

IMPLEMENTING THE SOLIDARITY PRINCIPLE IN THE EU MIGRATION POLICY: THE JUDICIAL AND LEGISLATIVE WAY

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Outline

1. Research Question
2. Thesis Outline
3. Progress so Far
4. Work in Progress
5. Conclusion: Strengths and Challenges

Research Question

1. Is the principle of solidarity properly implemented in the EU migration policy?
2. If not, how can a correct implementation be ensured?

Research Area: EU migration and asylum law □ “irregular” migration □ migration and asylum management

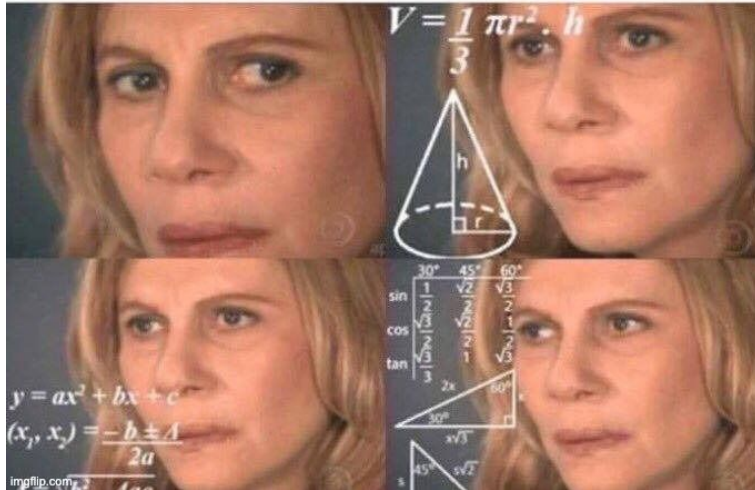
Outline

1. **The Principle of Solidarity:** a Theoretical Framework
2. Implementation of Solidarity – The **Status Quo**
3. How to Implement Solidarity: the **Judicial Way**
4. How to Implement Solidarity: the **Legislative Way**
 - 4.1. Solidarity as Sharing of Derogations and Flexibility
 - 4.2. Solidarity as Sharing of Agency.
5. Conclusion: a **Policy Proposal**

Progress So Far

- **Narrow down and design** the RQ and thesis structure
- **Chapter 1: Conceptualisation of Solidarity**
 - As a socio-political concept
 - EU law: Solidarity as a value-based ocean surrounding islands of solidarity
 - EU migration Law: sharing of laws, money, operations and people (Noll, 2000)
- **Chapter 2: the Status Quo**
 - Overview of the EU migration policy
 - Assessment of the implementation of the solidarity principle (draft)

Work in Progress



1. The **Judicial Way** □ Solidarity has conceptualised in status-quo, but properly implemented.
 - CJEU on interstate solidarity:
 - Joined Cases C-643/15 and C-647/15
 - Joined Cases C-715/17, C-718/17 and C-719/17
 - CJEU on «solidarity» towards TCN □ *N.S. case* and subsequent caselaw.

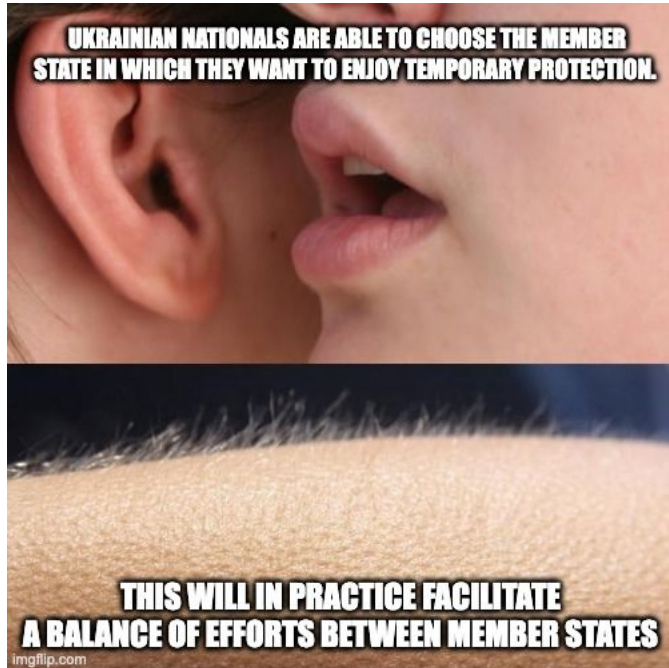
2. The **Legislative Way** □ New conceptualisation of solidarity

Solidarity as Sharing of Derogations and Flexibility

- New Pact and Instrumentalisation Toolbox
- Solidarity as:
 - Purely interstate
 - *Laissez-faire* regime
- EU Solidarity:
 - Flexible (yet mandatory)
 - Emergency-based
- Securitization and othering of migrants



Solidarity as Sharing of Agency



- **Ukraine** model
- Sharing of **agency**: involvement of TCNs in decision-making
- Sharing of **operations**: Solidarity Platform
- **Political will**
- **Legal Flexibility**

Policy Proposal

- Wished endpoint
- Sharing of Agency = **model** for implementing the solidarity principle in the EU migration policy
 - **Standardisation** outside crisis situations
 - Key elements: **political will** + **legal flexibility** + **accountability**
- **Win Win** model
 - Better responsibility sharing among Member States
 - Solidarity towards TCNs



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Conclusion

Strenghts

- Solidarity □ codified guiding principle of EU migration law
- Rich literature
- Existing (recent) caselaw
- Valid conceptual framework
- Relevant topic

Challenges

- Broad theme: risk of being superficial
- Ever-changing legislative framework
- Militant academia bias
- Unrealistic wished impact

Grazie!

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