The European Council decided on strengthening the EU's external borders to include an integrated border management system that will go beyond the current Frontex mandate and the addition of hundreds of additional border guards to secure hotspot areas in Greece and Italy. On February 18–19, 2016, the European Council decided to improve external border management, including the need to gradually get back to a situation where all Members of the Schengen area fully apply the Schengen Borders Code, and to make hotspots fully functional. There was also discussion at the Justice and Home Affair Council on creating a European border and coast guard. The main objective of the European border guard would be to ensure and implement, as a shared responsibility, European integrated border management at the EU's external borders. It would consist of a European Border Guard Agency and national authorities responsible for border management. The European Border and Coast Guard became fully

operational in October 2016 (EC, 2016). Since the beginning of the migration crisis, the EU has initiated operations to fight people smuggling. The EU action plan against migrant smuggling was adopted on May 27, 2015. One month later, the EU launched the EUNAVFOR Med (later Sophia operation), naval operation against human smugglers and traffickers in the Mediterranean. Part of the solution was an agreement with Turkey.

In the case of asylum procedures, the EU discussed reforming the Common European Asylum System. On April 6, 2016, the European Commission presented a project for reform that identified five areas where the CEAS should be changed: adoption of a distribution of migrants mechanism to insure fairness and solidarity in responsibility (change the first state obligation?); replacement of the Asylum Procedures Directive and Qualification Directive with new regulations setting standards on asylum procedures to help eliminate asylum shopping; preventing secondary movement within the EU by making certain rights conditional upon registration, fingerprinting, and staying in the country assigned to the applicant; broadening the European Asylum Support Office mandate by giving it new competencies in policy-implementing and operational (distribution mechanism, harmonization of standards); and reinforcing the Eurodac system. The negative reaction expressed by some member states to the proposal proved that there is strong opposition to the direction of the European Commission's reform proposal.

With respect to the maintenance of Schengen, the EU adopted internal border controls. On May 12, 2015, the Council of the EU adopted a recommendation that allows for the continuation of temporary internal border controls in exceptional circumstances. Austria, Germany, Denmark, Sweden, and Norway could maintain temporary border controls at specific places on their borders for a maximum period of six months. The restoration of border controls by different European states due to the migration crisis puts the Schengen Agreement into question.

ASEAN. The actions taken at the regional level to solve the migration crisis are described by some experts as "regional deterrence" rather than "regional cooperation" (Mathew, 2015). They concentrated on managing the crisis rather than addressing its root causes. There was little cooperation and the states make decisions unilaterally. Most of the actions taken reflected the security perception of migration crisis: boats were sent back, and migrants were detained, deported, or located in special camps. There were two ASEAN special meetings devoted to

the migrant crisis, in May and December 2015, attended by 17 and 18 regional states, respectively. The results of those meetings included the temporary acceptance of boat people by Indonesia and Malaysia, intensification of search and rescue operations, assistance to states dealing with the crisis, creation of legal channels for migration, financial support for the International Organization for Migration, and launching an information campaign addressing the problem of illegal migration. Since these were proposals and recommendations, their implementation depended on the political will of the involved states. The process of migration crisis solving was included into the institutional framework of ASEAN Ministerial Meetings on Transnational Crime – AMMTC. Two meetings were organized in that format: Emergency AMMTC on July 2015, and 10th AMMTC on September 2015 in Kuala Lumpur, Malaysia. The outcome of those meetings was the Kuala Lumpur Declaration on Irregular Movements of Persons in Southeast Asia (ASEAN, 2015), in which, apart from the insignificant commitments, regarding the deepening of knowledge and the dissemination of information on the crisis, ASEAN member states agreed on establishment of Special Task Force to respond the crisis and emergency situation arising from irregular movement of persons in Southeast Asia, as well as establishing trust fund administered by ASEAN Secretariat for voluntary contribution to support humanitarian operations addressed to migrants. There was no addressing of the main source of migrant crisis and no "finger pointing" in the Declaration. What is more, in its preamble the parties expressed their highest concern to the impact of irregular migration on the national security of certain countries, namely Malaysia, Myanmar (sic!), Thailand and Indonesia (ASEAN, 2015).

