

Luther.

SADC Logo

Free Movement of Persons and migration crisis– a European Perspective

Hermann J. Knott

SADCLA Conference and General Meeting

Cape Town, August 19, 2016

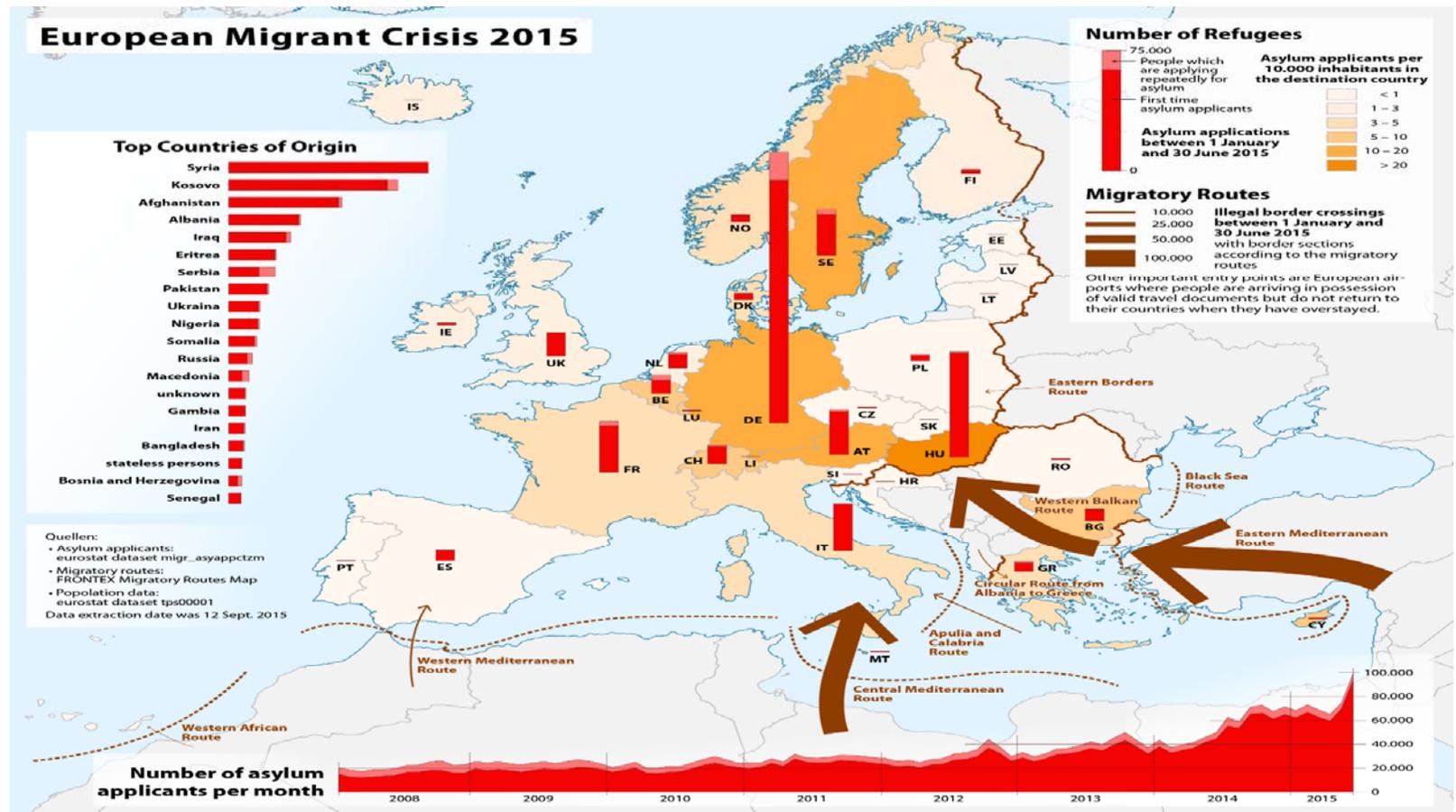
Content

- Introduction
- The concept of the free movement of persons
- The Schengen area
- Challenges to the Schengen area
- Policy options:
 - Addressing the root causes of the refugee flows
 - Robust external border management
- Outlook

Introduction

- Conflicts in southern Africa and neighbouring regions led to millions of **refugees** seeking asylum in the SADC-region.
- SADC has recognised the need to balance the potential security risks against the benefit of free movement of people.
- The SADC-region's long and porous borders, economic attractions and the relative peace and stability make it a preferred destination and transit of refugees.
- In the context of the migration crisis in Europe, refugee flows tend to concentrate in countries with the most favourable economic conditions, such as Germany and the Scandinavian countries
- Although the levels of integration between the EU and SADC are difficult to compare and the prosperity varies much more among SADC than between EU member states, many aspects of the experience of the EU refugee crisis may be helpful for developing SADC policies in this area

