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The background of the cover features a map of Europe overlaid on a wire mesh structure made of wooden sticks and black string. The map is rendered in a light beige color with black outlines for the countries. The wire mesh is made of thin wooden sticks and black string, creating a grid-like pattern. The overall image is partially obscured by white curved lines and a blue bar at the bottom.

Reforming the Common European Asylum System

# Reforming the Common European Asylum System:

Responsibility-sharing and the harmonisation  
of asylum outcomes

Bernd Parusel and Jan Schneider

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# Preface

The so-called “refugee crisis” in 2015 unveiled the shortcomings of the Common European Asylum System (CEAS). Europe struggled to cope with the 1.3 million people who applied for asylum. The Member States adopted their own measures to get through the crisis. While some countries, such as Germany and Sweden, exceeded their capacity of refugee-reception, others let them pass through their borders to other countries. Moreover others built fences to stop the influx of people looking for protection. This scenario demonstrated the need to reform CEAS from a responsibility-sharing perspective.

This Delmi report looks into the state of play of responsibility-sharing for asylum seekers in Europe and the harmonisation of EU Member States’ decision-making in asylum cases. Thus, the concepts of solidarity and fairness frame this timely and topical analysis. It reviews Member States’ performance in the past, both with regard to the number of asylum seekers they have admitted, and in terms of guaranteeing the applicants fair decisions on their protection claims. The report also discusses several possible solutions to the problems at hand and outlines a number of scenarios for further EU action. It also allows the reader to get an understanding of Sweden’s situation within the broader EU context.

The report has been written by Bernd Parusel, Migration and Asylum Expert at the Swedish Migration Bureau. He holds a PhD from the Institute for Migration and Intercultural Studies (IMIS) at the University of Osnabrück, and Jan Schneider, Head of the Research Unit at the Expert Council of German Foundations on Integration and Migration. He holds a PhD from Giessen University’s Institute of Political Science

External reviewers of the report have been Cecilia Marcela Bailliet, Professor of Law at Oslo University and Hanne Beirens, Associate Director of the Migration Policy Institute Europe. The work on this report has been followed by Alexandra Wilton Wahren, member of Delmi’s Board of Directors, as well as Head of the Unit for Migration Law at the Ministry of Justice. At Delmi, the Delegation Secretaries Constanza Vera-Larrucea, Henrik Malm Lindberg, Iris Luthman and Anton Ahlén

have contributed to the review. As usual in the Delmi context, the authors are responsible for the content, results and policy recommendations in the report. Results and conclusions from this study were presented and discussed at a seminar during the Metropolis Conference in The Hague on September 19th 2017. The seminar had as commentators Madeline Garlick, Chief of the section of Protection and Legal Advice, Division of International Protection, UNHCR and Professor Franck Düvell, Oxford University.

This is the second of three Delmi-reports on responsibility sharing, under the theme of Regulations. The first report within the topic is *Responsibility Sharing for Refugees in the Middle East and North Africa* by Susan Martin. The report "*A Fair Share*": *Refugees and Responsibility-Sharing* by Alexander Betts will be published in the coming months.

Stockholm, November 2017

Joakim Palme,  
Delmi Chair

Kristof Tamas,  
Head of Delmi Secretariat

# Summary

Against the background of the recent migratory crisis in Europe, this Delmi report aims at examining and taking stock of the Common European Asylum System (CEAS). It asks what has been achieved and what has failed, focusing on two of the most pressing challenges: (1) the unequal distribution of asylum seekers across the EU Member States and the search for a more equitable sharing of responsibilities; and (2) the wide variations regarding Member States' decision-making practices on asylum applications and the need to achieve more harmonised recognition rates. We label these two aspects “solidarity” (regarding equitable responsibility-sharing) and “fairness” (regarding the approximation of asylum decisions).

The first empirical part of the study explores a number of proposals regarding responsibility-sharing for asylum seekers among the EU Member States, which have been brought up by policy-makers and researchers. The study focuses on the variations in dispersal effects of four different distribution keys for asylum seekers and discusses their appropriateness. Four different keys and their respective advantages and drawbacks are analysed with regard to their allocation criteria, such as Member States' population size, economic power, or territory. The authors also look into the de facto number of asylum seekers that the Member States have received in recent years and contrast these numbers to hypothetical fair quotas. The results show that some Member States have overperformed with regard to the number of asylum seekers they admitted, due to their geographical location within the EU or other factors, whereas others have remained far below a fair share.

The second part asks whether there has been a trend towards increased convergence regarding Member States' asylum decisions – which we might expect given the fact that the EU has worked towards an approximation for many years. It turns out, however, that while an overall trend towards higher protection rates can be identified, not least due to the increased numbers of asylum seekers from war-ridden countries such as Syria, Member States have made very little progress regarding more harmonised decisions. Analysing national recognition rates for se-

lected countries of origin (Syria, Afghanistan, Iraq, Pakistan and Kosovo), the authors find that a measurable approximation of national asylum outcomes has not been achieved. Extreme variations have persisted over many years, especially in the cases of Afghanistan and Iraq. In 2016, the chances for an asylum seeker from Iraq to receive protection in Hungary and the United Kingdom was below 13 percent, compared to 100 percent in Spain and Slovakia. The case of Afghanistan is even more outstanding, with protection rates in 2016 oscillating between 1.7 percent and 97 percent.

Responsibility-sharing and harmonised asylum outcomes are key interdependent factors for the functioning of a Common European Asylum System. First and foremost, an approximation of asylum decisions is a precondition for a successful responsibility-sharing system as it would be unfair to allocate asylum seekers to a Member State where they would have very little chance to receive protection, if the likelihood of protection would be much greater in another Member State. Vice versa, a fair mandatory distribution of asylum seekers would encourage national governments to abide by the common standards and not use restrictive asylum practices as a method to reduce their attractiveness as countries of destination.

Further to responsibility-sharing and the approximation of decision-making on asylum, the study briefly looks into other factors that also need to be taken forward to achieve a truly Common European Asylum System, such as greater harmonisation and cooperation regarding reception arrangements for asylum seekers and procedural standards, and a stronger role for the current European Asylum Support Office (EASO). The authors also address the long-standing and fundamental dilemma that asylum applications can only be lodged from within the territory of a Member State or at its borders while it is, at the same time, illegal for most protection seekers to actually get there. The study argues that resettlement and humanitarian admission programmes need to be expanded, and that more legal pathways to protection in Europe should be opened.

Finally, the report presents some concrete ideas for working towards more harmonised asylum outcomes and a workable responsibility-sharing system. On asylum decision-making, the authors propose an enhanced role for a future EU asylum agency, which would include a “fire brigade” function to identify, analyse and mitigate situations in which Member States’ asylum recognition rates for applicants

from specific countries of origin differ too strongly. The study also proposes “joint processing” exercises, where officials from several Member States examine and decide asylum applications lodged by nationals of a specific country together.

The study presents four main future scenarios for policy-makers to contemplate. These scenarios include (1) the status quo, the continuation of the currently used Dublin system including its responsibility-allocation criteria; (2) a “Dublin plus” scenario, in which the Dublin rules would be complemented by a new, quota-based corrective allocation mechanism; (3) a new quota-based allocation system that would replace the current Dublin criteria; and (4) finally a “free choice” system in which asylum seekers would be free to choose their country of destination.

In the context of these scenarios or policy options, the study also discusses ideas regarding transition periods for “skeptical” Member States, options to move money instead of people by allowing Member States to ransom themselves, and the importance of intra-EU freedom of movement rights for those asylum-seekers who are granted protection. The authors argue that in the long run, a quota-based system in accordance with scenario number three appears to be the most coherent course of action, though this seems politically difficult to achieve and demands a high level of ambition from EU and national policy-makers.

While the report is written from a European perspective and designed to be of relevance for all Member States, a special focus is applied on Sweden. The authors clarify, for example, what the effects of a fair distribution key for asylum seekers would be regarding the number of asylum applicants to be received in Sweden, and how Sweden positions itself regarding the extent to which asylum seekers from specific countries of origin are granted positive decisions. While Sweden has by far exceeded the quantitative responsibility for asylum seekers that it would have in relation to its population size and its economic power during the period 2008-2015, it suddenly underperformed in 2016 as the number of incoming asylum seekers plunged following the introduction of a number of restrictive measures.

Regarding asylum decisions, Sweden’s practices have often been roughly in line with the EU average, meaning that they did not massively deviate from the mainstream EU approach to specific countries of origin. However, regarding two very

significant countries of origin, the authors found interesting variations. Concerning Iraqi nationals, Sweden has been more restrictive than the rest of the EU over the entire period of analysis from 2008 to 2016. While it had a comparatively generous approach towards asylum seekers from Afghanistan, it was significantly stricter than the EU mainstream in 2015 and 2016.

# Sammanfattning

Mot bakgrund av den senaste migrationskrisen i Europa syftar denna Delmi-rapport till att granska och utvärdera det gemensamma europeiska asylsystemet (CEAS). Rapporten undersöker vad som har åstadkommit och vad som har misslyckats, med fokus på två av de mest pressande utmaningarna: (1) Den ojämna fördelningen av asylsökande mellan EU:s medlemsstater och strävan att uppnå en rättvisare ansvarsfördelning; och (2) de stora skillnaderna mellan medlemsstaterna vad gäller beslutsfattande i asylärenden och behovet av att, i större utsträckning, uppnå harmoniserade erkännandegrader. Författarna har i rapporten valt att använda begreppen "solidaritet" (för att hänvisa till rättvis ansvarsfördelning) och "rättvisa" (för att hänvisa till en harmonisering av asylbeslut).

Den första empiriska delen av studien undersöker ett antal förslag som har tagits upp av beslutsfattare och forskare gällande ansvarsfördelning av asylsökande inom EU. Avsnittet fokuserar på variationer i spridningseffekter utifrån fyra olika "distributionsnycklar" för fördelning av asylsökande. Fördelar och nackdelar med de olika distributionsnycklarna analyseras utifrån vissa fördelningskriterier, såsom medlemsstaternas befolkningsstorlek, ekonomiska välstånd eller territorium. Författarna tittar också på de facto antalet asylsökande som medlemsstaterna har tagit emot de senaste åren och jämför dessa siffror med hypotetiskt rättvisa kvoter. Resultaten visar att vissa medlemsstater har tagit emot ett förhållandevis högt antal asylansökningar medan andra har registrerat förhållandevis få. Skillnader stater emellan vad gäller antalet mottagna asylsökande kan till viss del förklaras utifrån medlemsstaternas geografiska läge inom EU, men även av andra faktorer.

Den andra empiriska delen undersöker huruvida det har funnits en trend mot ökad konvergens vad gäller beslutsfattande i asylärenden – något som kan förväntas med tanke på att EU har arbetat för en harmonisering i många år. Resultaten visar emellertid att även om en övergripande trend mot en högre beviljandegrad kan identifieras, inte minst på grund av det ökade antalet asylsökande från krigsdrabbade länder som Syrien, så har medlemsstaterna gjort mycket få framsteg vad

gäller mer harmoniserade beslut i asylärenden. Rapportens analys av nationella bifallsandelar för några utvalda ursprungsländer (Syrien, Afghanistan, Irak, Pakistan och Kosovo) påvisar att en mätbar harmonisering av nationell beslutspraxis inte har uppnåtts. Extrema variationer har kvarstått under många år, särskilt vad gäller Afghanistan och Irak. År 2016 var chansen att en asylsökande från Irak skulle få skydd i Ungern och Storbritannien under 13 procent, jämfört med 100 procent i Spanien och Slovakien. För Afghanistan är skillnaderna ännu mer påfallande, med en bifallsandel som år 2016 varierade mellan 1,7 procent och 97 procent.

Ansvarsfördelning och harmoniserad beslutspraxis är inbördes beroende och betydande faktorer för ett fungerande gemensamt europeiskt asylsystem. Först och främst är en tillnärmning av beslutsfattande i asylärenden en förutsättning för ett framgångsrikt ansvarsfördelningssystem. Detta eftersom det inte skulle vara rättvist att anvisa asylsökande till en medlemsstat där chanserna att få skydd är små om sannolikheten att få skydd är mycket större i en annan medlemsstat. Omvänt skulle en rättvis obligatorisk fördelning av asylsökande uppmuntra nationella regeringar att följa de gemensamma normerna och inte använda en restriktiv beslutspraxis som ett sätt att minska deras attraktivitet som mottagarländer.

Jämte ansvarsfördelning och harmonisering av asylbeslut undersöker studien kortfattat andra avgörande faktorer för att åstadkomma ett verkligt gemensamt europeiskt asylsystem, till exempel ytterligare harmonisering och samarbete vad gäller mottagningsvillkor för asylsökande och processuella standarder samt en starkare roll för det nuvarande Europeiska stödkontoret för asylfrågor (EASO). Författarna tar också upp det grundläggande dilemmat att en person måste befinna sig i en medlemsstat eller vid dess gränser för att kunna söka asyl, samtidigt som det är olagligt för de flesta skyddsökande att faktiskt ta sig dit. Studien hävdar att vidarebosättning av flyktingar och andra skyddsbehövande måste utvidgas och att fler legala och säkra vägar för att söka asyl i Europa bör öppnas.

Slutligen presenterar rapporten några konkreta förslag för att uppnå ökad harmonisering i asylbeslut och ett fungerande ansvarsfördelningssystem. När det gäller beslutsfattande i asylärenden föreslår författarna en förstärkt roll för en framtida EU-asylbyrå, som skulle inneha en krisberedande funktion för att identifiera, analysera och hantera situationer där bifallsfrekvensen för sökande från särskilda

ursprungsländer skiljer sig kraftigt åt mellan medlemsstaterna. Studien föreslår också gemensamma "samverkansövningar" där tjänstemän från flera medlemsstater tillsammans granskar och beslutar om asylansökningar som inlämnas av medborgare från ett visst ursprungsland.

Studien presenterar fyra huvudsakliga framtidsscenarioer för beslutsfattare att ta i övervägande vad gäller ansvarsfördelningen för asylsökande mellan staterna. Dessa scenarier innefattar (1) status quo, en fortsättning av det rådande Dublin-systemet inklusive dess ansvarsfördelningskriterier; (2) ett "Dublin plus" -scenario, där Dublin-reglerna kompletteras med en ny kvotbaserad och korrigeringseffektiv fördelningsmekanism; (3) ett nytt kvotbaserat fördelningssystem som ersätter de nuvarande Dublin-kriterierna; och (4) ett "fritt val" -system där asylsökande själva kan välja sitt destinationsland. Med utgångspunkt i dessa scenarier eller policyalternativ diskuterar studien också idéer kring övergångsperioder för "skeptiska" medlemsstater, möjligheter för medlemsstater att köpa sig fria från skyldigheten att ta emot asylsökande samt vikten av fri rörlighet inom EU för de asylsökande som beviljas skydd. Författarna hävdar att ett kvotbaserat system i enlighet med scenario nummer tre på lång sikt är den bästa och mest följdriktiga vägen framåt. Införandet av ett nytt kvotbaserat fördelningssystem verkar emellertid vara svårt att uppnå politiskt och kräver en hög ambitionsnivå från EU och nationella beslutsfattare.

Även om rapporten är skriven ur ett europeiskt perspektiv och utformad för att vara relevant för alla medlemsstater, läggs ett särskilt fokus på Sverige. Författarna redogör till exempel för hur en distributionsnyckel för rättvis ansvarsfördelning skulle påverka antalet asylsökande som tas emot i Sverige. Rapporten diskuterar även hur Sverige positionerar sig i frågan kring i vilken utsträckning asylsökande från särskilda ursprungsländer beviljas positiva beslut. I förhållande till sin befolkningsstorlek och ekonomiska välstånd överskred Sverige sitt kvantitativa ansvar för asylsökande under perioden 2008-2015. Efter införandet av ett antal restriktiva åtgärder och en efterföljande minskning av antalet asylsökande började landet emellertid att underpresteras år 2016.

När det gäller beslut i asylärenden har Sverige legat mer eller mindre i linje med EU-genomsnittet. Sverige har, med andra ord, inte avvikit i någon större utsträckning

från EU:s allmänna praxis gällande hantering av asylansökningar från specifika ursprungsländer. Författarna kan emellertid konstatera att Sverige avviker från resten av EU när det gäller hantering av ansökningar från två betydande ursprungsländer. När det gäller irakiska medborgare har Sverige varit mer restriktivt än resten av EU under hela analysperioden från 2008 till 2016. I förhållande till EU-genomsnittet har Sverige, trots sin annars relativt generösa inställning, även varit betydligt strängare gentemot asylsökande från Afghanistan under 2015 och 2016.

# List of Abbreviations

CEAS	Common European Asylum System
CEPS	Centre for European Policy Studies
CIREA	Centre for Information, Reflection and Exchange on Asylum
EASO	European Asylum Support Office
EC	European Commission
ECRE	European Council on Refugees and Exiles
ENARO	European Network of Asylum Reception Organisations
EP	European Parliament
EU	European Union
EURASIL	European Union Network for Asylum Practitioners
FRA	European Union Agency for Fundamental Rights
FRONTEX	European Border and Coast Guard Agency (before September 2016: European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union)
GDP	Gross Domestic Product
ICMPD	International Centre for Migration Policy Development
IARLJ-Europe	International Association of Refugee Law Judges European Chapter
IOM	International Organization for Migration

MPI	Migration Policy Institute
MS	Member State (of the European Union)
SVR	Sachverständigenrat deutscher Stiftungen für Integration und Migration (Expert Council of German Foundations on Integration and Migration)
TEC	Treaty establishing the European Community
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
UNHCR	United Nations High Commissioner for Refugees

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# 1. Introduction

In 2015, over 1.3 million people applied for asylum in the European Union, more than twice as many as during the year before. In several EU Member States, the unprecedented inflow led to chaos in the national reception systems for asylum seekers. Countries of first arrival in Europe (mostly Greece, but also Italy) barely managed to provide even temporary shelter and food to the refugees that arrived by boat in large numbers. Further towards the North and North-West, governments either let the refugees travel through their territories, often in contravention to Schengen rules, or built fences to wall their borders off. Germany – one of the main countries of destination – had serious problems registering the many new arrivals and dispersing them across the country in an orderly manner. Meanwhile in Sweden, another main receiving country, the accommodation system for asylum seekers became overcrowded and finally collapsed, municipalities reported themselves to the state for not being able to provide social services in accordance with the law, and the processing times for asylum applications sky-rocketed.

This is only a partial snapshot of an increasingly disordered refugee situation that unfolded during 2015 and well into 2016. Strikingly, however, by far not all EU Member States were affected by the problems seen elsewhere. The Baltic States, the Czech Republic, the Slovak Republic, but also remoter countries off the main irregular migration routes, such as Ireland or Portugal, barely noticed any increase in the number of people seeking protection. In contrast, during some weeks in the autumn of 2015 Sweden registered more asylum applicants in a week than other countries in a year. What became known as the “European refugee crisis” was therefore not a crisis that affected all EU countries – it was rather a crisis of taking and sharing responsibilities for refugees.

As a result of these imbalances and hugely divergent political views on how to deal with the situation, the EU institutions and the EU Member States did not manage

to find adequate ways to address the challenge in a co-ordinated manner. Instead, several Member States including Sweden adopted a number of restrictive measures to make themselves less attractive, or simply unreachable, for refugees. At EU level, a deal was struck with Turkey to prevent further flows of protection-seeking migrants from Turkey to Greek islands (General Secretariat of the Council 2016) and, in two steps, a redistribution plan (known as “emergency relocation mechanism”) for asylum seekers was put in place (Guild et al. 2017) to transfer a pre-defined quota of asylum seekers from Italy and Greece to other parts of the EU. The protection and surveillance of the Union’s external borders was also reinforced, and new initiatives were launched to cooperate with relevant third countries of origin and transit, most notably in Africa, in order to keep irregular migrants away (Collett 2017). Last but not least, the European Commission presented a number of proposals to further develop and strengthen the existing legal instruments of the Common European Asylum System (Schneider 2017).

It would be wrong to claim, however, that the chaotic experiences of 2015 and 2016 were entirely new. What was new was only the magnitude of the challenge. In fact, the EU institutions and the Member States realised many years ago that global migration, including forced migration, requires political agreement and practical solutions beyond unilateral responses. For almost two decades now, they have been working to establish a Common European Asylum System (CEAS) in a spirit of “solidarity” and “fairness”. Despite the many failures that the European refugee crisis in 2015-2016 revealed, a process of harmonising national reception conditions for asylum seekers, national authorities’ asylum decision-making practices, and minimum standards for fair asylum procedures, has in fact been underway for many years.

This Delmi report <sup>1</sup> aims at examining and taking stock of the European Union’s policy on asylum in the light of the recent crisis. It examines what has been achieved, what has failed, and why. Looking into the future, the report also examines a number of options that policy-makers have at their disposal to resolve the various challenges encountered. What practicable solutions are there for the further development of EU asylum policies?

The study does not scrutinise the CEAS altogether but focuses on two of its most central components: the search for a workable system of responsibility-sharing for asylum seekers in a spirit of *solidarity* among EU Member States on the one hand, and the development of *fair*, harmonised decision-making in asylum cases on the other hand.

A background Chapter (section 2) introduces the reader to the origins and the creation of the Common European Asylum System since the 1990s. This section also discusses the two key concepts we use in this study, *solidarity* and *fairness*, and how they can be applied to responsibility-sharing and the harmonisation of asylum decisions, respectively. The section also provides an overview of the achievements and failures of the CEAS, as identified by researchers and policy-makers. section 3 then presents the methods and sources we use to investigate our research questions.

The first empirical part of the study (section 4) explores a number of proposals brought up by policy-makers and researchers to live up to the principle of *solidarity* and responsibility-sharing on asylum issues. The focus is on the variations in dispersal effects of four different distribution keys and a discussion as to their appropriateness a) to overcome unjust imbalances between Member States with regard to the number of asylum claims, and b) to secure acceptance among the various political actors in the EU. This section also aims to clarify whether there has been any progress towards a more equitable sharing of responsibilities among the Member States over the past eight years (2008-2016).

The second empirical part (section 5) evaluates the *fairness* aspect by means of a detailed analysis of national first-instance decisions on asylum over the same period (2008-2016). The section focuses on decisions on the five most frequent countries of origin of asylum seekers in the EU during the reference period, namely Syria, Afghanistan, Iraq, Pakistan and Kosovo. Here, the question is whether Member States' asylum decision-making practices have become more uniform (or "harmonised") over time – which we might expect given the fact that the EU has worked towards an approximation for many years, not least by adopting common rules and criteria for granting refugee status and subsidiary protection.

In order to link our empirical analysis to other dimensions of the CEAS, section 6 takes a look into a number of other factors that, in addition to the two central issues of *responsibility-sharing* and *harmonised asylum decisions*, need to be taken into account if the aim is to establish a truly common asylum system. This section argues that reception, accommodation and procedural arrangements matter as well, as does the long-standing problem that asylum applications can only be lodged from within the territory of a Member State or at its borders while it is, at the same time, illegal for most protection seekers to get there.

Looking forward, the report finally elaborates on a number of policy implications (section 7). We ask what could or should be done to bring the Common EU policy on asylum forward, and we present some possible interventions for more harmonised asylum outcomes. This section also proposes four main scenarios for future responsibility-sharing arrangements.

While this report is written in English and designed to be of as much relevance as possible for all EU Member States and beyond, we apply – at certain instances – a special focus on Sweden to increase the study’s use for the Swedish Migration Studies Delegation’s national audiences. We aim to clarify, for example, what the effects of a new European distribution key for asylum seekers would be regarding the number of applicants to be received in Sweden, and how Sweden positions itself considering positive decisions towards asylum seekers.

## Endnotes section 1.

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## 2. Background: a common EU asylum policy in the spirit of fairness and solidarity?

### 2.1 Building a Common European Asylum System

In the 1990s, in the context of establishing a single European market without internal borders, the Member States of the European Communities recognised that issues concerning asylum and immigration should be brought within the framework of the EU Treaties. This ambition originated in the light of an acute refugee crisis – the problems of the Member States in dealing with large numbers of people that were displaced by the conflicts in the Balkans and the collapse of the communist regimes in Eastern Europe (IARLJ-Europe 2016: 13). The Maastricht Treaty, which came into force on 1 November 1993, formally made asylum an EU matter, albeit it was dealt within the framework of intergovernmental cooperation. Only since May 1999, when the Treaty of Amsterdam came into force, has asylum and immigration been an area of supranational EU competence. Legislation has since been elaborated and adopted under the ordinary legislative procedure (or “co-decision” procedure). This means that legislative proposals from the European Commission are sent to the European Council and the European Parliament, which decide under the principle of parity.<sup>1</sup> Article 63 of the Treaty Establishing the European Community (TEC) provided that the Council was to adopt a specific set of measures on asylum, refugees and displaced persons within five years. Such measures were to be in accordance with the 1951 Refugee Convention and “other relevant treaties”. While the Amsterdam Treaty thus provided the legal foundation for the creation of the CEAS,

it did not explicitly mention and describe such a system. This was first officially envisaged in October 1999, at a special meeting of the European Council in Tampere. As stated in the Conclusions of that meeting, the Council agreed to work “towards establishing a Common European Asylum System, based on the full and inclusive application of the Geneva Convention”. It went on to state the key components of the CEAS, which are

“a clear and workable determination of the State responsible for the examination of an asylum application, common standards for a fair and efficient asylum procedure, common minimum conditions of reception of asylum seekers, and the approximation of rules on the recognition and content of the refugee status. It should also be completed with measures on subsidiary forms of protection offering an appropriate status to any person in need of such protection” (European Council 1999).

The Council also confirmed “the importance the Union and Member States attach to absolute respect of the right to seek asylum” and the need to ensure, “that nobody is sent back to persecution”.

During the following years, secondary legislation (directives and regulations) were elaborated and adopted to implement Article 63 of the TEC in light of the Tampere Conclusions. These instruments dealt with minimum conditions for the *reception* of asylum seekers in the Member States, asylum *procedures*, and *criteria* for granting refugee status and subsidiary protection. Another key element of the harmonisation of asylum policies was the transformation of the Dublin Convention<sup>3</sup> into an EU Regulation, establishing rules for the determination of the Member State responsible for processing an asylum application; see Table 1 on the opposite page.

**Table 1: First generation CEAS instruments**

First phase CEAS legislation	Title and Official Journal (OJ) source	Date of entry into force
Eurodac Regulation	Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention [2000] OJ L 316/1.	15 December 2000
Temporary Protection Directive	Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof [2001], OJ L 212/12.	7 August 2001
Dublin II Regulation	Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national [2003], OJ L 50/1.	17 March 2003
Regulation laying down detailed rules for the application of the Dublin Regulation	Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national [2003], OJ L 222/3.	6 September 2003
Reception Conditions Directive	Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers [2003], OJ L 31/18.	6 February 2003
Qualification Directive	Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted [2004], OJ L 304/12.	20 October 2004
Asylum Procedures Directive	Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status [2005], OJ L 326/13.	2 January 2006

From the inception of the first phase of the CEAS, however, it was clear that a second “generation” of legal instruments would eventually be required, as the EU would have to move from setting minimum standards to common procedures and uniform protection statuses (European Council 1999). The implementation of the minimum standards as set out by the first generation legislative instruments also showed that there remained significant disparities between Member States in their reception of applicants, asylum procedures, and assessment of qualification for international protection. This was considered to result in divergent outcomes for applicants, which went against the principle of providing equal access to protection across the EU (EC 2008: 3). It was also considered necessary to supplement greater legal harmonisation with effective practical cooperation between national asylum administrations to improve convergence in asylum decision-making by Member States. Finally, it was agreed that there was a need for measures to increase solidarity and responsibility among EU States, and between EU and non-EU States (EC 2008: 4-11).

A second phase of harmonisation began with the European Pact on Asylum, which stipulated the EU’s objective of establishing a “common area of protection and solidarity based on a common asylum procedure and a uniform status for those granted international protection” on the basis of “high protection standards” (European Council 2008). By that time, the Treaty on the Functioning of the European Union (TFEU) had been adopted, which entered into force in December 2009. For the first time, the creation of a CEAS was now explicitly referred to in EU primary law.

By June 2013, the second stage of the CEAS was completed with the enactment of amended, or so-called “recast”, secondary legislation, except for the Temporary Protection Directive, which remained unchanged. Again, the CEAS has been comprising seven pieces of legislation, as listed in Table 2 on the opposite.

**Table 2: Second generation CEAS instruments**

Second phase CEAS legislation	Title and Official Journal (OJ) source	Date of entry into force
Eurodac Regulation (recast)	Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (recast) [2013] OJ L 180/1.	19 July 2013
Temporary Protection Directive	Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof [2001], OJ L 212/12.	7 August 2001
Dublin III Regulation	Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) (Dublin III) [2013] OJ L 180/31.	19 July 2013
Commission Regulation laying down detailed rules for the application of the Dublin Regulation	Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national [2003], OJ L 222/3.	6 September 2003
Reception Conditions Directive (recast)	Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) [2013] OJ L 180/60.	19 July 2013
Qualification Directive (recast)	Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) [2011] OJ L 337/9.	9 January 2012
Asylum Procedures Directive (recast)	Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) [2013] OJ L 180/60.	19 July 2013

While these second-generation legislative instruments are being transposed into national laws by the Member States (Peers 2013), new proposals from the Commission have been put on the negotiating table in 2016. They aim at strengthening the CEAS by transforming the Asylum Procedures Directive and the Qualification Directive into regulations (thus with binding legal force throughout all Member States), strengthening the Reception Conditions Directive and overhauling the Dublin Directive (EC 2016c; EC 2016d; EC 2016e; EC 2016f). Elaborated under the impression of the refugee reception and responsibility crisis of 2015-2016, they mark the start of a potential third 'grand reform' of the CEAS. (sections 6 and 7 take further scrutiny of key developments in this ongoing process.)

Alongside the legislative processes regarding the CEAS, a number of other EU measures have accompanied the ambition to create a harmonised approach to asylum. In 2011, for instance, the European Asylum Support Office (EASO) in Malta started its operations with the aim of assisting the Member States in adjusting their asylum systems to the evolving EU framework and providing support to those facing pressures (Compte 2010; Angenendt & Parkes 2010; Staffans 2010).<sup>4</sup> The EU has also been funding projects across Member States regarding reception facilities, return procedures, or border control, and it manages policy-supporting structures such as the European Migration Network (EMN), or networks for contacts among national practitioners, such as the European Network of Asylum Reception Organisations (ENARO).

## 2.2 Achievements and failures of the CEAS

It is certainly questionable whether the existing legal instruments of the CEAS and related measures can be regarded, almost 20 years after the European Council meeting in Tampere of 1999, as the cornerstones of a truly common system CEAS, or whether they are only fragments of a Herculean task still to be tackled. What the refugee situation in 2015-2016 has shown, however, is that once the quantitative pressure on the CEAS rapidly increased, several of the existing systems and frameworks collapsed. Besides, there was a noticeable gap between achievements in

terms of common legislation and the practical implementation and functioning of the existing EU rules on asylum (Collett 2014: 4).

