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BULGARIA'S RESPONSE TO REFUGEE MIGRATION: INSTITUTIONALIZING THE BOUNDARY OF EXCLUSION

The consistent securitization of migration in Europe of the past decades has been consequential: one of its most visible aspects is currently displayed in the regulation of asylum in Europe. By constructing migrants as physical and ontological threat, by re-drawing borders as barriers against otherness, by re-affirming the identity-maintenance aspects of citizenship, the securitization of migration and the lumping of asylum together with migration in all key EU regulatory moves has enabled the rationalisation of protection *from* asylum-seekers. This article takes up a national study of the policy narratives and practices around one of the understudied recent asylum hotspots in the EU: the Bulgarian-Turkish border forming part of the external EU border. The analysis emphasizes how the re-bordering dynamics identified in Bulgaria (as a EU member-state) is embedded within similar narratives and practices at all levels of EU asylum politics. It argues that these (re-)bordering narratives and practices undermine the notion of protection, weaken the Europeanization of asylum, and threaten the legitimacy of political communities in the EU. These consequences need to be taken into account when studying the struggle between human rights and democracy in the regulation of asylum, as well as when discussing the strategic direction of EU migration governance.

Key words: *asylum-seekers, political community, borders and bordering, Europeanization*

The European Union (EU) attracts thousands of asylum-seekers a year and this is not likely to change, given crises and instability in the Middle East and Africa. Despite the deadly risks, the numbers of people trying to cross a EU border of sovereignty has only been increasing. This faces the EU with at least two important tasks. First, it must strike the right balance between securitizing (irregular) migration and regulating asylum in the language of human rights (compare with Benhabib, 2005). The alternative is perpetuating the paradoxes the EU asylum framework is seen to produce (e.g. Toscano, 2013; Toshkov and de Haan, 2013; Ripoll Servent and Trauner, 2014; Tolay, 2014) and eroding the normative power of human rights in Europe, especially when it comes to asylum-seekers (and migrants in general). Second, the EU must find a way of receiving hundreds of thousands of asylum-seekers annually without detriment to the legitimacy of (already challenged) political communities in the member states (see Delanty, Wodak and Jones, 2011 for a detailed overview of this problématique). Otherwise it risks mounting social tension and intergroup hostility. This is particularly relevant to EU's more recent attempts to find a middle ground in the field of migration governance (Scholten et al., 2015).

This article explores Bulgaria's response to refugee migration in view of these two big tasks. Bulgaria embraced its responsibilities for guarding the outer EU border with the ambition of a

new member and the reliance on the EU that could be expected from one of the poorest member states. In this sense, Bulgaria promises a good example of the national implementation of the experimented Common European Asylum System (CEAS) (Guiraudon and Lahav, 2000; Gibney, 2004; Kaunert, 2009; Ippolito and Velluti; Kaunert and Léonard, 2012b, see also Block and Bonjour, 2013 for the contradictory dynamics of the process of Europeanization). The analysis of Bulgaria's response to the refugee influx of 2013-14, offered below, demonstrates two things. First, security thinking and acts of securitization (Huysmans, 2006: 149) have completely overhauled the human rights aspects of asylum, institutionalizing a peculiar EU predicament: policies that aim at protection *from* asylum-seekers, rather than at protection *of* asylum-seekers. Second, these policies reinforce a very visible exclusion of asylum-seekers from participation in the political community of the state, spelling a recipe for xenophobia, racism, and segregation, with all their concomitant evils that the EU has been proclaiming to combat. What this article aims to show is that by framing asylum-seekers into security thinking and by consolidating their exclusion, Bulgaria's policy practices and narratives (as per Boswell, Geddes and Scholten, 2011) delineate a political community with rigid borders. This community re-attaches to nationhood in a way that is incompatible with the normative space of Europeanization (Nancheva, 2015). Yet, it reflects and sustains (re-)bordering policy practices and narratives about asylum from all levels of EU asylum governance. In this sense the failures of refugee protection in the studied case should not be seen as national 'policy malintegration' (Boswell and Geddes, 2011), as weak Europeanization of asylum in Bulgaria. Rather, they should be understood, within the context of European integration, as EU asylum governance that works against the normative foundation of Europeanization. Unsurprisingly, the increasing migration pressures towards the EU have concurred with the unravelling of EU solidarity (Langford, 2013) and has challenged one of the central features of the European Community - open borders.

The rest of the article is organized in two sections. Section one frames the above claims theoretically and examines the relevance of the problem of political community in the context of asylum regulation. Section two introduces the case study of an understudied regional context and analyses the mechanisms of institutionalizing exclusion of asylum-seekers during the process of claiming asylum in Bulgaria. It follows the similarities of Bulgaria's response with asylum governance in the EU. The investigation argues that the dynamics of re-bordering which has characterized both comes at the cost of limiting access to asylum, undermining the standard of protection, and nurturing the seeds of nationalism, xenophobia and 'xeno-racism' (Delanty et al, 2011: 3). It thus threatens both the precarious balance struck when Europeanizing asylum (the CEAS), and the precarious political solidarity within member states and among them (as has become obvious in the unfolded disagreements over relocation quotas and burden sharing in 2015-2016).

