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# Asylum

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Translated By Annika Orich

The tragedy of Lampedusa has a prelude—a “prologue,” as it is properly called in the dramatic genre of tragedy. This prologue began 22 years ago, in August 1991, right in the middle of the Italian tourist season. Ten thousand refugees from crumbling Albania arrived in Southern Italy by cargo ship, the *Vlora*, a freighter that was only fit for scrap. They were hunted by soldiers through the streets of Bari, and eventually locked up in the city’s stadium. They were not allowed to seek asylum. There was no getting away, no refuge. There was hardly any bread and water, not even for women and children. Prisoners of war would have been treated better, because of the Geneva Conventions. Military helicopters circled above the heads of exhausted people. Food parcels were dropped from the air later on. A state was in panic.

Italy’s treatment of people fleeing its neighboring country was supposed to act as a deterrent. What would happen if Lebanon were to treat the one million refugees from its neighboring country Syria today as Italy did the ones from Albania? At the time, these refugees were brought back to Albania, deviously and violently. Albanian police officers welcomed them by beating them. Italian authorities, however, were as relieved as if they had won the Battle of Lechfeld. Italy requested a European mobilization effort: military units were supposed to patrol the Adriatic Sea to capture refugees still in the water. Elsewhere in Europe, this was thought to be a joke. Yet, it turned out to be reality: today, the only functioning part of European asylum policy is indeed resistance.

There are no standardized rules across the EU regarding the recognition of refugee status. There is nothing that deserves to be called a culture of protection. German governments, above all, no matter what their political orientation, have prevented this. There is no burden-sharing in Europe. There is only the mutual effort to get rid of refugees as quickly as possible. The EU protects borders, not refugees. It protects its borders with radar, helicopters, and ships. Scarcely anybody is interested in the ugly details – other than an organisation like Pro Asyl, which hosts a mass for refugees under the motto of psalm 69: “Let not the waterflood overflow me, neither let the deep swallow me up.”

The European agency responsible for border management is called Frontex<sup>1</sup>, and the sea is the “ex” of Frontex. The death of refugees is part of its policy of deterrence. Giusi Nicolini, Lampedusa’s mayor, asks, “How much larger must the graveyard on my island become?” She is convinced “that the European immigration policy accepts people dying as a part of the cost of curtailing migration.”

The surveillance system at Europe’s external borders is currently being upgraded for 340 million euros. The project is called “Eurosur” (European Border Surveillance System): it uses reconnaissance drones and satellites in space. Eurosur will supposedly not only prevent migration but also save refugees from drowning: What does this mean for refugees? The Deutsche Welle said succinctly: “Eurosur – your

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<sup>1</sup> European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.

enemy and helper.”

Fortress Europe: the walls between east and west had only just collapsed, and Europe was already beginning to build new ones. These walls are made up of paragraphs, visa bans, and surveillance technology. The EU protects itself from refugees as if they were terrorists. But no one fears them for their weapons; they do not have any. They have only the right of asylum, the weapon of the weakest. We fear them because of their desire: they do not want to perish, they want to survive. Thus, they are being treated like sex offenders and burglars, because they want to break into the European paradise. We fear them because of their numbers and believe them to be some sort of criminal organisation. A new EU policy, which was supposed to specify minimum standards for admitting people seeking refuge, has essentially turned into a directive for detention: refugees may be arrested anytime to protect “national security and order.”

In 1994, the Swiss journalist and jurist Beat Leuthardt published the reference book *Fortress Europe*. Afterwards, he had to listen to politicians and police strategists claim that there was no such fortress. They said, “Go and have a look, look around Europe and show us the alleged victims of this ‘fortress Europe.’” Leuthardt did exactly this: he drove to the Italian, Spanish, Belorussian, and Polish borders of Europe and wrote *Reports from the Borders* in 1999. He detailed the fates of those who froze to death, suffocated or drowned on their way to the golden west. At the time, the book caused a sensation. Today, it is just daily news: refugees suffocate in containers; refugees drown in the Mediterranean Sea. The existence of “fortress Europe” is no longer denied; instead, the fortress is defended.

Case in point: In July 2004, the ship *Cap Anamur* saved 37 people in distress near the Sicilian coast. Local authorities refused to allow the ship to enter the harbor of Porto Empedocle, Sicily. Only after faking a state of emergency was the captain able to land. The shipwrecked refugees were deported right away, and the rescuers were tried as alleged traffickers for “aiding and abetting immigration in a particularly serious case.” The prosecutor asked for a sentence of four years in prison and a fine of 4000 euros. The rescuers were on trial for five years until they were finally acquitted. One of the deported, Mohammed Yussuf, drowned when attempting to reach Europe by boat again. We can learn something from this story about the spirit and practice of the European legislation on asylum: the person who leaves behind drowning refugees and assists in their death is a barbarian. However, the person who fishes them out of the sea and brings them on land safely is arrested as a criminal offender.