Even before the most recent migratory crisis, researchers and policy-makers have observed that the process of gradually establishing a CEAS has so far fallen short of its objectives. Indeed, one may ask what the frequently used catchwords “solidarity” and “fairness” effectively mean in a context of significant, and still increasing, imbalances regarding the number of asylum applicants received by each Member State (Schneider et al. 2013; European Migration Network 2014a), and when migrants still risk their lives and literally drown in their thousands before they reach the shores of a southern EU Member State (Kassar & Dourgnon 2014; de Bruycker et al. 2013). While the absence of a common EU policy on asylum might have even worse consequences, causing more frequent fatalities and prompting tensions between different European states, it is obvious that the EU has so far certainly not been able to offer any remedy to the repeated tragedies at its sea borders, nor to the unwillingness of some Member States to receive asylum applicants, offer protection or, at least, engage in resettlement in significant numbers (Bendel 2014).

Further to this, solidarity initiatives such as the 2015-2017 emergency relocation of asylum seekers from Italy and Greece to other Member States have proceeded slowly. Since the start of the relocation scheme in September 2015 and until the beginning of September 2017, only 27,695 people had been relocated (EC 2017). Even earlier pilot projects on solidarity, such as an intra-EU measure of 2010-2011 to relocate recognised refugees from pressured Malta to other Member States, had remained without much success, as less than 600 refugees were effectively brought to other Member States over a period of two years (EASO 2012).

In the same vein, the Dublin system is commonly criticised both for being ineffective and for perpetuating or even aggravating imbalances regarding the number of asylum seekers received by the Member States (Schneider et al. 2013; ECRE 2014: 20). According to the Dublin Regulation, responsibility for examining an asylum application is, in most cases, assigned to the asylum seeker’s country of first arrival, but only a small share of “take charge” or “take back” requests results in actual

transfers of asylum seekers from one Member State to another (EASO 2014: 30-32). As Guild *et al.* (2015: 17) have stressed, the Dublin Regulation does not serve (and was never meant) as a responsibility-sharing mechanism as it does not take into account questions of overall numbers, capacity or other criteria that might produce homogenising outcomes. From a legal perspective, it has even been argued that the Regulation poses a “manifest infringement of solidarity” as enshrined in Article 80 TFEU and was therefore unconstitutional (Küçük 2016). In reality, it nurtures a situation in which – to put it in the words of the European Court of Justice’s Advocate General Eleanor Sharpston – “the whole system of providing protection for asylum seekers and refugees is predicated on the burden lying where it falls”.<sup>5</sup>

Signs of decay could be observed since 2013, in particular when Italy became suspected of deliberately ignoring its responsibility under the Dublin Regulation by allowing refugees to migrate further north after arrival via the Mediterranean without having first verified their identity. This move was seen not only as an expression of system overload, but also as an attempt to acquire indirect compensation for the costs incurred in sea-rescue operations and initial migrant reception for a large number of European arrivals (SVR 2015: 70; Pastore & Roman 2014: 21-22). Amidst the refugee crisis of 2015, when the Greek reception system literally had broken down and the so-called Balkan Route had become a mass pathway of irregular migration to Western and Northern Europe, Germany effectively suspended the Dublin system by invoking the Dublin Regulation’s sovereignty clause and stating that it would not send Syrian asylum applicants back to other countries. Since refugees were able to cross several Member States before finally arriving in Sweden, without any serious risk of being transferred back to the first country of arrival, observers concluded that the system was effectively “dead”.<sup>6</sup>

## 2.3 Solidarity and fairness as key principles of the CEAS

The political goals of (1) creating a workable system for responsibility-sharing between the Member States of the EU regarding the reception of incoming asylum ap-

plicants, and (b), harmonising national asylum decision-making through common criteria and definitions, have been guiding the creation and further development of the CEAS for a long time. However, the difficulties of the EU and its Member States to deal with the extraordinary refugee situation of 2015-2016 certainly reinforced their topicality and timeliness.

As this study argues, and as others have argued before, the responsibility-sharing idea is intrinsically linked to the concept of “solidarity”, which is deeply rooted in EU politics and serves as a “guiding principle of European immigration and asylum policies” (Karageorgiou 2016: 1).<sup>7</sup> As regards the harmonisation of asylum decision-making, “fairness” is the key principle, as asylum seekers should have the same – or at least very similar – chances of receiving protection irrespective of where in the EU they arrive and lodge their claims. In this section, we explore the concepts of solidarity and fairness further and explain how they are used and operationalised in this study.

## Solidarity

Article 80 of the Treaty on the Functioning of the European Union (TFEU), one of the two primary treaties of the EU, institutionalises the principle of *solidarity* in the border control, asylum and immigration policies of the Union, stating that:

“The policies of the Union set out in this section and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this section shall contain appropriate measures to give effect to this principle.”

Even beyond migration and asylum policies, the solidarity principle is featured persistently (and diversely) in EU law, and it can assume constitutional-institutional as well as more substantive functions. However, the Union’s primary law lacks a precise legal definition or operationalisation of solidarity, and the term is missing from the enumeration of the founding values of the Union in Article 2 of the TEU. Nonetheless, it is frequently repeated in the Treaty texts as both a means and an end – most prominently in the promotion of “economic, social and territorial cohe-

sion, and solidarity among Member States” (Article 3, Number 3, TEU). Further to this, references to solidarity are numerous in EU secondary law across many policy areas such as social and health policy, environmental policy and security and defense policy; and solidarity takes a much more tangible form in the sense that it is ‘translated’ into political fact by means of a legitimating (legislative) processes (Ross 2010).

Institutional solidarity relates to relationships between institutions, both at EU and at Member State level. This type of solidarity can take different forms of cooperation and assistance. By contrast, solidarity in a more substantive form refers to existing or envisaged schemes of solidarity between individuals, often facilitated through state intervention, e.g. regarding social insurance, financial redistribution through income taxes, or welfare entitlements (Vanheule et al. 2011: 28).

Using solidarity as a key reference also requires care, however. It can be used in a symbolic, merely declamatory way, and it remains a vague concept unless its specific implications are spelt out in each particular context in which it is used (Alston 1987: 318). For example, as Boswell (2003b) argues, solidarity can – regarding refugees – also serve as a euphemistic synonym for “burden-sharing” among states. In this study, we do not use the term “burden-sharing”, as it negatively depicts refugees as burdens on the receiving countries or societies. We argue instead that the reception of people in need of protection is a responsibility under international law and a moral duty. As the Tampere Conclusions and many further policy documents on the CEAS reveal, this legal and moral duty has long been recognised by the EU and its Member States. To share responsibilities in a spirit of solidarity, therefore, appears to be a more appropriate way to formulate the task than “burden-sharing”.<sup>8</sup> In concrete terms and for the purpose of this study, solidarity is to be understood as policy-makers’ commitment to a more equitable sharing of the responsibilities associated with the arrival and reception of asylum seekers in Europe (Thielemann & Armstrong 2012). This could mean that either the reception of asylum seekers is shared (“sharing people”), or that the financial means that reception systems require are shared (“sharing money”).<sup>9</sup> Fully realising the solidarity principle in a narrow sense would mean that each Member State receives an adequate share of

all asylum seekers that arrive on EU territory, and that there would be a balanced distribution at any given point in time. Solidarity can also include, however, that Member States assist each other in the event of particular pressures on the asylum systems of one or several Member States (EC 2008; Bendel 2014). It has been a well-reasoned demand also with regard to a functioning global system of responsibility-sharing in cooperative refugee protection, that “different states have differing capabilities to contribute” (Hathaway & Neve, 1997: 210). A priori, the principle of solidarity can thus be fulfilled to different degrees, and the EU and its Member States do indeed enjoy certain discretion as to the kind of solidarity measures they suggest and adopt (Karageorgiou 2016: 6). In fact, as Küçük (2016) claims, the European legislator’s margin of discretion when concretising what solidarity means in the context of asylum policy is much wider than is the case regarding other principles, “because solidarity is an essentially manifold and contested concept” (Küçük 2016: 455). This, of course, results in frequent and often intense arguments between the Member States about how to realise solidarity among each other vis-à-vis refugee inflows.

In that respect, political communiqués and jurisdiction in the summer of 2017 have nourished the discourse about what solidarity should mean in practice. An illustrative example is a letter by the Prime Ministers of the Visegrad Group (Poland, Czech Republic, Slovak Republic and Hungary) to the Italian Prime Minister in July 2017, in which they express their “sympathy” for the “outstanding efforts of Italy to deal with the current migratory pressure” and affirm their readiness to contribute “in the spirit of solidarity” to European and national efforts aiming at alleviating the burden on frontline Member States such as Italy. While they offer contributions to border control and surveillance measures, among other things, they firmly refuse to participate in the relocation of asylum seekers from Greece and Italy to other Member States or any other “compulsory and automated redistribution mechanism” (Hungarian Presidency of the Visegrad Group 2017). Conceptually, the Visegrad Group strived to establish a new, rather vague and elusive understanding of solidarity, coined “flexible” (Visegrad Group 2016) or “effective solidarity”, in which Member States would have the leeway to demonstrate alternative forms of support for a crisis situation, instead of participating in a distributional system

to allocate applicants for international protection, ranging “from specific financial contributions to tailor-made wider contributions relevant for both the internal and external migration field and taking into account the perspective and capacity of each Member State” (Slovak Presidency 2016). While this caters to an understanding of solidarity as an *à la carte* exercise, international law scholars correctly bring the rights-based approach into play by pitting each flexible measure against the irrevocable human rights basis:

“‘Flexible solidarity’ turns into alarming lip-service if trying to undermine this irreversible human rights basis. Flexible solidarity can never justify an opt-out from human dignity-based human rights obligation. It can only work as an ‘opt in’ to accept shared responsibilities in joined burden sharing. The Member States can volunteer on the ‘how’ of burden-sharing. They cannot volunteer on accepting binding human rights standards.” (Kotzur 2016)

With regard to emergency situations and associated majority decisions in the European Council, the European Court of Justice reinforced and – in collusion with its Advocate General’s preceding opinion of July 2017<sup>10</sup> – clarified the concept of solidarity in its September 2017 judgement on Hungary and Slovakia’s plea to annul the European Council’s Relocation Decision of 22 September 2015. Despite the fact that commentators missed more normative, human-rights-based and value-oriented written pleadings (Labayle 2017), it made clear that:

“[W]hen one or more Member States are faced with an emergency situation within the meaning of Article 78(3) TFEU, the burdens entailed by the provisional measures adopted under that provision for the benefit of that or those Member States must, as a rule, be divided between all the other Member States, in accordance with the principle of solidarity and fair sharing of responsibility between the Member States, since, in accordance with Article 80 TFEU, that principle governs EU asylum policy.” (Slovakia v Council, Judgement C-643/15, para 291).

## Fairness

In the broader sense of the European Union’s primary law, the principle of *fairness* is introduced in Article 79 (1) TFEU as a maxim in the treatment of third-country nation-

als residing legally in Member States. The aim of this provision is thus to establish a rights-based policy which satisfies essential requirements of justice in the treatment of foreigners (Bast 2016).<sup>11</sup> While the notion of “legally residing” in Article 79 (1) TFEU remains unspecified in the Treaties and is thus subject to laws at Member State level,<sup>12</sup> it should be understood as including asylum-seekers, at least once their request for protection has passed an admissibility check.

In this study, we apply the concept of “fairness” in relation to more uniform decision-making across the EU on asylum cases, i.e. in the sense that applicants should have the same, or at least very similar, chances of being recognised as refugees or persons otherwise in need of protection irrespective of where they arrive (EC 2008; Peers 2013). This notion is closely linked to, but not entirely congruent with, a provision in the Tampere Conclusions that envisages a “fair and efficient asylum procedure” (European Council 1999). However, the concept of fairness regarding decisions in asylum cases is not only used in European contexts. In a pioneering study on asylum adjudication in the United States, Ramji-Nogales and colleagues (2007) found that the outcome of an asylum procedure in large measure depends on which government official decides the claim. The authors use the concept of fairness as in the sense that “similar cases should have similar outcomes” (Ramji-Nogales et al. 2007: 299).

More generally speaking, fairness may have several different meanings. There can be procedural and substantial fairness. Regarding asylum outcomes, substantive fairness would mean that asylum decisions are based on valid grounds and for reasons that match the purpose of asylum law. By contrast, procedural fairness means that asylum applicants can count on similar standards and equal outcomes, regardless of where in the EU they lodge their claim.

Both fairness aspects are crucial, but the first one is not addressed in this study. We do not ask the question, for example, whether it is fair or not to grant protection to an asylum seeker from a specific country of origin. Rather, we ask whether the applicant’s chances to receive protection are equal or at least comparable across the EU. As such procedural fairness can only be achieved if the Member States use the same criteria and definitions to decide on an individuals’ need for protection,

fairness in the sense of our study requires the harmonisation of the such criteria and definitions as well as their practical implementation across the EU.

## 2.4 The interdependence of responsibility-sharing and fair asylum outcomes

While both principles, the *solidarity* principle as well as the *fairness* one, are essential for the functioning of the CEAS, they are also interdependent. Fair, harmonised asylum outcomes are a precondition for solidarity regarding the sharing of responsibilities for asylum seekers between the Member States, and vice-versa, a responsibility-sharing system can help to achieve an approximation of asylum decisions.

If the EU works towards the principle that all Member States should take responsibility for asylum seekers, regardless how exactly this is to be achieved, such ambition would require that where an asylum seeker lodges his or her application for protection matters as little as possible. Otherwise, from the perspective of the applicant, mandatory allocation to a Member State would be unfair. Ideally, for example, the reception conditions would be the same irrespective of where the application is received and examined, the asylum procedure would follow the same standards, and – most importantly – the chances of being granted protection would be equal across the entire EU.

These three factors may certainly not be the only ones. When asylum seekers chose where to apply for protection, asylum standards and practices are not the only aspects they take into account. Factors such as the presence of family members, friends, and diaspora networks, cultural aspects and knowledge of the language of the destination country can matter as well, as can the actual or perceived chances to quickly integrate into the host society and get a job, access the welfare and health care systems, among many others (Crawley et al. 2016; Scholz 2013). Such destination-determining factors can however not necessarily be harmonised across the EU, and it may not even be in the power of national law-makers to change them in one way or another. Consequently, there can be no requirement for individual

states or the EU as a whole to take them into account when deciding on allocation. By contrast, how asylum systems are designed, what procedural standards there are, whether protection is granted or not, and the rights and entitlements following the granting of a protection status is indeed a matter of law-making and political will. There is also evidence of such factors having an impact on protection seekers' choices of destination. For example, as Lundgren Jörum (2015: vi) has shown in an interview study, a majority of recent Syrian asylum applicants in Sweden have said that Sweden's practice to grant Syrian citizens permanent residence permits irrespective of the type of protection status granted was crucial for their choice.<sup>13</sup> Pre-existing ties to family members or relatives and Sweden's overall reputation were found to be less important.

Whenever there are significant differences between the Member States regarding the granting of protection and the types of protection such decisions are based on, it is problematic if policy-makers argue that asylum seekers should not be allowed to choose their destination country within the EU and that secondary, intra-EU flows should be forbidden. Such an approach would be unfair. Admittedly, it is obvious and logical that material reception standards such as accommodation and allowances differ between the Member States in accordance with their respective general welfare, income and price standards, at least to a certain degree. Poorer Member States cannot be expected to provide the same level of benefits as the richest ones. But if asylum seekers are placed in a closed detention centre in one Member State while they enjoy free movement in another, and especially if the chances of receiving protection are extremely small in one country, and close to 100 percent in another, mandatory allocations are not justified and any unwillingness among asylum seekers to comply with them is not surprising.

Harmonised asylum outcomes are perhaps the most crucial aspect in this context. It can be assumed that more applicants would be willing to accept being allocated to a state in which the material reception conditions and the chances to integrate into society are worse than in another, if two promises could be made to each and every asylum seeker: that the chances of receiving protection were the same in all Member States and that there were rights to free movement within the EU for recognised beneficiaries of protection after a certain number of months or years. Even

ties to kin or ethnic community in another Member State would matter less, given the perspective of joining them after reasonable time. It is therefore obvious that the harmonisation of asylum decisions should have highest priority.

Against this background, it is debatable that the EU promotes fair responsibility-sharing at the same time as it still works on achieving more uniform asylum outcomes. A more realistic approach would have been to achieve more uniform asylum outcomes before implementing a coercive responsibility-sharing mechanism. As Chetail (2016) has observed, however, both processes are underway simultaneously, and it is politically difficult to put one of them on hold until the other is optimised. As a consequence, the EU will have to continue on both paths, but a success factor would be that clear and measureable progress can be demonstrated soon.

As it seems, policy-makers are aware of this dilemma. In March 2016, the Council of the European Union stated that “considerable differences (...) persist between Member States in terms of the outcome of procedures, the recognition rates and the international protection status granted”. The Council consequently decided to try to bring the harmonisation process forward by, for example, advancing a “more structured and streamlined” production of country of origin information by the EASO and the establishment of a “senior-level policy network (...) tasked with carrying out a joint assessment and joint interpretation of the situation in main countries of origin” (Council of the European Union 2016: 10).

Finally, the link between fair decision-making and responsibility-sharing in a spirit of solidarity can also be reversed, in the sense that an equitable distribution of asylum seekers across the EU could facilitate the harmonisation of decision-making. We can assume that in the absence of a system of responsibility-sharing, there can be implicit incentives for Member States to use their asylum determination procedures to become less attractive for asylum applicants. A Member State that does not want to receive asylum claimants could resort to a restrictive decision-making practice to reduce its appeal as a country of refuge, as asylum seekers would prefer a country with a more generous approach. This means that without a workable system of responsibility-sharing, there would be a risk of a “race to the bottom” among those Member States that want to reduce the number of incoming applicants. By

contrast, if a responsibility-sharing is in place and an individual Member State has no control over the number of people it has to receive, the incentive to become as hostile as possible would be smaller.

## Endnotes section 2.

1. This means that neither institution (European Parliament or Council) may adopt legislation without the other's assent.
2. Article 63(1) and (2) of the TEC.
3. The Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities was signed in Dublin in June 1990 and entered into force in September 1997.
4. Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office.
5. Opinion of Advocate General Sharpston delivered on 15 May 2012, Case C-179/11, *CIMADE Groupe d'information et de soutien des immigrés (GISTI) v Ministre de l'intérieur, de l'outre-mer, des collectivités territoriales et de l'immigration*, paragraph 83.
6. Peter Sutherland, Special Representative of the UN Secretary-General for International Migration, quoted in *Washington Post*, 26 August 2015.
7. For a concise account of the development of solidarity concepts in the history of thought and in social theory, applied towards the multi-faceted solidarity issue in EU policies, politics and institutions, see Ross (2010).
8. Historically and at global scale, however, the term "burden-sharing" was first. In the work of the UNHCR, it referred mainly to the shared provision of logistics and resources when in regional situations of conflict and war, a group of (neighbouring) countries would accept and shelter expellees and/or process asylum claims. In this logic, the direct costs for taking refugees pose an immediate financial burden, which is often addressed by politicians or the media. Following the more potential- and agency-oriented perspective of refugee supporting organisations, a move towards preferring "responsibility-sharing" can be discerned, particularly within EU documents, thus avoiding the negative connotations towards human beings posing a burden to their host societies (Matrix Insight et al., 2010: 26; for the limitations of this approach see Noll 2000: 264, fn. 802).
9. For a thorough and systematic account of the more practical manifestations of solidarity within one of the EU's legal instruments in the area of forced migration – the Temporary Protection Directive – see Beirens et al. 2016, particularly pages 10/11.
10. Advocate General Yves Bot recalled that solidarity was "among the cardinal values of the Union" and was "even among the foundations of the Union". He further argued that solidarity was "the quintessence of what is both the *raison d'être* and the objective of the European project". More so than the judges in their written pleadings, Bot was determined to unambiguously clarify that the requirement of solidarity constituted the heart of the process of integration pursued by the Treaty of Lisbon and that solidarity was therefore "part of a set of values and principles that constitutes 'the bedrock of the European construction'". With regard to the European Union's policies on border checks, asylum and immigration he explained that solidarity was "both a pillar and at the same time a guiding principle", venting also between the lines that the current system for determining responsibility for the examination of asylum applications under the Dublin III Regulation might be flawed against this principle.

11. It is particularly with regard to these normative and value-oriented basic principle of fairness towards foreigners, that certain inconsistencies in the terminology can be observed; i.e. the term “fairness” in more jurisprudential or philosophical accounts is sometimes coined as “solidarity”, too. In that vein, Mark Bell (2010) provides a fundamental rights approach to the EU’s solidarity duties towards (irregular) migrants, identifying the universal principle of human dignity as the compass when defining that said solidarity.

12. EU treaties and legislation lack a definition of “legal residence”. Thus, e.g. concerning the Long-Term Residents Directive (Directive 2003/109/EC), commentators as well as the European Court of Justice by implication suggest to recourse to Member State law when defining legal and illegal residence (see Hailbronner & Thym 2016: 441f.). In his reading of Article 79 TFEU, Wolfgang Weiß tries to circumvent the vagueness of “legally residing”: The fact that legally residing third-country nationals are to be treated fair would not imply that – in reverse – illegal residence justified unfair treatment of that foreigner; reference is made to Article 67 paragraph 2 TFEU, which demands a common policy on asylum and immigration “fair towards third-country nationals” – without any prerequisites as to the legality of residence (see Streinz 2012: 941).

13. As mentioned above, this practice has been changed and Sweden now only grants temporary permits (Parusel 2016).

## 3. Methods and sources

To provide a background to the questions we discuss, this study is based on existing literature from diverse disciplines such as political science, European studies, law, geography and sociology. It also relies on policy documents and reports issued by EU institutions, EU agencies (e.g. EASO) and national governments as well as policy-relevant studies (e.g. evaluations) from think tanks and non-profit organisations such as CEPS, MPI, ICMPD or ECRE. The extraordinary refugee situation in 2015 and 2016 has not only had a political and societal impact – it also contributed to a surge in literature, analyses, and policy papers on the topic, produced by various individuals and academic as well as non-academic institutions. Our intention has not been to cover everything that has been produced, but to capture the most relevant, rigorous and innovative studies in the field.

The study also makes its own innovative methodological contributions, however. Regarding asylum decisions, we propose and apply a statistics-based method to evaluate the harmonisation of national asylum decisions. This method was used in a previous study in 2015 (Parusel 2015), but has been updated and further refined for the purpose of this Delmi project. A similar approach, but with a different focus and research question, was taken by Leerkes (2015), who studied the degree to which European countries reach similar decisions in similar asylum cases. However, Leerkes' analysis did not include an assessment of harmonisation over time, as it only looked at the situation in 2014. Earlier, and to some extent outdated, analyses of asylum recognition rates across the EU were mainly based on national data covering asylum decisions in selected Member States only, or on statistics collected by the UNHCR or other bodies (e.g. Neumayer 2005; Toshkov & de Haan 2013).

The methodology regarding the other main component of the study, responsibility-sharing as the tasks and costs of taking in asylum applicants, is based on an analysis and model developed by the other co-author (see Schneider, Engler & Angenendt 2013; Schneider & Angenendt 2015). This multi-factor model takes into

account earlier comprehensive theoretical work on burden-sharing (Matrix Insight Ltd et al. 2010) and feeds in four essential parameters which display a high likelihood to co-determine the respective country's capability of taking in (i.e., receiving, accommodating and processing) and eventually integrating applicants for international protection. The European Commission, in its proposal for a relocation and resettlement scheme introduced in May 2015 (EC 2015b; later adopted by the Council by majority vote), went for a quite similar approach and weighting: it established a (re-)distribution key on criteria such as GDP, size of the population, unemployment rate and past numbers of asylum seekers and of resettled refugees in the respective Member State. However, it soon became obvious that this distribution scheme was disapproved of, if not obstructed, by several Member States and would not be suitable to resolve the problem of the unfair dispersion of asylum seekers. Thus, the study further develops this distribution model by discussing issues such as the salience and validity of the hitherto applied factors, appropriate weighing, alternative factors as well as strategies for EU institutions to adequately communicate (and eventually enforce) such binding, yet fair policy tools to sceptical and hesitant national governments and societies. Other possible keys for responsibility-sharing, such as the "Königstein key" used in Germany to allocate asylum seekers to the individual German *Länder*, are also taken into account.

An obvious challenge regarding this report is that it aims at a moving target. At the time of writing, almost the entire CEAS and its various legal and political components were hanging in the balance. They have been challenged, some of them have failed, and the EU has been moving towards strengthening and consolidating some of them, and to reverse others. Even new approaches, such as to externalise the processing of asylum claims to non-EU countries in Northern Africa or to open legal pathways to protection via humanitarian visas, were being discussed. Against this problem, we have designed our research in a way as to allow conclusions to be drawn even in case the CEAS is given an unforeseen orientation in the near future. Firstly, our analysis of Member States' asylum decision-making practices will continue to be policy-relevant for many years to come, as it mirrors the level as to which policies and administrative practices in the Member States have become harmonised. As we will show, little progress has been made so far, despite the fact

that the EU has common definitions and standards for asylum status determination in place. This suggests that any significant progress in the future can only be made gradually and incrementally. Some concrete ideas are presented in the concluding section of this study. The method we propose to assess the harmonisation of asylum decision-making can also easily be updated and adjusted to further research and analysis on this topic.

As far as responsibility-sharing is concerned, a compromise formula might be reached between the European Commission, the Member States and the European Parliament while or after this study becomes available for the public to read. In the light of the evolution of the CEAS throughout recent years, however, it appears highly unlikely that a once-and-for-all solution will be found any time soon and that the compromise achieved would be beyond criticism or doubt. Rather, any new system for responsibility-sharing will need to be evaluated and readjusted. This study can then serve as a reference point for such scrutiny. The actual outcomes of any new EU system can be compared to the models and scenarios we propose, thus influencing the public and political debate on further reforms. Moreover, our methods for measuring the effects of different distribution keys and evaluating actual asylum inflows against the quotas discussed in this study should also remain relevant and serve as a backdrop for analytical or evaluative work to come.



# 4. Solidarity – models for a fair responsibility-sharing mechanism for the EU

## 4.1 A “Catch-22”? The Dublin System and the Treaty’s (asylum) solidarity clause

The “regulatory roots of the current crisis” (Pastore 2017: 11) are indirect results of important steps in European integration made with the Schengen process originating in 1985. The subsequent 1990 Dublin Convention<sup>1</sup> marked the founding pillar and centrepiece for a joint policy of immigration control within the then EU-12 and associated states. The complete removal of internal border controls had a flipside: the “Schengen States” agreed on tighter control of the Community’s external borders and defined a procedure, by which responsibility for examining an application for protection, and for providing accommodation, would always lie with the Member State that had played the most important role in the asylum seeker’s entry into Europe. In fact, this was usually the state where an asylum seeker first entered, or where he or she could be proven to have first stayed.<sup>2</sup> In the early 1990s states such as Germany and France insisted on the defining of responsibilities in accordance with the Dublin Convention. They feared that their high standards of protection and accommodation would make them a “reserve country of asylum” within the Community, in which the majority of asylum seekers would apply for protection or in which economically motivated migrants with no acute threat or experience of persecution would also try to make claims (Lavenex 2001; Niemann & Lauter 2011).

The Dublin Convention came into force on 1 September 1997. It has been applied to all EU Member States since 1 January 1998 and was transferred into Community law on the basis of the 1997 Treaty of Amsterdam. The Dublin principle has since

then been maintained basically the same, although a number of shortcomings were identified. Even ground-breaking changes in policy circumstances, such as the enlargements of the EU in 2004, 2007 and 2013,<sup>3</sup> which burdened a number of new EU members with becoming “Frontline” states, and the declamation of a Common European Asylum System (CEAS), which constituted a comprehensive EU asylum acquis, left the system unchanged. The Dublin principle followed a “dubious path dependence” (Mouzourakis 2014).

However, this common legal asylum system was not seconded by a common asylum space, in which, e.g., asylum decisions are mutually recognised or beneficiaries of international protection would be free to move the same way as EU citizens. Furthermore, a fair and efficient system for sharing the tasks and responsibilities of refugee reception and the processing of applications remained a desideratum. Yet, the Treaty on the Functioning of the European Union (TFEU) demands that the EU’s common policy on asylum is “based on solidarity between Member States” (Article 67 TFEU), including the “fair sharing of responsibility” (Article 80 TFEU; see also section 2.3). Thus, if the equitable sharing of responsibility is understood in such a way that it involves a distribution of applicants for international protection according to the Member States’ relative absorption capacities (see section 4.2), the Dublin Regulation’s persistence effectively impedes a fair system. EU institutions have been well aware of this already several years before the so-called refugee crisis of 2015/2016. Seemingly, there was a consensus among most Member States and EU institutions that the legal framework was dysfunctional, with the Commission, the European Parliament and the Council repeatedly calling for an asylum system that lives up to the principle of solidarity stated in the EU treaties (see e.g. EC 2011; European Parliament 2012; European Council 2012). Certainly, the Dublin system could as well have been conceptualised as a system of solidarity (Bendel 2015: 30) – by coining solidarity primarily in fiscal or logistical terms. Thus, Member States’ associated effort could have been quantified with the goal of material compensation.<sup>4</sup>

The fact that the system remained unchanged even throughout the CEAS recast process, which was completed in 2013, aggravated the dysfunctionalities in the light of

a surge in new asylum applications after 2011 (see section 4.3). The most fatal effect were the de facto departures from the common system. Member States burdened beyond their subjective capacity (such as Italy or Greece) or unwilling to participate in the CEAS at all (e.g. Hungary) performed a silent – yet illegal – boycott of the Dublin principle by consciously failing to register and fingerprint applicants for international protection, or by even encouraging their secondary movement to other Member States (Pastore & Roman 2014: 21-22). As a consequence, this marked an incentive for other Member States to reduce their attractiveness for asylum seekers by keeping the standards for reception conditions and asylum procedures as low as possible; thus engaging in a “race to the bottom” (Chetail 2016).<sup>5</sup>

Member States’ compliance with the CEAS rules (particularly the Eurodac and the Dublin regulations) would inevitably lead to a situation in which primarily Mediterranean “frontline” states and (South-Eastern) Member States with external Schengen borders would be obliged to process the bulk of asylum claims submitted in the EU and stand the second challenge of accommodating the applicants according to the common standards – an unfairness, which may not be accepted given the goal of a “genuine common EU asylum system” (EC 2016b: 10). In this “Catch-22”, the proclaimed aspiration of solidarity is impossible to reach, as the Dublin rule provokes largely adverse effects.