Section I

Ever since it pledged to establish a common asylum framework (which it formally did in 2013), the EU has consistently been improving the supranational legal basis of asylum governance (Kaunert and Léonard, 2012a). Nevertheless, it crumbled under unprecedented pressure in the summer of 2015 (and throughout the preceding year), inviting scrutiny upon its own rules and culprits for failing them. Many analysts pointed to individual 'rogue' states for breaking the rules either to the advantage of refugees (prominently Germany, but also Italy, Sweden) or to their disadvantage (Hungary, Austria most recently, but previously Greece, Bulgaria). In many ways the key to understanding how and why the EU asylum framework is failing is hidden within the modalities of national implementation. This article argues, however, that the national context cannot be detached from the supranational framework, because it follows identical narratives and practices: those of securitization and exclusion implied in the dynamics of bordering and re-bordering (see also Anderson, 2013; Mezzadra and Neilson, 2013). By tracing the dynamics of (re-)bordering in a specific national context, the analysis aims to show its implications for the rigidity of national political communities but also for the fragility of EU solidarity on asylum governance and well beyond. In this sense, the contribution this article attempts to make addresses issues of political community and the basis of solidarity in a EU member state. It is also linked to the problematique of EU solidarity and the notion of supranational community in Europe.

National decision-making prerogatives in the field of asylum have been structured and to some extent limited by EU's attempts to harmonize asylum, thus recasting and liberalizing the EU system (Kaunert, 2009; Bonjour and Vink, 2013; Block and Bonjour, 2013), even though analysts observe that the EU is still far from supranational governance (Kaunert and Léonard, 2012a). The requirements of EU law, particularly the Dublin system's first member state rule which assigns taking charge responsibility to the EU member asylum-seekers reach first, have mobilized sufficient national opposition to become unpopular (Thielemann and Armstrong, 2013). The Dublin rules have been especially criticized for placing disproportionate burden on member states along the external border, such as Bulgaria, with their requirement to transfer back asylum-seekers already dispersed in the EU (see also Thielemann and Armstrong, 2013). In order to prevent more asylum-seekers from entering its territory, Bulgaria (like Greece earlier and Hungary more recently) has been fortifying its physical borders. At the same time, it has been struggling to provide a standard of protection in compliance with the recast and improving EU rules. Such contradictory policy moves have often been described in the literature as weak Europeanization, policy failure, and 'malintegration' of asylum (Hollifield, 2004; Boswell and Geddes, 2011; Thielemann, 2012; Kaunert and Léonard, 2012b, Boswell, 2014), thus presuming a discrepancy between EU level and national level policies and narratives. This article treats the EU and the national level as inextricably intertwined. It demonstrates,

however, that there is indeed a discrepancy. This arises from the policy narratives and practices of (re-)bordering employed at all levels of EU asylum governance and their incompatibility with the normative basis of European integration that is predicated upon the transformation of national borders into linking and not separating spaces (Balibar, 1998).

The justification of the move from a sophisticated human rights legal framework to a restrictive political interpretation of asylum has been made possible by narratives and practices of security (also, Geddes, 2000: 68). This article focuses on a key element in the making and talking of security - borders and bordering - and demonstrates its centrality in Bulgaria's response to the temporary but overwhelming stream of asylum-seekers through the segment of the southern EU border it guards. As the case study will emphasize, the EU sustains and indeed actively assists the territorial re-bordering dynamics. The policy narratives of high security and threat which territorial re-bordering yields, in turn, give rise to exclusionary moves at organizational and institutional level (see also Fassin, 2011). Narrow national interpretation of EU rules and legislation seem to permit this, even though nominally the EU standard has moved towards liberalization. Subsequently, the re-bordering dynamics becomes reflected into conceptual frameworks, which trickle down to public perceptions and reactions towards asylum-seekers (Green, 2010). It reinforces rigid political communities nationally and is bound to generate societal tensions in view of increasing refugee migration flows. Thus it works against national interests which restrictive national policies against asylum claim to uphold. The securitization of asylum in Europe also works against the normative logic and policy goals of EU migration governance which emphasises the need to 'mainstream' migrant integration (Scholten, 2015). Furthermore, it undermines the normative promise of European integration by reinforcing nationalist, exclusionary visions of political community that the European project was launched to transgress (e.g. Karolewski and Kaina, 2011). Finally, the securitization of asylum and the re-bordering of asylum-seekers within European political communities subverts the notion of international protection itself, by placing in danger the physical survival and the psychological wellbeing of persons who are entitled to protection and rights under international and national law, *as well as* under the EU acquis.