RESULTS OF THE ACTIONS TAKEN

EU. The actions taken by the EU institutions proved inadequate in solving the migration crisis. The biggest failure was the relocation process. Through the end of 2015 only 272 migrants had been relocated and by September 2017, the deadline for implementation, only 29,000 of the planned 160,000 had been relocated. The other failure was the naval operation against people smuggling that was transformed into a rescue operation. Instead of fighting the smugglers, EU naval forces became their "partners" in transfer of illegal migrants to Europe. The attempts to reform the CEAS also faced strong opposition from member states. There is no consensus on the depth of reform. For some member states,

the European Commission propositions go too far and interfere with state sovereignty. In contrast, full compliance was achieved in external border control. All EU members recognized the need to strengthen the external border and demonstrated the will to cooperate. It should be emphasized, however, that the highest impact on slowing down the migrant inflow to the EU were decisions made by individual states located along the Balkan route (Macedonia, Serbia, Hungary, Croatia, Slovenia, and Austria) to close their borders to illegal migrants and the agreement signed with Turkey.

ASEAN. The actions taken at the regional level aimed to solve the Rohingya crisis in Southeast Asia have also proven inadequate. The biggest failure was ASEAN's inability to develop a common response to the evident violation of human rights in Myanmar that fueled the crisis. The framework of the ASEAN Human Rights Declaration was not used, even though its adoption prove the ASEAN member states *de facto* recognize refugee protection as a human right. Instead they chose the framework of the ASEAN Declaration Against Trafficking in Persons, Particularly Women and Children, as a way to address the security dimension of the migration crisis and "safer" option in the non-interference principle context. ASEAN's political potential to play a greater role in constructing a long-term solution to Myanmar's domestic ethnic problems remained unused (Farzana, 2015). The crisis highlighted the unwillingness to go beyond the non-interference principle. Ultimately, the priority given to unilateral solutions was finally overcome when the negative consequences of illegal migration, especially on the security side, were realized by the states, however, the actions taken did not solve the problem or stop the boat migration in the Southeast Asian region. Two years later, in 2017, more than 700,000 Rohingya minority members fled from Myanmar to Bangladesh.

CONCLUSIONS

The analysis of the EU and ASEAN responses to the migration crisis indicate that regional solutions proved ineffective. Despite substantial differences between the EU and ASEAN, regional migration governance model was neither able to deliver tools for the effective control and management of the massive inflow of illegal migrants nor to solve the problem at its roots. In the case of EU, the slowing down of the migrant influx was not due to decisions taken at the European level,

but rather to those of individual states that had decided to protect their borders and control their own territory. The question of root causes of the migrant crisis (conflicts in Syria, Iraq, Afghanistan, poverty and lack of perspectives in African states) was not a major issue in a process of migration crisis solving in 2015 and 2016. In the case of ASEAN, mixture of internal and external constraints made it impossible to address both the humanitarian and political dimension of the problem. On the one hand, the lack of the legal framework on refugee or illegal migration made impossible addressing human aspects of migration crisis in a proper way. What is more, "without a commitment to a principled bottom line, it will be [from today's perspective, it was indeed – K.M.-M.] difficult to achieve regional cooperation on refugee issues" (Mathew, 2015). Only two from ten ASEAN member states are parties to the 1951 Convention on Refugee Status and the Protocol. On the other hand, the issue of sovereignty, ethnic composition and economic development differences resulted in an inability to go beyond the non-interference principle, what in a case of 2015 Southeast Asia migration crisis made impossible the simplest solution – to solve the Rohingya crisis at its roots, i.e., Myanmar policy towards Rohingya minority.