And this is another example of defending the fortress: Europe pays a lot of money to countries in North Africa so that asylum ends up being the country where the refugee has come from – and the EU does not concern itself with the question of what happens with deported refugees. Repatriation agreements are agreements according to the motto, “Out of sight, out of mind.” Europe washes its hands of the matter, innocent like Pontius Pilate. Germany’s president, Horst Köhler, decried this hypocrisy in his 2007 Berlin speech: “Europe, too, is fishing Africa’s coasts dry and when criticized takes callous pleasure in pointing to agreements [it has made with African countries].” Europe creates the conditions that cause people to migrate: the west first destroys the economy of developing countries, and then, when people – because they do not want to die or are simply seeking a better life – flee their desolate home countries and make their way to Europe, they are mocked for being economic refugees and treated like criminals. EU policies construe responsibility strangely – as the words “Frontex” and “Eurosur.” The main escape route for Syrian, Iranian or Afghan refugees headed toward Europe runs across Turkey. But the route overland

through Greece is blocked with fences and high-tech systems. Refugees are forced to take the dangerous path across the sea.

The defense against refugees could fuel xenophobic sentiments in Europe anew – as the German anti-asylum campaign did successfully 20 to 25 years ago. At the time, the problem of refugees was reduced to one paragraph and one single message: whoever neutralizes article 16 paragraph 2 of the German Basic law (“Persons persecuted on political grounds shall have the right of asylum”), erases the problem of refugees; whoever gets rid of the right to asylum, saves the fatherland. The policies of the major parties thus appropriated easy answers, slogans and black-and-white thinking, as extreme parties have always done when responding to crisis. Especially the CDU/CSU talked about refugees in catastrophic language: terms such as “dam breach,” “foreigner glut” and “asylum tourism” turned into campaign slogans. They pretended that seeking asylum makes refugees as happy as kings, and asylum substitutes as a yearly vacation for the poor. The anti-asylum campaign was not even suspended when the right-wing “republicans” agitated against foreigners on TV, making use of Ennio Morricone’s “Once Upon a Time in the West” – and, subsequently, won 7.5 percent of the votes in the election for the Berlin House of Representatives. On the contrary, the parties outbid each other with their vitriolic claims.

This is how the situation was 25 years ago: those who wanted to be granted the right to asylum were insulted; those who called refugees freeloaders received thunderous applause. The legislation on asylum as well as refugees themselves were allegedly at fault for everything, even for burning down refugee housing and accommodations for foreigners. This anti-asylum campaign destigmatized right-wing extremist philosophy and introduced a bogeyman: the asylum seeker, the economic refugee, the foreigner in general.

The anti-asylum campaign created not only a dangerous mix of anger and fear among the populace but also changed the German Basic Law in 1993 by introducing a law aimed at refusing refugees. This policy, under the designation “Dublin II,” became the essence of the EU’s legislation on asylum: The Dublin regulation states that the country in which the asylum seeker first entered Europe is responsible for the refugee, and remains responsible. This regulation has been terrific for Germany: as a result of its stable central position, the number of asylum seekers decreased drastically; instead, countries at Europe’s borders, such as Greece, Italy, Malta, and Spain, had to absorb the extra burden. Since this arrangement has served Germany greatly, German policy on asylum has solely focused on defending and maintaining this system.

In 2006, the number of asylum seekers was lower than it had been for 30 years: at the time, only 21,029 people were eligible to apply for asylum in Germany, and only 251 were actually granted asylum (These low numbers were then taken as a benchmark to determine the future capacity for placing refugees). In view of these numbers, German politics saw no reason to think about mutual EU legislation on asylum, burden-sharing, legislation on migration, and policies countering the causes of flight. The Dublin system makes sense and is successful, German interior ministers have explained over and over again.

This amounted to 20 devastating years lost to the agony of asylum policy, which has inhibited Europe’s future and has been deadly for refugees. The approaches that promised constructive asylum policies were never implemented, since defensive regulations seemed to work. There were indeed some such attempts: a case in point is the report of the working group “Approaches to Refugees,” which was submitted by

Interior Minister Wolfgang Schäuble in 1990, and which also discussed policies countering the causes of flight. Restrictive legislation on arms exports and new trade policies are needed to control the reasons that force people to seek refuge. As long as European food is cheaper in Africa than local goods, which results in the collapse of local agriculture, we should not be astonished by the exodus from Africa.

The excellent 1993 “Manifest of the Sixty” is an example of a sophisticated concept that was completely ignored by politicians and bureaucrats. It is a great report in which 60 German researchers from all disciplines promoted an immigration quota system and outlined its rules. The 1999 EU conference in Tampere, Finland, also concluded that the policy of sealing borders will not work. However, this insight was forgotten again, because sealing borders seemed successful after all. The hundreds of coffins in Lampedusa now show the price for this alleged success. At the same time, the Dublin system is breaking apart. The border countries of the EU cannot and do not want to carry the burden anymore. Italy, for example, waves refugees through. With increasing frequency, Italian authorities do not take finger prints, so that the EU’s central database is unable to confirm whether a refugee entered Europe via Italy. The times when Germany had a low number of asylum seekers are now over – and it is obvious to a nightmarish degree that German politics has not lifted a finger in 20 years.

We now have to talk again about concepts and approaches that we could have already been discussing 20 years ago: about implementing legal access to Europe, that is, about an immigration quota system; and about an allocated quota for each individual EU state based on population and economic performance. The “Manifest of the Sixty” proposed the following: “On principle, immigrants must submit their application from abroad. If the number of applications is higher than the allotted quota, the application must be assessed according to a point system based on the origin, qualifications, and age of the applicant. Persons who applied for asylum should only be considered as immigrants after a reasonable period.”

The EU conference in Tampere, Finland, presented the model of “fortress Europe” with drawbridges 14 years ago. However, these drawbridges were never lowered. A reasonable asylum and immigration policy could begin with a “drawbridge initiative.”

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