At the national level, the most widely applied and most effective technique for coping with increased refugee migration has been restricting access to the territory together with restricting the interpretation of the qualification conditions. But this policy move finds its firm background into the inability of the CEAS to respond to an intensified flow of asylum-seekers without the impression of fortifying the external borders even further (e.g. Léonard, 2010). It also reflects EU-wide processes of securitizing migration and lumping asylum together with irregular migration; a crisis of confidence in the fairness of governance; dubious moves to re-work the asylum framework to address the renewed refugee flows driven by the attraction of the EU as a beacon of peace and stability. In this sense, the restrictive national application of

the asylum rules in EU member states and the exclusionary practices and narratives institutionalized at every step of the asylum-seeking process could be better understood as upholding a particular vision of the Europeanization of asylum - dressed in the language and policy tools of security and statehood, rather than as a deviation from or a failure of Europeanization. Analysing the problem of exclusionary national practices and narratives on asylum within the broader context of Europeanization and the general securitization of migration is important because it offers both an avenue for fully understanding the problem, and for beginning to address it politically.

The paper applies Andrew Geddes' conceptualization of borders as territorial, organizational or conceptual 'zones of interaction' between asylum-seekers and their host societies/ states (2008). The analysis demonstrates that the multi-dimensional borders that asylum-seekers hit upon their contact with a national asylum system in the EU have been upheld at all levels of asylum governance (supranational, regional, national, local), and have been internalized into domestic public perceptions. The case study is explicitly focused on territorial, organizational and conceptual (re-)bordering policy practices and policy narratives, and their implications for the provision of protection, for the harmonization of asylum, and for the political communities which host asylum-seekers. The paper emphasizes the general compatibility of Bulgaria's response to intensified refugee migration with EU policy practices and policy narratives on asylum. It thus calls for re-examining the claim for policy failure of the CEAS, but it also suggests that the 'success' of the regime leaves little to be celebrated.

To begin with, the institutionalization of exclusion of asylum-seekers has been compounded by the securitization of migration in the EU (Huysmans, 2006) and the consistent lumping of asylum together with it in all key policy documents and narratives. This dynamics can be easily traced at the level of EU policies and politics. Singling out irregular migrants as a central internal security threat, the policy narratives easily position asylum-seekers as intruders into a world preserved for others. The rhetoric of 'influx', 'crisis', 'overwhelming', 'emergency' help perform this narrative move. Its policy translation at the EU level has been to frame asylum as a high priority security issue (e.g. the extraordinary European Council summit on 23 April 2015 and its action plan, the summit on 25 June 2015), thus giving rise, as the case study in section two will demonstrate, to morally questionable and sometimes outright illegal measures to curb migratory flows of asylum-seekers by physically fortifying the national borders (e.g. Fargue and Fandrich, 2012: 11f). This is captured by the **territorial** re-bordering of asylum-seekers.

The **organizational** borders erected before asylum-seekers have been reinforced by the push and pull between the supranational and the national in the regulation of asylum in the EU. On the one hand, an attempt towards harmonizing asylum has raised many expectations before the EU framework, particularly in view of access to procedure, reception conditions, and

qualification criteria, which have all been recast in direct reference to asylum as a fundamental right. On the other hand, member states have retained key competences with regard to border security and control, as well as in-procedure and post-status integration provisions. The resulting discrepancies in the asylum regulations across the EU are a key factor in perpetuating the imbalances of the CEAS (El-Enany and Thielemann, 2011; Kaunert and Léonard, 2012) and its inconsistent implementation.

Finally, but not less crucially, the institutionalization of exclusion of asylum-seekers has been compounded by the erection of a myriad of **conceptual** borders at both the EU and the national level. The crisis of confidence which the EU has been battling over the past decade has been paralleled by an all-European crisis of governance deteriorated by an economic crisis. As austerity has eroded the 'permissive consensus' (Hooghe and Marks, 2009) that had ensured the progress of integration, the struggle for access to resources of the welfare state have re-focused European politics back to the national political communities (also Anderson, 2013) and to the logic of nationalism determining their legitimacy (Nancheva, 2015). Within that, all non-members of the community – be it from other EU member states or from third countries – are constructed in terms of otherness. Asylum-seekers, as highly dependent on the welfare provision, have come to be seen as a particular economic 'burden'. This narrative move, complemented by cultural, religious and ethno-national differences, has worked toward constructing asylum-seekers as a multi-faceted physical and ontological threat (Rumelili, 2015), and has been reflected in public attitudes, varying from non-acceptance and prejudice to segregation and physical violence.