## 4.2 In search of the magic formula: Testing distribution keys

At an international level, responsibility-sharing among states in refugee situations has been a roaming issue for decades among scholars and organisations like the UNHCR (ICMPD 2014; Suhrke 1998). However, and despite a few instances in which temporary arrangements for regional burden-sharing have been evaluated as by and large successful (see Martin et al. 2017: 41f.), there is no example for a properly functioning system in a regional geopolitical context, in which an allocation or distribution key is applied.<sup>6</sup> This is despite a number of good reasons for establishing

such a system. Peter Schuck, in his “modest proposal” for burden-sharing (1997) argues that a broad participatory arrangement is crucial and provides several advantages – first and foremost as it reduces risks for individual states in situations of strong influx into a region (see also Noll 2000: 275-277), i.e. in minimising the burden on the individual recipient country by distributing it among the many, and at the same time evades free rider phenomena. Inherent to burden-sharing mechanisms should be the proportionality principle. The principle demands that a state’s share of the burden is limited to its burden-bearing capacity relative to that of all other states within the participating community (Schuck 1997: 277). On the basis of the pre-determined quota, participating states would then be able to trade, i.e. fulfilling their obligations by making payments to others.<sup>7</sup> The aftermath of the displacement crisis in Syria and other regions saw a resurgence of political vigor and governments’ renewed commitment to responsibility-sharing. However, at the *High Level Meeting Addressing Large Movements of Refugees and Migrants* in 2016, the New York Declaration, which was adopted there, did not include a Global Compact on Responsibility-Sharing, as suggested by the UN Secretary General (Martin et al. 2017: 14).

A useful typology of responsibility-sharing mechanisms within the EU – particularly with regard to the current clamour for “flexible solidarity” among some of the Eastern European Member states (see section 2.3) – should follow Eiko Thielemann’s (2006) proposal to distinguish two main types of international burden-sharing regimes, comprising two principal burden-sharing mechanisms each.

(1) One dimensional regimes of burden-sharing	(2) Multi-dimensional regimes of burden-sharing
(A) Common Rules	(C) Compensation
(B) Redistribution/Quotas	(D) Trade

Source: Based on Thielemann (2006)

The first regime type is one-dimensional (1), i.e. it aims to equalise the effort of participating states on one particular contribution dimension only. Most obvious, this particular dimension might be the physical intake of asylum-seekers. The most straightforward mechanism of guaranteeing shared responsibilities would be an

*ex ante* equalisation through *common rules* (law) or agreements (A). Theoretically spoken, the common set of rules aims at equalising Member States' obligations in public good provision from the moment they arise; practically spoken, asylum-seekers are distributed via a centralised mechanism according to a fixed quota system. *Redistributive* mechanisms try to equalise observed imbalances or inequities in burdens in a process of *ex post* responsibility-sharing through (negotiated) agreements (B). The September 2015 Council Decisions on Relocation for the benefit of Greece and Italy (see section 2.4 and 4.2.2) can serve as a recent, yet strongly legalistic variant of such a mechanism.

The second regime type is multi-dimensional, meaning that it does not seek to equalise responsibilities or burdens on one isolated dimension only. Rather, it allows for the inclusion of other dimensions (2). The first mechanism within that regime type is an explicit *compensation* logic, in which Member States' disproportionate contributions on one dimension are recognised and compensation is offered via benefits or cost-reductions on other dimensions (C). As a topical example for that type of mechanism, Thielemann cites the European Refugee Fund (ERF), which aims at promoting a balance of efforts among Member States associated with refugee intake, in order to demonstrate solidarity. Thus, the ERF used to direct common European funds to Member States in relation to the numbers of asylum-seekers and refugees that they are dealing with. The Member States are then free to spend those funds on other dimensions of refugee policy, which lie within the scope of the fund. Finally, the least confined and most flexible burden-sharing mechanism is *trade*, either on the basis of negotiations or implicit arrangements (D). It allows for multi-dimensional trade-offs between states within a union. Here, the example of countries putting few resources into 'pro-active' measures of refugee policy (such as peace-keeping missions to tackle root causes of flight) as opposed to others who focus more on 're-active' refugee protection efforts (such as accepting refugees onto their territories) serves to illustrate the concept. A more recent example of rather excessive multi-dimensional trade would be Prime Minister Victor Orbán's attempt of getting acceptance by the EU for his border-securing measures to fully discharge Hungary (and other Member States within the Visegrad Group) from taking in refugees and processing their asylum claims.

When it comes to determining a country's reception capacity for refugees, it can be considered a broad consensus, that fiscal or economic wealth of a country as well as size (in terms of territory, but even more so in terms of the population number) are the main predictors for its ability to handle refugee intake. UNHCR as the most important global refugee organisation has depicted since the early 2000s these three measures, i.e. GDP (per capita), population size and land (or national surface) area as the most apt for capacity determination and burden-sharing arrangements (UNHCR 2002; UNHCR 2005: 51-54). Those very same indicators had been suggested in what might have been the first attempt to install a fixed quota system within the EU: In 1994, the German Federal Government during its Council Presidency brought forward the ambitious idea of a mandatory distribution key, placing equal weight to the Member States' share of the total Union population, the Union territory and the GDP of the Union.<sup>8</sup> However, the Draft Resolution "had difficulties in attracting the necessary support" (Noll 2000: 292) and was watered down considerably in the following year, before a rather vague and non-binding Council Resolution was passed in 1995.<sup>9</sup>

The rising numbers of applicants for international protection between 2011 and 2015 in conjunction with the inability of the CEAS to provide for an efficient and fair management has sparked a debate over mandatory distribution quotas (both in the realm of the intra-EU relocation mechanism and the negotiations over the proposed "Dublin IV" regulation).<sup>10</sup>

This section analyses form, logic and consequences of four different distribution keys with regard to their potential application within the EU as a federation of solidary states. Thus, contrary to loser arrangements, which make non-binding proposals for quotas or imply the "freedom of pledging", they were designed in the logic of creating "mathematically determined equality" (Noll 2000: 276). Such logic takes into account the respective *relative* reception capacity of each individual Member State in view of the total of cases within the EU by determining a precise percentage share. For the sake of comprehensibility, these models assume that all applicants for international protection require a similar amount of care and services. Thus, they plan on the "average asylum seeker" and do not explicitly take into account

sub-groups with much higher demands and needs, e.g. (unaccompanied) minors, traumatised or elderly persons.<sup>11</sup>

While the first model was designed in 2013 by a group of researchers<sup>12</sup> as a first heuristic contribution to a looming debate at Member State and EU level, two other models have become part of EU legislative proposals or Council decisions, and the fourth model has been developed and practically applied for many years within one federal state, Germany. In order to demonstrate the models' likely effects and for the sake of internal consistency and comparability, they are

- a) introduced as if they were to serve as an allocation mechanism geared to *all* applications for international protection within the EU (i.e., not just an emergency measure for the benefit of some Member States burdened by refugee intake beyond a certain threshold; and
- b) applied to *all* (but no more than) the 28 EU Member States, irrespective of the pending procedure according to Article 50 of the Treaty of the European Union with regard to the United Kingdom, irrespective of the opt-out and opt-in clauses (where applicable), and irrespective of the fact that the four EFTA states (Iceland, Liechtenstein, Norway und Switzerland) would participate, as they are associated to the Schengen and Dublin acquis.

## Model 1

In the first model (Schneider et al. 2013), economic strength and population size appeared as the most important variables. However, these were supplemented by two other indicators: territory and unemployment rate. In order to smooth out short-term economic fluctuations, a multi-year moving average was calculated using Eurostat data (see Table 3 and Appendix A). The respective member-state's share of the EU's total GDP was proposed as a major factor (weighted with 0.4) on the assumption that the strongest economies – independently of all other circumstances – will also be able to shoulder the greatest financial burdens in hosting asylum seekers and processing applications. Population enters the calculation as the second major factor, with the same weighting (0.4). The larger the population the easier it will

be for a country to accept a certain amount of asylum-seekers in a given time: If an even distribution of asylum-seekers within the country is assumed, the socio-demographic absorption capacities of any community within that country should be measureable as a rate of asylum-seekers per inhabitants in that very community. The third factor of geographical area pursues a similar intention, in particular addressing the “space problem” sometimes put forward by smaller countries such as Malta. Here the reduced weighting (0.1) reflects the fact that many of the European Union’s geographically larger countries also include vast thinly populated areas. The fourth factor – unemployment – was introduced with the same minor weighting (0.1) to tackle the shortcoming of including quantitative dimensions only. Because even powerful economies can be affected by high unemployment and thus display extremely uneven distribution of wealth,<sup>13</sup> this factor was supposed to take some load from those countries excessively affected by unemployment.

The multi-factor model was held “capable of calculating a fair reception quota for every Member State based on publicly available official data” (Schneider et al 2013: 2). Two alternative instrumental functions to serve intra-EU solidarity and responsible-sharing were envisaged for the system: *operational steering towards proportionality* (“sharing people”) or *compensatory budgeting a posteriori* (“sharing money”). In the former, Member States would fulfil their quotas, determined by the formula at the beginning of each (fiscal) year according to the most current data, with spontaneous arrivals and process their asylum applications. If the number of asylum-seekers exceeded a Member State’s quota and the affected state requested a remedy, contingents would be dispersed to other EU Member States – in principle to those whose actual refugee arrivals lay well below their fair share according to their quota. In the latter, Member States would be obliged to pay an annual contribution to a solidarity fund defined by their quota. The volume of the fund could be set by the total number of asylum applications in the European Union in the previous year, based on an average lump sum per application, covering the average costs – weighted with purchasing power parity – of accommodating and processing over a defined time. Payments from the fund at the end of the (fiscal) year would then depend on the number of actual received asylum-seekers. Thus, Member States that repeatedly take in fewer asylum-seekers than their fair quota

suggests would be the net payers into a “Dublin compensation fund”, effectively realigning some of the inequities by exercising monetary responsibility.

**Table 3: Four-factor allocation model according to Schneider et al. 2013 (Model 1)**

Indicator	Factor	Effect	Weighting
Economic strength	Gross domestic product (mean of last five years)	Proportional; the higher the national share of EU GDP, the higher the factor	40 %
Population	Total population (mean of last five years)	Proportional; the higher the national share of EU total population, the higher the factor	40 %
Area	Geographical area (square kilometers; most current available value)	Proportional; the higher the national share of EU total territory, the higher the factor	10 %
Unemployment	Unemployment rate (annual averages over past five years)	Inversely proportional; the higher the unemployment rate the lower the factor	10 %

## Model 2

The second model was designed in 2015 by the European Commission as a concrete tool to disperse a pre-defined quota of asylum seekers in clear need of international protection from overburdened Member States within an emergency response mechanism to the other Member States. In an annex to the European Agenda on Migration of 13 May 2015 (EC 2015a), the Commission presented a distribution key that was supposed to “reflect the capacity of the Member States to absorb and integrate refugees, with appropriate weighting factors reflecting the relative importance of such criteria”. The key appeared quite similar and encompassed four factors as well, using the same weighting (0.4, 0.4 and 0.1, 0.1, respectively). Three of the four indicators used in Model 1 reoccurred (economic strength measured in GDP, size of the population and unemployment). Instead of land size (as used in Model 1), the Commission’s key introduced the average number of spontaneous asylum applications and the number of resettled refugees per 1 million inhabitants over the previous 5 years as a fourth factor (weighted 0.1). This last indicator was supposed to

reflect the efforts made by Member States in recent years. In the course of negotiations in the Council over the introduction of the two emergency relocation schemes passed as Council Decisions in September 2015,<sup>14</sup> the Commission also tabled a proposal for a Regulation establishing a permanent crisis relocation mechanism (EC 2015b), which specified the formula of the envisaged distribution key in greater detail (see Table 4 and Appendix A). Thus, in the “asylum intake” factor, resettled refugees were omitted, and both for the “asylum intake” and “unemployment” factors a maximum impact was defined through the introduction of a ceiling. In both cases, the respective value was to be capped at 30 percent of the “population” and “GDP” factors combined.<sup>15</sup>

**Table 4: Four-factor allocation model according to European Council Decision on Emergency Relocation of September 2015 (Model 2)**

Indicator	Factor	Effect	Weighting
Economic strength	Gross domestic product	Proportional; the higher the national share of EU GDP, the higher the factor	40 %
Population	Total population	Proportional; the higher the national share of EU total population, the higher the factor	40 %
Asylum applicants	Average number of asylum applications over past five years per million inhabitants with a cap of 30% of the population and GDP	Inversely proportional; the higher the number of applications the lower the factor	10 %
Unemployment	Unemployment rate with a cap of 30% of the population and GDP effect	Inversely proportional; the higher the unemployment rate the lower the factor	10 %

### Model 3

The third model is a simplified two-factor model introduced in the European Commission’s Proposal for a “Dublin IV” Regulation (EC 2016c). The proposal, which is currently subject to scrutiny by the European Parliament in the co-decision procedure,<sup>16</sup> basically sticks to the Dublin III criteria for assuming responsibility for

asylum claims. However, in order to ensure an equitable sharing of responsibilities between Member States, the current system is supposed to be complemented with a corrective allocation mechanism. This mechanism would be activated automatically in cases where Member States have to deal with a disproportionate number of asylum seekers. When the number of applications for international protection, in addition to the number of persons effectively resettled, is above 150 percent of the reference number for that particular Member State as determined by the key, an automated allocation mechanism refers the surplus quota to other Member States, which are still below their respective threshold.<sup>17</sup> The reference key is based on two criteria with equal 50 percent weighting: the size of the population and the total GDP of a Member State (see Table 5 and Appendix A).

**Table 5: Two-factor allocation model according to corrective allocation mechanism within the proposals for a “Dublin IV” regulation by EC and EP (Model 3)**

Indicator	Factor	Effect	Weighting
Economic strength	Gross domestic product	Proportional; the higher the national share of EU GDP, the higher the factor	50 %
Population	Total population	Proportional; the higher the national share of EU total population, the higher the factor	50 %

## Model 4

As a slight variation to Model 3, reference shall also be made to the so called “Königstein Key” (Müller 2013: 18-20), the formula after which asylum seekers are dispersed across German Federal States to be hosted in reception facilities (see end-note 6). The key also contains the factors economic strength and population size. In contrast to Model 3, the former is weighted with two thirds, the latter is with one third (see Table 6 and Appendix A). The “Königstein Key” in Germany operationalises economic strength as its most important indicator by using tax revenue as a factor. However, in the absence of applicable tax data in Eurostat this factor is – analogue to Models 1 through 3 – replaced by GDP (see also Hirsch 2013; Thym et al. 2013).

**Table 6: Two-factor allocation model according to the distribution system for asylum-seekers in Germany (“Königstein Key”; Model 4)**

Indicator	Factor	Effect	Weighting
Economic strength	Gross domestic product	Proportional; the higher the national share of EU GDP, the higher the factor	2/3 (66.6%)
Population	Total population	Proportional; the higher the national share of EU total population, the higher the factor	1/3 (33.3%)

## Comparative evaluation

Table 7 puts the four different models into comparative perspective in an effort to highlight their (potential) distributional effects (columns [a]-[d]). All models were calculated using the latest Eurostat data, i.e. including annual data for 2016.<sup>18</sup> Thus, the determined percentage values refer to hypothetical quotas for the year 2017. To allow for a reference, economic power and population size as the two most important benchmarks to put the absolute number of asylum applications in a given country into perspective are added in columns [e] and [f]. Column [g] features the de-facto quota for the reference year 2016, i.e. the relative refugee intake (asylum applications) of each Member State.

**Table 7: Comparative overview of allocation models 1 to 4 (quotas based on 2016 data)**

	Model 1 [a]	Model 2 [b]	Model 3 [c]	Model 4 [d]	GDP only [e]	Population only [f]	De-facto intake [g]
Germany	16.14%	18.16%	18.62%	<b>19.46%</b>	21.14%	16.10%	59.19%
France	13.02%	13.56%	14.05%	<b>14.37%</b>	15.02%	13.08%	6.63%
United Kingdom	12.54%	14.26%	14.39%	<b>14.92%</b>	15.98%	12.81%	3.08%
Italy	10.32%	11.21%	<b>11.59%</b>	11.49%	11.29%	11.89%	9.77%
Spain	7.94%	<b>8.44%</b>	8.31%	8.04%	7.52%	9.10%	1.25%
Poland	5.22%	<b>5.46%</b>	5.15%	4.39%	2.87%	7.44%	0.98%
Netherlands	3.77%	4.09%	4.02%	<b>4.25%</b>	4.70%	3.33%	1.66%
Sweden	<b>3.39%</b>	2.54%	2.53%	2.72%	3.12%	1.93%	2.29%
Romania	<b>2.99%</b>	2.66%	2.51%	2.05%	1.14%	3.87%	0.15%
Belgium	2.47%	2.57%	2.53%	<b>2.64%</b>	2.85%	2.22%	1.45%
Austria	<b>2.36%</b>	2.05%	2.03%	2.14%	2.36%	1.70%	3.33%
Finland	<b>2.13%</b>	1.32%	1.26%	1.32%	1.44%	1.08%	0.45%
Czech Republic	<b>1.99%</b>	1.72%	1.62%	1.47%	1.18%	2.07%	0.12%
Greece	<b>1.79%</b>	1.71%	1.65%	1.50%	1.19%	2.11%	4.06%
Denmark	<b>1.75%</b>	1.55%	1.49%	1.62%	1.87%	1.12%	0.49%
Portugal	<b>1.75%</b>	1.74%	1.64%	1.51%	1.25%	2.03%	0.12%
Hungary	<b>1.66%</b>	1.36%	1.34%	1.15%	0.76%	1.93%	2.34%
Ireland	1.40%	1.44%	1.36%	<b>1.50%</b>	1.79%	0.93%	0.18%
Bulgaria	<b>1.23%</b>	0.91%	0.86%	0.68%	0.32%	1.40%	1.54%
Slovakia	<b>1.00%</b>	0.85%	0.80%	0.72%	0.55%	1.06%	0.01%
Croatia	<b>0.78%</b>	0.60%	0.56%	0.48%	0.31%	0.82%	0.18%
Lithuania	<b>0.77%</b>	0.44%	0.41%	0.36%	0.26%	0.57%	0.03%
Luxembourg	<b>0.70%</b>	0.25%	0.24%	0.28%	0.37%	0.11%	0.17%
Estonia	<b>0.65%</b>	0.21%	0.20%	0.18%	0.14%	0.26%	0.01%
Slovenia	<b>0.65%</b>	0.36%	0.34%	0.31%	0.27%	0.40%	0.10%
Latvia	<b>0.64%</b>	0.29%	0.28%	0.24%	0.17%	0.39%	0.03%
Malta	<b>0.59%</b>	0.08%	0.08%	0.07%	0.07%	0.09%	0.15%
Cyprus	<b>0.35%</b>	0.15%	0.14%	0.14%	0.12%	0.17%	0.23%

Note: Sorting from highest to lowest refers to percentage values in column [a]

At first sight, variation between the columns appears rather small, with the economically and demographically strongest Member States (Germany, France, United Kingdom) displaying shares well beyond 10 percent and a large group of around ten rather small and/or economically weak countries, who would each be responsible for a maximum of about 1 percent of asylum applications (Bulgaria, Slovakia, Croatia, Lithuania, Luxembourg, Estonia, Slovenia, Latvia, Malta, Cyprus). The result is consistent when including the two reference columns [e] and [f] in our observation – which comes as no surprise, since all four models rely heavily (in the case of models 3 and 4 even exclusively) on each country’s GDP and population size relative to the EU as a whole. Intuitively, all models seem capable of determining fair quotas for each Member States, according to their size, power and their potential relative reception capacities.

Beyond this “vertical” reading of the data table, the “horizontal” perspective provides some interesting insights with regard to the litmus test of all (re)distributive policies: When different models are applied, who profits at the expense of whom? To facilitate reading, the respective highest percentage quota is highlighted in **bold**, whereas the lowest is in *italics*. Thus, in the case of **Germany**, Model 4 is the one to demand most (a share of 19.46 percent), as its main weight is economic power. Of an assumed total of 1,000,000 asylum cases EU-wide in a given year, Germany would have to take responsibility for almost one fifth, approximately 195,000. Instead, Model 1 gives Germany a considerable advantage of more than two percentage points (16.14 percent), compared to Models 2 and 3 (18.16 percent and 18.62 percent). In fact, the share would be the same (16.10 percent), if population size was the only decisive criterion for assigning responsibility (column [ff]). Thus, from our hypothetical total of 1,000,000 cases, a little more than 160,000 would go on Germany according to Model 1 (about 17 percent less if compared to Model 4).

**Sweden**, which has been the second most important asylum country in the EU over the years 2008 to 2016, has a much lower responsibility according to the formulae, while the variation between the highest and the lowest share displays a similar differential. Model 3 assigns Sweden a share of 2.53 percent (or about 25,000 asylum cases out of 1,000,000), whereas according to Model 1 the share would be

about one quarter (24.6 percent) larger (about 3.400). The higher share in Model 1 can primarily be attributed to the factoring of the land size with 0.1 (or 10 percent) in the key: Sweden's 440,000 square kilometers make up for almost 9 percent of the EU's territory, while in contrast the population is fairly small (about 10 million inhabitants making up for less than 2 percent of the EU's total population; see Table 8) – a proper argument for a slightly higher asylum intake rate, particularly if compared to the very small land size of Member States such as Cyprus, Luxembourg and Malta, where scarcity of appropriate space for accommodating asylum seekers can become an issue. Yet also in comparison to small but rather populous Member States (high population density in small Belgium or the Netherlands), this slight augmentation of the quota appears legitimate. The formula applied in the emergency relocation mechanism passed by the European Council in September 2015 (Model 2) and the planned key for a “corrective allocation mechanism” within the recast “Dublin” Regulation on criteria and mechanisms for determining the Member State responsible for asylum application (Model 3) hardly make a difference for Sweden. They both yield a hypothetical quota (2.54 percent and 2.53 percent respectively), that lies right in the middle between the single-weight factors GDP and population (columns [e] and [f], with column [c] representing the exact mathematical mean of both values). This holds true for all Member States: differentials between the percentage shares derived from Models 2 and 3 are marginal and would make a difference of just a few dozen, depending of the total EU case load. For most Member States (including Sweden), the four-factor-model developed for the relocation scheme (Model 2) adds a small extra quota if compared to the formula in Model 3, in which just the two main indicators (economic power and population size) are factored. From an assumed total of 1,000,000 cases across the EU, Sweden would have to process 25,390 applications according to Model 2 and 25,250 if Model 3 was applied. The maximum increase for some Member States would be a mere plus of 6 percent in Model 2 if compared to Model 3.

Why – then – does a four-factor-model yield such a marginal difference in outcome if compared to a two-factor-model? Naturally, effects will be reduced for those factors with a small weight towards the calculated final share. Each of the two factors unemployment and number of asylum applications per capita is weighted 0.1 (as

compared to 0.4 each for GDP and population). However, the biggest attenuating effect is yielded by the additional caps introduced to the two factors: In both cases, Model 2 wants to evade disproportionate effect on the total key by setting a cap at 0.3, i.e. each of the effects cannot exceed 30% of the sum of the GDP and population effect. If the actual effect turns out to be stronger, the respective value is omitted and replaced by the additive GDP/population effect. The result is that the effective weights of the two corrective factors are rather small and yield marginal influence of the total share (compare columns [b] and [c] in Table 7)<sup>19</sup>

A much higher impact can be discerned by the two additional factors in Model 1. the effect of territorial size of each Member State and – like in Model 2 – unemployment. As they are applied in this formula without any capping, they yield quite evident effects on the alleged refugee allocation according to the final quota – and that despite their arguably limited weight of 0.1 each. As exemplified above in the case of Sweden, the “size” factor has a distinct corrective function in the sense that slightly more asylum applications would be directed to the country – assuming that vast territories are still available for new (refugee) populations. The same is true for Finland. On the other hand, the UK and Germany as two countries with a strong population and the highest GDP will receive a cut (column [c]) as their state territory – in relation to the two other factors – represents a much smaller fraction of the whole EU.

Yet, admittedly, there are some limits to the argument, that the availability of space should co-determine refugee intake: Extra land can be arid or deserted and hard to develop (UNHCR 2005: 54). Thus, it rather is a factor that may provide the very small Member States or those with a high density with a reduction. This effect becomes apparent when analysing the effect values in column [c] for Luxembourg and Malta or for the Netherlands and Belgium, respectively.

More problematic, however, is the unemployment effect (column [d]). Member States’ individual unemployment rates, expressed as the mean of the years 2012 to 2016, ranged between 4.86 percent for Germany as the lowest value, and 25.39 percent for Greece as the highest.<sup>20</sup> Out of the 28 values, 24 are above 5 percent and below 15 percent (with a median of 8.59 percent and an average of 9.9 percent).

As they are not absolute quantities (but shares themselves), they are incorporated in the formula as inverted values ( $\frac{1}{x_i}$ ), producing factor effects with relatively little variation. In all cases, the effect is distinctly higher than 1 percent, but below 7 percent. For countries like Spain and Greece, with their extraordinary high unemployment levels (average unemployment rate at 23.42 percent and 25.38 percent), the factor operates as desired and reduces the final quota significantly. Yet, the factor has also strongly distorting effects on the total allocation quota of some Member States. Although Germany and the UK display an unemployment rate way below the average (as well as below the median value), the unemployment factor effect reduces their burden significantly – a paradoxical mechanism which is enshrined in the mathematical methodology. The effect is much graver with regard to the smaller or very small countries. In the case of Malta, for instance, the uncapped unemployment effect raises the final quota dramatically. Similar effects can be observed for Luxembourg and Cyprus, but also for most of the smaller Central and Eastern European Member States.

**Table 8: Factor effects and final quota in the multi-factor allocation model according to Schneider et al. 2013 (Model 1)**

	Population Effect [a]	GDP Effect [b]	Size Effect [c]	Unemployment Effect [d]	Final Quota [e]
Germany	15.98%	20.80%	8.01%	6.30%	<b>16.14%</b>
France	13.02%	15.24%	14.19%	3.01%	<b>13.02%</b>
United Kingdom	12.70%	16.05%	5.57%	4.83%	<b>12.54%</b>
Italy	11.89%	11.56%	6.77%	2.60%	<b>10.32%</b>
Spain	9.19%	7.50%	11.34%	1.31%	<b>7.94%</b>
Poland	7.50%	2.91%	7.01%	3.55%	<b>5.22%</b>
Netherlands	3.32%	4.73%	0.93%	4.58%	<b>3.77%</b>
Sweden	1.90%	3.12%	9.83%	4.01%	<b>3.39%</b>
Romania	3.93%	1.07%	5.34%	4.58%	<b>2.99%</b>
Belgium	2.21%	2.85%	0.68%	3.74%	<b>2.47%</b>
Austria	1.68%	2.35%	1.88%	5.55%	<b>2.36%</b>
Finland	1.07%	1.46%	7.58%	3.58%	<b>2.13%</b>
Czech Republic	2.08%	1.16%	1.77%	5.24%	<b>1.99%</b>
Greece	2.16%	1.28%	2.96%	1.21%	<b>1.79%</b>
Denmark	1.11%	1.88%	0.96%	4.57%	<b>1.75%</b>
Portugal	2.06%	1.24%	2.07%	2.18%	<b>1.75%</b>
Hungary	1.95%	0.75%	2.08%	3.75%	<b>1.66%</b>
Ireland	0.91%	1.52%	1.56%	2.72%	<b>1.40%</b>
Bulgaria	1.43%	0.31%	2.47%	2.86%	<b>1.23%</b>
Slovakia	1.07%	0.54%	1.10%	2.45%	<b>1.00%</b>
Croatia	0.84%	0.31%	1.27%	1.92%	<b>0.78%</b>
Lithuania	0.58%	0.26%	1.46%	2.89%	<b>0.77%</b>
Luxembourg	0.11%	0.35%	0.06%	5.14%	<b>0.70%</b>
Estonia	0.26%	0.14%	1.01%	3.93%	<b>0.65%</b>
Slovenia	0.41%	0.27%	0.45%	3.36%	<b>0.65%</b>
Latvia	0.40%	0.17%	1.45%	2.68%	<b>0.64%</b>
Malta	0.08%	0.06%	0.01%	5.34%	<b>0.59%</b>
Cyprus	0.17%	0.13%	0.21%	2.12%	<b>0.35%</b>

Note: Sorting from highest to lowest refers to percentage values in column [a]

Philip Grech developed a methodological critique (2016) in a thorough and systematic mathematical analysis of the allocation mechanism developed by the European Commission and introduced in the European Council Decision of September 2015 on relocation (Model 2 in our study). The analysis showed that the inclusion of the two corrective factors<sup>21</sup> – despite at limited weight and with a capping – might yield undesired properties, i.e. produce results that are contrary to the intended effects (Grech 2016). Similar to the brief analysis of Model 1 above, it demonstrates that a Member State with low unemployment may experience an even lower quota when unemployment is taken into account compared to when it is not.

Grech’s analysis and line of thought shows that models 1 and 2 display some mathematical flaws. Factors such as unemployment (measured in a percentage rate within a country; included both in models 1 and 2) and number of asylum applications per capita (displayed as a ratio; included in model 2 only) are quantities which do not express individual Member States’ absolute values in relation to the EU as a whole. This means that in a mathematical sense, they are not “extensive quantities” and “do not scale with any notion of the size of a state” (Grech 2016: 8), because they display a relative quantity already themselves. Thus, they cannot be applied easily to rescale a model which is relying heavily on *absolute* quantities expressed in factors that add up to the European Union total, such as population, GDP and territorial size.

If non-scalable quantities are to be introduced as factors in a distributive formula, they need to be “renormalised” towards the basic relational shares (in our case Member States’ GDP and population from the EU’s as a whole) in order to avoid distortions or “paradoxical shifts”. This requires a particular mathematical procedure, that turns effects like unemployment or previous refugees per capita more reminiscent of those base shares, which they are supposed to “correct” (in a upward or downward direction) modestly.<sup>22</sup>

## Alternative keys?

Arguably, there is a number of alternative indicators that might be apt to co-determine both a state’s capacity and obligation in terms of refugee intake. They could

refer to the state's wealth or to social or ethically founded parameters. Examples are contributions to preventive (military) efforts in conflict-ridden regions of origin (Boswell 2003b), social expenditure or poverty risk ratio as alternative socio-economic factors (Märker & Wilkens 2014), an ageing index as a demographic factor (Bovens & Bartsch 2016) or softer and "outcome"-relevant criteria such as number of refugees or immigrants already present or potential impact on the security of refugees, e.g. through xenophobia. In this respect, further questions arise as to the consequences of particular configurations for the distribution: Shall a high share of refugees or minority groups present in the country lead to more or less assignments? From a perspective of integration research, e.g., labour market participation becomes more likely, if refugees can engage in networking and get referred to jobs among their kin. This would thus be a valid point to increase the country's share. However, from a perspective on refugees as causing burdens, a high "prior charge" of a country with migrants or refugees will be adduced to legitimise a lower share.

Furthermore, while the conventional allocation models apply a proportional calculation method, Bovens and Bartsch (2015) suggest that fairness may additionally require that the rich states take on *more* than a proportional share, as it is the case almost anywhere in progressive taxation. In one of the most ambitious studies on responsibility-sharing, the authors not only calculated a number of differently factored capacity models, but also designed specific measurements in which they combined capacities according to factors with factual input to form a "responsibility index" (Matrix Insight et al. 2010: 56-74; see also Czaika 2005).