The comparison of the migration governance frameworks and responses of the EU and ASEAN allows us to answer the research questions posed in the introduction. Why did the EU and ASEAN prove ineffective in dealing with 2015 migration crisis, despite different legal, institution and functional governance frameworks in migration? And why the process by which both organizations made their decisions was so similar? The empirical analysis has revealed that national governments rather than regional organizations are still the key players in addressing migration problems, and the failure of collective responses to regional migration crises can be interpreted as a function of the national governments' fears of undermining their sovereign control over the key elements of statehood: people and territory. In the case of the European Union the main problem was a tendency to "Europeanize" asylum and immigration policy. The pursuit by European supranational institutions to broaden their mandate at the expense of national governments and forcing solutions that did not take into consideration interests of member states can be perceived as the biggest obstacles to common and solidarity actions. Most of the member states saw costs and problems rather than tangible benefits and the solutions proposed by the European institutions interfered deeply with state sovereignty. The European bureaucrats claimed the right to directly influence the states' ethnic composition, identity or culture. The aspiration of the European Commission to manage the

crisis in a technocratic way where the member states were treated as implementation tools created huge political tension and resistance towards a common solution. "Too much" integration led to a political crisis in which member states wanted to secure their position as the main political agents.

While the failure of "too much integration" can be considered in negative terms – as avoidance of the further broadening of the EU competencies in migration at the expense of member states, the failure of "too little integration" can be perceived in positive terms – as a tendency to secure existing *status quo*, with dominant position of member states, fueled by the fears of creating precedents that will challenge the essence of ASEAN.

ASEAN's failure to address migration crisis can be interpreted as a mirror reflection of the problems faced by the EU – the inability to move beyond the principle of respect for state sovereignty and non-interference in internal affairs. ASEAN is bound by rules that make reaction to human rights abuses committed by its member states impossible. This lack of political will and commitment exposed the weakness of ASEAN's reaction. The lack of illegal migration and refugee governance framework under which the member states would be obliged to take decisive actions, including political pressure and sanctions, etc., towards members that violate international law and human rights, make regional cooperation on refugee issue difficult and limited. Instead, ASEAN member states prefer "quiet diplomacy" that allows violators to save face. The emphasis on state sovereignty and the non-intervention policy is the main impediment to regional cooperation in the ASEAN context. The creation of a regional immigration governance framework does not necessarily mean adoption of European patterns, but rather one that would allow for new interpretations of non-interference principle in the face of humanitarian crises.

What is interesting and to some extent common to the EU and ASEAN, is that states' willingness to cooperate and take collective action increased when proposed actions reflected the security dimension of the migration crisis. In the EU context, actions to strengthen border control, to establish European border and coast guards, to improve migrants' registration procedures and information sharing, or to solve the problem at its source have gained more support from all member states than the relocation mechanism that was perceived as a policy undermining national security and contributing to EU internal tensions. The same can be said about ASEAN, where the security perception of the Rohingya crisis rather than its humanitarian dimension urged states to cooperate more closely.

Is there a necessary level of integration to effectively address regional migration crises? The answer to this question will not satisfy those who seek breakthrough ideas. The analysis demonstrated that in the context of 2015 migration crisis the important issue is not how different the institutional structures of the EU and ASEAN are, but rather how similar the decision-making process or balance of power within the organization is. Regardless of the extent of integration, the member states' ability/inability to take collective action is highly motivated by individual political interests, calculations, social fears, ideology, public opinion polls, election calendar, values accepted or problem perception. This is symptomatic especially in the EU case where, despite the most advanced and comprehensive migration governance framework, failure or success of actions depended strongly on individual member states' political will. It leads to the conclusion, which is also an answer to above-mentioned questions: "too much" or "too little" integration is irrelevant because effectively addressing regional migration crises does not need any level of regional integration, rather high levels of political will and commitment.

References:

ASEAN (1995). *1995 ASEAN Framework Agreement on Services*, signed in Bangkok, Thailand on 15 December 1995. Retrieved from: https://cil.nus.edu.sg/wp-content/uploads/formidable/18/1995-ASEAN-Framework-Agreement-on-Services.pdf.

ASEAN (2004). *ASEAN Declaration Against Trafficking in Persons, Particularly Women and Children*, adopted on 29 November 2004. Retrieved from: https://asean.org/asean-declaration-against-trafficking-in-persons-particularly-women-and-children-4/.

ASEAN (2007). *ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers*, signed on 13 January 2007 in Cebu, Philippines. Retrieved from: https://www.ilo.org/dyn/migpractice/docs/117/Declaration.pdf.