The territorial, organizational and conceptual borders erected before asylum-seekers at both the national level and the EU have reinforced the institutionalisation of exclusion. Their outcome in policy practices and in policy narratives has ultimately been taking the element of protection away from the protection provision, and legitimizing the notion of asylum-seekers as a security threat. Within this complex dynamics spanning the various levels of European politics, the highly restrictive national application of European asylum legislation and the exclusionary practices at the national level begin to seem less like a policy failure of Europeanization and more like a logical outcome of it. The case study of Bulgaria's response to increased refugee migration through its border with Turkey of the years 2013-1015 illustrates this point. Complementing policy analysis (border security, control and management) with discourse analysis of the policy narratives which underlie the adopted policies, the following paragraphs examine the implications of the complex dynamics of re-bordering for the quality of international protection, for the normative credibility of the Europeanization of asylum, and for the legitimacy of political community in Bulgaria as a EU member state.

Section II

Against the background of migrant boat tragedies in the Mediterranean, comparatively little analytical attention was paid to the flow of migrants through the dry land points of entry along the southern EU border until well into the summer of 2015. This is especially true for the 240 km long segment of the border between Bulgaria and Turkey, from Kapitan Andreevo to Rezovo on the EU side, which for a brief period between the summer of 2013 and the spring of 2014 became the preferred land route into the EU of asylum seekers from Syria and beyond. It was in October-November 2013 that media coverage on Bulgaria started to notice the influx of asylum-seekers through the new route, which Bulgaria was obviously unable to receive. The numbers of registered asylum applications rose steeply from 890 in 2011 to 11081 in 2014 and 20391 in 2015 (Bulgarian State Agency for Refugees statistics). The low reception capacity and the sharply increased numbers soon unfolded into a full-blown refugee crisis (UNHCR observations 2 January 2014, Council of Europe Human Rights Commissioner comments 20 December 2013, Bulgarian Helsinki Committee open letter to the Bulgarian Ministry of Interior of 28 October 2013, Amnesty International News 2 January 2014, ECRE Bulletin 11 April 2014, etc). The situation was somewhat halted by mid-2014 with the joint effort of EU institutions and member states, the UNHCR, international and local non-governmental organizations and grassroots activists. But the manner in which this was accomplished raises concerns about Bulgaria's refugee protection commitments, and about the political priorities of the CEAS.

Territorial Borders

When news came out of the 'substandard conditions' within which Bulgaria received Syrian asylum-seekers in late 2013, the official reaction of the European community was shock and indignation (see Amnesty Briefing EUR 15/002/2013). As the country's reception capacity had by far been insufficient to accommodate the newcomers, they were being accommodated in long-abandoned military barracks and schools which lacked basic sanitary facilities. Bulgaria struggled to provide medical aid and even subsistence. This led the UNHCR to call in January 2014 for suspension of Dublin transfers of asylum-seekers to the country until further examination. The suspension of obligations under the EU acquis was meant to allow Bulgaria time to address the deficiencies in its asylum provision. Apart from reception conditions, concerns were raised that 'a large numbers of new-coming asylum-seekers were not registered and were not provided with the necessary documents, as required by international and EU law' (UNHCR 2 Jan 2014). With urgent financial assistance from the European Commission, individual member states and the UNHCR, reception conditions in the existing centres were brought up to basic standards, and the backlog in processing asylum claims had been cleared in the first two months of 2014. It was, however, noted that nationalities other than Syrians were deterred from applying for asylum and, once application was lodged, it took much longer to

process (Amnesty Briefing EUR 15/002/2014, 4). Furthermore, testimonies began to surface of forced returns/ push backs of prospective asylum-seekers from the territory of Bulgaria (reported meticulously by Human Rights Watch and Amnesty's SOS Europe). It is in light of this evidence that Bulgaria's response to the refugee crisis of 2013-14 needs to be re-examined.

Indeed, the Bulgarian interior ministry's key effort was aimed at controlling the Bulgarian-Turkish border. In cooperation with their Turkish counterparts, Bulgarian border police started sharing camera surveillance data with the aim of alerting Turkish authorities about approaching subjects and deterring them from reaching the Bulgarian side of the border. Despite constituting possible prevention of access to asylum procedure to people who in all probability would have been entitled to it, this border control and management technique enjoyed wide legitimacy domestically: the then minister of defence Angel Naydenov openly spoke of Bulgaria's right 'to return refugees (sic!) to Turkish territory', even though he also called at the same instance for sympathy with 'the drama of these people' (Sega newspaper, 22 Sep 2013). The Bulgarian then interior minister Tsvetan Tsvetanov openly lists returning illegally entered Syrians to Turkey as an example of good practice shaped with the cooperation of Frontex, which has facilitated Bulgarian border control since 2012 (TV Evropa News, 23 Jun 2012). At the time of the Syrian refugee crisis of 2013-14 the European border agency Frontex was present along the Bulgarian-Turkish border through the Poseidon Land 2013 operation providing terrestrial and airborne surveillance and enhanced debriefing activities. Its Focal Points Land 2014 operation extended Frontex presence at designated border crossing points in Bulgaria (among other countries, see archive of Frontex operations). As early as 5 Mar 2014 the head of Frontex Ilka Laitinen declared at a press briefing that the 'situation at the Bulgarian-Turkish border is under control' (BTA, 5 Mar 2014). This assessment came four months into the Bulgarian government's Containment Plan for managing the migrant crisis (Council of Ministers, Sofia 7 Nov 2013). The plan included, among other things, the building of a razor-edge fencing facility and the deployment of 1400 (plus 100) strong police unit in order to ensure the '100% control' of sensitive areas along the border (according to the document). As a result of these measures, the numbers of irregular crossings sharply dropped from thousands in the autumn of 2013 to 139 in Jan 2014 and 124 in Feb 2014 (Ministry of Interior report 10 Mar 2014).