Bearing in mind the fierce political discourse over the refugee allocation issue within the EU, as described in the background section 2 of this study, and the need to simplify in the sense that a distribution model should be logic and easily comprehensible, it must be stated that the more advanced models may stand a limited chance of being realised. Rather, the "golden key" might be found by applying a limited set of indicators in an utmost transparent way.<sup>23</sup> The fact that common EU policy solutions need not only be accepted by Heads of States and governments, but also have to be legitimised in front of their electorate, refers to another important tasks which appears to have been seriously neglected so far: The European

Union and the EU Member States should invest much more into communicating fairness and solidarity issues and educating the public about the solutions on the table. Thus, a moral pointing finger has to be avoided, particularly by Member States now in strong favour of a responsible-sharing mechanism such as Germany. Rather, it has to be kept in mind that up until 2013, and even well into 2014, the German Government lobbied strongly at EU level *against* any deviation from the Dublin principle, with negative repercussions particularly in Southern EU Member States. These negative memories should be openly addressed and included in negotiations over a post-Dublin system for determining responsibility.

## 4.3 Perpetuated asymmetry of burdens: Empirical evidence

This section addresses the solidarity issue by analysing annual asylum applications lodged in the 28 EU Member States in relation to their respective capacities. Thus, it is a reception-country-based perspective which looks at the mere case load, irrespective of the quality of intake or the citizenship of applicants for international protection.

It has repeatedly been taken critical note of the fact that the dispersal of asylum claims within the EU is highly inequitable. As early as 2007, when the European Commission presented its Green Paper on the Future of the Common European Asylum System, it suggested that “the Dublin System may *de facto* result in additional burdens on Member States that have limited reception and absorption capacities and that find themselves under particular migratory pressures because of their geographical location” (EC 2007: 10). In fact, the establishment of a common asylum procedure, a uniform status and a general approximation of standards was deemed key to overcome unfair distribution. However, the Commission concluded unmistakably that “a system which clearly allocates responsibility for the examination of an asylum claim within the EU will still be necessary in order to avoid the phenomena of ‘asylum shopping’ and ‘refugees in orbit’. [...] Other factors could be taken into account, such as Member States’ capacities to process asylum applica-

tions and to offer long-term solution to recognised refugees [,] if the application of the system is to result in a more balanced distribution between Member States” (EC 2007: 11).

Besides, a number of scholarly studies and reports addressed this topic in greater depth and were able to demonstrate the intake of asylum seekers (and thus the processing of applications for international protection) followed highly disproportionate patterns across the EU Member States (see, e.g., Bovens et al. 2012; Czaika 2005; Matrix Insight et al. 2010; Schneider et al. 2013). A few years back, Bovens et al., analysing asylum statistics between 1999 and 2009, detected strongly oscillating values with an overall trend towards even aggravating inequality, as regards responsibility-sharing relative to application. At the time, the main contributors to greater inequality were Germany, which continuously fell short of its responsibility further in the second half of the 2000s, and smaller Member States, among them Sweden, which rose “from due towards excess responsibility” (Bovens et al. 2012: 92). How has this situation developed after 2010 and particularly with the onset of the refugee crisis?

As mentioned in the introduction, the number of asylum applications increased strongly in the EU during the five-year period from 2011 to 2015. Taken together, the EU Member States received, according to Eurostat, roughly 310,000 applications in 2011, about 435,000 in 2013 and the all-time-high of almost 1,323,000 applications in 2015. Only 2016 saw a modest decline in numbers (1,259,000). When we look at the national level, however, asylum trends are far from coherent (Table 9). While the number of applications increased in the majority of Member States, in some cases rather strongly, it stagnated (or even decreased further) in a number of others. For some Member States, remarkable leaps can be observed in connection with the 2015/2016 refugee crisis. In Germany, the number of asylum applications more than doubled between 2014 and 2015, and almost doubled from 2015 to 2016<sup>24</sup> once again. While Germany’s data skyrocketed, Sweden’s suffered a drastic decline from 2015 to 2016. The 28,790 registered asylum applications mark the lowest figure since 2009 – apparently a clear result of the numerous legal and operational

measures taken not only by Swedish authorities, but also by other Member States along the migration routes. A third striking example is Hungary: After years of strong increases the number in 2016 dropped much in a similar way as it does in Sweden – a rather direct consequence of the closing of the “Balkan Route” and the restrictive turn in Hungary.

In some Member States, asylum is practically a *quantité négligéable* as a migration phenomenon, particularly in the Baltic States, Portugal and Slovakia. They continue to receive less or far less than 1,000 applications per year. Thus, even from this very rough account it becomes clear that so far, the CEAS has not contributed to a more balanced sharing of responsibilities among the EU.

**Table 9: Asylum applications in the European Union, 2008-2016**

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2008-2016
Germany	26,845	32,910	48,475	53,235	77,485	126,705	202,645	476,510	745,155	<b>1,789,965</b>
France	41,840	47,620	52,725	57,330	61,440	66,265	64,310	76,165	83,485	<b>551,180</b>
Sweden	24,785	24,175	31,850	29,650	43,855	54,270	81,180	162,450	28,790	<b>481,005</b>
Italy	30,140	17,640	10,000	40,315	17,335	26,620	64,625	83,540	122,960	<b>413,175</b>
United Kingdom	44,423	31,665	24,335	26,915	28,800	30,585	32,785	40,160	38,785	<b>298,453</b>
Hungary	3,175	4,665	2,095	1,690	2,155	18,895	42,775	177,135	29,430	<b>282,015</b>
Austria	12,715	15,780	11,045	14,420	17,415	17,500	28,035	88,160	41,950	<b>247,020</b>
Belgium	15,165	21,615	26,080	31,910	28,075	21,030	22,710	44,660	18,280	<b>229,525</b>
Netherlands	15,250	16,135	15,100	14,590	13,095	13,060	24,495	44,970	20,945	<b>177,640</b>
Greece	19,885	15,925	10,275	9,310	9,575	8,225	9,430	13,205	51,110	<b>146,940</b>
Poland	8,515	10,590	6,540	6,885	10,750	15,240	8,020	12,190	12,305	<b>91,035</b>
Denmark	2,350	3,720	5,065	3,945	6,045	7,170	14,680	20,935	6,180	<b>70,090</b>
Bulgaria	745	855	1,025	890	1,385	7,145	11,080	20,365	19,420	<b>62,910</b>
Finland	3,670	4,910	3,085	2,915	3,095	3,210	3,620	32,345	5,605	<b>62,455</b>
Spain	4,515	3,005	2,740	3,420	2,565	4,485	5,615	14,780	15,755	<b>56,880</b>
Cyprus	3,920	3,200	2,875	1,770	1,635	1,255	1,745	2,265	2,940	<b>21,605</b>
Ireland	3,855	2,680	1,935	1,290	955	945	1,450	3,275	2,245	<b>18,630</b>
Malta	2,605	2,385	175	1,890	2,080	2,245	1,350	1,845	1,930	<b>16,505</b>
Romania	1,175	960	885	1,720	2,510	1,495	1,545	1,260	1,880	<b>13,430</b>
Luxembourg	455	480	780	2,150	2,050	1,070	1,150	2,505	2,160	<b>12,800</b>
Czech Republic	1,645	1,235	775	750	740	695	1,145	1,515	1,475	<b>9,975</b>
Croatia	182	205	356	858	1,241	1,075	450	210	2,225	<b>6,802</b>
Slovakia	895	805	540	490	730	440	330	330	145	<b>4,705</b>
Portugal	160	140	155	275	295	500	440	895	1,460	<b>4,320</b>
Lithuania	520	450	495	525	645	400	440	315	425	<b>4,215</b>
Slovenia	255	190	240	355	295	270	385	275	1,310	<b>3,575</b>
Latvia	55	60	65	340	205	195	375	330	350	<b>1,975</b>
Estonia	15	40	35	65	75	95	155	230	175	<b>885</b>
<b>European Union</b>	<b>269,755</b>	<b>264,040</b>	<b>259,746</b>	<b>309,898</b>	<b>336,526</b>	<b>431,085</b>	<b>626,965</b>	<b>1,322,820</b>	<b>1,258,875</b>	<b>5,079,710</b>

Note: Missing values in Eurostat for the United Kingdom and Croatia were imputed from the UNHCR database

## 4.4 Asylum Intake 2008–2016: aggravating unfairness?

This section seeks to go beyond a mere description of absolute numbers, in order to better understand in how far Member States live up to their responsibilities. It does so by applying one of the models from section 4.2 to the annual total of asylum applications in the EU. In a first step, for each Member State a *hypothetical fair quota* according to Model 3 was calculated for each of the years 2008 through 2016. While on a very broad scale, the other models brought similar results, this model with a weighting of 50 percent for each GDP and population is the most simple one (and probably the least disputed at the moment: the importance of economic power and population size for a country's absorption capacity is acknowledged broadly) and can thus be easiest used for illustrative purposes.

In a second step, the *factual quota* was determined for each year, conceptualised as each Member State's share of accepted applications from all applications registered in the EU.<sup>25</sup> The third step is a straightforward differential calculation between target quota and *de facto* quota. Table 10 displays the results for the year 2016 for all Member States. A positive percentage value suggests that the respective Member State "overperforms" and processes more applications than would be necessary under assumptions of fairness. A negative percentage value displays sub-standard duty. The maximum negative value is -100 percent (a Member State that would not process a single application). More than a few Member States get quite close to this zero. One year appears to be a reasonable reference period for this type of analysis, as an ideal model would establish a fair distribution at any given point in time.

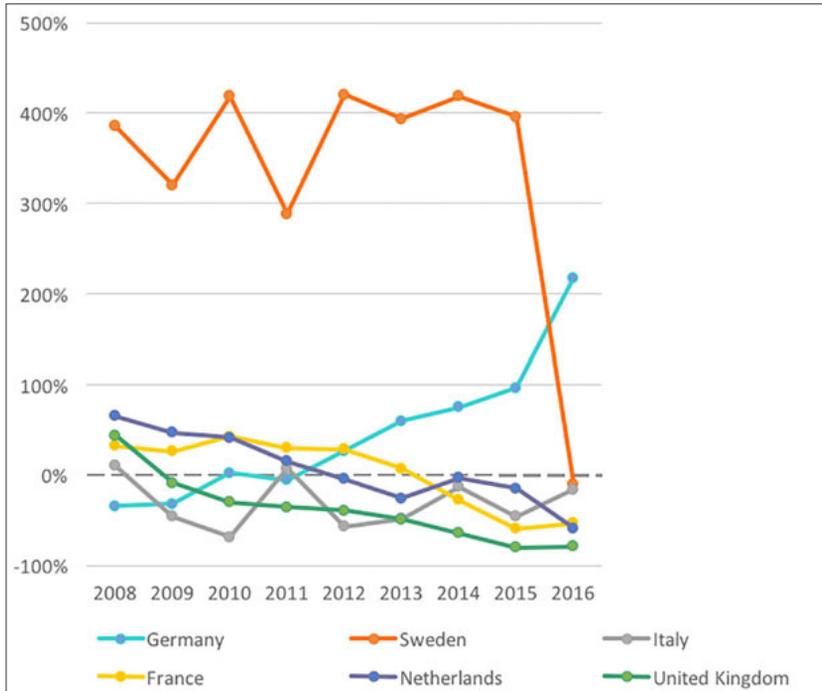
**Table 10: Asylum Applications. Fair Shares and de facto Asylum Applications**

	Asylum Applications 2016		Share according to Model 3 and deviation thereof			
	De-facto asylum applications	share of all EU asylum applications (in %)	Fair quota (in %)	Fair share according to quota	Deviation from Model	Deviation from Model (in %)
Germany	745,155	59.2%	18.6%	234,417	510,738	217.9%
Greece	51,110	4.1%	1.7%	20,772	30,338	146.1%
Malta	1,930	0.2%	0.1%	956	974	101.8%
Bulgaria	19,420	1.5%	0.9%	10,836	8,584	79.2%
Hungary	29,430	2.3%	1.3%	16,900	12,530	74.1%
Austria	41,950	3.3%	2.0%	25,563	16,387	64.1%
Cyprus	2,940	0.2%	0.1%	1,807	1,133	62.7%
Sweden	28,790	2.3%	2.5%	31,791	-3,001	-9.4%
Italy	122,960	9.8%	11.6%	145,864	-22,904	-15.7%
Luxembourg	2,160	0.2%	0.2%	3,013	-853	-28.3%
Belgium	18,280	1.5%	2.5%	31,875	-13,595	-42.7%
France	83,485	6.6%	14.0%	176,861	-93,376	-52.8%
Netherlands	20,945	1.7%	4.0%	50,557	-29,612	-58.6%
Finland	5,605	0.4%	1.3%	15,860	-10,255	-64.7%
Denmark	6,180	0.5%	1.5%	18,819	-12,639	-67.2%
Croatia	2,225	0.2%	0.6%	7,104	-4,879	-68.7%
Slovenia	1,310	0.1%	0.3%	4,235	-2,925	-69.1%
United Kingdom	38,785	3.1%	14.4%	181,208	-142,423	-78.6%
Poland	12,305	1.0%	5.2%	64,866	-52,561	-81.0%
Spain	15,755	1.3%	8.3%	104,599	-88,844	-84.9%
Ireland	2,245	0.2%	1.4%	17,119	-14,874	-86.9%
Latvia	350	0.0%	0.3%	3,491	-3,141	-90.0%
Lithuania	425	0.0%	0.4%	5,204	-4,779	-91.8%
Czech Republic	1,475	0.1%	1.6%	20,428	-18,953	-92.8%
Portugal	1,460	0.1%	1.6%	20,611	-19,151	-92.9%
Estonia	175	0.0%	0.2%	2,512	-2,337	-93.0%
Romania	1,880	0.1%	2.5%	31,555	-29,675	-94.0%
Slovakia	145	0.0%	0.8%	10,132	-9,987	-98.6%

Of the 1.26 million asylum applications made in the European Union in 2016, we find that only seven Member States were disproportionately affected. Under the fair quota determined through a 50 percent weighting of GDP factor and population factor, Germany would have received about 235,000 asylum applications, whereas it actually took in more than three times that number (745,000). Greece and Malta also received more than twice as many asylum-seekers as suggested by the quota. But also Bulgaria, Hungary, Austria and Cyprus were burdened way beyond their determined capacity. Sweden's sharp drop in registered applications in 2016 means that for the first time in years, the country underperforms in the sense that it does not even fulfil the hypothetical fair quota, by -9 percent. In fact, the bulk of EU Member States remains way beyond their possibilities and accepted only a fraction of the number of asylum-seekers that they could have taken according to their economic strength and population. These are above all the states of the European Union's 2004 and 2007 eastern enlargements, but also Spain and Portugal.

The following series of three graphs seeks to illuminate for selected Member States, how performance in responsibility-sharing developed since 2008, i.e. whether there is a trend towards a more equitable distribution (Figures 1 to 3 and accompanying data in Tables F, G and H). They document the severe unfairness when it comes to assuming the burden of refugee intake in the EU. Thus, Sweden has for every year since the beginning of structured data collection by Eurostat in 2008, and up to and including 2015, processed three or four times as many asylum applications as it should have in a fair system. This outstanding performance, however, was on its way to be reversed in 2016 when Sweden – from one year to the next – strongly reduced its share and thus no longer fulfilled the hypothetical fair quota (Figure 1, Table F in Appendix B). With Germany's curve pointing upwards since 2011, and the rest of the five most important asylum countries downwards in a quantitative sense, a fair allocation seems to be way out of reach.

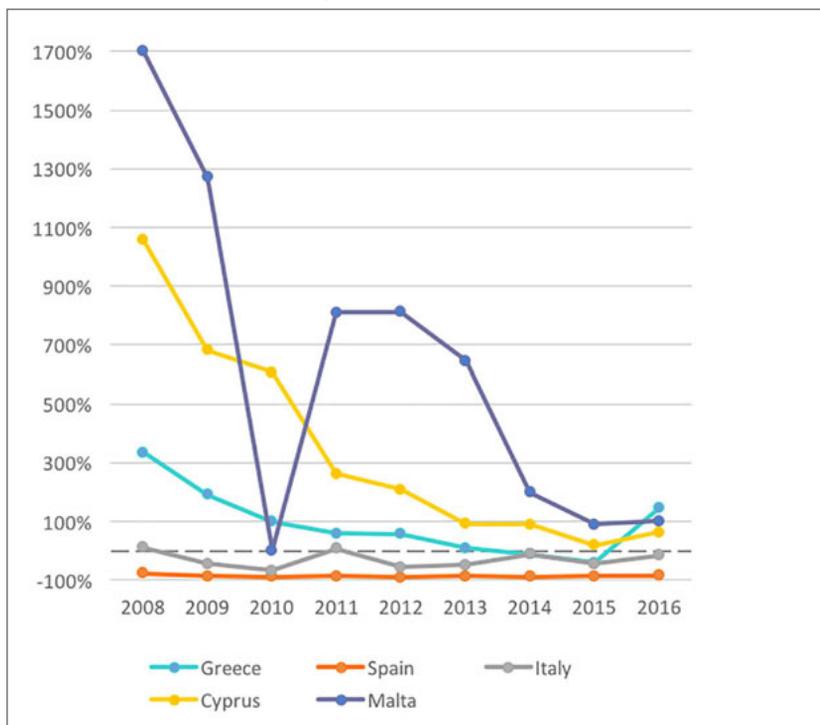
**Figure 1: Deviation of de facto asylum application quota from fair quota (Model 3), selected “old” Member States, in percent**



*Note: For precise percentages see Table F in Appendix B*

When pinpointing the pitfalls of the CEAS, a clear trend towards a more even distribution can be discerned over time. Figure 2 shows that at least the times of drastic overburdening of Malta, Cyprus and Greece seem to lie in the past, with significant imbalance remaining, of course. Italy, which always appeared to be one of the most affected “frontline states” continues to process slightly less than should be foreseen in a fair distribution system, while Spain is still far from assuming the proper responsibility (Figure 2, Table G in Appendix B).

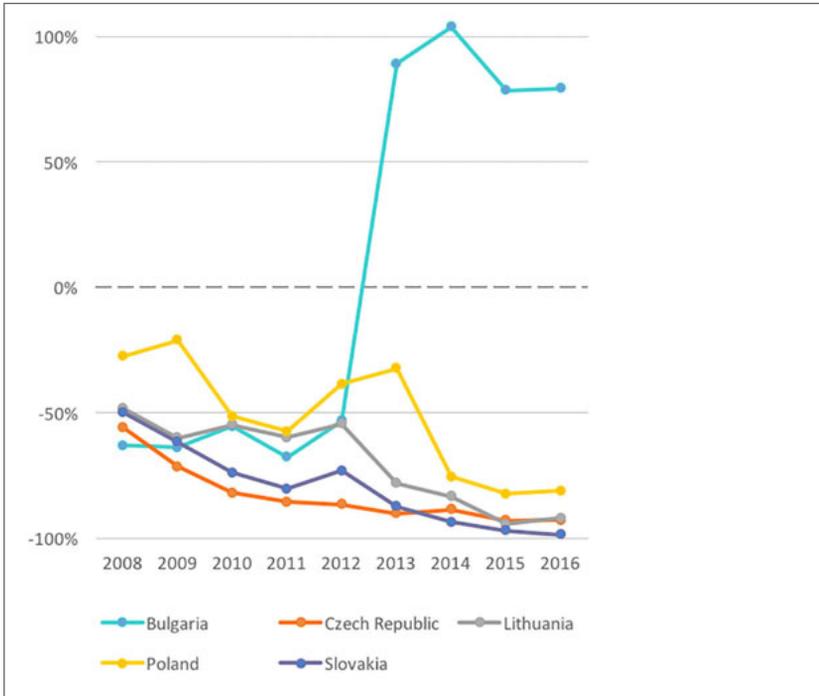
**Figure 2: Deviation of de facto asylum application quota from fair quota (Model 3), selected Mediterranean “frontline” States, in percent**



*Note: For precise percentages see Table G in Appendix B*

Finally, the picture looks utmost grim in some of Eastern Europe’s EU Member States. Severe imbalances define the image with almost all countries underperforming massively. Thus, e.g., the Slovakian, the Czech and the Lithuanian asylum systems seem to be almost non-existent. Worrying is also the strong outlier Bulgaria, a country which has been inconspicuously underperforming until 2012 and suddenly turned to be overburdened in 2013, notably two years before other countries witnessed strong increases (Figure 3, Table H in Appendix B).

**Figure 3: Deviation of de facto asylum application quota from fair quota (Model 3), selected Eastern European States, in percent**



*Note: For precise percentages see Table H in Appendix B*

From these figures, one can conclude that there has been little improvement with regard to a fairer sharing of responsibilities in asylum. This is of course due to the absence of any steering mechanism that would alleviate overburdened Member States (the 2015-2017 emergency relocation mechanism being a hardly meaningful exception), leaving it all up to factors such as geographic location, preferred smugglers routes, attractiveness of the countries or existing family ties. Figures continue oscillating to a great degree, with the exception of a seemingly stabilising situation in the Mediterranean, despite at too high levels for Malta, Cyprus and Greece. In other areas even a further differentiation can be observed with opposing trends.

## 4.5 Transferring people, compensating money, dividing tasks: Fluid concepts of solidarity and responsibility-sharing

Starting from earlier scholarly assumptions, one may assume that mandatory arrangements to share burdens and responsibilities stand a higher chance of compliance and efficiency, if they are agreed upon on a voluntary and consensual basis by the participating states (Czaika 2009; Schuck 1997), i.e. through unanimity rather than through (qualified) majority rule. Furthermore, it is argued that flexible options for trade or monetary compensation will ease responsibility sharing. Particularly the involvement of sub-state actors beyond the nation-state level, which interpret the “public good” refugee protection as one of their moral duties (instead of subordinating it to the national interest of having the smallest possible number of refugees on their territory and thus potentially engage in free-riding) may prove as helpful (Noll 2003: 248; Suhrke 1998). Current debates at EU and Member State level oscillate around the question of whether the solidarity clause in the Treaty could be interpreted in a more flexible way, to allow for “opt-outs” (in turn for financial payments) or a waiver on subsidies, the compensation of failure to accept refugees through taking over more security tasks at the Schengen borders. A new variant of trying to stir appetite among hesitant Member States for a common allocation system is the definition of extended transitional periods. In that vein, the European Parliament wants to allow Member States unwilling or incapable of participating in a distribution system up to three years to accustom to the system with progressive participation starting from a very little baseline. “[T]o give countries time to adapt and prepare to receive asylum seekers, a three-year transition period should be introduced during which Member States which have historically received many asylum seekers will continue to shoulder a greater responsibility and where those with a more limited experience of welcoming asylum seekers would start with a lower share of the responsibility” (European Parliament 2017: 4).<sup>26</sup>

However, one should not abstain from the question to determine – at least as a supportive heuristic – which factors can be helpful at which weighting in order to

define a fair asylum quota, as this issue has not been resolved yet. Despite the fact that a direct allocation of refugees through quotas does not appear as a realistic political option at this moment, a common understanding seems also a prerequisite for establishing proper financial compensation mechanisms, instead of a physical distribution. The analyses in section 4.2 suggest that mathematically demanding factors that run a risk of producing distortions, such as unemployment rate in the Member States or amount of former asylum intakes, might better be omitted. Furthermore, the measurement of former asylum intakes as a reducing factor does not appear too useful with regard to a permanent allocation system, as it is not distinct enough: Considering asylum intake in *former* years as one determinant for a *future* quota appears somewhat like a circular argument. On the other hand, it is not understandable, why the Commission and the Council ignore the territorial size of Member States as an appropriate factor with a minor weight. In that vein, UNHCR has continuously depicted “land area” as one of three decisive factors, yet a “crude” one, to share the refugee burden and responsibilities in a fair way (see for instance UNHCR 2005).

#### Endnotes section 4.

1. Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities (15 June 1990).
2. The regularity content of the Dublin Regulation is oftentimes displayed in a simplified and insufficient manner. The Regulation demarcates a strict hierarchy of criteria, which have to be considered when a Member State’s authority carries out the procedure to determine which country is responsible for reception and examining the asylum application. The four main criteria check on family ties; granted visa or residence permits; the first country of arrival; and the first country where asylum is claimed.
3. In 2004, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia, Malta and Cyprus became members of the EU. In 2007, Romania and Bulgaria acceded the EU, and in 2013, Croatia.
4. E.g., by assuming a lump sum and paying it out for each asylum application orderly processed by an EU Member State. To account for diverging prices across the union, this lump sum could be weighted with purchasing power parity in the respective EU Member State. For endeavours to determine the costs of asylum processing in general see Matrix Insight et al. (2010: 75-110); Berger & Heinemann (2016: 14-16).
5. This does not refer to all, but some Member States. The assumption that, as a general pattern, EU minimum standards in asylum policy entail a broad race to the bottom has been empirically refuted (Zaun, 2017).
6. Yet there is plenty of examples for distribution systems as part of a dispersal policy within nation states, which aim to distribute refugee or asylum seeker burdens evenly across sub-national entities (see, e.g. Boswell, 2003a; European Migration Network, 2014: 9). The formula to distribute asylum seekers

among the 16 German Federal States has remained unchanged – and largely undisputed – for more than 40 years. “The Königstein Key” is re-calculated every year on the basis of the Federal States’ tax revenues (weighted by two thirds) and the population size (weighted one-third) and determines fixed quotas. Instead, Sweden followed a more flexible approach: In the 1980s and 1990s, municipalities were mandated to admit a certain number of asylum seekers on the basis of contracts with the central government. Originally, this system was used to channel the newcomers towards the municipalities with a favourable economic and labour market situation. When influx of asylum seekers surged, almost all municipalities were included in the dispersal (Bevelander, 2004). The system was liberalised in the mid-1990s, when municipalities received opt-out rights and refugees were allowed to settle wherever they wanted, provided they were able to find themselves housing – which roughly half of them did at the time (Andersson 2003: 34; Myrberg 2012: 8).

7. In the light of the recent refugee flows to the European Union, market-based approaches as a possible way out of the deadlock on intra-EU responsibility-sharing have resurrected (see for instance Rapoport & Moraga 2014).

8. Draft Council Resolution on Burden-sharing with Regard to the Admission and Residence of Refugees (Council Document No. 7773/94 ASIM 124).

9. Council Resolution of 25 September 1995 on Burden-sharing with Regard to Admission and Residence of Displaced Persons on a Temporary Basis, Official Journal (1995) C 262/1. Thus, the Resolution marked the nucleus for the so-called Temporary Protection Directive (Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, Official Journal (2001) L 212/12).

10. Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece, Official Journal L 248, 24.9.2015, p. 80–94; Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast), COM(2016) 270 final, Brussels.

11. If put into practice, the heterogeneity of refugee populations would have to be kept in mind and particular arrangements developed to cater to it accordingly when (re)allocating people across Member States.

12. Namely from the Research Unit of the Expert Council of German Foundations on Integration and Migration and from the German Institute for International and Security Affairs (see Schneider et al. 2013).

13. Sociological migration research has shown that xenophobic attitudes within societies tend to increase during phases of high unemployment (Kunovich 2013), while the willingness to grant protection to refugees falls.

14. Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece; Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece.

15. However, some uncertainties regarding the methodology remain, as the document does not specify whether all asylum applicants or just first time asylum applicants were to be considered. For the calculations within this study, the values for all asylum applications as reported by Eurostat were processed.

16. At the time of finalising this study, the EP was in the process of opinion-forming to start negotiations

with the European Council. A draft report by the Committee on Civil Liberties, Justice and Home Affairs did not propose any changes to the reference key as set out in Article 35 of the proposed Regulation (see Draft Report on the proposal for a regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) (COM(2016)0270 – C8-0173/2016 – 2016/0133(COD))).

17. The EP, which has been strongly in favour of substituting the current Dublin system with a permanent (re)allocation system to assign responsibility according to a distribution key, will likely vote in favour of attributing more weight to any “links” that incoming asylum seekers might already have to a specific Member State when a decision on allocation to a Member State is made. Asylum seekers that do not have a genuine link with a particular Member State would, according to the EP, automatically be assigned to an EU country which will take responsibility for them, according to a distribution “key”. This would mean that the country of first arrival would no longer be automatically responsible, as is the case today, and there would be no thresholds before the relocation mechanism sets in, as proposed by the European Commission (European Parliament 2017: 3).

18. For complete data for all factors and all Member States, see tables A to E in the Appendix.

19. One of the desk officers from Directorate-General Migration and Home Affairs’ Asylum Unit told one of the co-authors, when questioned, why the European Commission didn’t follow through and included the four-factor-model (foreseen for a permanent emergency relocation mechanism and brought into the field by the European Council in its September 2015 decision) into the “corrective allocation mechanism” in the proposal for a “Dublin IV” regulation (which included only two factors: GDP and population), that this was because it “didn’t make a difference” and was “too difficult to communicate” (anecdotal information, 20 June 2016).

20. For the respective data see Table D in Appendix B.

21. Previous refugee intake per capita and unemployment, with the latter also represented in Model 1.

22. For methodological details and a viable mathematical alternative to the European Union’s relocation formula displayed in Model 2 see Grech (2016: 16-22). According to this alternative proposal – yet involving the same quantities – some significant variances would occur. For Sweden, the alternative methodology would lead to a huge reduction in tentative asylum seeker intake (see Grech, 2016: 20, 22).

23. Another promising approach to secure sufficient support among those Member States which have fallen short of processing their fair share of EU asylum claims seems to lie in allowing for generous transition periods in which the quota is raised progressively (see, e.g. the proposal by the EP Rapporteur for transitional arrangements as laid out in Annex 1a of the draft report, see endnotes 16 and 17).

24. National data show that this is not due to a further surge in asylum influx in 2015. Rather, the number of demands for asylum registered in 2016 decreased significantly (with a total of about 280,000), while several hundred thousand migrants who came to Germany in 2015 had their formal application registered in 2016 only, resulting in the record number of 745,000 applications in one year (Press Release by the federal Ministry of the Interior of 11 January 2017: 280.000 asylum seekers in 2016 [in German], <http://www.bmi.bund.de/SharedDocs/Pressemitteilungen/DE/2017/01/asylantraege-2016.html>).

25. Note that in Eurostat’s asylum statistics, applications submitted by persons who are subsequently found to be subject of a Dublin procedure are included in the number of asylum applications. Persons who are transferred to another Member State in application of the Dublin Regulation are reported as asylum applicants also in the Member State where they are transferred to. Thus, the (procedural) statistics tend to be slightly overblown in the sense that the actual number of people present in the EU will be somewhat

lower. However, as asylum applications do not only cause direct costs of housing and sustaining, but also administrative effort, it is not illegitimate to refer to these figures in a discussion on burden- and responsibility-sharing. Note in this context, however, that relocated refugees according to the 2015-2017 emergency relocation mechanism are not counted towards these numbers.