Refugee crisis - Europe



Main features of EU

The following characteristics of the EU are relevant to understand the historically centralized approach taken by the EU to matters affecting all member states:

- EU: Institutions with supra-national authority
- EU regulations directly applicable in member states; directives need to be implemented in national law
- EU: One single market allows free movement of goods, services, people and capital has been realized
- European Court of Justice interprets European law and controls whether national legislation and court decisions comply with EU law

SADC



The concept of the free movement of persons

- Freedom of movement for persons in the EU is one of the cornerstones of the internal market: theoretically, any European citizen can live and work in any member-state.
- The key milestone in establishing an internal market with free movement of persons was the conclusion of the two Schengen agreements.
- The most important achievement of the Schengen area is the abolition of internal border controls for all persons.

The Schengen area



Challenges to the Schengen area

- By the unprecedented influx of refugees and migrants into the EU: several Member States temporarily reintroduced checks at the internal Schengen borders
- Heightened terrorist threat: terrorists can travel easily through the Schengen area.
- Human trafficking: as the member-states have difficulties in keeping a clear overview of the moving refugees, there had been instances in which the rights of women and children could not be adequately protected

Policy options

Collaborate with social media figures (bloggers, journalists...)

Improve prevention and information campaigns

Strengthen the external border management

Improvement

Declaring countries as „safe origin countries“

Increase police cooperation

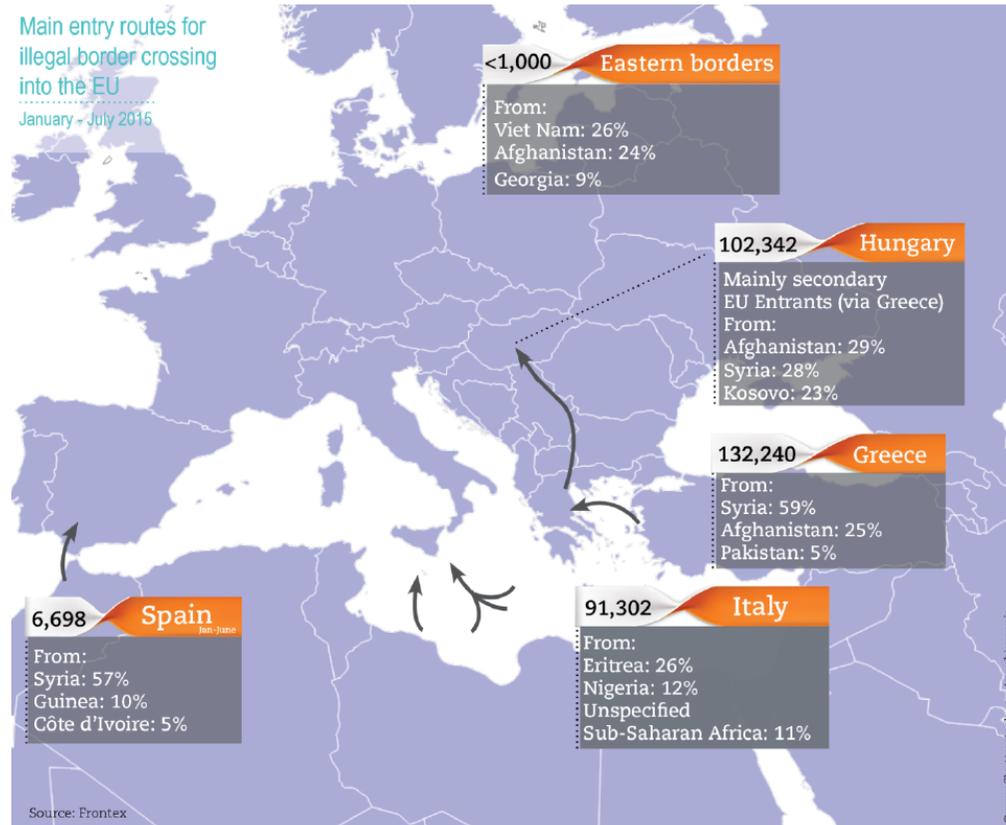
Address root causes of the flows

Addressing the root causes of the refugee flows