It is obvious from these numbers that access to the territory of Bulgaria has been hindered. Given the humanitarian situation in Syria and the thousands of Syrians already known to have crossed into Turkey, refugee organizations declare that this in itself contains an indirect breach of the right to asylum under the EU Charter of Fundamental Rights and the access to asylum procedure under the EU Asylum Procedures Directive (2005/85/EC, Art. 6) to those willing to claim it. The fact that this happens with the cooperation and public support of Frontex indicates that fortifying the external border is a legitimate EU strategy for coping with high numbers of people displaced by the conflict in Syria and looking to re-build their lives in Europe. At the

same time, however, increasing border control and cooperating with the Turkish authorities to prevent access to the Bulgarian side of the border is not the only way in which access to asylum procedure has been denied to potential asylum-seekers. Numerous reports and investigations by refugee organizations and local activists indicate unecquivocally that pushing migrants who have already crossed the border back into the territory of Turkey, often violently and causing serious physical harm, has become standard practice (Human Rights Watch, bulgaria.bordermonitoring.eu, etc.). This is despite Bulgaria's official assurances that the policemen are supposed to deter people 'by their mere presence' and cannot return people who have already crossed (Head of the Union of Officers of the Ministry of Internal Affairs Valentin Popov, Struma news 12 Dec 2013). During the deployment of the additional police force, the official version of the Bulgarian government has been that the goal is 'to funnel asylum-seekers to the designated border checkpoints, for their own safety' (e.g. Prime Minister Borisov in parliament, verbatim reports 29 Jan 2014). The persistence with which this claim has been made in the official public space stands in stark contrast with the fact that such an outcome is physically impossible, as Turkish officials cannot let irregular migrants cross the checkpoints on their side to get to Bulgaria's checkpoints. Legitimizing the territorial re-bordering thus works against the practical possibility of providing protection but remains entirely unsanctioned.

Around this time independent sources began to indicate that Bulgarian police indiscriminately beat migrants, take their mobile phones or clothing, and return them on Turkish territory, often upon lethal risks of exposure (e.g. Asylum Information Database Country Report Bulgaria, January 2015; Cihan news, Edirne 12 Mar 2015). A hidden camera material was broadcast by the Bulgarian National Television in December 2013 showing (anonymous) testimonies of individual border policemen speaking of instructions by their commanding officers to beat ('selectively', avoiding women and children) and push back approaching migrants (BNT 16 Dec 2013). The scandalous material also referred to a specific case of an apprehended group ('of approximately forty people') which was 'sent back'. Against the continuous background of such testimonies, officially denied by the Chief Commissioner of Border Police and by the interior minister, the deaths of two Iraqi men who attempted to cross the border into Bulgaria in March 2015 came as evidence of the practice (also UNHCR news 31 Mar 2015). The men, who died of hypothermia, were badly beaten before being stripped of their belongings and abandoned on the Turkish side of the border, as surviving witnesses from the same group testified. In view of such compelling evidence, the infringement procedure launched by the European Commission for suspected refoulement of Syrian asylum-seekers in Apr 2014 has not acquired the expected publicity, neither does it hold sufficient clout with its envisaged fines if infringement is established. The Bulgarian government has in the meantime extended the razor edge fence. Furthermore, and despite initial resistance on behalf of the minister of defense Nikolay Nenchev, 180 troops have been deployed in early 2015 to 'support logistically' border police in

controlling the border (Ministry of Defence briefing, 24 Jan 2015). This tentative move to re-militarize the border is a clear indication of the dynamics of institutionalizing exclusion of asylum-seekers from the territory of an EU member state, employed without breaking operative cooperation with EU border authorities. In this sense, the practice speaks louder than the actual narrative used when employing it (similarly, Bigo, 2014).