ASEAN (2012a). *ASEAN Agreement on the Movement of Natural Persons*, signed on 19 November 2012. Retrieved from: http://investasean.asean.org/files/upload/ASEAN%20MNP%20Main%20Text.pdf.

ASEAN (2012b). *ASEAN Human Rights Declaration*, adopted on 18 November 2012. Retrieved from: https://asean.org/asean-human-rights-declaration/.

ASEAN (2015). *Kuala Lumpur Declaration on Irregular Movement of Persons in Southeast Asia*, adopted on 29 September 2015. Retrieved from: https://asean.org/wp-content/uploads/2012/05/Adopted-Kuala-Lumpur-Declaration-on-Irregular-Movement-of-Persons-in-Southeast-Asia.pdf.

ASEAN (2019). Legal Acts Data Base. Retrieved from: http://agreement.asean.org/home/index/8.html.

Caballero-Anthony, M. (2016). Understanding Non-traditional Security. In: M. Caballero-Anthony (ed.). *Introduction to Non-Traditional Security Studies: A Transnational Approach* (pp. 3–19). London. DOI: 10.4135/9781473972308.n1.

EU (2000). Charter of Fundamental Rights of the European Union. *Official Journal of the European Communities*, *2000/C(364/01)*. Retrieved from: http://www.europarl.europa.eu/charter/pdf/text_en.pdf.

EU (2001). *Directive 2001/55/EC, Temporary Protection If There Is a Mass Influx of Displaced Peoples*. Retrieved from: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3Al33124.

EU (2003a). *Council Directive 2003/86/EC of 22 September 2003 on the Right to Family Reunification*. Retrieved from: https://eur-lex.europa.eu/eli/dir/2003/86/oj.

EU (2003b). *Council Directive 2003/109/EC of 25 November 2003 Concerning the Status of Third-Country Nationals Who Are Long-Term Residents*. Retrieved from: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02003L0109-20110520&qid=1472219910415&from=EN.

EU (2012). Consolidated Version of the Treaty on the Functioning of the European Union. *Official Journal*, *C326*, 26/10/2012, 47–390. Retrieved from: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT.

European Commission (2016). *Securing Europe's External Borders: A European Border and Coast Guard*. Retrieved from: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/securing-eu-borders/fact-sheets/docs/20161006/a_european_border_and_coast_guard_en.pdf.

European Commission (2019). Press Release Database. Retrieved from: http://europa.eu/rapid/press-release_IP-17-3406_en.htm.

EUROSTAT (2016). *EUROSTAT News Release*, *44/2016: Record Number of Over 1.2million First Time Asylum Seekers Registered in 2015*. Retrieved from: https://ec.europa.eu/eurostat/documents/2995521/7203832/3-04032016-AP-EN.pdf/790eba01-381c-4163-bcd2-a54959b99ed6.

Farzana, K.F. (2015). *Migration Crisis on Southeast Asian Shores: Individual or Regional Responsibility?* Retrieved from: https://apm.iar.ubc.ca/migration-crisis-southeast-asia/.

FRONTEX (2016). *FRONTEX Risk Analysis for 2016*. Retrieved from: https://frontex.europa.eu/assets/Publications/Risk_Analysis/Annula_Risk_Analysis_2016.pdf.

IOM (2012). *IOM Migration Crisis Operational Framework*, *MC/2355*, November 15. Retrieved from: https://www.iom.int/files/live/sites/iom/files/What-We-Do/docs/MC2355_-_IOM_Migration_Crisis_Operational_Framework.pdf.

IOM (2015a). *International Organization for Migration 2015 Global Migration Trends Factsheet*. Retrieved from: http://gmdac.iom.int/global-migration-trends-factsheet.

IOM (2015b). *Mixed Migration Flows in the Mediterranean and Beyond: Reporting Period 2015*. Retrieved from: https://www.iom.int/sites/default/files/situation_reports/file/Mixed-Flows-Mediterranean-and-Beyond-Compilation-Overview-2015.pdf.