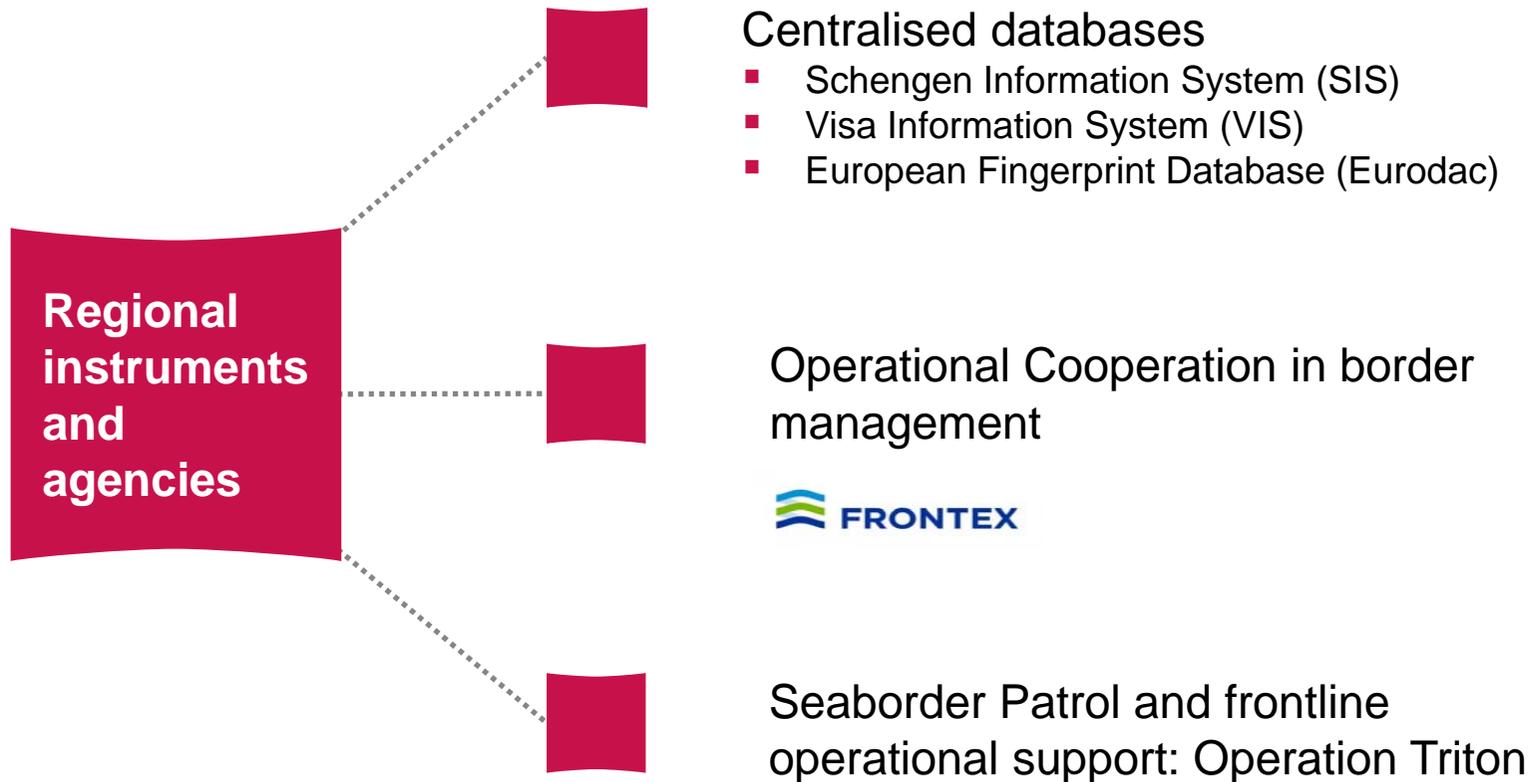
- Persecution, poverty and aspiration for a better life
- Promoting employment opportunities as well as reinforcing security and stability in countries of origin.
- However, the ending of the conflicts in Syria is uncertain; it is likely that instability in Afghanistan and Iraq will persist; high poverty and unemployment rates will remain in parts of Africa.

Robust external border management

Map 1. Main entry routes to Europe by irregular migrants and refugees, January-July 2015



Robust external border management



Recommendations

- Stronger cooperation and coordination in the field of external border management
- Addressing the root causes of the refugee flows which implies the difficult task of harmonising living conditions
- Stability, security and employment opportunities should be considered not only at the national level but also from a regional perspective. This is especially important in regions where migration is facilitated by free mobility agreements
- This highlights the importance of regional integration in SADC region as a means for peace and stability in the region as well as for an improvement of peoples' lives
- Information campaigns in countries of origin assists in preventing refugees from being misled by unrealistic promises of life in host countries
- Human trafficking can best be avoided by improving the process of registration of migrants entering the SADC region and the individual countries, respectively.

Outlook

- Bear in mind that it is impossible to permanently seal borders or coast lines. This strategy mainly displaces migrants to new routes
- Creating work opportunities and a safe place to live in the countries of origin is probably the most efficient deterrent for irregular migration

Your contact person



Dr. Hermann J. Knott

Rechtsanwalt, Attorney-at-law (New York),

Partner

Phone: +49 152 25783

Hermann.j.knott@luther-lawfirm.com