Organizational Borders

The physical re-bordering of asylum-seekers away from the territory of the EU has gone hand in hand with organizational re-bordering on EU territory. It is sometimes argued that complicating the asylum provision should serve as a deterrent for prospective migrants (Lindstrøm, 2005: 589; also Mayblin, 2014). Such policy narrative is clearly misplaced, if the increased numbers of (failed) attempts at crossing a EU border are anything to go by (see also Thielemann, 2012). But the numerous rules that legally prevent asylum-seekers from leading an active life during their procedures have another important implication for the future of member states' political communities. Institutional, financial and legislative hurdles preventing asylum-seekers from access to the labour market, to education, to learning the local language, to health care and social care, to housing are bound to produce alienation. Other than preventing asylum-seekers from taking control of their lives, such restrictions also perpetuate the gap between them and members of the host community of citizens (Mayblin, 2014). By rendering them partially or fully dependent on the state while limiting their rights, organizational hurdles upheld in the national asylum provision reaffirm the policy narrative of asylum-seekers as second-rate denizens (also Anderson, 2013). Legitimizing this narrative as a valid assumption is dangerous for at least two big reasons. The first is that a significant percentage of these asylum-seekers are granted some sort of protection (whether asylum, temporary, humanitarian or refugee status, as stipulated in the Bulgarian legislation Art 1.2 of the 2002 Law on Asylum and Refugees). Once this happens, they are expected to 'integrate' into the host society, and their disadvantaged position established during the often prolonged time of application is bound to make successful integration that much harder. The second reason why the narrative of second-rate denizens is a dangerous policy justification is that it directly re-calls the logic of nationalism in outlining the boundaries of political community. Legitimizing restrictions for people in need of protection, against the backdrop of ever increasing refugee numbers, further emphasizes the normative limitations of exclusive national citizenship in the context of postmodernity (cf Fetzer, 2016).

A good example for this in the studied case is the application of the rules on detention (see also Roos and Zaun, 2014). The older EU directive laying down the minimum standards for reception conditions (applicable until July 2015) is silent on the issue (Council Directive 2003/9/EC). Both the older and the recast directives on asylum procedures plainly prohibit the detention of persons on the sole ground that they are applying for asylum (Art. 18 of 2005/85/EC and Art. 26

of 2013/32/EU respectively). But the recast directive on reception conditions (which member states should have transposed into their national legislations by 20 July 2015 at the latest) goes into much greater detail laying down the conditions of detention, 'when it proves necessary' (Art. 8.2 of 2013/33/EU; see Art. 8-11). Formally, the purpose of this legislative attention has been to stipulate 'a single ground for detention in case of risk of absconding' (see European Commission Policies, Asylum). However, the text of the directive leaves abundant scope for interpretation which national legislators are asked to agree on (see Art. 8.3. a to f of 2013/33/EU). It is far from inconceivable to see such interpretation taking the avenue of 'national security or public order' (Art. 8.3.e of 2013/33/EU) in order to legally justify detention of asylum-seekers. The high security narratives which accompany territorial re-bordering policies, discussed in the previous paragraphs, certainly facilitate such an interpretative direction.

Indeed, Bulgaria has been applying its national provisions on detention of illegal migrants and asylum-seekers both as an attempt to take control of the increased migrant flows, and as a response to anti-migrant sentiments among its publics. A very narrow interpretation of the Bulgarian penal code, for example, has led to the practice of prosecuting all migrants who have entered illegally into the territory of Bulgaria (based on Art. 279.1 of the Penal Code which criminalizes illegal entry into the territory). This is despite the fact that the same penal code provision (in its paragraph 5) decriminalizes the act if the purpose of entry was claiming asylum. Such controversial application of the national legislation (see Savova, 2013) has allowed the outright detention of prospective asylum-seekers, and has resulted in the criminal conviction of many and renewed detention of those who subsequently break their bail. Other than violating a series of international protection commitments, the practice of criminal prosecution and detention of asylum-seekers has decisive consequences for their subsequent integration. The criminal record which it results in can prevent confirmed status holders from finding suitable employment, whereas the psychological aspects of the experience present serious obstacles before the meaningful provision of protection and before successful social integration.

At the same time, the legal and policy narratives on detention also have an impact on the application of the asylum procedure, once it begins, and on the conditions of reception. According to the current Bulgarian legislation, which is compliant with the EU conditions on detention of asylum-seekers, the three existing registration and reception centres in the country in Harmanli, Banya and Sofia Ovcha Kupel are formally open access. The fact that asylum-seekers can freely leave the centres, however, appears to shock Bulgarian publics (BNT 16 Dec 2013) and mounting public pressure since the Syrian refugee crisis of 2013-14 has been able to challenge some of the open access provisions. The local authorities in Harmanli, for example, pushed for officially changing the status of the reception centre to closed one (in a letter by the mayor to the prime minister Borisov and to parliament of 21 Jan 2015). A bill

discussed in parliament in late 2013 but not passed at the time proposed to amend the law on asylum and refugees in this sense (BNR, 18 Dec 2013). The re-instated head of the State Agency for Refugees (SAR) Nikola Kazakov, in turn, officially introduced curfews in all reception and registration centres as of Feb 2015. Mobilizing local support groups around these causes has proved useful in outlining the public safety and security considerations of such measures. But restricting asylum-seekers' freedom of movement as a result of their construction as a security threat or because they are being threatened is hardly a good foundation for the future integrity of the community they are to join. It violates their basic rights as human individuals and it undermines EU's commitments to its own human rights regime.