26. The Parliament originally discussed that a five-year transition period for skeptical Member States and suggested that the “baseline reference key” could be a result of adding the lodged applications in each Member State over a five-year span, including the years 2011, 2012, 2013, 2014 and 2016 (quite elusively, 2015 is being omitted), divided by the total amount of lodged applications within all Member States during that period. Transition from this “status quo” model towards a fair distribution is then supposed to be reached by removing 20 % of the baseline and adding 20 % of the fair distribution model per year until the system is fully based on the fair sharing of responsibilities (see Draft Report on the proposal for a regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) (COM(2016)0270 – C8-0173/2016 – 2016/0133(COD))). For a Member State with very limited numbers of asylum applications in the past years like Slovakia this would mean that its refugee intake quota would gradually increase from the baseline key of 0.07 per cent of all asylum applications lodged in the EU in 2017 to 0.8 per cent in 2022. Projecting an annual total of 1 million asylum applications lodged on EU territory over the coming years, Slovakia’s burden would be 721 asylum applicants in 2017; 2,177 in 2018; 3,633 in 2019; 5,088 in 2020; 6,544 in 2021; and 8,000 in 2022.



# 5. Fairness – the harmonisation of asylum outcomes across EU Member States

## 5.1 Approximating asylum decisions in the EU – constantly under construction?

As discussed in the Background section of this study, the concept of “fairness” means – in the context of the development of a common European policy on asylum – that asylum applicants should have the same, or at least very similar, chances of being recognised as refugees (or persons otherwise in need of protection) irrespective of where in the EU they arrive and lodge their request for protection. Fairness therefore requires a harmonisation or approximation of the criteria and definitions that the EU Member States use to determine whether or not an asylum seeker is entitled to be granted refugee status or other types of protection.

In fact, the idea that harmonised asylum rules should be an essential component of a Common European Asylum System is all but new. Already in 1999, the European Council decided at a meeting in Tampere that it would “work towards establishing a Common European Asylum System, based on the full and inclusive application of the Geneva Convention”. It further stated that such a system needed to include an “approximation of rules on the recognition and content of the refugee status” (European Council 1999).

Five years later, when the first binding EU Directive<sup>1</sup> on this topic was adopted, the objective to harmonise national asylum rules was widened. The Directive not only aimed at establishing common criteria for the determination of refugee status,<sup>2</sup> but

also for the granting of subsidiary protection.<sup>3</sup> Thus, the Directive both reconfirmed and broadened the and Tampere Council's commitment to an approximation of asylum rules. In Recital 6, the Directive stated that "to ensure that Member States apply common criteria for the identification of persons genuinely in need of international protection" was a main objective. Furthermore, the Directive also sets out that the "approximation of rules on the recognition and content of refugee and subsidiary protection status should help to limit the secondary movements of applicants for asylum between Member States, where such movement is purely caused by differences in legal frameworks".<sup>4</sup>

Given the importance that already then was attributed to a harmonised decision-making practice, based on common standards and definitions, one could expect that in the course of more than a decade, some progress had been made, especially since the EU also facilitated the approximation process through practical cooperation and EU-funded fora for practitioners from national asylum agencies to exchange experiences on how to evaluate and decide on asylum applications by protection seekers from specific countries or with certain profiles. In 2002, a "European Union Network for Asylum Practitioners" (EURASIL) was established as a new network after the dissolution of its predecessor, the "Centre for Information, Reflection and Exchange on Asylum" (CIREA). The aim of EURASIL was to intensify the working relations between practitioners with the aim of bringing about greater convergence at EU level by facilitating the exchange of information on the asylum situation in relevant countries of origin and transit, including practical case studies and comparisons of national and EU case-law on selected countries of origin (Vink & Engelmann 2012: 547-548).

In 2011, the work of EURASIL was taken over by the then established European Asylum Support Office (EASO), which got a mandate to "increase convergence and ensure ongoing quality of Member States' decision-making procedures (...) within a European legislative framework."<sup>5</sup> Among other activities to this aim, the EASO produces country of origin reports that Member States' authorities are encouraged to use as part of their guidelines on how to decide on asylum applications (EASO 2016).

This section aims to scrutinise this approximation process by evaluating on the basis of quantitative multiannual data whether asylum decisions actually have become more uniform over time. We are not trying to explore the underlying reasons for persisting variations, however, as this would be an almost impossible endeavor given the fact that we deal with 28 EU Member States. Explaining high or low rates would require an analysis of the contents and reasoning in asylum decisions as well as national legislation and political oversight of asylum decision-making authorities in all these states. Still, we can assume in general terms, that differences could be related to diverging understandings in the various Member States of concepts such as refugee status, subsidiary protection, or protection for humanitarian or other reasons. The latter, protection on grounds that are not related to refugee or subsidiary protection status, are not harmonised at EU level; Member States are still allowed to use their own national criteria to grant protection for humanitarian reasons, e.g. due to sickness, personal circumstances, or obstacles to return.<sup>6</sup>

Asylum seekers' grounds for protection, the reliability and credibility of evidence or testimony they present, and the security situation in their countries of origin, might also be assessed inconsistently among the Member States, and consequently asylum outcomes can vary. Other possible factors are heterogeneous national laws and practices concerning the implementation of the concepts of "safe third countries" or "safe countries of origin", or possible political interferences with the decision-making of national authorities. For example, if a Member State treats an important transit country as a "safe third country", this can mean that asylum applications lodged by persons that arrive in the Member State from such a country will be regarded as inadmissible, and consequently rejected.<sup>7</sup>

Another caveat concerns Member States where many asylum applicants abscond following their registration, e.g. to move on to other Member States. If this happens, applications can be considered as withdrawn, or as written-off, and this can be counted as a rejection. The statistical data that we have used for the purpose of our analysis do not tell us what the underlying factors behind inconsistent decision-making may be.

The EASO (2016: 23), which admits that recognitions rates diverge, argues that unequal protection rates do not necessarily point towards a lack of harmonisation but may also indicate that the applicants received by the various countries may have different profiles despite having the same citizenship. Certain ethnic minorities might, for example, have a preference for a certain country of destination, while other minorities might have the same country of origin but a different preference regarding their destination. While this is a relevant caveat, it is not entirely convincing. Especially in Member States who receive many applicants from a specific country of origin and where many decisions are taken, it is unlikely that the profiles of applicants are totally different over a longer period of time. The fact that both the European Commission and the Council have recognised diverging decision-making practices as a problem and related it to a lack of convergence (Council of the European Union 2016) confirms this view, as does a report by ECRE (2017), which looked into a few concrete examples, such as Afghanistan. ECRE found that despite continued efforts towards harmonisation, the treatment of Afghan asylum seekers in Europe was highly dependent on the practices of the country of destination. While the protection rate for Afghan asylum seekers dropped significantly in most Member States in 2016, it remained stable or even increased in others, and some even started to apply fast-track procedures for Afghan nationals, considering their applications as manifestly unfounded.

Such a development cannot be substantiated by assuming that applicants simply have different profiles in the different countries in which they seek protection. Rather, ECRE found examples for political interferences with asylum outcomes. In Germany, for example, the decision-making practice regarding Syrians changed abruptly and without explanation in 2016. Syrians were still given protection in almost all cases, but in 2016 they were to a great degree granted subsidiary protection status while nearly all Syrians had been given refugee status until 2015 (ECRE 2017: 13). Moreover, asylum decision-making practices can vary within countries as well, especially when these countries have a federal structure. A study by Riedel and Schneider (2017) showed that recognition rates varied considerably between the various German federal *Länder*, which the authors attribute to socioeconomic factors (such as unemployment and population sizes) but also to a regional varia-

tion of xenophobic attitudes. This also indicates that a lack of harmonisation (despite the existence of common rules, criteria and definitions) can be the root cause of divergences between the EU Member States. Studies with similar results, including variation in outcome upon judicial review of refugee determination decisions, are available for the situation in the USA (Ramji-Nogales et al. 2007, United States Government Accountability Office 2016) and Canada (Rehaag 2012).

## 5.2 Studying asylum recognition rates: Data source, limitations, and caveats

On the basis of an EU Regulation on migration statistics,<sup>8</sup> the Member States provide harmonised asylum data to the European Union’s Statistical Office (Eurostat) at regular intervals. Reporting duties include persons having submitted an application for international protection (monthly and annual, aggregated data), and persons covered by first-instance decisions on granting, rejecting or withdrawing an international protection status (annual and quarterly data). Statistics are also gathered on the application of the Dublin procedure (e.g. Dublin “take-charge” and “take-back” requests as well as actual transfers), international protection applications lodged by unaccompanied minors, and persons who are admitted through resettlement programmes.

Earlier evaluations of asylum decision-making practices in the Member States were most often based on national data from selected Member States only, or on statistics collected by the UNHCR or other bodies (e.g. Neumayer 2005; Toshkov & de Haan 2013). Eurostat asylum data have only been available for all EU Member States since 2008. Despite their being based on uniform definitions and concepts, relatively good reliability, and transparency regarding limitations and caveats, EUROSTAT’s data have not yet been used much in social research, especially when it comes to analyses that stretch over a multi-annual period.<sup>9</sup>

The data on asylum applications and first-instance decisions used for this part of the study have been retrieved from the public Eurostat database in March and April

2017. The statistics were disaggregated for countries of origin of the persons affected by these decisions, as well as types of decisions and years (2008-2016). Positive decisions were then calculated as percentages of the respective total number of decisions taken by each Member State, to produce comparable protection rates for all Member States and the EU as a whole. As an alternative approach, it would also have been possible to evaluate the percentages for granted refugee status or subsidiary protection. However, since the consequences of these decisions for their beneficiaries tend to be similar with regard to the rights attached to them, the question whether a positive or a negative decision is taken seemed more relevant than looking into the grounds on which decisions were based. A differentiation between the type of protection granted was therefore only made for two of the case examples described below, Syria and Afghanistan, and only for one year, 2016 (section 5.6).

In addition to the general limitations to the informative value of data on asylum decisions as described in the previous section, a specific caveat regarding asylum data from Eurostat is that these data are always rounded to the nearest five. While this is certainly not problematic in cases of Member States with substantive caseloads, it can distort the explanatory value of data on Member States with few asylum cases.

Decisions by Member States to transfer an asylum seeker to another Member State under the Dublin Regulation are not considered to limit the quality of Eurostat data on asylum decisions. Eurostat demands that persons who are subject of a decision to be transferred on the basis of a Dublin procedure shall not be included in the statistics on rejected applicants that the Member State that carries out the transfer (“outgoing Dublin request”) delivers to Eurostat, even if this Member State issues a negative decision in such cases. Instead, only the country receiving the transfer (“incoming request”) reports its (positive or negative) asylum decision to Eurostat (Eurostat 2016: 18).

By contrast, national inadmissibility rules (for instance due to “safe third country” regulations as mentioned in section 5.1), can impact national protection rates. If one Member State regards a relevant transit country as “safe” and therefore rejects asylum applications as inadmissible, while another Member State does accept responsibility for such applicants, the protection rate in the first Member State will

be lower, regardless how the need for protection is understood on the basis of factors related to the country of origin. While this is an important caveat regarding our data, it does not necessarily limit their validity. After all, diverging practices in the Member States as regards the categorization of certain third countries as safe also tells us something about the degree of harmonisation of asylum-related concepts and practices among the EU Member States.

## 5.3 Fair decision-making or “asylum lottery”?

If we want to know whether the decision-making practice of EU Member States’ authorities has become more uniform, a first basic way of approaching the question is to look into the evolution of the share of positive decisions made by Member States’ authorities on asylum applications over time. In 2008, approximately 215,000 decisions were issued, 27 percent of which were positive (58,000). Five years later, in 2013, around 324,000 decisions were taken, and the share of positive decisions was 33 percent. Another two years later, in 2015, the number of decisions had risen to 593,000 decisions, of which 52 percent were positive. Thus, as the number of asylum seekers and the number of decisions taken increased, so did the overall protection rate. In 2016, finally, over a million decisions were made (1,106,850), and the share of positive decisions was almost 61 percent - the highest protection rate measured over the period of analysis (2008-2016).

Yet, when we look at the Member States’ level, the picture is very unbalanced. In 2008, only five countries had protection rates that were within a range of plus/minus ten percentage points above or below the EU average, which was 27 percent that year. Five years later, nine Member States were within such a range, close to the EU average. In 2016, finally, 13 Member States were within the relevant range. Still, however, this means that a majority of the 28 Member States were rather far away from the average and showed either comparatively low or high protection rates.

In 2008, four countries issued positive decisions in less than 10 percent of all cases; Ireland, Greece, Spain and Slovenia. In 2013, only two countries (Greece and

Hungary) had protection rates below 10 percent.<sup>10</sup> In 2015, the lowest protection rate was recorded for Latvia, with roughly 12 percent, and no Member State remained below 10 percent. The data for 2016 show a step back, however. While 13 Member States recorded protection rates between 50 and 70 percent, which means that they were very close to the EU average of 60.8 percent, one country had again a rate below 10 percent (Hungary).

On the other end of the scale, if we look at more generous practices, three countries (Portugal, Poland and Lithuania) issued positive decisions in more than 60 percent of all cases in 2008. In 2013, five countries were above 60 percent, and two were even above 80 percent (see Table 11). Another two years later, six Member States were above 60 percent, four of which (Bulgaria, Denmark, Malta and the Netherlands) recorded protection rates above 80 percent. In 2016, two countries (Slovakia and Malta) exhibited positive shares above 80 percent.

**Table 11: Positive decisions as percent of all first instance decisions on asylum applications**

	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b>European Union</b>	<b>27.0%</b>	<b>27.0%</b>	<b>24.8%</b>	<b>25.0%</b>	<b>31.5%</b>	<b>33.2%</b>	<b>45.6%</b>	<b>51.8%</b>	<b>60.8%</b>
Belgium	25.7%	19.0%	21.1%	25.3%	22.5%	29.2%	39.5%	53.8%	60.2%
Bulgaria	44.0%	41.9%	27.2%	31.4%	26.6%	87.5%	94.1%	90.6%	44.3%
Czech Republic	15.4%	18.7%	34.3%	46.7%	23.8%	37.5%	37.3%	34.3%	33.3%
Denmark	58.4%	47.2%	40.8%	36.6%	36.2%	40.1%	67.7%	80.9%	68.3%
Germany	40.7%	36.4%	23.0%	24.0%	29.2%	26.4%	41.6%	56.5%	68.7%
Estonia	:	:	:	16.7%	18.2%	18.2%	36.4%	44.4%	68.4%
Ireland	8.3%	4.0%	1.6%	5.5%	10.6%	17.9%	37.7%	33.0%	22.8%
Greece	0.2%	1.1%	3.0%	2.1%	0.8%	3.8%	14.8%	41.8%	23.7%
Spain	5.4%	7.8%	21.9%	29.1%	20.2%	22.5%	43.8%	31.4%	66.8%
France	16.2%	14.3%	13.5%	10.9%	14.4%	17.3%	21.6%	26.5%	33.2%
Croatia	:	:	:	:	14.3%	13.5%	10.6%	21.1%	35.1%
Italy	48.2%	39.4%	38.1%	29.6%	80.7%	61.1%	58.5%	41.5%	39.4%

	2008	2009	2010	2011	2012	2013	2014	2015	2016
Cyprus	:	29.3%	17.4%	2.7%	7.9%	20.6%	76.2%	76.8%	65.8%
Latvia	:	:	50.0%	22.2%	17.2%	26.3%	26.3%	11.8%	51.9%
Lithuania	61.9%	27.6%	7.9%	8.2%	14.1%	31.4%	37.8%	47.2%	69.6%
Luxembourg	38.1%	23.4%	14.7%	3.4%	2.4%	10.4%	13.6%	23.9%	61.0%
Hungary	43.4%	21.6%	25.0%	17.3%	31.8%	7.9%	9.4%	14.8%	8.4%
Malta	52.5%	65.6%	62.9%	55.1%	90.3%	84.3%	72.6%	83.9%	82.9%
Netherlands	51.9%	46.9%	45.5%	43.3%	40.3%	48.9%	66.7%	80.4%	72.1%
Austria	27.2%	21.7%	25.0%	30.8%	28.0%	29.6%	76.3%	71.3%	71.6%
Poland	65.3%	38.4%	11.5%	14.8%	21.0%	23.7%	26.7%	18.2%	12.2%
Portugal	66.7%	52.6%	42.3%	56.5%	43.5%	44.3%	47.8%	52.7%	53.8%
Romania	16.3%	21.3%	16.5%	6.9%	14.2%	63.8%	46.7%	36.4%	62.2%
Slovenia	3.1%	15.4%	21.7%	9.3%	15.9%	17.9%	47.4%	34.6%	64.2%
Slovakia	24.3%	56.3%	30.5%	53.5%	43.2%	36.8%	60.7%	61.5%	83.3%
Finland	39.1%	32.4%	32.7%	40.3%	50.0%	51.2%	54.2%	56.8%	34.0%
Sweden	26.6%	29.6%	30.7%	32.9%	39.3%	53.2%	76.6%	72.1%	69.4%
United Kingdom	29.8%	27.0%	24.3%	31.5%	35.6%	37.9%	38.9%	36.5%	32.0%

Source: Eurostat, calculation and presentation by co-author. “:” means that less than 50 first instance decisions were taken or that a country was not a Member State of the EU in the given year. For easier visualisation, shares that fall within a range of plus/minus ten percentage points above or below the EU average for the given year are highlighted with grey shading.

The significance of these observations with regard to any evidence of improved coherence, or divergence, between Member States’ practices, is however limited. Most importantly, this type of analysis does not take into account the country of origin of the asylum seekers affected by these decisions. A low share of positive decisions does not necessarily mean that a Member State has an overly restrictive interpretation of the grounds for granting protection in accordance with international and European law; it can also be the result of many applicants not being able to assert any grounds for protection. If, for example, one Member State receives many applicants from a country where the human rights situation is relatively good, the protection rate will logically be lower than in a state in which many applicants come from war-torn regions or countries with frequent human rights violations

(EASO 2016: 21). A better way to examine whether asylum outcomes that have been affected by harmonisation is therefore to use a country of origin specific approach by disaggregating Member States' decisions for a number of important countries of origin. In the following, this study will therefore examine five case studies. These were selected for their quantitative relevance as countries of origin of people applying for asylum in the EU.

## 5.4 Fair decision-making: country of origin-specific outcomes

Over the period 2008-2016, the five largest country-of-origin groups were nationals of Syria (899,840 first-time asylum applicants), Afghanistan (501,830), Iraq (345,410), Pakistan (181,125) and Kosovo (163,280). Syria was the most important citizenship group over the period 2013-2016, while Afghanistan was the main nationality of asylum seekers in 2010, 2011 and 2012. In 2009, Somalia was the leading nationality, but it was not among the top five countries of origin in preceding or forthcoming years. In 2008, Iraq was the biggest nationality group.

In this section, the analysis of asylum decision data will focus on the above-mentioned five nationalities. For reliability reasons, the examination only includes for each year those EU Member States that took at least 50 decisions on the respective country of origin. Including countries with smaller case-loads would have born the risk that the data might be distorted or not comparable with other countries. A small number of decisions can be strongly impacted if a larger number of asylum seekers with a specific profile, e.g. an ethnic or religious group or a particular age group within a broader nationality group applies for protection in a certain year. The larger a caseload is, the smaller becomes the risk of such distortions, which the administrative statistics from Eurostat do not disclose. The 50-decisions-threshold also allows us to avoid any major distortions that may result from the fact that the Eurostat asylum data are rounded to the nearest five.

## Case 1: Kosovo

The example of Kosovo does not show any signs of an approximation of national outcomes over time. The protection rate for asylum seekers from Kosovo has been comparatively low over the entire period of analysis, and the EU average protection rate was below ten percent in all years except in 2008, when it was slightly higher. However, the year 2008 clearly represents an exception within the timeline, as only one Member State (Austria) made more than 50 decisions regarding asylum seekers from Kosovo that year. In all other years within the period, at least 11 states issued more than 50 decisions.

Between 2010 and 2013, the variation between the Member States regarding asylum outcomes for Kosovars increased. In 2014 and 2015, decision-making became somewhat more harmonised, but in 2016, the difference between the most restrictive and the most “generous” approach increased again. That year, Italy granted 45 percent of their applicants from Kosovo a protection status whereas Denmark, Luxemburg and the Netherlands all had protection rates of 0.0 percent. The largest difference between the Member State exhibiting the highest protection rate and the one with the lowest was measured in 2013. During the following years, the gap was slightly smaller, but in 2016, it was larger again than in 2015 and 2009-2011.

Among all Member States, Italy distinguishes itself by exhibiting the highest protection rate for people from Kosovo over the entire time span from 2009-2016. By way of contrast, extremely low shares (0.0 percent) were measured for Denmark (2013, 2015 and 2016), Luxemburg (2012 and 2016), Hungary (2009-2011, 2013 and 2015), the Netherlands (2015 and 2016), and Finland (2015). The Swedish protection rate for Kosovars was fairly close to the EU average over the entire period.

Table 12 below displays the protection rates for asylum seekers from Kosovo. Percentages are given for all Member States that made at least 50 first-instance decisions on asylum applications by Kosovars. For easier understanding, Figure 4 visualises these percentages.

**Table 12: Member States' protection rates 2008-2016 – Kosovo**

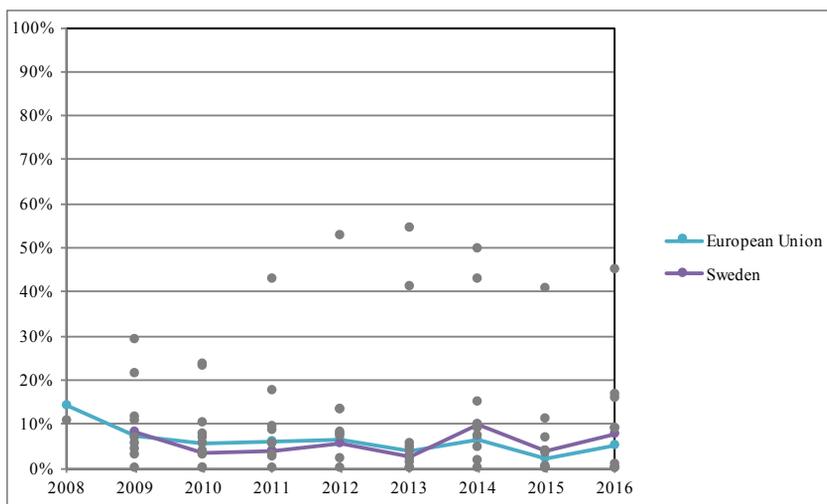
	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b>European Union</b>	<b>14.4%</b>	<b>7.2%</b>	<b>5.6%</b>	<b>6.0%</b>	<b>6.4%</b>	<b>3.9%</b>	<b>6.4%</b>	<b>2.3%</b>	<b>5.2%</b>
Belgium	:	10.8%	7.7%	8.7%	7.7%	5.6%	10.0%	6.9%	9.1%
Denmark	:	21.4%	23.3%	17.9%	7.4%	0.0%	15.0%	0.0%	0.0%
Germany	:	5.5%	4.0%	2.7%	2.1%	1.2%	1.7%	0.5%	0.9%
France	:	4.5%	3.0%	2.9%	8.4%	4.6%	9.6%	11.1%	16.7%
Italy	:	29.4%	23.9%	43.2%	52.9%	54.5%	50.0%	40.7%	45.0%
Luxembourg	:	3.0%	5.6%	5.6%	0.0%	2.2%	5.0%	3.3%	0.0%
Hungary	:	0.0%	0.0%	0.0%	:	0.0%	0.3%	0.0%	
Netherlands	:	:	0.0%	:	:	:	:	0.0%	0.0%
Austria	10.6%	7.2%	10.5%	9.6%	13.2%	3.9%	7.4%	3.9%	15.9%
Finland	:	11.8%	7.0%	5.9%	13.3%	41.2%	42.9%	0.0%	9.1%
Sweden	:	8.1%	3.6%	4.2%	5.5%	2.9%	9.9%	4.0%	7.8%
United Kingdom	:	:	:	:	:	:	9.1%	:	:
<i>Difference (max-min)</i>	:	29.4	23.9	43.2	52.9	54.5	47.7	40.7	45.0

Source: Eurostat.

”:” means that the number of decisions taken by the respective Member State in the given year was less than 50 or that no data were available. 16 Member States (Bulgaria, Czech Republic, Estonia, Ireland, Greece, Spain, Croatia, Cyprus, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovenia and Slovakia) were deleted from the Table as these countries did not take 50 or more decisions on applications from Kosovo in any of the years 2008-2016.

For each year, the highest and lowest values measured have darker shading.

**Figure 4: Protection rates over time – Kosovo\***



\*Each dot represents one EU Member State

## Case 2: Pakistan

Not entirely unlike Kosovo, Pakistan is a country of origin with relatively low protection rates. On average, only between 2.9 and 26.8 percent of all decisions taken in the EU on asylum applications by Pakistani nationals were positive over the period 2008-2016. The EU protection rate were at its lowest level in 2008, and it was highest in 2014.

The data also show that national asylum outcomes have varied significantly, and that the state of harmonisation in 2016 was no greater than in 2008 and 2009. The most extreme difference was measured for 2013, when Pakistani applicants had a 65 percent chance of receiving a positive decision in Spain, while their chances were 0.3 percent in Greece. In 2016, the situation was only slightly better: Spain had still a high protection ratio for Pakistanis (45 percent), while three Member States (Cyprus, Bulgaria, and Bulgaria) did not grant any of their Pakistani applicants any protection status. An interesting side observation is that the Spanish protection rate was very high not only in 2016 but over the last seven years. Cyprus, by way of contrast, never had a protection rate other than 0.0 percent for applicants from Pakistan.

In Sweden, asylum outcomes for applicants from Pakistan were relatively close to the EU average in all years except 2008. Sweden had above-average protection rates in 2008 and during the five-year period 2011-2015. In 2009, 2010 and 2016, the Swedish practice was below average.

**Table 13: Member States' protection rates 2008-2016 – Pakistan**

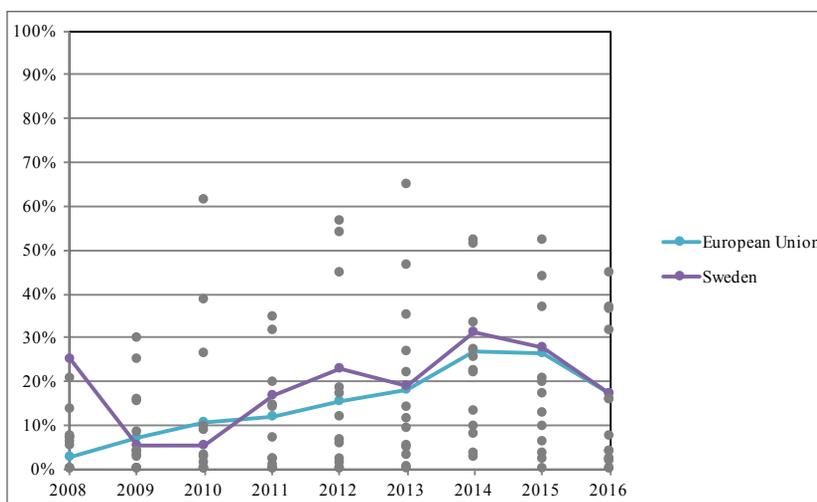
	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b>European Union</b>	<b>2.9%</b>	<b>7.4%</b>	<b>10.7%</b>	<b>12.2%</b>	<b>15.5%</b>	<b>18.0%</b>	<b>26.8%</b>	<b>26.4%</b>	<b>17.4%</b>
Belgium	7.1%	2.8%	3.4%	2.6%	5.7%	5.6%	13.4%	20.8%	16.2%
Bulgaria	:	:	:	:	:	:	:	:	0.0%
Denmark	:	:	:	:	:	14.3%	10.0%	:	:
Germany	6.4%	16.1%	8.8%	14.5%	18.6%	35.1%	27.5%	17.1%	4.2%
Ireland	7.1%	3.3%	0.0%	7.3%	12.0%	11.8%	33.3%	9.7%	2.2%
Greece	0.0%	0.0%	0.0%	0.2%	0.0%	0.3%	2.6%	2.3%	2.3%
Spain	:	15.4%	61.5%	20.0%	53.8%	65.0%	52.4%	52.2%	45.0%
France	5.5%	4.3%	2.8%	2.3%	2.2%	4.8%	8.0%	6.2%	7.5%
Italy	20.6%	25.2%	38.9%	34.9%	56.5%	46.6%	51.6%	44.1%	36.9%
Cyprus	:	0.0%	0.0%	0.0%	:	:	:	0.0%	0.0%
Hungary	:	:	:	:	6.9%	0.6%	3.6%	3.8%	1.8%
Netherlands	:	:	26.7%	31.8%	44.8%	22.2%	25.8%	36.8%	31.8%
Austria	7.7%	4.0%	1.6%	1.3%	1.5%	3.1%	21.9%	12.7%	4.1%
Romania	0.0%	0.0%	:	0.0%	0.0%	9.5%	:	:	0.0%
Slovakia	0.0%	30.0%	:	:	:	:	:	:	:
Finland	:	:	:	:	:	:	:	:	36.4%
Sweden	25.0%	5.6%	5.6%	16.7%	22.9%	19.2%	31.4%	27.8%	17.1%
United Kingdom	13.7%	8.4%	9.7%	14.4%	17.1%	26.7%	22.5%	19.9%	15.9%
<i>Difference (max-min)</i>	<i>25.0</i>	<i>30.0</i>	<i>61.5</i>	<i>31.8</i>	<i>56.5</i>	<i>64.7</i>	<i>49.8</i>	<i>52.2</i>	<i>45.0</i>

Source: Eurostat.

":." means that the number of decisions taken by the respective Member State in the given year was less than 50 or that no data were available. Ten Member States (Czech Republic,

Estonia, Croatia, Latvia, Lithuania, Luxemburg, Malta, Poland, Portugal and Slovenia) were deleted from the Table as these countries did not take 50 or more decisions on applications from Pakistan in any of the years 2008-2016. For each year, the highest and lowest values measured have darker shading.

**Figure 5: Protection rates over time – Pakistan\***



\*Each dot represents one EU Member State

### Case 3: Iraq

Iraq has been a very important country of origin of asylum seekers in the EU over a long period of time and the third most relevant within the time span from 2008 to 2016. When analysing Member States’ protection rates for Iraqis, an even wider disparity than in the cases of Kosovo and Pakistan is observed between countries issuing very few positive decisions and those issuing many positive decisions. No approximation tendency can be observed at all, as the disparity in 2016 was just as great as in 2008 and 2009. In fact, in 2016, Iraqi asylum seekers had a 100 percent chance of obtaining protection in Spain and Slovakia, while their chances were below 13 percent in Denmark, Hungary and the United Kingdom. Also in Sweden, the protection rate for Iraqis in 2016 (27 percent) was far below the EU average that year (63.5 percent). Sweden had below-average outcomes over the entire period 2008-2016, however.

The greatest difference between the lowest and the highest share of positive decisions was measured for 2012, and the lowest for 2013. Another interesting observation is that Greece had extremely low protection rates for asylum seekers from Iraq until 2014. In 2015, the chances of Iraqis to receive protection in Greece increased dramatically, and in 2016, their chances there were even above average.