IOM (2018). *IOM Bangladesh: Rohingya Humanitarian Crisis Response: External Update*, September 21–27. Retrieved from: https://www.iom.int/sites/default/files/situation_reports/file/bangladesh_sr_20180921-27_0.pdf.

Langford, L.M. (2013). The Other Euro Crisis: Rights Violations Under the Common European Asylum System and the Unraveling of EU Solidarity. *Harvard Human Rights Journal*, *26*(1), 217–264.

Lavenex, S., Jurje, F., Givens, T.E., & Buchanan, R. (2015). Regional Migration Governance. Prepared for T.A. Börzel, & T. Risse (eds.). *Oxford Handbook of Comparative Regionalism*. Retrieved from: https://www.wti.org/media/filer_public/47/47/47476b48-d5f8-4d2b-ab2e-4b65e032a80a/2015_lavenex_jurje_et_al_.pdf.

Lavenex, S., & Panizzon, M. (2013). *Multilayered Migration Governance: The Partnership Approach in the EU and Beyond*. Draft paper prepared for the UNRISD Conference *Regional Governance of Migration and Socio-Political Rights: Institutions, Actors and Processes*, 14–15 January 2013, Geneva, Switzerland. Retrieved from: http://www.unrisd.org/80256B3C005BCCF9/(httpAuxPages)/48715F908CD99A61C1257D38004ADE29/$file/Lavenex%20and%20Panizzon_Multilayered%20Migration%20Governance%20EU%20and%20Beyond.pdf.

Mathew, P. (2015). Whither Regional Cooperation in Southeast Asia's Refugee Crisis? *The Diplomat*, August 24. Retrieved from: https://thediplomat.com/2015/08/whither-regional-cooperation-in-southeast-asias-refugee-crisis/.

Nancheva, N. (2015). The Common European Asylum System and the Failure to Protect: Bulgaria's Syrian Refugee Crisis. *Southeast European and Black Sea Studies*, *15*(4), 439–455. DOI: 10.1080/14683857.2015.1093372.

Parnini, N.S. (2013). The Crisis of the Rohingya as a Muslim Minority in Myanmar and Bilateral Relations with Bangladesh. *Journal of Muslim Minority Affairs*, *33*(2), 281–297. DOI: 10.1080/13602004.2013.826453.

Petcharamesree, S. (2016). ASEAN and its Approach to Forced Migration Issues. *The International Journal of Human Rights, 20*(2), 173–190. DOI: 10.1080/13642987.2015.1079021.

Rosenblum, M.R, & Tichenor, D.J. (eds.). (2012). *The Oxford Handbook of the Politics of International Migration*. Oxford: Oxford University Press.

The ASEAN Post (2018). *Non-Interference and the Rohingya Crisis*, June 30. Retrieved from: https://theaseanpost.com/article/non-interference-and-rohingya-crisis.

The Bali Process Official Website (2019). Retrieved from: https://www.baliprocess.net/.

UNHCR (2014). *UNHCR Regional Office for South-East Asia. Factsheet*, September. Retrieved from: http://www.unhcr.org/protection/operations/519f67fc9/south-east-asia-fact-sheet.html.

UNHCR (2015). *Global Focus: South-East Asia*. Retrieved from: http://reporting.unhcr.org/node/39?y=2015.

UNHCR (2016a). *Statistical Yearbook 2016*. Retrieved from: http://www.unhcr.org/statistics/country/5a8ee0387/unhcr-statistical-yearbook-2016-16th-edition.html.

UNHCR (2016b). *Mixed Movements in South-East Asia 2016*. Retrieved from: http://reporting.unhcr.org/sites/default/files/UNHCR%20-%20Mixed%20Movements%20in%20South-East%20Asia%20-%202016%20--%20April%202017_0.pdf.

UNHCR (2019). *Rohingya Emergency*. Retrieved from: http://www.unhcr.org/rohingya-emergency.html.

Wolf, S.O. (2015). The Rohingya: Humanitarian Crisis or Security Threat? *The Diplomat*, October 6. Retrieved from: http://thediplomat.com/2015/10/the-rohingya-humanitarian-crisis-or-security-threat/.