Already an indication for the harmful impact of the securitization of asylum-seekers is the very low number of children of asylum-seekers attending school. The national law stipulates for them equal access to education but in the 2014/15 school year only 29 (of a total of 835) asylum-seeking children were registered to attend school by the end of 2014. The low number is alarming as only in April 2015 279 children applied for asylum (SAR statistics). In part it is linked to incidents of organized protests of parents against enrolling asylum-seeking children in local schools. At the same time, the provision for access to education is dependent upon the completion of a Bulgarian language course which has not been made available outside the capital (despite attempts by SAR to change this regulation) and upon other administrative requirements which have not been updated. As a result, the integrative function which access to education for children could have played is lost.

If the EU leadership is looking for a viable governance regime for migrant integration, as its policy documents seem to indicate, restrictive national application of the reception conditions and asylum procedures standards need to be addressed as a matter of urgency. In this sense EASO, whose first task in Bulgaria is to oversee the transposition of the recast asylum acquis (see Special Support Plan to Bulgaria EASO/COS/2014/975), could play an important role but one that needs to be boosted both by national veto players and by EU decision-makers. In any case, the organizational exclusion that asylum-seekers experience as their first contact with the institutional structures of the political community that is hosting them do not help prospective integration, and are bound to continue to challenge EU rules about settling.

Conceptual Borders

The dynamics of re-bordering is also visible at conceptual level, perhaps with most negative consequences for the health of the political community and for the provision of protection. The conceptual exclusion of asylum-seekers, which the following paragraphs aim to sketch in the case of Bulgaria, is an indicator for the actual impact of the bordering practices and narratives that have governed the European response to asylum-seekers. The high security markers attached to talking about asylum and refugees in the EU public space, as the case study

demonstrates, have been internalized and affect the way people perceive asylum-seekers at a very personal level. They see them as a physical and ontological threat.

In Bulgaria, ways of talking about asylum-seekers in terms of security have remained unchecked in the public space. The leading media, for example very consistently refer to them as 'illegal migrants', despite the obvious legal and factual problems of calling people who have applied for asylum in the country 'illegal'. The phrase 'illegal migrants' has become so widely established when discussing the problems of asylum and refugees, that even the term 'refugees' is often freely subsumed under that category. Despite protests against such wording by professionals directly involved with and practicing refugee and migration law, the formula 'asylum-seekers equals illegal migrants equals refugees' has not been discredited in the Bulgarian media to this day. The implication is the assumption of illegality, which has become attached to asylum-seekers both in pre- and post-status confirmation period. Through it, the very presence of asylum-seekers begins to be perceived as a transgression, and as a threat (see also de Genova, 2013). This has become obvious on numerous occasions after 2013 in protests organized at a grassroot level against asylum-seekers. These protests have become a regular occurrence in towns and villages where the new reception and registration centres for asylum-seekers have been set up since 2013. They have also accompanied many attempts to relocate asylum-seekers to different areas or to include them into public services provision.

In April 2014, for example, three families of refugees with six small children between them were physically chased away from the village of Rozovo after it became clear that they had made arrangements to rent a house in the village (BNR 26 Apr 2014). The move was actively supported by the mayors of the village and of the nearby town, who called for preserving the 'ethnic homogeneity of the village' in an official appeal to the ministry of the interior (BTA 30 Apr 2014). The incident gave way to a lot of soul searching among Bulgarian intellectuals on the subject of Bulgarian national identity and its manifestations. It also merited reprimanding on behalf of the interior minister and of the ombudsman (BNT 28 Apr 2014). Paradoxically, however, the investigation of the incident did not focus on the reprehensible nature of the mayor's arguments, nor on the violation of the rights of the refugees, but on whether there had been any problems with their status confirmation, or any omissions during their asylum procedures. Predictably, such incidents continued to occur over the summer. Towards the beginning of the school year in September 2014, similar protests accompanied the prospect of twelve asylum-seeking children from the temporary accommodation centre in Kovachevtsi starting school together with Bulgarian children in the village of Kalishte (BTV News, 15 Sep 2014). Local parents, with the help of municipality council members, declared that they were against their children 'becoming a minority' in their own school (BNT, 15 Sep 2014). They also listed among their concerns fear of diseases and slowing down the progress of their own children. The teachers in the school joined the protest, explaining that they could not teach

children who did not speak good Bulgarian. This is despite the fact that all asylum-seeking children who had been registered to start school had passed a Bulgarian language course over the summer, and that minority children starting school in the village as a rule did not speak good Bulgarian either. Despite the inadmissibility of the demands, the asylum-seeking parents were advised by the police not to send their children to school on the day when the school year started 'for their own safety', and they were subsequently moved by the SAR to a school in the capital.