**Table 14: Member States' protection rates 2008-2016 – Iraq**

	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b>European Union</b>	<b>46.1%</b>	<b>48.0%</b>	<b>52.4%</b>	<b>54.0%</b>	<b>53.7%</b>	<b>51.5%</b>	<b>70.4%</b>	<b>85.9%</b>	<b>63.5%</b>
Belgium	52.8%	51.3%	61.2%	76.3%	24.5%	39.3%	69.1%	69.1%	58.8%
Bulgaria	64.8%	67.8%	50.0%	40.3%	26.5%	44.1%	43.9%	46.3%	15.8%
Czech Republic	:	:	:	:	:	:	:	:	85.7%
Denmark	62.0%	52.4%	41.7%	28.6%	10.0%	18.2%	13.0%	23.8%	12.5%
Germany	80.1%	65.0%	53.3%	55.3%	62.2%	56.5%	87.3%	98.3%	76.7%
Ireland	44.9%	15.4%	:	:	:	:	81.8%	:	:
Greece	0.3%	3.3%	10.3%	8.5%	2.9%	8.3%	13.9%	64.7%	63.9%
Spain	50.0%	:	:	:	:	:	:	:	100.0%
France	82.4%	82.2%	74.6%	64.6%	72.7%	71.4%	94.3%	98.4%	81.7%
Italy	87.6%	78.9%	80.8%	66.2%	92.3%	72.8%	90.9%	89.3%	95.1%
Cyprus	:	90.9%	87.5%	6.7%	28.6%	:	:	:	72.7%
Latvia	:	:	:	:	:	:	:	:	46.2%
Luxembourg	:	83.3%	30.0%	:	40.0%	:	:	:	80.0%
Hungary	68.8%	63.6%	:	:	:	:	:	:	12.6%
Netherlands	66.9%	41.2%	54.3%	54.8%	63.9%	47.0%	41.9%	64.6%	48.2%
Austria	79.8%	76.0%	66.2%	75.6%	75.3%	72.2%	95.5%	94.3%	80.5%
Poland	:	:	:	:	:	:	:	100.0%	:
Romania	70.4%	84.2%	40.0%	62.5%	:	:	57.1%	27.9%	67.5%
Slovakia	:	:	:	:	:	:	:	:	100.0%
Finland	56.0%	52.1%	56.3%	58.9%	63.6%	68.8%	76.4%	84.6%	23.5%
Sweden	31.0%	23.6%	44.0%	46.1%	34.0%	28.4%	49.7%	36.5%	27.1%

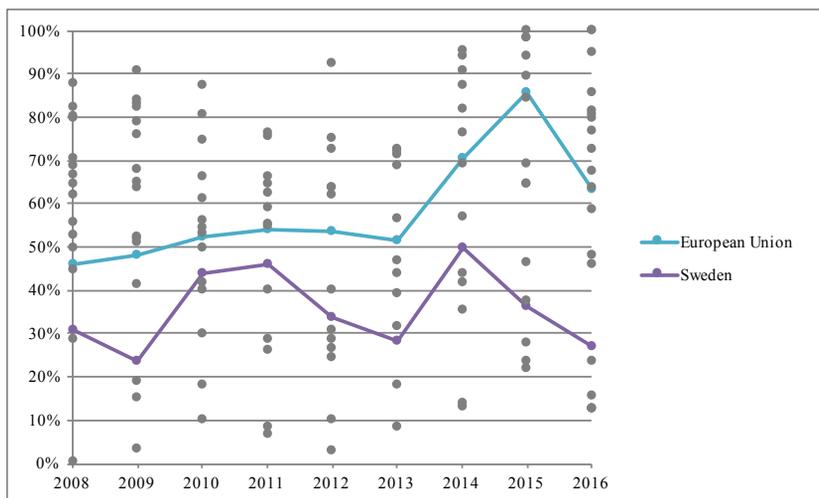
	2008	2009	2010	2011	2012	2013	2014	2015	2016
United Kingdom	28.6%	18.9%	18.4%	26.4%	30.8%	31.9%	35.3%	22.1%	12.7%
Difference (max-min)	87.3	87.6	77.2	69.6	91.4	64.5	82.5	77.9	87.5

Source: Eurostat.

”:” means that the number of decisions taken by the respective Member State in the given year was less than 50 or that no data were available. Six Member States (Estonia, Croatia, Lithuania, Malta, Portugal and Slovenia) were deleted from the Table as these countries did not take 50 or more decisions on applications from Iraq in any of the years 2008-2016.

For each year, the highest and lowest values measured have darker shading.

Figure 6: Protection rates over time – Iraq\*



\*Each dot represents one EU Member State

## Case 4: Afghanistan

Regarding Afghanistan, a major country of origin of asylum seekers in many EU Member States, it is interesting to see that the protection rate in Sweden was well above average over the period 2008-2014. While the Swedish approach then became much stricter in 2015, the overall EU protection rate continued to rise. A harsher decision-making practice for the EU as a whole is only visible for 2016, when it was around 57 percent, compared to roughly 67 percent in 2015.

Again, no trend towards a harmonisation of asylum outcomes can be observed. Over the entire period, Member States' practices have varied very strongly. The gap between the most "generous" decision-making practice and the strictest one was smallest in 2011, when an Afghan asylum seeker had a 11-percent chance of receiving a protection status in Greece, and a 70-percent chance in Italy. In 2016, the situation was much worse than before: While the protection rate for Afghans was 97 percent in Italy, it was not even two percent in Bulgaria and only six percent in Hungary. Over the entire period of analysis, the year 2016 in fact holds the negative record so far as regards harmonised asylum outcomes.

A remarkable side observation is that Italy has had a consistently generous approach towards Afghan asylum seekers over the entire time-span. From 2010 to 2016, it had the highest protection rate among all Member States. In other countries, there have been much more significant fluctuations. In Sweden, for example, the chances of an asylum seeker from Afghanistan to receive protection decreased from over 74 percent in 2014 to only 37 percent in 2016 – a drastic change in relatively short time.

**Table 15: Member States' protection rates 2008-2016 – Afghanistan**

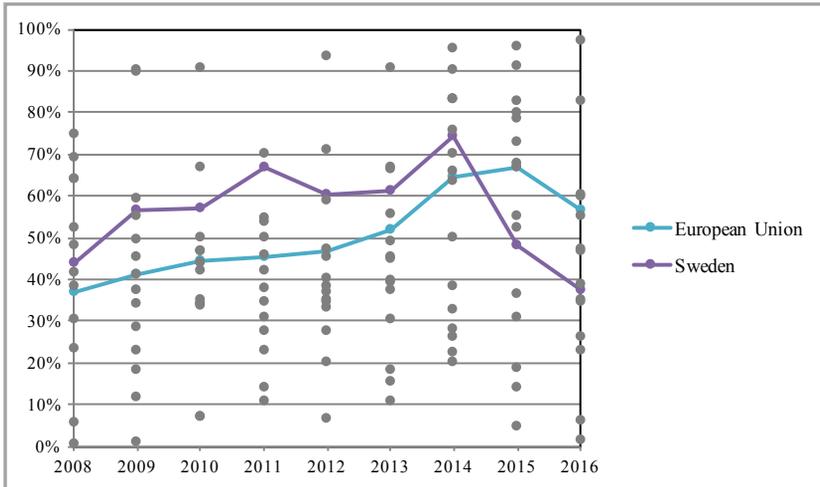
	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b>European Union</b>	<b>36.9%</b>	<b>41.4%</b>	<b>44.5%</b>	<b>45.4%</b>	<b>46.8%</b>	<b>52.0%</b>	<b>64.8%</b>	<b>66.9%</b>	<b>56.8%</b>
Belgium	23.3%	22.9%	47.0%	53.6%	59.1%	55.8%	63.4%	67.0%	60.5%
Bulgaria	:	:	:	50.0%	:	:	22.7%	5.0%	1.7%
Denmark	52.2%	55.3%	44.2%	30.7%	27.6%	39.2%	32.8%	30.8%	26.2%
Germany	48.0%	59.6%	44.2%	34.8%	40.2%	49.0%	66.1%	72.8%	60.1%
Ireland	5.9%	11.8%	7.1%	14.3%	:	18.2%	83.3%	80.0%	47.1%
Greece	0.8%	1.3%	7.3%	10.9%	6.8%	10.8%	28.3%	55.2%	46.6%
Spain	:	18.2%	:	:	:	:	:	90.9%	:
France	30.2%	37.5%	34.1%	37.8%	45.5%	66.3%	83.0%	82.8%	82.5%
Italy	64.2%	89.7%	90.5%	69.9%	93.7%	90.7%	95.4%	95.6%	97.0%
Hungary	75.0%	45.3%	33.8%	23.1%	36.8%	30.4%	26.2%	18.7%	6.3%
Netherlands	38.4%	28.5%	34.9%	42.0%	34.6%	45.6%	50.0%	52.6%	34.4%
Austria	69.3%	49.6%	46.7%	54.5%	35.1%	45.1%	90.2%	78.4%	55.0%
Poland	:	:	:	:	:	40.0%	70.0%	:	:
Romania	:	:	50.0%	:	38.5%	15.4%	20.0%	14.3%	23.1%
Slovenia	:	:	:	:	20.0%	:	:	:	:
Slovakia	:	90.0%	66.7%	:	47.1%	:	83.3%	:	:
Finland	64.3%	34.2%	42.3%	45.8%	70.8%	66.7%	75.9%	67.7%	39.1%
Sweden	44.2%	56.7%	57.3%	67.0%	60.5%	61.2%	74.1%	48.4%	37.3%
United Kingdom	41.6%	41.4%	34.0%	27.7%	33.2%	37.4%	38.2%	36.4%	35.1%
<i>Difference (max-min)</i>	<i>74.2</i>	<i>88.7</i>	<i>83.4</i>	<i>59.0</i>	<i>86.9</i>	<i>79.9</i>	<i>75.4</i>	<i>90.6</i>	<i>95.3</i>

Source: Eurostat.

“:” means that the number of decisions taken by the respective Member State in the given year was less than 50 or that no data were available. Nine Member States (Czech Republic, Estonia, Croatia, Cyprus, Latvia, Lithuania, Luxemburg, Malta and Portugal) were deleted from the Table as these countries did not take 50 or more decisions on applications from Afghanistan in any of the years 2008-2016.

For each year, the highest and lowest values measured have darker shading.

**Figure 7: Protection rates over time – Afghanistan\***



\*Each dot represents one EU Member State

## Case 5: Syria

Last but not least, Syria is a particularly interesting country case to study. Firstly, it has over the period 2008-2016 been the single most important country of origin of asylum seekers in the EU; secondly, almost all Member States have made a considerable number of decisions on asylum applications from Syrians; and thirdly, the overall protection rate has increased massively as the war and violence in Syria intensified. While the average EU protection rate was around 15 percent in 2008 and 2009, it then increased each year (with the exception of 2013) until it reached 98 percent in 2016. This means that almost all Syrian applicants have recently been allowed to stay. As the statistical data show, however, where a Syrian applies for asylum still matters greatly. In 2016, 21 Member States out of those 24 for which significant data were available, the protection rate for Syrians was above 90 percent. The United Kingdom, Greece, and in particular Hungary, had protection rates below 90 percent, however. In Hungary it was as low as 9.5 percent.

If we ask about whether asylum decision-making regarding Syrians has become more uniform over time, the picture is rather mixed. On the one hand, Greece did not issue any positive decisions regarding Syrian applicants in 2008, 2009, 2010 and 2012. In 2013, Greek authorities suddenly issued positive decisions in 60 percent of their Syrian cases. Malta, on the other hand, granted protection to all their Syrian applicants both in 2011, 2012 and 2013. Thus, in 2011 and 2012, the difference between the country issuing least positive decisions (zero percent) and the one with the highest protection rate (100 percent) could not have been greater.

In 2013, 2014 and 2015, this difference was less than half as wide, and all Member States that issued more than 1,000 decisions on applications by Syrian nationals (Germany, Sweden, the Netherlands, Bulgaria, Belgium, the United Kingdom, Austria, Denmark and France) had protection rates between 83.5 and 99.5 percent. If there were not the case of Hungary, the variation in national asylum decisions would have been relatively small even in 2016. The difference would then have been between 55 percent in Greece and 100 percent in Ireland, Cyprus, Latvia, Lithuania, Portugal, Slovenia and Finland. This means that if extreme exceptions such as Greece in 2008-2012 and Hungary in 2016 were excluded from the analysis, asylum outcomes for Syrians would indeed have become more harmonised than in the above-described cases of Afghanistan and Iraq.

**Table 16: Member States' protection rates 2008-2016 – Syria**

	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b>European Union</b>	<b>14.8%</b>	<b>15.5%</b>	<b>25.7%</b>	<b>45.6%</b>	<b>91.1%</b>	<b>89.6%</b>	<b>95.0%</b>	<b>97.3%</b>	<b>98.1%</b>
Belgium	26.2%	20.8%	35.1%	54.2%	94.4%	94.8%	96.0%	97.9%	96.0%
Bulgaria	:	:	:	9.1%	64.7%	99.5%	99.8%	98.7%	94.5%
Czech Republic	:	:	:	:	:	91.3%	88.2%	86.7%	95.0%
Denmark	84.6%	69.2%	58.0%	63.2%	85.5%	87.2%	96.5%	96.2%	97.2%
Germany	20.0%	18.3%	18.8%	43.7%	96.3%	94.6%	93.6%	97.7%	99.3%
Ireland	:	:	:	:	:	:	:	:	100.0%
Greece	0.0%	0.0%	0.0%	3.3%	0.0%	60.0%	60.2%	99.6%	55.3%
Spain	12.0%	:	:	:	:	93.8%	98.7%	92.3%	98.2%
France	:	:	22.7%	72.7%	90.7%	94.8%	95.6%	96.4%	97.3%
Italy	:	72.2%	50.0%	52.0%	93.0%	50.6%	64.3%	56.9%	98.7%
Cyprus	:	1.5%	7.1%	0.0%	:	61.5%	100.0%	100.0%	100.0%
Latvia	:	:	:	:	:	:	:	:	100.0%
Lithuania	:	:	:	:	:	:	:	:	100.0%
Luxembourg	:	:	:	:	:	:	:	94.1%	99.1%
Hungary	:	:	:	:	60.0%	74.3%	69.2%	59.3%	9.5%
Malta	:	:	:	100.0%	100.0%	100.0%	98.6%	98.2%	97.3%
Netherlands	14.3%	22.7%	32.1%	29.4%	92.9%	85.2%	91.4%	98.0%	97.0%
Austria	33.3%	17.5%	23.5%	69.8%	91.4%	83.5%	98.0%	99.4%	99.8%
Poland	:	:	:	:	:	100.0%	100.0%	100.0%	:
Portugal	:	:	:	:	:	:	:	:	100.0%
Romania	:	:	:	:	72.7%	90.2%	76.7%	59.3%	99.0%
Slovenia	:	:	:	:	:	:	:	:	100.0%
Finland	:	:	:	:	87.9%	82.9%	87.0%	100.0%	100.0%
Sweden	11.3%	6.9%	21.7%	27.4%	91.5%	88.5%	99.8%	97.7%	96.1%
United Kingdom	24.0%	25.0%	21.1%	42.3%	80.0%	86.4%	88.5%	86.7%	86.1%
<i>Difference (max-min)</i>	<i>84.6</i>	<i>72.2</i>	<i>58.0</i>	<i>100.0</i>	<i>100.0</i>	<i>49.4</i>	<i>39.8</i>	<i>43.1</i>	<i>90.5</i>

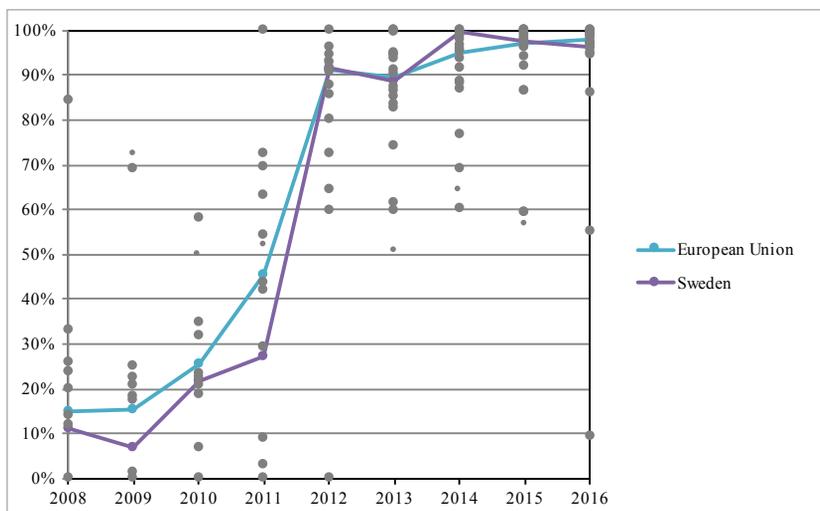
Source: Eurostat.

“:” means that the number of decisions taken by the respective Member State in the given year was less than 50 or that no data were available. Three Member States (Estonia, Croatia and Slovakia) were deleted from the

Table as these countries did not take 50 or more decisions on applications from Syria in any of the years 2008-2016.

For each year, the highest and lowest values measured have darker shading.

**Figure 8: Protection rates over time – Syria\***



\* Each dot represents one EU Member State

## 5.5 Fair decision-making: alternative methods to evaluate national protection rates

As the EU has worked towards an approximation of national decision-making in asylum cases for almost two decades, the results of the country of origin-specific analysis in section 5.4, seen from a policy perspective, are certainly frustrating, as no trend towards more harmonised outcomes was found. It is clear, however, that our findings are strongly impacted by Member States that deviate from the average, either by exhibiting overly restrictive, or unusually generous, decisions on asylum cases. Instead of focusing on the evolution of protection rates in those countries who are close to the EU average, our analysis has drawn attention to extreme devi-

ations. One may therefore ask if the examination had produced a different result if a different methodology had been used. For example, it could have been decided to disregard those countries that exhibit overly restrictive or generous practices regarding the granting of protection. For each country of origin and each year, we could have decided to ignore the lowest and the highest protection rate and asked whether that would have changed the overall assessment.

However, it turned out that such a modified approach would not have changed the result of the analysis. The maximum differences between the most restrictive and the most generous decision practice had for obvious reasons become somewhat smaller (and in some cases and for some years significantly smaller), but a trend over time towards more harmonised outcomes had still not been found. Such modified method of analysis would therefore not have produced a different overall observation regarding the harmonisation of decision-making.

The same is true if we had limited the number of Member States analysed by, for example, only looking at the ten Member States that took the highest number of decisions. Even this approach had not shown a harmonising trend for our five case studies.

Yet another idea was to ask how many Member States, out of those who took at least 50 decisions on applicants from a given country of origin in a given year, were close to the EU average in the respective year, and how many were not. For example, one could identify the Member States that had protection rates within a range of plus/minus 10 percentage points below or above the EU annual average protection rate. In the case of Syria, this type of analysis would indeed suggest that Member States' asylum decisions have become more uniform over time. In 2008, five out of nine Member States (i.e. 56 percent) had protection rates within that range. Five years later, in 2013, 13 out of 19 Member States (68 percent) were within that range, and finally, in 2016, this was the case for 21 of 24 Member States (88 percent). The number of Member States increased over time as more and more passed the threshold of at least 50 first-instance asylum decisions per year.

This result cannot be generalised, however. While we would have found a trend towards more harmonised outcomes in the case of Syria, the other case examples would still not exhibit greater degrees of approximation of national decision-making. Compared to the finding for Syria, the example of Afghanistan shows exactly the opposite trend. In 2008, five out of 13 Member States (38 percent) had protection rates within a range of plus/minus ten percentage points above or below the EU average, which is already a poor result. In 2013, only five out of 15 Member States (33 percent) were within the range applicable to that year. Finally, in 2016, only four of 15 Member States (27 percent) had asylum outcomes that were close to the average. In 2014 and 2015, the compliance rates were even worse. It is therefore fair to conclude that even with modified methods of data analysis, our on the whole negative diagnosis regarding the approximation of asylum decisions towards a fairer system would not have changed.

## 5.6 Fair decision-making: types of protection granted

The most decisive question regarding asylum decisions by the Member States of the EU is certainly – not least from the perspective of the applicants – whether protection is granted or not. The type of protection granted (refugee status, subsidiary protection or a national humanitarian status) plays a secondary role. It is not entirely irrelevant, however, as the rights and entitlements that beneficiaries of protection enjoy after a “successful” asylum procedure can differ between the possible statuses granted.

While the EU has been working towards a more uniform catalogue of rights for both EU-harmonised “categories” of protection beneficiaries by gradually equalising the legal consequences of refugee status and subsidiary protection, many Member States still apply different approaches, and in some countries, the trend to approximate the rights of beneficiaries of subsidiary protection to those of refugees has even been reversed. A notable example for this is Sweden. While until 2016 almost

all beneficiaries of protection were granted permanent residence permits and a right to family reunification irrespective of the type of protection granted, there is a sharp difference now between the two categories. In response to the extraordinary refugee situation in 2015, the Swedish Parliament passed a temporary law in June 2016 which gives recognised refugees the right to a temporary (but renewable) residence permit with a validity period of three years. Beneficiaries of subsidiary protection can only get a permit for 13 months, and while refugees are still entitled to reunite with close family members, subsidiary protection beneficiaries only have this right in strictly exceptional cases (Parusel 2016).<sup>11</sup>

As a result of differences between the main types of statuses, the question to what extent Member States grant refugee status, subsidiary protection or a (national, non-harmonised) humanitarian status to people from the same country of origin does matter as well. Analysing this can also tell us whether or not there is a somewhat uniform approach to protection in the EU in the sense of greater fairness towards asylum applicants. For the sake of brevity, however, this section does not look into how the granting of the various types of protection has evolved over time; it only provides a snapshot of the situation in 2016 regarding asylum applications from the two most frequent nationality groups, applicants from Syria and Afghanistan.

As Table 17 shows, the practice of granting asylum seekers from Afghanistan refugee status, subsidiary protection or a status on national humanitarian grounds, varies considerably between the Member States. On average, in 34 percent of all positive decisions taken by EU Member States regarding applicants from Afghanistan, refugee status in accordance with the Geneva Convention was granted, while the share of subsidiary protection was 30 percent and humanitarian status in accordance with national provisions 36 percent. In Ireland, Greece, Romania, Sweden and the United Kingdom, refugee status was the most frequent status that Afghan applicants were granted if they received a positive decision. Conversely, subsidiary protection was the most frequent status in Belgium, Bulgaria, Denmark, France, Italy, Hungary, the Netherlands and Austria. Germany and Finland mostly used national humanitarian statuses for Afghan applicants.

Bulgaria and Romania are particular cases as they only issued one type of status for Afghans: Subsidiary protection in Bulgaria and refugee status in Romania. The

high degree of variation between the different Member States observed is certainly surprising given the fact that both refugee status and subsidiary protection are explicitly defined in the EU Asylum Qualification Directive. Only protection on humanitarian grounds (as discussed in section 5.1) is not defined in EU law – whether such a status is granted therefore depends on national regulations.

**Table 17: Percentage of refugee status, subsidiary protection and humanitarian status granted (out of all positive decisions), Afghanistan 2016**

	2016 % Refugee status	2016 % Subsidiary protection	2016 % Humanitarian status
<b>European Union (28 countries)</b>	<b>34.4%</b>	<b>30.0%</b>	<b>35.6%</b>
Belgium	44.1%	55.9%	:
Bulgaria	0.0%	100.0%	:
Denmark	17.6%	72.5%	9.8%
Germany	36.3%	15.3%	48.4%
Ireland	87.5%	12.5%	:
Greece	53.7%	46.3%	0.0%
France	24.4%	75.6%	:
Italy	9.5%	89.5%	1.0%
Hungary	30.0%	70.0%	0.0%
Netherlands	24.3%	59.1%	17.4%
Austria	39.1%	60.5%	0.4%
Romania	100.0%	0.0%	0.0%
Finland	26.7%	28.9%	44.4%
Sweden	41.7%	25.7%	32.7%
United Kingdom	61.8%	0.6%	37.0%

Source: Eurostat.

“:” means that no data were available for the respective country and the respective category of decisions. 13 Member States (Czech Republic, Estonia, Spain, Croatia, Cyprus, Latvia, Lithuania, Luxemburg, Malta, Poland, Portugal, Slovenia and Slovakia) were deleted from the Table as they did not take 50 or more decisions on applications from Afghanistan in 2016. Darker shading marks the main protection status granted by the respective Member State.

The second example, Syria, shows similar patterns, but at least Member States seem to all agree on granting either refugee or subsidiary protection and not humanitarian statuses, which were very seldom used for Syrians. Overall, refugee status was granted a bit more often than subsidiary protection status. A number of Member States, especially Ireland, Greece, Italy, Lithuania, Luxembourg, Austria and the United Kingdom almost only used refugee status when they granted Syrian applicants protection. By way of contrast, the Czech Republic, Spain, Cyprus, Latvia, Hungary, Malta and Sweden almost exclusively granted subsidiary protection. Again, this is a frustrating finding, as there seems to be no common understanding on how the protection reasons of Syrian asylum applicants should be evaluated and what circumstances they should be based on. Not even among the top five receiving countries of Syrians, which were Germany, Sweden, Austria, the Netherlands, and Belgium (in that order), there seems to be agreement. Austria granted refugee status in almost 95 percent of their Syrian cases, followed by Belgium (75 percent), Germany (58 percent) and the Netherlands (52 percent). Conversely, Sweden had a 94 percent share of subsidiary protection (see Table 18 below).

**Table 18: Percentage of refugee status, subsidiary protection and humanitarian status granted (out of all positive decisions), Syria 2016**

	2016	2016	2016
	% Refugee status	% Subsidiary protection	% Humanitarian status
<b>European Union (28 countries)</b>	<b>53.1%</b>	<b>46.7%</b>	<b>0.2%</b>
Belgium	75.4%	24.6%	:
Bulgaria	57.0%	43.0%	:
Czech Republic	5.3%	94.7%	:
Denmark	58.0%	41.7%	0.3%
Germany	57.6%	42.1%	0.3%
Ireland	100.0%	0.0%	:
Greece	100.0%	0.0%	0.0%

	2016	2016	2016
	% Refugee status	% Subsidiary protection	% Humanitarian status
France	47.8%	52.2%	:
Italy	94.0%	5.6%	0.4%
Cyprus	4.1%	95.9%	:
Latvia	7.1%	92.9%	:
Lithuania	96.4%	3.6%	:
Luxembourg	100.0%	0.0%	:
Hungary	10.5%	89.5%	0.0%
Malta	9.7%	90.3%	
Netherlands	52.2%	47.5%	0.2%
Austria	94.5%	5.4%	0.0%
Portugal	50.0%	50.0%	:
Romania	71.0%	29.0%	0.0%
Slovenia	77.8%	22.2%	:
Finland	70.0%	29.6%	0.0%
Sweden	5.7%	94.3%	0.0%
United Kingdom	99.2%	0.3%	0.6%

Source: Eurostat.

“:” means that no data were available for the respective country and the respective category of decisions. Four Member States (Estonia, Croatia, Poland and Slovakia) were deleted from the Table as they did not take 50 or more decisions on applications from Syria in 2016.

Darker shading marks the main protection status granted by the respective Member State.

## Endnotes section 5.

1. Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.
2. According to Article 2 (c) of Directive 2004/83/EC, “refugee” means “a third country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it, and to whom Article 12 does not apply”.

3. According to Article 2 (e) of Directive 2004/83/EC, "person eligible for subsidiary protection" means "a third country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm as defined in Article 15, and to whom Article 17(1) and (2) do not apply, and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country".

4. Council Directive 2004/83/EC, Recital 7.

5. Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office, Recital 5.

6. For an overview of non-EU harmonised national humanitarian statuses, see European Migration Network (2010).

7. Hungary, for example, regards neighbouring Serbia as a safe third country. As a result, asylum applications by protection seekers that arrive in Hungary via Serbia can be regarded as inadmissible (ECRE 2016).

8. Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers, Official Journal L 199, pp. 23-29.

9. The European Council on Refugees and Exiles however used Eurostat data for analyses of asylum recognition rates across EU Member States in 2013 and 2016 (ECRE, 2014: 16-20; ECRE, 2017: 10-15). Also based on Eurostat data was a policy analysis of the CEAS by Bordignon & Moriconi (2017).

10. For reliability reasons, countries that issued less than 50 decisions were disregarded.

11. Further to differences between refugee status and subsidiary protection, humanitarian statuses are not harmonised by EU law. Consequently, whether such statuses are granted or not, the grounds on which they can be granted, as well as the rights that follow from such statuses, can vary between the Member States.

# 6. The finality of a truly Common European Asylum System – other dimensions

While an approximation of asylum decisions in the EU and a fair sharing of responsibilities certainly represent the two single most important elements of a truly Common European Asylum System, progress also depends on a number of other measures and initiatives. As these were not subject to the core interest of this report, we only mention them briefly and explain why they have been considered essential for a CEAS to succeed.

## 6.1 Common standards for reception arrangements and asylum procedures

Two such aspects are common standards for the reception of asylum seekers in the Member States and the design of international protection procedures. Both are already regulated at EU level through the Directives on Asylum Procedures (2013/32/EU) and Reception Conditions (2013/33/EU), which demand certain minimum standards. Whether and to what extent they have contributed to an approximation of policies across the EU is debatable, however.

The Reception Conditions Directive on the one hand aims at ensuring better and more harmonised standards of reception conditions throughout the Union. With a view to ensuring equal treatment amongst all applicants for international protection and guaranteeing consistency with current EU asylum *acquis*, it covers applicants' access to housing, food, clothing, health care, education for minors and access to employment under certain conditions. Yet it still affords Member States with a fairly

high degree of discretion and flexibility. Analysts have found significant differences between Member States' reception conditions – which sometimes amount to failures to provide a dignified standard of living (Velluti 2016; ECRE 2015a). A useful overview of reception arrangements is provided by the European Migration Network (European Migration Network 2014b). In 2016, as part of a comprehensive proposal to reform and strengthen the CEAS, the European Commission proposed a review of the Reception Conditions Directive to further harmonise reception conditions throughout the Union. It also aims at increasing asylum applicants' self-reliance and their integration prospects by reducing the time-limit for access to the labour market (EC 2016d).

The Procedures Directive sets common procedures for EU Member States for granting and withdrawing international protection, providing asylum applicants a certain level of safeguards, such as a right to appeal a negative first-instance decision, or a right to a personal interview. The ambition is also to enable Member States to operate efficient asylum procedures. While the contents and effects of this Directive are too manifold and too complex to analyse here, there is a widespread view that even this piece of legislation has fallen short of its objectives (for a solid as well as critical analysis and discussion, see Costello & Hancox 2016). In order to make it a more powerful legal instrument, the European Commission has proposed to transform it into an EU Regulation (EC 2016f). As compared to Directives, Regulations are directly applicable in the Member States and do not need to be transposed into national legislation.

