Vienna Migration Conference 2016

Abstract: “International protection”

The future of international protection in the EU

Abstract
The arrival of around 1.25 million people applying for asylum in EU Member States in 2015 shook the very core of the Common European Asylum System (CEAS). Within a few months, the initial ‘welcoming culture’ gave way to a feverish search for solutions to contain the largely chaotic and uncontrolled entry of non-EU citizens, the majority of whom were from refugee-producing countries, through Greece and the Western Balkans, to Hungary and further to Austria, Germany and other countries in Western Europe. The European Commission and the Council responded with an avalanche of legislative proposals and resolutions intended to provide a common European response. For the Member States some of these proposals went too far, developed too slowly, were not far-reaching enough or took a course in the wrong direction. During the crisis, ‘Intra-EU solidarity’ – one of the core principles of the CEAS – was at most a lip service during the crisis or openly rejected. In this context the CEAS was increasingly questioned and criticised for not offering appropriate instruments to deal with the increased influx of asylum applicants. New ideas on how to solve the so-called refugee crisis surfaced and were widely circulated. Increasing awareness of the failures of the CEAS also led to broader criticism of the international refugee law instrument, the Geneva Refugee Convention, which some have described as being outdated and inadequate in the face of current challenges.

Today’s “crisis” is not merely the result of the exigencies of 2015, but rather goes back to the very foundation of the international refugee protection framework. While the 1951 Geneva Refugee Convention set the basis for the CEAS, the latter lost the opportunity to provide European answers to questions that were not solved globally in 1951. The CEAS is more or less regional implementation mechanism of the obligations set out in the Refugee Convention, to which all EU Member States are party. It, however did not take the opportunity to find a common European understanding on questions such as solidarity, responsibility sharing, effective access to protection, the scope of protection or the regionalisation of the European protection scheme – all questions that already were controversial and could not be solved in 1951. New ideas and proposals are thus likely to fail or not even being discussed as long as no joint EU, or indeed international, understanding has been reached on some of those fundamental questions.