Another example of conceptual re-bordering is the stereotyping of asylum-seekers in utilitarian terms. The popular narrative of asylum-seekers treating Bulgaria as but an entry point for a route leading up to more prosperous EU member states has been consistently confirmed publicly at all institutional levels: the head of the SAR, the interior minister, the prime minister, the chief of border police, etc. This narrative has had negative implications for the way asylum-seekers are being perceived by the Bulgarian publics. First, it frames asylum-seekers as natural competition to Bulgarian citizens, who also often seek to find better economic prospects for themselves in richer EU members. Such framing undermines the human rights aspect of asylum, and positions asylum-seekers as little more than economic migrants. Second, the narrative annihilates the normative argument for ensuring a standard of reception, procedure and conditions for integration for asylum-seekers in the host community. If asylum-seekers do not wish to remain in Bulgaria, and the country is struggling to accommodate them anyway, as it is struggling to ensure social provision to its domestic groups of vulnerable citizens, then solving the refugee crisis boils down to faster procedures and greater turnout of status decisions. Assisted by the EASO, this has, indeed, been one of the ways of coping with the Syrian asylum-seekers in the period 2013-14. But, as statistics confirm, many asylum-seekers do remain in Bulgaria and do need post-status integration support. Emphasizing the transit route narrative at an institutional level has revealed the many omissions of Bulgaria's refugee integration provision. A third negative consequence is that the transit route narrative helps portray asylum-seekers as a burden to the state. They 'refuse to work', have skills but 'prefer to be looked after', 'syphon off' resources that could have been provided to Bulgarian pensioners or other vulnerable people. Such ways of talking have helped introduce the notion of 'sanctions' for asylum-seekers and refugees who 'refuse to integrate' (Vice Prime Minister Meglena Kuneva, statement 12 Jan 2015). This notion has been upheld at a high authoritative level and has slowly been legitimized as a reaction to the pressure applied to Bulgaria to up its refugee provision. But introducing the notion of sanctions has further reinforced the idea of asylum-seekers as transgressors, and has widened the rift between them and the host society. This outcome directly threatens societal cohesion, and is hardly in the national interests of Bulgaria, especially not in view of continuous refugee migration from the South. EU-level discourses' focus on preventing status-holders' secondary movements reflects exactly the same concerns.

Conclusion

This article examined the re-bordering dynamics which characterizes Bulgaria's policy practices and policy narratives towards asylum, formulated within the framework of EU membership and the functioning of the CEAS. The study focused on the context of the recent stream of asylum-seekers entering the EU through the Bulgarian border with Turkey. By engaging with Bulgaria's response to refugee migration through this EU entry route, the paper was interested in the implications of the policies and practices towards asylum in the wider context of the EU asylum framework. The investigation was triggered by the visible misalignment between legal and political in the implementation of the EU asylum rules in the specific national context (and beyond). It traced the justification for a restrictive national implementation of an otherwise liberalizing legal framework in the narratives and practices of security and exclusion. The paper selected one element of the making and talking of security and community - borders and (re-) bordering - and traced its interpretation and application in the Bulgarian context.

The analysis set out to demonstrate two things. In the first place, Bulgaria's re-bordering practices and narratives are deeply interconnected with EU level practices and narratives. By tracing the securitization and exclusion that they produce, the analysis reveals the precarious role human rights play on both levels. The study thus challenges the assessment of the EU asylum system in terms of failing Europeanization. It paves the way for a new perspective on the perceived discrepancies between liberalizing EU rules on asylum and restrictive national implementation as a particular vision of the Europeanization of asylum, rather than as a failure of it.

At the same time, the analysis offered here set out to emphasize the negative consequences of such a vision of Europeanization of asylum for the provision of protection, for the harmonization of asylum, for the legitimacy of political communities within the EU, and for the legitimacy of the EU itself. Looking into specific aspects of the territorial, organizational and conceptual re-bordering of asylum-seekers in Bulgaria of the recent couple of years, the analysis highlighted how they undermine the provision of protection, how they weaken the supranational arrangement, and how they shape public perceptions of threat, both physical and ontological, towards Otherness and the foreign.

The paper argued that the dynamics of (re-)bordering, identified empirically in the studied context, institutionalize the securitization and exclusion of asylum-seekers as a matter of national policy but is also linked to practices and narratives at the EU level and is reflected into EU-wide outcomes, as the paper suggests. These links and outcomes invite further investigation in different national contexts, and from various angles. In terms of the EU asylum framework,

however, they indicate that studying the CEAS as an inherently flawed regime is not necessarily reasonable. Rather, the Europeanization of asylum should be studied against the background of wider EU processes (securitization of migration, an exclusionary nationalistic vision of Europe, austerity and challenge to the welfare state, etc). In light of these processes, the restrictive national application of nominally liberalized EU asylum rules appears to be in line with Europeanization. Whether this is compatible with the promise of European integration, and with the commitment to international protection of asylum-seekers, is a different matter.

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