For the functioning of the CEAS, both reception conditions and asylum procedures are important issues, not least because they can also have an impact on responsibility-sharing and asylum decision-making. As far as responsibility-sharing is concerned, if there are wide differences between the Member States regarding material reception conditions, this may affect the choices of asylum seekers as to where to best lodge an asylum application, and encourage secondary movements (Zaun 2017: 74). In addition, procedural differences can lead to different asylum outcomes. If Member States have different understandings in terms of "safe countries of origin" or "safe third countries", for example, this can mean that one Member

State considers an asylum application by a person from a given country (or who has transited through a given country) as inadmissible, while others do not. ECRE (2015b) has found that the way in which Member States conduct safety assessments with regard to countries of origin is far from homogenous. For these reasons, there are reasonable grounds to aim at a further harmonisation of reception conditions and procedural standards as the CEAS is reformed and further developed. Due attention should also be paid to the rights of asylum seekers after their status is determined. Post-status rights and conditions, such as the right to be joined by family members, access to labour markets and to welfare entitlements, and the duration of residence permits issued to beneficiaries of protection can influence asylum seekers' choice of destination and their propensity to stay in one Member State, or to move on to another.

## 6.2 Resettlement, humanitarian visas, and legal pathways to protection

A long-standing, and in fact fundamental, problem regarding asylum systems in the EU is that these systems are only accessible from within the respective Member State (or when an asylum seeker reaches a Member State's border), while – with very few exceptions – no legal avenues are available to actually get there, and have access to a Member State (Neville & Rigon 2016). Most importantly, Schengen visas cannot be granted for protection reasons. This propels people to migrate irregularly, on dangerous routes, and often using criminal smuggling networks as facilitators. For state administrations, this accessibility problem makes asylum an unpredictable and disordered phenomenon. Policy-makers and various stakeholders have therefore argued that the EU and its Member States must open up legal pathways to protection by, for example, expanding resettlement schemes or similar humanitarian admission programmes (which could include private sponsorship components, see European Migration Network 2016), issuing humanitarian visas in embassies located in countries of origin or transit (Neville & Rigon 2016; Iben Jensen 2014), or generously admit protection seekers under legal immigration

channels for workers, entrepreneurs, family members or students (FRA 2015). It is very clear that, compared to territorial asylum, resettlement has many advantages, first and foremost as a protection tool, but also as a durable solution for refugees, a means to strategically leverage other durable solutions, and a form of burden-sharing with countries of first asylum or transit (European Migration Network 2016). It also allows receiving states to better plan and forecast the need for places at reception facilities, accommodation arrangements, social services, and other resources.

Even though many Member States of the EU have recently scaled up their resettlement schemes or started new ones, such programmes have in most cases remained extremely small in size, and they are different across Member States (European Migration Network 2016). As Betts (2017) has remarked, many of the more recent European resettlement policies have emerged as small-scale “kneejerk responses” to the European refugee crisis. Consequently, they cannot yet serve as credible alternatives to Europe’s traditional, territorial asylum systems. With the aim of providing a common approach to “safe and legal arrival” in the Union for third-country nationals in need of international protection and to mainstream Member States’ existing resettlement schemes, the European Commission proposed a new common framework for resettlement in July 2016 (EC 2016g). At the time of writing, such framework had not yet been adopted, and a number of characteristics of the proposed framework were questioned by the European Parliament (Björk 2017). Any other strategies to systematically open up legal pathways to protection in Europe seem even more distant.

## 6.3 Regional protection and external processing

To stop migrants and protection seekers from crossing the Mediterranean from Africa into Greece, Italy and Spain and to combat migrant-smuggling networks, the EU Member States have since 2016 been looking more closely at the role of transit countries along the North African coastline. Encouraged by the EU-Turkey deal of

March 2016 (General Secretariat of the Council 2016), which has helped sharply reduce crossings by boat from Turkey into Greece, they have seemed eager to replicating all or at least some aspects of the deal in other countries (Collett 2017). At a summit in Malta in February 2017, Member States declared that they wanted to step up their work with Libya as the main country of departure as well as with its North African and sub-Saharan neighbours. More specifically, leaders agreed to provide training, equipment and support to the Libyan national coast guard; disrupt the business model of smugglers through enhanced operational action; support the development of local communities in Libya, especially in coastal areas and at Libyan land borders on the migratory routes from other African countries; seek to ensure adequate reception capacities and conditions in Libya for migrants; support the International Organization for Migration to step up assisted voluntary return activities; enhance information campaigns and outreach addressed at migrants in Libya and countries of origin and transit; help to reduce migratory pressures on Libya's land borders; keep track of alternative routes and possible diversions of smugglers' activities; and deepen dialogue and cooperation on migration with all countries neighbouring Libya (General Secretariat of the Council 2017). These concrete commitments as well as the underlying approach have met a lot of criticism, with observers arguing that Libya is politically not stable enough as a partner state. As Collett (2017) writes, for example, Libya does not have a protection system, and the only option for rescued migrants there is detention in centres decried as inhumane.

Far beyond the recent example of cooperation with Libya, ideas to externalise migration control measures to prevent irregular arrivals in Europe, or to conduct asylum examinations in third-countries, have been discussed for a long time. The idea of establishing reception centres in third countries was first suggested, unsuccessfully, by Tony Blair in 2003. Later, the initiative was taken over by the former German Interior Minister Otto Schily in 2005, who proposed to establish asylum centres in North Africa, and more recently by Italy (Carrera & Guild 2017). The idea that asylum seekers should not be allowed to lodge their applications from inside EU territory but rather be required to have their claim assessed before being gran-

ted admission was also discussed in Sweden, where the second biggest political party, the conservative Moderate Party, demanded in autumn 2017 to replace the current territorial asylum system with a new system that would require external processing and – in cases in which protection is granted – a quota-based transfer to an EU Member State (Billström & Forsell 2017).

The “offshoring” of asylum processing and restricting entrance into the EU to those found to be in need of protection via organised, legal admission may appear as an attractive concept. Such a system – in ideal circumstances – would make illegal crossings as well as returns of rejected asylum seekers unnecessary, and would allow the final destination countries within the EU to better plan their reception and integration arrangements. There are a number of problematic issues around jurisdiction and responsibility, however, which have raised the question whether externalisation would be legal and legitimate. Critical aspects relate to which Member State or which EU or international authority would be responsible to carry out the assessment of asylum claims in external centres; whether third countries would be willing to host EU-run centres; what country’s asylum law would apply there; what safeguards there would need to be for asylum applicants; and how it could be ensured that people with protection needs can actually reach these centres and lodge an asylum application there (UNHCR 2010). All in all, while comprehensive partnerships and migration-related cooperation with third-countries are essential for addressing the root-causes of irregular migration and prevent perilous, irregular crossings, the idea to externalise asylum procedures altogether seems risky, uncertain and extremely difficult to organise.

## 6.4 Temporary protection

To deal with sudden arrivals of displaced persons, the EU has invented an instrument, which was adopted in 2001 but – interestingly – never used: the Temporary Protection Directive.<sup>1</sup> It was designed to establish minimum standards for receiving many protection seekers on short notice and for a limited period of time, and to achieve a balance regarding Member States’ effort in bearing the consequences of

such situations. The Directive has its origins in the 1990s, when the Kosovo crisis caused a large flow of protection seekers to Italy and further onwards to other EU Member States. Their response was uncoordinated and the migratory pressures were unevenly distributed, in a similar manner as later, in 2015-2016. With the Temporary Protection Directive, the Member States wanted to avoid blockages in national asylum systems in the event of future refugee emergencies and secure immediate, but temporary, access to protection to the persons concerned. For the Directive to be activated, the existence of a mass influx needs to be established by a decision of the Council of the European Union following a proposal from the Commission. Once activated, it foresees harmonised rights for beneficiaries of temporary protection as well as a solidarity mechanism regarding the distribution of protection seekers across the EU (Beirens et al. 2016).

One may ask why the Directive was not invoked at the start of the “refugee crisis” of 2015-2016, when the number of asylum seekers rapidly increased. The fact that a majority of those asylum applicants that crossed into Europe in 2015 came from just a few countries predominantly Syria, Afghanistan and Iraq, makes this even more surprising (Ineli-Ciger 2016). In a study for the European Commission, Beirens et al. (2016) argued that there are several factors that have prevented an activation of the Directive, namely the absence of a clear definition regarding situations in which it could be applied, a cumbersome procedure to activate it, and – not least – unpredictability regarding the application of the Directive’s solidarity clause, which requires the Member States to cooperate with each other with regard to transferring persons enjoying temporary protection from one Member State to another. The Directive thus demanded solidarity but did not define how to exert it (Hatton 2015: 6). Still, it is interesting that the Commission and the Member States preferred to react to the refugee situation in 2015 with an ad-hoc emergency relocation, which has been criticised as inefficient, instead of activating the already existing temporary protection arrangements of the Directive.

We may therefore say that the Temporary Protection Directive is effectively a failure. Yet, what if it could be replaced or incorporated in other instruments? As mentioned before, the Commission has proposed a comprehensive reform of the Dublin sys-

tem of assigning responsibility for examining asylum applications to the Member States. While it largely preserves the earlier criteria for allocating responsibility, it also foresees an automated “corrective allocation mechanism”. This would ensure the continuity of the emergency relocation scheme initiated in 2015 and transform it from a temporary contingency measure into a permanent feature of the CEAS (Guild et al. 2017). If the proposed mechanism or a variation of it will be finally implemented, such a system may well make the Temporary Protection Directive redundant as the EU would then have a reception and responsibility-sharing mechanism that could be used irrespective of whether there is a low or a high number of incoming asylum seekers.

## 6.5 A common executive EU Agency on asylum

In May 2016, the Commission proposed to convert the European Asylum Support Office (EASO) into a European Union Agency for Asylum, with a stronger and wider mandate (EC 2016h). Since taking up its responsibilities in 2011, EASO has supported the Member States to apply the rules of the CEAS. EASO is tasked with supporting the asylum authorities in EU Member States, providing the employees of the relevant authorities with training and instructions with the aim to contribute to the harmonisation of asylum processes and results of asylum decisions across the Member States. Among other activities, EASO compiles reports on the human rights and security situation in key countries of origin. It is also involved in early warning and preparedness systems for Member States that face challenges coping with influxes of asylum seekers. In addition, it has become gradually involved in the formation of “hot spots” in Greece and Italy, where asylum seekers are registered and their applications processed (Wagner et al. 2016: 23). EASO also assists the operation of the emergency relocation effort.

As regards the harmonisation of asylum outcomes, this study has shown that the EASO has failed to achieve significant progress in its principal mission. Compiling

and spreading country of origin information and offering training is obviously not enough as long as the actual decision-making is under the control of national asylum authorities that are (naturally) overseen by their respective national governments in the first place. Even if the EASO will be strengthened and its mandate expanded, after being converted into an EU agency in its own right, as the Commission has proposed in 2016 (EC 2016h), this is not likely to change. While the proposal gives the Agency the task of coordinating efforts among Member States to engage and develop common guidance on the situation in third countries of origin, it can still not impose a certain decision-making practice on a Member State, and a “joint processing” of asylum applications by officials from two or more Member States and/or from EASO is not routinely foreseen either. If the Agency is to continue working towards harmonised asylum outcomes, it will therefore have to rely on soft pressure. However, in case the CEAS becomes almost fully communitised, it would be reasonable to think that the Agency would issue concrete recommendations in cases in which protection rate for a given nationality in a certain Member State falls below or exceeds a certain margin above or below the EU average protection rate for that nationality. How such a range or margin could be defined would be up to policy-makers to decide, but the aim would be to at least identify and monitor situations of extreme deviation from the main trend, some of which were pinpointed in the analysis in section 5 above. While in certain cases, it may be a deliberate policy in a Member State to make overly restrictive decisions; such practices can also be the result of unawareness or ignorance. If the EASO would early on ring an alarm bell once such a situation appears, that could make a difference.

## Endnote section 6.

1. Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.



## 7. Conclusions and policy implications

To sum up, this study has found that a lot remains to be done in order to achieve a workable Common European Asylum System. On the approximation of asylum outcomes in the Member States, our findings are highly disappointing when measured against the “fairness” principle – which would mean that asylum seekers should have the same or at least very similar chances to receive protection regardless of where in the EU they arrive and lodge their asylum requests. While the overall protection rate for asylum seekers has increased over the period 2008-2016, no significant steps towards greater harmonisation of national asylum decisions have been made. To recapitulate one of the most striking findings of this study, an Afghan asylum seeker had a 1.7 percent chance of receiving protection in Bulgaria, but a 97 percent chance in Italy, in 2016. Further to such differences between the EU Member States as regards protection rates for asylum seekers from the same countries of origin, we also found that the types of protection granted vary greatly, indicating wide disparities between Member States’ understanding and practical implementation of the Geneva Convention, the EU asylum qualifications directive and procedural aspects.

This is all the more worrying as we have shown that greater convergence is a precondition for a successful responsibility-sharing mechanism, as a mandatory allocation of asylum seekers to Member States will always be perceived as unfair if the chances of receiving protection continue to differ between these Member States as much as they did up to and including the year 2016. Admittedly, the Council has acknowledged this problem and decided in 2016 to work towards a more structured and streamlined production of country of origin information, and to establish a new policy network to carry out a joint assessment of the situation in main countries of origin. These steps appear as rather vague and modest, however, and they are unlikely to prompt any major improvements any time soon. Even if the European

Asylum Support Office were transformed into a “centre of expertise in its own right” and its tasks enhanced, as the Commission has proposed, it would be bold to expect prompt steps towards greater convergence.

Joint processing exercises, whereby officials from several Member States examine and decide asylum applications lodged by nationals of a specific country together, could therefore be explored further, or even mainstreamed.<sup>1</sup> Another aspect is whether national asylum authorities are in a position to perform independent examinations of asylum cases, or whether they are subject to direct or indirect political interference, which could compromise an objective evaluation of asylum seekers’ needs for protection. In addition, further to improving the capabilities and capacities of those national authorities that are responsible for asylum decision-making at first instance, due attention should also be attributed to the role of national courts, which are responsible for second and third-instance decision-making on asylum cases in the Member States.

A more far-reaching and ambitious idea would be the establishment of a “fire brigade” function for the future EU Asylum Agency: As proposed in section 6, the Agency would review asylum decisions and issue binding recommendations once the protection rate for a given nationality in a Member State falls outside a certain margin below or above the EU average protection rate for that nationality. Admittedly, such interference could be difficult for national governments to accept as they would transfer much of their authority over the granting of asylum to a supranational entity. The opportunity for national governments to directly or indirectly interfere with their asylum authorities’ decision-making would be limited. At the same time, such a measure would still be less drastic than to transfer the power to make asylum decisions from national authorities to an EU agency altogether. Ultimately, however, exactly such a step, i.e. a complete transfer of the decision-making competence to a European Agency acting under European law, would be the only way of guaranteeing uniform asylum outcomes across the EU, as controversial as this may appear.

Regarding responsibility-sharing, this study has found that intra-EU solidarity in the sense of a more balanced distribution of asylum seekers across EU Member States

still seems very difficult to achieve despite the fact that a lot of preparatory work and research has been done regarding possible allocation keys. While the idea of all Member States taking a fair share has gained strong support among some Member States, especially “frontline” ones and those that have received disproportionately many asylum seekers in the past, others have opposed any mandatory redistribution of responsibilities, especially the Visegrad countries. The chances to reach a common agreement on this issue are therefore limited. It should be noted, however, that the emergency relocation scheme that was put in place in the light of the migratory crisis in 2015-2016 has allowed EU and national officials to gather practical experiences. The recent crisis has also augmented the pressure on policy-makers both at EU and national levels to strike a balance, find a workable compromise and implement a credible and lasting responsibility-sharing approach.

Hence, even if no lasting compromise can be found in the short run, the aim to create a workable responsibility-sharing system will almost inevitably remain topical. Several different courses of action are possible, and four main scenarios for future developments can be identified:

- **Scenario 1 – “Status Quo”**

A first main scenario would be the continuation of the currently used Dublin system including its existing responsibility-allocation criteria. As this study has shown, this option would perpetuate the uneven exposure of the Member States to the arrival of asylum seekers. The *Status quo* scenario does not fall within Thielemann’s (2006) theoretical account of responsibility-sharing regimes as introduced in section 4.2 – simply for the fact that “Dublin” was never constructed as a rule for equitable sharing. Only *ex post* “redistributive” schemes (type B) are likely, as this would mean that in times of high inflows, it would be almost inevitable that emergency solutions and ad-hoc relocation schemes will be required, as in 2015-2016. In the longer run, the *Status quo* option would also entail great risks for cohesion within the EU. The negative effects of the continuation of Dublin could however be limited if asylum seekers were given a free choice of destination country once the authorities in the arrival states grant them protection, or after a certain period of time thereafter.

- **Scenario 2 – “Dublin plus”**

The second scenario also builds on a continuation of the Dublin System, but it includes the implementation of a new, complementary corrective mechanism. This mechanism would prescribe that – once an EU Member State receives way more than an equitable share of the total number of asylum applications lodged in the EU – all other Member States have to admit the surplus in accordance with fair quotas to be determined by a distribution key. This means that, in the event of disproportionalities, the Dublin criteria would be bypassed. With regard to the typology of responsibility-sharing introduced in section 4.2, this scenario would be a one-dimensional regime that combines the redistributive method (type B) with a firm legal approach of having common rules (type A). The advantage lies in the fact that in crisis times of uneven or excessive inflows, a corrective mechanism would already be there and operable, thus it would not have to be developed *ex post*.

To facilitate such a reform, some time-limited transition arrangements or exceptions could be introduced. For example, as suggested by the European Parliament, Member States with a very low intake quota could be accustomed to a fair quota step by step over a period of three years (European Parliament 2017: 4).<sup>2</sup> Furthermore, Member States that do not want to receive asylum seekers could be allowed to ransom themselves by paying, for each asylum seeker they decline to take charge of, a certain amount of money to the Member State that assumes responsibility instead. In this case, money would be moved, not people. As a variation of this idea, a system of tradeable admission quotas could be created, supplemented by a matching scheme that takes into account the preferences of the refugees and the host countries.<sup>3</sup> When some countries are willing to pay others in order to receive fewer refugees, and some are willing to receive compensation for having more refugees, such a system could work, at least for a certain transition period. Enabling asylum seekers to exercise at least some degree of discretion as to where they file their asylum claim by, e.g., offering them a limited list of Member States to rank their preferred three or four, could prove a promising approach. Considered again through the lens of the typology of burden-sharing regimes, this would introduce elements of the multi-dimensional methods C and D into the *Dublin plus* scenario.

- **Scenario 3 – “Fair quotas”**

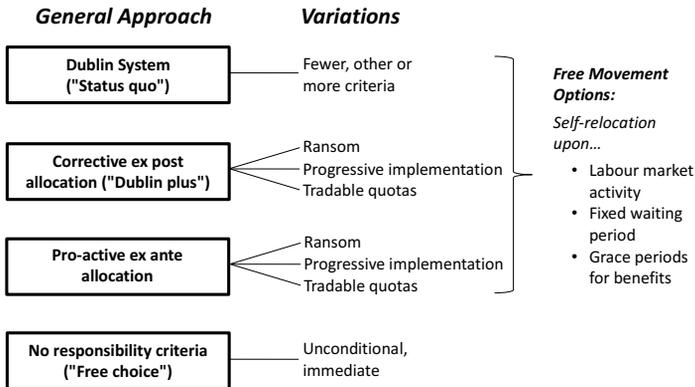
This scenario would mean that a quota-based allocation system would be introduced. Such a system would replace the current Dublin system. The “first country of arrival” principle of the Dublin regime would cease to exist, while other criteria, such as family unity or prior links to particular Member States, would be incorporated into a new system (for a recent move towards this model within the EP see European Parliament 2017). This new system would be based on a mandatory distribution key, which takes into account basic indicators that could help to determine each Member State’s reception capacities. In terms of Thielemann’s (2006) typology, this would be the “common rule” type A in the pure form, yet again with the option of introducing elements of compensation (C) and trade (D). Since the introduction of immediate “fair quotas” would represent a major reform of the current criteria for responsibility-allocation, the transition towards such a system could be facilitated through transitory arrangements or options for Member States to ransom themselves or trade reception quotas, as mentioned under Scenario 2 (*Dublin plus*) above.

- **Scenario 4 – “Free choice”**

The fourth main scenario would be one of “free choice”. Departing from the above described mantra to define and implement the “magic formula” for distributing applicants for international protection evenly and fairly across all EU Member States, in this scenario, which is favored by human rights and refugee advocacy organisations, asylum seekers would be entirely free to choose their country of destination. This approach makes a strong point in referring to the impracticability and thus dubiousness of transferring or returning – normally against their wish – people to a country which is responsible for examining an asylum application according to the Dublin Regulation. However, a *Free choice* system would require the complete abolition of the current Dublin system, suggesting an exclusively fiscal burden-sharing mechanism (German Bar Association et al. 2013). It would generate great legitimacy both from the perspective of the asylum seekers and out of a normative, value-oriented fundamental rights approach towards fairness vis-à-vis asylum seekers. However, it would most likely not be sustainable politically – the reason for that being that it would not be considered a scenario that fosters an equitable sharing of re-

sponsibilities among the Member States. Recent events in Europe suggest that most asylum seekers would opt for a rather limited number of popular countries of destinations, and countries that are perceived as unwelcoming would be avoided. This in turn would challenge the principles of the Schengen area and the standards of refugee protection in the EU as those countries that receive disproportionately many asylum seekers would seek unilateral solutions to limit the arrival of asylum seekers or to make themselves less attractive. This would inevitably encourage a continued “race to the bottom” concerning asylum standards. The political response in Sweden to the migratory crisis in 2015 can serve as an illustrative example. As Sweden was disproportionately exposed to rapidly increasing arrivals of asylum seekers, it introduced border controls and extraterritorial id-checks on travelers to restrict the flow of people, and it deteriorated the contents of protection by introducing temporary residence permits for beneficiaries of protection and restricting family reunification rights.

### Infographic: Four basic responsible-sharing scenarios



While chances for a realisation of the *Free choice* scenario appear scarce, there is a lot of substance to the idea of at least extending the right to free choice of movement to recognised beneficiaries of protection (see e.g. Bast 2016; Groß 2017). Thus, for all given scenarios, the question when and on what conditions a beneficiary of international protection may “self-relocate” to another Member State is crucial for the functioning, acceptance and legitimacy of responsibility-sharing arrangements. If there were no “self-relocation” option, this would mean that all protection beneficiaries would be required to stay in the country they have been allocated to, at least until they are awarded a long-term residence status or the citizenship of the Member State. This would prevent secondary movements and ensure that all Member States not only assume their initial responsibility for asylum seekers, but also that they remain responsible even for those that have been granted protection through their asylum administration. At the same time, however, such a “no-choice” system would be unfair from the perspective of the individual asylum seekers, as they would have no control over where to take residence, and they would have to accept widely differing reception and integration conditions.

By contrast, self-relocation options could increase the legitimacy of whatever system there will be for responsibility-allocation. In that respect, the Expert Council of German Foundations on Integration and Migration has elaborated a proposal for a “regulated free choice” model: While the idea is that asylum applications should primarily be processed in the Member States at the EU’s external borders, people who have been granted asylum would be given conditional rights of onward movement. Conditions could be imposed by establishing a close link to the labour market of the destination country or by introducing grace periods for receiving social benefits. At the same time, the conditional rights of free movement for recognised refugees could be tied to a (solidarity-based) EU-wide mechanism of financial compensation. This fund-based solution would allow for both the countries of first reception as well as the Member States preferred by many refugees as “country of choice” to be reimbursed at least for part of the integration costs that arise from immigration (SVR 2017: 41-45). In case a perspective of free movement was to be adopted, the basic assumption implies that asylum seekers would be more likely to accept differ-

ing material reception conditions during the asylum process and diverging integration arrangements in the Member States. To prevent situations in which many beneficiaries of protection would quickly move on to just those Member States that have a good reputation as receiving countries, certain wait periods could be imposed before free self-relocation becomes an option. This would give to all Member States time to convince protection beneficiaries to stay, and to invest into their integration. It would also increase the likelihood that recognised beneficiaries would start to integrate in their new host societies and eventually decide to stay there.

Last but not least, it must be acknowledged that all scenarios, again with the exception of *Free choice*, have one serious flaw. Both the *Status Quo* scenario, a combined *Dublin plus* allocation system, and a scheme of *Fair quotas* urgently require an approximation of asylum decision-making practices across the Member States. If the chances of being granted protection continue to differ and asylum seekers from a given country of origin can receive protection in one Member State but not in another, denying them a right to choose their country of destination will always be criticised as unfair.

At the time of writing, the *Status quo* scenario appears to be the most realistic one, at least in the short run. Given the fierce opposition of some Member States, especially the Visegrad countries, to any mandatory redistribution or allocation mechanism, alternatives to the current arrangements seem hard to achieve. During the summer months 2017, ideas for a more comprehensive overhaul of the Dublin system also seemed to lose traction as the migratory flows in the Mediterranean decreased, probably as a result of efforts by Italy and the EU to halt irregular boat passages from Libya.

Scenario 2, *Dublin plus*, would undoubtedly be a more reliable and sustainable option. It could comfort those Member States that want to keep the Dublin responsibility-allocation criteria and those that oppose the Dublin system due to its unbalanced quantitative effects on “frontline” Member States. In principle, “Dublin plus” could be combined with a “moving money instead of moving people” component for a transitional period, to accommodate those Member States that are reluctant to receive asylum seekers. Alternatively, scenario 2 could also be imple-

mented as a pilot project among a “coalition of the willing”, i.e. only among those Member States that choose to participate, and leaving the skeptics out.

In the long run, Scenario 3, *Fair quotas*, appears as the most coherent course of action. However, despite a recent motion by the EP’s Committee on Civil Liberties, Justice and Home Affairs (European Parliament 2017), it seems politically out of reach at the moment. Imagining its realisation requires a somewhat optimistic approach to the further process of EU integration in the course of the next 10 to 20 years. Thus, if there were a sustainable tendency towards an improved harmonisation of asylum outcomes – with an EU authority eventually taking over implementation and enforcement of common asylum law –, paired with further approximation of social and economic standards between the EU Member States, this could reduce political and popular resistance in the Member States towards a mandatory mechanism of immediate physical dispersal (which many Member States have in fact established with regard to distributing asylum seekers to sub-national territorial and administrative entities within the state).

For the *Fair quotas* scenario to gain acceptance among the asylum-seekers and to prevent illegal secondary movements, not only the odds of being granted protection need to be similar. Besides, the standards for reception and accommodation as well as for the asylum procedure, including duration of proceedings and the “safe third country” concept, would have to approximate to a large degree. Asylum-seekers would also require a viable perspective of autonomy for their intermediate future, i.e. the prospect of free movement rights within the EU upon the recognition of protection and meeting conditions such as economic activity or a fixed grace period. Finally, establishing a well-administered system in order to give at least limited freedom of choice towards the Member State, in which an asylum-seeker will undergo proceedings, through a system of preference-matching,<sup>4</sup> would foster compliance as well.

Responsibility-sharing within the CEAS still has a long way to go, but the recent debates over the EU’s emergency relocation scheme and initial steps towards a permanent re-allocation mechanism in the Commission’s proposal for a “Dublin-IV” regulation have opened the floor for new ideas. The current decline in refugee

movements and applications will hopefully not discourage the search for lasting solutions but rather provide for enough leeway for policymakers in the EU to bring forward a new distribution system, which – in the best case – gives some agency to asylum seekers in the sense that a good matching is fostered or certain preferences can be considered.

All in all, there are several options for policy-makers to deliberate, but if the European Union is to have a common asylum system, it is clear that progress needs to be made both regarding more harmonised asylum decisions and a more equitable sharing of responsibilities among its Member States. To manage high expectations, however, we need to remind ourselves that the CEAS has been under construction for almost two decades now and that it will most likely continue to evolve in an incremental and fragmented manner for many years to come. We should also acknowledge that when there is a lack of progress, this is not always exclusively the result of failed institutions, imperfect policies or some Member States acting single-handedly. Problems and challenges can also be related to the ever-changing nature and shifting magnitudes of forced migration as well as by the routes that migrants take and the choices they make. Migration and migration policies interact with, and react to each other, and to weigh the need of forced migrants for safe passage and protection against the reception and integration capacities in the various parts of Europe is a very complicated if not impossible endeavor. Consequently, we have to understand that the perfect and ultimate system to correctly deal with asylum seekers in the EU might never be found. We should not ring the dead bell for the Common European Asylum system every time a new challenge appears but be ready to question earlier beliefs and reassess our systems and policies. We can at least take confidence in the conviction that we have never had better data and more knowledge than we do today about forced migration and its governance.

## Endnotes section 7.

1. To a limited extent, joint or "supported" processing exercises have already been both conceptualised and tested (Urth et al. 2013; EASO 2016).
2. See the example for Slovakia in endnote 26 in section 4.
3. A system of tradable quotas was proposed by Fernández-Huertas Moraga and Rapoport (2015) and again in 2016 by Constant and Zimmermann (2016).

4. The celebrated economic matching theory has recently been applied to the issue of global burden-sharing and EU solidarity in refugee reception: In Jones' and Teytelboym's (2017) proposal, the EU should create a "two-sided matching system" within a centralised clearinghouse, which would allow both participating states and asylum-seekers to formulate preferences on the basis of quotas in a setting of burden-sharing. While this is not the "free choice" option for refugees (which the authors refute as chances of realisation appear low), the system would give them some choice: "If it really is the case that almost every Syrian refugee makes Germany their first preference, then of course they will not all be able to go there, but refugees would still have qualitatively more agency if they were to achieve their second, third, fourth, or fifth preference" (Jones & Teytelboym 2017: 107). The authors also stress, that harmonising eligibility procedures and refugee determination of status decisions was an important precondition for the system to work well.



