

The external processing of asylum seekers Member states' migration talking shop

Frank Mc Namara

A Mediterranean solution?

External processing involves applications for international protection being processed beyond the European Union's (EU) external borders, in third states. An individual who has been processed externally would then, in theory, be resettled to an EU member state. The reality is that external processing has, thus far, only served as a talking shop for member states. Without proper examination of what the policy could add and of the political, legal and institutional hurdles involved, external processing will simply remain as member states' go-to 'crisis' policy without any real intention of ever pursuing it.

Australia's infamous 'Pacific Solution' is the primary reference point for external processing in global migration. This refers to the Australian government's policy of transferring asylum seekers to detention centres on islands in the South Pacific Ocean in order to prevent maritime arrivals to Australia itself. Advocates of external processing argue that it localises protection, eliminates the need for asylum seekers to go to sea in order to reach safety and therefore prevents drownings. On this basis they also claim that external processing contributes to the destruction of the smugglers' business model. However, critics are numerous and vociferous. They argue that external processing can represent an empty gesture and that it can be used by governments as a pretext for evading their wider responsibilities. The major fear in the European context is that a limited commitment toward resettlement arising out of external processing would give the member states licence to thwart spontaneous arrivals. The policy has become a staple of high-level discussion in the EU when the number of irregular migrant arrivals reach levels that are perceived as being unsustainable. Member states have consistently made reference to external processing when numbers are high, but the policy is forgotten as soon as those numbers decrease.

The member states' go-to Panacea

The number of irregular migrants arriving at the EU's external border peaked in 2001 and 2002. In 2003, the government of then UK Prime Minister, Tony Blair, launched 'A New Vision for Refugees', which set out the UK government's intention to pursue external processing.¹ Denmark and the Netherlands voiced their support for the British proposal but ultimately it was opposed by a number of member states at the Thessaloniki European Council in June 2003. In 2004, then German Interior Minister, Otto Schily, made a similar proposal but by then irregular arrivals were already waning.² That early interest was still reflected in the European Council's Hague Programme (2005), where it was stated that there should be some exploration of the feasibility of "joint processing of asylum applications outside EU territory, in complementarity with the Common European Asylum System...". However, by that time the appetite for external processing amongst member states had diminished and so it became much less present on the policy agenda.

Migrant arrival numbers again experienced an upsurge in 2014, which continued in 2015 and 2016. In this period, various heads of state and government ministers from across the EU voiced their support for external processing of some kind. For

¹ As referenced in: Alan Travis, Shifting a problem back to its source – would-be refugees may be sent to protected zones near homeland, *The Guardian*, 5 February, 2003.

² As referenced in: Schily für Flüchtlingslager in Afrika, *Frankfurter Allgemeine Zeitung*, 20 July, 2004.

example, Viktor Orban, the Hungarian Prime Minister, called for the EU to set up a 'giant refugee city' in Libya for processing asylum claims there. While the number of migrant arrivals in the EU overall decreased massively after the EU-Turkey Statement was signed (March 2016), arrivals along the Central Mediterranean route hit a record that year. Indications up until June of last year were that that record would again be broken in 2017. 83,752 individuals had already arrived in the six months to the end of June, 2017. The equivalent figure for 2016 was 70,222. Again, the reaction amongst some member states to this new peak in numbers was to reach for external processing as *the panacea* capable of curing all ills. Most notably, the French President, Emmanuel Macron, who, in a more measured response than the aforementioned views of the Hungarian Prime Minister, suggested that external processing could curb irregular immigration to Europe from Africa.

There was a drastic reduction in arrival numbers along the Central Mediterranean route in the second half of 2017 (July to December). In that period 34,714 migrants made the crossing whereas the corresponding figure for 2016 was 111,214. In parallel to this decrease, rhetoric with regard to external processing has again experienced a cooling off period.

The reality of external processing

External processing faces a raft of institutional, legal and political hurdles that will prevent it from becoming a mainstream migration control mechanism in the short-term. To begin with, cooperation of the UNHCR and IOM, which would be crucial to any external processing, is far from guaranteed and it can be imagined that those organisations would require significant protection-based guarantees before becoming involved. Member states are fully aware that the application of European human rights law does not stop at the external border and that external processing has the potential to open a Pandora's box of legal challenges. External processing can only be undertaken if a mandatory and substantial commitment is made to resettle those who are successfully processed externally. Member states have already been criticised for making too little an impact on global resettlement needs but increasing the size of the EU's resettlement framework would face serious opposition among the member states themselves. Finally, given the difficulty in harmonising common standards for reception and the processing of asylum applications internally, it is difficult to envisage agreement on these points in an external setting. Any future discussion on external processing must consider these realities before the policy debate can be taken more seriously.

Member state governments can sometimes indulge in offering simple answers to complex questions when they come under pressure from their electorate but tend to discard consideration of that policy when that pressure eases. External processing has become a token policy suggestion to be wheeled out when a crisis is perceived and when a drastic policy solution will play well with the electorate. Serious discussion of external processing requires addressing what added value the policy would bring as well as the key hurdles that would need to be overcome. Until this occurs, external processing remains the member states' talking shop of choice.

Frank Mc Namara is a Policy Analyst in the European Migration and Diversity Programme at the European Policy Centre.