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# Appendix A: Formulae

## Model 1

$$(1) \text{ Share}_{EU\ MS}(\text{key}) = 0.4 * \frac{\text{GDP}_{EU\ MS}}{\text{GDP}_{EU28}} + 0.4 * \frac{\text{Pop.}_{EU\ MS}}{\text{Pop.}_{EU28}} + 0.1 * \frac{\text{Area}_{EU\ MS}}{\text{Area}_{EU28}} + 0.1 * \left( \frac{\frac{1}{\text{Unempl. rate}_{EU\ MS}}}{\sum_{s=1}^{28} \left( \frac{1}{\text{Unempl. rate}_{EU\ MS_s} \right)} \right)$$

## Model 2

$$(1) \text{ GDP effect}_{EU\ MS} = \frac{\text{GDP}_{EU\ MS}}{\text{GDP}_{EU28}}$$

$$(2) \text{ Population effect}_{EU\ MS} = \frac{\text{Pop.}_{EU\ MS}}{\text{Pop.}_{EU28}}$$

$$(3) \text{ Asylum effect}_{EU\ MS} = \min \left( \frac{\frac{1}{\text{Av. (5 prior yrs.) applicants per million pop. in EU MS}}}{\sum_{s=1}^{28} \left( \frac{1}{\text{Av. (5 prior yrs.) applicants per million pop. in EU MS}_s} \right)} * 0.3 * (\text{Pop. effect}_{EU\ MS} + \text{GDP effect}_{EU\ MS}) \right)$$

$$(4) \text{ Unempl. effect}_{EU\ MS} = \min \left( \frac{\frac{1}{\text{Unempl. rate}_{EU\ MS}}}{\sum_{s=1}^{28} \left( \frac{1}{\text{Unempl. rate}_{EU\ MS}_s} \right)} * 0.3 * (\text{Pop. effect}_{EU\ MS} + \text{GDP effect}_{EU\ MS}) \right)$$

$$(5) \text{ Capped Quota}_{EU\ MS} = \text{Allocation} * (0.4 \text{ Pop. effect}_{EU\ MS} + 0.4 \text{ GDP effect}_{EU\ MS} + 0.1 \text{ Asylum effect}_{EU\ MS} + 0.1 \text{ Unempl. effect}_{EU\ MS})$$

$$(6) \text{ Residual Quota}_{EU\ MS} = (\text{Allocation} - \sum_{s=1}^{28} \text{Capped Quota}_{EU\ MS_s}) * (50\% \text{ Pop. effect}_{EU\ MS} + 50\% \text{ GDP effect}_{EU\ MS})$$

$$(7) \text{ Final Allocation Quota}_{EU\ MS} = \text{Capped Quota}_{EU\ MS} + \text{Residual Quota}_{EU\ MS}$$

$$(8) \text{ Final Share}_{EU\ MS}(\text{de facto key}) = \frac{\text{Final Allocation Quota}_{EU\ MS}}{\text{Allocation}} * 100\%$$

### Model 3

- (1)  $\text{GDP effect}_{\text{EU MS}} = \frac{\text{GDP}_{\text{EU MS}}}{\text{GDP}_{\text{EU28}}}$
- (2)  $\text{Population effect}_{\text{EU MS}} = \frac{\text{Pop.}_{\text{EU MS}}}{\text{Pop.}_{\text{EU28}}}$
- (3)  $\text{Share}_{\text{EU MS}}(\text{key}) = 0.5 * \text{Pop. effect}_{\text{EU MS}} + 0.5 * \text{GDP effect}_{\text{EU MS}}$

### Model 4

- (1)  $\text{Share}_{\text{EU MS}}(\text{key}) = \frac{2}{3} * \frac{\text{GDP}_{\text{EU MS}}}{\text{GDP}_{\text{EU28}}} + \frac{1}{3} * \frac{\text{Pop.}_{\text{EU MS}}}{\text{Pop.}_{\text{EU28}}}$

## Appendix B: Data Tables

**Table A: Gross Domestic Product in EU Member States, 2012-2016**

	2012		2013	
	absolute (million Euro)	share of total GDP of the EU	absolute (million Euros)	share of total GDP of the EU
<b>European Union (28)</b>	13,448,656.9		13,558,629.9	
Belgium	387,500.0	2.88%	391,712.0	2.89%
Bulgaria	41,947.2	0.31%	42,011.5	0.31%
Czech Republic	161,434.3	1.20%	157,741.6	1.16%
Denmark	254,578.0	1.89%	258,742.7	1.91%
Germany	2,758,260.0	20.51%	2,826,240.0	20.84%
Estonia	17,934.9	0.13%	18,890.1	0.14%
Ireland	175,752.5	1.31%	180,209.3	1.33%
Greece	191,203.9	1.42%	180,654.3	1.33%
Spain	1,039,758.0	7.73%	1,025,634.0	7.56%
France	2,086,929.0	15.52%	2,115,256.0	15.60%
Croatia	43,933.7	0.33%	43,487.1	0.32%
Italy	1,613,265.0	12.00%	1,604,599.1	11.83%
Cyprus	19,467.0	0.14%	18,118.2	0.13%
Latvia	22,058.4	0.16%	22,828.9	0.17%
Lithuania	33,348.2	0.25%	35,002.1	0.26%
Luxembourg	44,112.1	0.33%	46,551.4	0.34%
Hungary	99,085.6	0.74%	101,483.3	0.75%
Malta	7,159.6	0.05%	7,631.0	0.06%
Netherlands	645,164.0	4.80%	652,748.0	4.81%
Austria	317,117.0	2.36%	322,539.2	2.38%
Poland	389,368.9	2.90%	394,721.1	2.91%
Portugal	168,398.0	1.25%	170,269.3	1.26%
Romania	133,511.4	0.99%	144,253.5	1.06%
Slovenia	36,002.5	0.27%	35,917.1	0.26%
Slovakia	72,703.5	0.54%	74,169.9	0.55%
Finland	199,793.0	1.49%	203,338.0	1.50%
Sweden	423,340.7	3.15%	435,752.1	3.21%
United Kingdom	2,065,736.8	15.36%	2,048,328.0	15.11%

Source: Eurostat [nama\_10\_gdp], extracted on 31 March, 2017

2014		2015		2016	
absolute (million Euros)	share of total GDP of the EU	absolute (million Euros)	share of total GDP of the EU	absolute (million Euros)	share of total GDP of the EU
14,002,583.4		14,714,003.4		14,819,583.4	
400,805.0	2.86%	410,351.0	2.79%	421,974.0	2.85%
42,762.2	0.31%	45,286.5	0.31%	47,364.1	0.32%
156,660.0	1.12%	166,964.1	1.13%	174,452.2	1.18%
265,232.5	1.89%	271,786.1	1.85%	277,336.1	1.87%
2,923,930.0	20.88%	3,032,820.0	20.61%	3,132,670.0	21.14%
19,758.3	0.14%	20,251.7	0.14%	20,916.4	0.14%
193,159.6	1.38%	255,815.1	1.74%	265,834.8	1.79%
177,940.6	1.27%	175,697.4	1.19%	175,887.9	1.19%
1,037,025.0	7.41%	1,075,639.0	7.31%	1,113,851.0	7.52%
2,139,964.0	15.28%	2,181,064.0	14.82%	2,225,260.0	15.02%
42,977.8	0.31%	43,846.9	0.30%	45,557.0	0.31%
1,621,827.2	11.58%	1,645,439.4	11.18%	1,672,438.3	11.29%
17,567.4	0.13%	17,637.2	0.12%	17,901.4	0.12%
23,631.2	0.17%	24,368.3	0.17%	25,021.3	0.17%
36,590.0	0.26%	37,330.5	0.25%	38,631.0	0.26%
49,970.9	0.36%	52,339.7	0.36%	54,194.9	0.37%
104,953.3	0.75%	109,674.2	0.75%	112,398.7	0.76%
8,433.0	0.06%	9,275.8	0.06%	9,898.0	0.07%
663,008.0	4.73%	676,531.0	4.60%	697,219.0	4.70%
330,417.6	2.36%	339,896.0	2.31%	349,493.0	2.36%
410,989.7	2.94%	429,794.2	2.92%	424,581.3	2.87%
173,079.1	1.24%	179,504.3	1.22%	184,931.1	1.25%
150,357.5	1.07%	159,963.7	1.09%	169,077.9	1.14%
37,332.4	0.27%	38,570.0	0.26%	39,769.1	0.27%
75,946.4	0.54%	78,685.6	0.53%	80,958.0	0.55%
205,474.0	1.47%	209,511.0	1.42%	214,062.0	1.44%
432,691.1	3.09%	447,009.5	3.04%	462,416.8	3.12%
2,260,804.8	16.15%	2,580,064.5	17.53%	2,367,596.5	15.98%

**Table B: Population as of 1 January in EU Member States, 2012-2016**

	2012		2013	
	absolute (persons)	share of total EU population	absolute (persons)	share of total EU population
European Union (28)	504,060,345		505,166,839	
Belgium	11,094,850	2.20%	11,161,642	2.21%
Bulgaria	7,327,224	1.45%	7,284,552	1.44%
Czech Republic	10,505,445	2.08%	10,516,125	2.08%
Denmark	5,580,516	1.11%	5,602,628	1.11%
Germany	80,327,900	15.94%	80,523,746	15.94%
Estonia	1,325,217	0.26%	1,320,174	0.26%
Ireland	4,582,707	0.91%	4,591,087	0.91%
Greece	11,086,406	2.20%	11,003,615	2.18%
Spain	46,818,219	9.29%	46,727,890	9.25%
France	65,276,983	12.95%	65,600,350	12.99%
Croatia	4,275,984	0.85%	4,262,140	0.84%
Italy	59,394,207	11.78%	59,685,227	11.81%
Cyprus	862,011	0.17%	865,878	0.17%
Latvia	2,044,813	0.41%	2,023,825	0.40%
Lithuania	3,003,641	0.60%	2,971,905	0.59%
Luxembourg	524,853	0.10%	537,039	0.11%
Hungary	9,931,925	1.97%	9,908,798	1.96%
Malta	417,546	0.08%	421,364	0.08%
Netherlands	16,730,348	3.32%	16,779,575	3.32%
Austria	8,408,121	1.67%	8,451,860	1.67%
Poland	38,063,792	7.55%	38,062,535	7.53%
Portugal	10,542,398	2.09%	10,487,289	2.08%
Romania	20,095,996	3.99%	20,020,074	3.96%
Slovenia	2,055,496	0.41%	2,058,821	0.41%
Slovakia	5,404,322	1.07%	5,410,836	1.07%
Finland	5,401,267	1.07%	5,426,674	1.07%
Sweden	9,482,855	1.88%	9,555,893	1.89%
United Kingdom	63,495,303	12.60%	63,905,297	12.65%

Source: Eurostat [demo\_pjan], extracted on 31 March, 2017

2014		2015		2016	
absolute (persons)	share of total EU population	absolute (persons)	share of total EU population	absolute (persons)	share of total EU population
506,973,868		508,504,320		510,284,430	
11,180,840	2.21%	11,237,274	2.21%	11,311,117	2.22%
7,245,677	1.43%	7,202,198	1.42%	7,153,784	1.40%
10,512,419	2.07%	10,538,275	2.07%	10,553,843	2.07%
5,627,235	1.11%	5,659,715	1.11%	5,707,251	1.12%
80,767,463	15.93%	81,197,537	15.97%	82,175,684	16.10%
1,315,819	0.26%	1,314,870	0.26%	1,315,944	0.26%
4,605,501	0.91%	4,628,949	0.91%	4,724,720	0.93%
10,926,807	2.16%	10,858,018	2.14%	10,783,748	2.11%
46,512,199	9.17%	46,449,565	9.13%	46,445,828	9.10%
65,942,093	13.01%	66,488,186	13.08%	66,759,950	13.08%
4,246,809	0.84%	4,225,316	0.83%	4,190,669	0.82%
60,782,668	11.99%	60,795,612	11.96%	60,665,551	11.89%
858,000	0.17%	847,008	0.17%	848,319	0.17%
2,001,468	0.39%	1,986,096	0.39%	1,968,957	0.39%
2,943,472	0.58%	2,921,262	0.57%	2,888,558	0.57%
549,680	0.11%	562,958	0.11%	576,249	0.11%
9,877,365	1.95%	9,855,571	1.94%	9,830,485	1.93%
425,384	0.08%	429,344	0.08%	434,403	0.09%
16,829,289	3.32%	16,900,726	3.32%	16,979,120	3.33%
8,506,889	1.68%	8,576,261	1.69%	8,690,076	1.70%
38,017,856	7.50%	38,005,614	7.47%	37,967,209	7.44%
10,427,301	2.06%	10,374,822	2.04%	10,341,330	2.03%
19,947,311	3.93%	19,870,647	3.91%	19,760,314	3.87%
2,061,085	0.41%	2,062,874	0.41%	2,064,188	0.40%
5,415,949	1.07%	5,421,349	1.07%	5,426,252	1.06%
5,451,270	1.08%	5,471,753	1.08%	5,487,308	1.08%
9,644,864	1.90%	9,747,355	1.92%	9,851,017	1.93%
64,351,155	12.69%	64,875,165	12.76%	65,382,556	12.81%

**Table C: Geographical area of EU Member States**

	square kilometres	share of total EU area
European Union (28)	4.463.531.7	
Belgium	30.528.0	0.68%
Bulgaria	110.370.0	2.47%
Czech Republic	78.868.0	1.77%
Denmark	42.924.0	0.96%
Germany	357.376.0	8.01%
Estonia	45.227.0	1.01%
Ireland	69.797.0	1.56%
Greece	132.049.0	2.96%
Spain	505.944.0	11.34%
France	633.186.6	14.19%
Croatia	56.594.0	1.27%
Italy	302.073.0	6.77%
Cyprus	9.251.0	0.21%
Latvia	64.573.0	1.45%
Lithuania	65.286.0	1.46%
Luxembourg	2.586.0	0.06%
Hungary	93.011.0	2.08%
Malta	315.4	0.01%
Netherlands	41.540.0	0.93%
Austria	83.879.0	1.88%
Poland	312.679.0	7.01%
Portugal	92.226.0	2.07%
Romania	238.390.7	5.34%
Slovenia	20.273.0	0.45%
Slovakia	49.035.0	1.10%
Finland	338.440.0	7.58%
Sweden	438.574.0	9.83%
United Kingdom	248.536.0	5.57%

Source: Eurostat [demo\_r\_d3area], extracted on 31 March, 2017 (except for value for Croatia: CIA World Fact Book)

**Table D: Unemployment rate in EU Member States, in percent of active population, 2012-2016**

	2012	2013	2014	2015	2016
European Union (28)	10.5	10.9	10.2	9.4	8.5
Belgium	7.6	8.4	8.5	8.5	8.0
Bulgaria	12.3	13.0	11.4	9.2	7.7
Czech Republic	7.0	7.0	6.1	5.1	4.0
Denmark	7.5	7.0	6.6	6.2	6.2
Germany	5.4	5.2	5.0	4.6	4.1
Estonia	10.0	8.6	7.4	6.2	6.8
Ireland	14.7	13.1	11.3	9.4	7.9
Greece	24.5	27.5	26.5	24.9	23.5
Spain	24.8	26.1	24.5	22.1	19.6
France	9.8	10.3	10.3	10.4	10.0
Croatia	16.0	17.3	17.3	16.3	12.8
Italy	10.7	12.1	12.7	11.9	11.5
Cyprus	11.9	15.9	16.1	15.0	13.3
Latvia	15.0	11.9	10.8	9.9	9.6
Lithuania	13.4	11.8	10.7	9.1	7.9
Luxembourg	5.1	5.9	6.0	6.5	6.3
Hungary	11.0	10.2	7.7	6.8	5.1
Malta	6.3	6.4	5.8	5.4	4.8
Netherlands	5.8	7.3	7.4	6.9	6.0
Austria	4.9	5.4	5.6	5.7	6.0
Poland	10.1	10.3	9.0	7.5	6.2
Portugal	15.8	16.4	14.1	12.6	11.2
Romania	6.8	7.1	6.8	6.8	5.9
Slovenia	8.9	10.1	9.7	9.0	7.9
Slovakia	14.0	14.2	13.2	11.5	9.7
Finland	7.7	8.2	8.7	9.4	8.8
Sweden	8.0	8.0	7.9	7.4	6.9
United Kingdom	7.9	7.6	6.1	5.3	4.8

Source: Eurostat [une\_rt\_a], extracted on 31 March, 2017 (except for 2016 value for Italy: statistica.de)

**Table E: Asylum and first time asylum applicants in EU Member States, 2012-2016**

	2012	2013	2014	2015	2016
European Union (28)	335,290	431,090	626,960	1,322,825	1,258,865
Belgium	28,075	21,030	22,710	44,660	18,280
Bulgaria	1,385	7,145	11,080	20,365	19,420
Czech Republic	740	695	1,145	1,515	1,475
Denmark	6,045	7,170	14,680	20,935	6,180
Germany	77,485	126,705	202,645	476,510	745,155
Estonia	75	95	155	230	175
Ireland	955	945	1,450	3,275	2,245
Greece	9,575	8,225	9,430	13,205	51,110
Spain	2,565	4,485	5,615	14,780	15,755
France	61,440	66,265	64,310	76,165	83,485
Croatia	1,241	1,075	450	210	2,225
Italy	17,335	26,620	64,625	83,540	122,960
Cyprus	1,635	1,255	1,745	2,265	2,940
Latvia	205	195	375	330	350
Lithuania	645	400	440	315	425
Luxembourg	2,050	1,070	1,150	2,505	2,160
Hungary	2,155	18,895	42,775	177,135	29,430
Malta	2,080	2,245	1,350	1,845	1,930
Netherlands	13,095	13,060	24,495	44,970	20,945
Austria	17,415	17,500	28,035	88,160	41,950
Poland	10,750	15,240	8,020	12,190	12,305
Portugal	295	500	440	895	1,460
Romania	2,510	1,495	1,545	1,260	1,880
Slovenia	295	270	385	275	1,310
Slovakia	730	440	330	330	145
Finland	3,095	3,210	3,620	32,345	5,605
Sweden	43,855	54,270	81,180	162,450	28,790
United Kingdom	28,800	30,585	32,785	40,160	38,785

Source: Eurostat [migr\_asyappctza], extracted on 31 March, 2017 (except for 2012 value for Croatia: UNHCR)

**Table F: Deviation of de facto asylum application quota from fair quota (Model 3), selected “old” Member States, in percent**

	2008	2009	2010	2011	2012	2013	2014	2015	2016
Germany	-34%	-31%	3%	-5%	27%	60%	76%	97%	218%
Sweden	386%	320%	419%	288%	420%	393%	419%	396%	-9%
Italy	11%	-46%	-68%	8%	-57%	-48%	-13%	-45%	-16%
France	32%	26%	43%	30%	29%	8%	-27%	-59%	-53%
Netherlands	66%	47%	42%	15%	-4%	-26%	-3%	-14%	-59%
United Kingdom	44%	-8%	-30%	-35%	-39%	-49%	-64%	-80%	-79%

**Table G: Deviation of de facto asylum application quota from fair quota (Model 3), selected Mediterranean “frontline” States, in percent**

	2008	2009	2010	2011	2012	2013	2014	2015	2016
Greece	335%	191%	99%	59%	58%	9%	-12%	-40%	146%
Spain	-77%	-87%	-88%	-87%	-91%	-88%	-89%	-86%	-85%
Italy	11%	-46%	-68%	8%	-57%	-48%	-13%	-45%	-16%
Cyprus	1058%	681%	607%	262%	209%	91%	89%	20%	63%
Malta	1701%	1272%	1%	811%	812%	646%	199%	89%	102%

**Table H: Deviation of de facto asylum application quota from fair quota (Model 3), selected Eastern European States, in percent**

	2008	2009	2010	2011	2012	2013	2014	2015	2016
Bulgaria	-63%	-64%	-55%	-68%	-53%	89%	104%	79%	79%
Czech Republic	-56%	-71%	-82%	-85%	-87%	-90%	-89%	-93%	-93%
Lithuania	-48%	-60%	-55%	-60%	-54%	-78%	-83%	-94%	-92%
Poland	-27%	-21%	-51%	-57%	-39%	-32%	-75%	-82%	-81%
Slovakia	-50%	-62%	-74%	-80%	-73%	-87%	-93%	-97%	-99%

**Table I: Positive first-instance decisions on asylum applications: Absolute numbers and protection rates**

	2008	2008	2008	2009	2009	2009	2010	2010	2010	2011	2011	2011	2012
	Total	Total positive	%	Total									
<b>European Union (28 countries)</b>	<b>214,990</b>	<b>57,960</b>	<b>27.0%</b>	<b>232,345</b>	<b>62,765</b>	<b>27.0%</b>	<b>223,790</b>	<b>55,590</b>	<b>24.8%</b>	<b>237,975</b>	<b>59,555</b>	<b>25.0%</b>	<b>289,035</b>
Belgium	13,620	3,505	25.7%	15,310	2,910	19.0%	16,665	3,510	21.1%	20,025	5,075	25.3%	24,640
Bulgaria	670	295	44.0%	645	270	41.9%	515	140	27.2%	605	190	31.4%	640
Czech Republic	1,400	215	15.4%	535	100	18.7%	510	175	34.3%	685	320	46.7%	735
Denmark	1,250	730	58.4%	1,675	790	47.2%	3,300	1,345	40.8%	3,595	1,315	36.6%	4,695
Germany	19,335	7,870	40.7%	26,855	9,765	36.4%	45,400	10,450	23.0%	40,365	9,675	24.0%	58,765
Estonia	10	5	50.0%	25	5	20.0%	40	15	37.5%	60	10	16.7%	55
Ireland	3,630	300	8.3%	3,135	125	4.0%	1,600	25	1.6%	1,365	75	5.5%	940
Greece	29,580	55	0.2%	14,355	165	1.1%	3,455	105	3.0%	8,670	180	2.1%	11,195
Spain	5,130	275	5.4%	4,490	350	7.8%	2,785	610	21.9%	3,400	990	29.1%	2,605
France	31,765	5,150	16.2%	35,295	5,050	14.3%	37,610	5,095	13.5%	42,220	4,615	10.9%	59,830
Croatia	:	:		:	:		:	:		:	:		140
Italy	20,225	9,740	48.2%	23,015	9,065	39.4%	11,325	4,310	38.1%	24,165	7,155	29.6%	27,290
Cyprus	0	0		3,855	1,130	29.3%	2,440	425	17.4%	2,630	70	2.7%	1,335
Latvia	10	5	50.0%	40	10	25.0%	50	25	50.0%	90	20	22.2%	145
Lithuania	105	65	61.9%	145	40	27.6%	190	15	7.9%	305	25	8.2%	390
Luxembourg	485	185	38.1%	470	110	23.4%	475	70	14.7%	1,020	35	3.4%	1,650
Hungary	910	395	43.4%	1,805	390	21.6%	1,040	260	25.0%	895	155	17.3%	1,100
Malta	2,685	1,410	52.5%	2,575	1,690	65.6%	350	220	62.9%	1,605	885	55.1%	1,590
Netherlands	10,925	5,675	51.9%	17,565	8,245	46.9%	17,580	8,005	45.5%	15,790	6,830	43.3%	13,670
Austria	12,695	3,455	27.2%	14,845	3,220	21.7%	13,780	3,450	25.0%	13,270	4,085	30.8%	15,905
Poland	4,245	2,770	65.3%	6,580	2,525	38.4%	4,420	510	11.5%	3,215	475	14.8%	2,480
Portugal	105	70	66.7%	95	50	52.6%	130	55	42.3%	115	65	56.5%	230
Romania	675	110	16.3%	540	115	21.3%	425	70	16.5%	1,080	75	6.9%	1,625
Slovenia	160	5	3.1%	130	20	15.4%	115	25	21.7%	215	20	9.3%	220
Slovakia	370	90	24.3%	320	180	56.3%	295	90	30.5%	215	115	53.5%	440
Finland	1,675	655	39.1%	2,960	960	32.4%	4,880	1,595	32.7%	2,645	1,065	40.3%	3,110
Sweden	29,545	7,845	26.6%	23,985	7,095	29.6%	27,715	8,510	30.7%	26,760	8,805	32.9%	31,570
United Kingdom	23,795	7,090	29.8%	31,100	8,395	27.0%	26,690	6,490	24.3%	22,970	7,240	31.5%	22,045

Source: Eurostat [migr\_asydcfsta], extracted on 28 March, 2017

## Appendix B: Data Tables

2012	2012	2013	2013	2013	2014	2014	2014	2015	2015	2015	2016	2016	2016
Total positive	%	Total	Total positive	%									
91,025	31.5%	323,980	107,625	33.2%	367,435	167,395	45.6%	593,140	307,515	51.8%	1,106,850	673,070	60.8%
5,555	22.5%	21,505	6,280	29.2%	20,410	8,055	39.5%	19,455	10,475	53.8%	25,010	15,050	60.2%
170	26.6%	2,810	2,460	87.5%	7,435	7,000	94.1%	6,175	5,595	90.6%	3,045	1,350	44.3%
175	23.8%	920	345	37.5%	1,005	375	37.3%	1,340	460	34.3%	1,305	435	33.3%
1,700	36.2%	7,010	2,810	40.1%	8,090	5,480	67.7%	12,255	9,920	80.9%	10,430	7,125	68.3%
17,140	29.2%	76,360	20,125	26.4%	97,415	40,560	41.6%	249,350	140,915	56.5%	631,180	433,910	68.7%
10	18.2%	55	10	18.2%	55	20	36.4%	180	80	44.4%	190	130	68.4%
100	10.6%	840	150	17.9%	1,060	400	37.7%	1,000	330	33.0%	2,130	485	22.8%
95	0.8%	13,080	500	3.8%	13,310	1,970	14.8%	9,640	4,030	41.8%	11,455	2,715	23.7%
525	20.2%	2,380	535	22.5%	3,620	1,585	43.8%	3,245	1,020	31.4%	10,255	6,855	66.8%
8,645	14.4%	61,715	10,705	17.3%	68,500	14,815	21.6%	77,910	20,630	26.5%	87,775	29,140	33.2%
20	14.3%	185	25	13.5%	235	25	10.6%	190	40	21.1%	285	100	35.1%
22,030	80.7%	23,565	14,390	61.1%	35,180	20,580	58.5%	71,345	29,615	41.5%	89,875	35,405	39.4%
105	7.9%	800	165	20.6%	1,305	995	76.2%	2,065	1,585	76.8%	1,975	1,300	65.8%
25	17.2%	95	25	26.3%	95	25	26.3%	170	20	11.8%	260	135	51.9%
55	14.1%	175	55	31.4%	185	70	37.8%	180	85	47.2%	280	195	69.6%
40	2.4%	1,250	130	10.4%	885	120	13.6%	775	185	23.9%	1,255	765	61.0%
350	31.8%	4,545	360	7.9%	5,445	510	9.4%	3,420	505	14.8%	5,105	430	8.4%
1,435	90.3%	1,905	1,605	84.3%	1,735	1,260	72.6%	1,490	1,250	83.9%	1,435	1,190	82.9%
5,505	40.3%	12,215	5,970	48.9%	18,810	12,550	66.7%	20,465	16,450	80.4%	28,875	20,810	72.1%
4,460	28.0%	16,640	4,920	29.6%	9,405	7,175	76.3%	21,100	15,045	71.3%	42,415	30,370	71.6%
520	21.0%	2,895	685	23.7%	2,700	720	26.7%	3,510	640	18.2%	2,495	305	12.2%
100	43.5%	305	135	44.3%	230	110	47.8%	370	195	52.7%	595	320	53.8%
230	14.2%	1,435	915	63.8%	1,585	740	46.7%	1,320	480	36.4%	1,295	805	62.2%
35	15.9%	195	35	17.9%	95	45	47.4%	130	45	34.6%	265	170	64.2%
190	43.2%	190	70	36.8%	280	170	60.7%	130	80	61.5%	270	225	83.3%
1,555	50.0%	3,220	1,650	51.2%	2,345	1,270	54.2%	2,960	1,680	56.8%	20,765	7,070	34.0%
12,400	39.3%	45,120	24,020	53.2%	40,015	30,650	76.6%	44,695	32,215	72.1%	95,605	66,345	69.4%
7,850	35.6%	22,570	8,550	37.9%	26,005	10,125	38.9%	38,265	13,955	36.5%	31,020	9,935	32.0%

**Table J: Positive first-instance decisions on asylum applications: Absolute numbers and protection rates, Kosovo**

	2008	2008	2008	2009	2009	2009	2010	2010	2010	2011	2011	2011
	Total	Total pos	%	Total	Total pos	%	Total	Total pos	%	Total	Total pos	%
European Union (28 countries)	590	85	14.4%	8,670	625	7.2%	10,220	570	5.6%	10,335	620	6.0%
Belgium	0	0		1,065	115	10.8%	1,820	140	7.7%	2,760	240	8.7%
Bulgaria	0	0		0	0		0	0		0	0	
Czech Republic	0	0		20	5		10	0		0	0	
Denmark	0	0		70	15	21.4%	150	35	23.3%	140	25	17.9%
Germany	15	15		1,355	75	5.5%	2,255	90	4.0%	1,850	50	2.7%
Estonia	0	0		0	0		0	0		0	0	
Ireland	0	0		30	0		15	0		10	0	
Greece	0	0		0	0		0	0		0	0	
Spain	0	0		0	0		0	0		0	0	
France	0	0		2,460	110	4.5%	3,480	105	3.0%	3,395	100	2.9%
Croatia	:	:		:	:		:	:		:	:	
Italy	0	0		255	75	29.4%	335	80	23.9%	220	95	43.2%
Cyprus	0	0		0	0		0	0		0	0	
Latvia	0	0		0	0		0	0		0	0	
Lithuania	0	0		0	0		0	0		0	0	
Luxembourg	0	0		165	5	3.0%	90	5	5.6%	90	5	5.6%
Hungary	0	0		650	0	0.0%	85	0	0.0%	135	0	0.0%
Malta	0	0		0	0		0	0		0	0	
Netherlands	0	0		25	5		55	0	0.0%	35	0	
Austria	565	60	10.6%	1,115	80	7.2%	665	70	10.5%	365	35	9.6%
Poland	0	0		0	0		0	0		0	0	
Portugal	0	0		0	0		0	0		0	0	
Romania	0	0		0	0		0	0		0	0	
Slovenia	0	0		25	10		25	0		20	0	
Slovakia	0	0		0	0		0	0		0	0	
Finland	0	0		85	10	11.8%	215	15	7.0%	85	5	5.9%
Sweden	0	0		1,300	105	8.1%	975	35	3.6%	1,200	50	4.2%
United Kingdom	10	10		45	15		40	5		20	10	

Source: Eurostat [migr\_asycdfsta], extracted on 28 March, 2017

Appendix B: Data Tables



2012	2012	2012	2013	2013	2013	2014	2014	2014	2015	2015	2015	2016	2016	2016
Total	Total pos	%	Total	Total pos	%	Total	Total pos	%	Total	Total pos	%	Total	Total pos	%
7,980	510	6.4%	11,245	435	3.9%	13,615	865	6.4%	37,620	880	2.3%	23,290	1,205	5.2%
1,240	95	7.7%	535	30	5.6%	550	55	10.0%	650	45	6.9%	275	25	9.1%
0	0		0	0		0	0		0	0		0	0	
10	0		15	0		10	0		20	0		5	0	
135	10	7.4%	80	0	0.0%	100	15	15.0%	125	0	0.0%	50	0	0.0%
2,655	55	2.1%	2,860	35	1.2%	2,320	40	1.7%	27,370	130	0.5%	16,605	145	0.9%
0	0		0	0		5	5		0	0		0	0	
5	0		0	0		5	0		5	0		15	0	
0	0		5	0		0	0		0	0		0	0	
0	0		0	0		0	0		0	0		0	0	
2,500	210	8.4%	4,415	205	4.6%	5,510	530	9.6%	4,775	530	11.1%	4,755	795	16.7%
0	0		0	0		5	0		10	0		0	0	
85	45	52.9%	110	60	54.5%	110	55	50.0%	135	55	40.7%	300	135	45.0%
0	0		0	0		0	0		0	0		0	0	
0	0		0	0		0	0		0	0		0	0	
0	0		0	0		0	0		0	0		0	0	
175	0	0.0%	230	5	2.2%	100	5	5.0%	150	5	3.3%	125	0	0.0%
45	5		1,010	0	0.0%	3,575	10	0.3%	1,220	0	0.0%	25	0	
0	0		0	0		0	0		0	0		0	0	
25	0		45	0		40	0		55	0	0.0%	205	0	0.0%
265	35	13.2%	775	30	3.9%	470	35	7.4%	1,540	60	3.9%	410	65	15.9%
0	0		0	0		0	0		0	0		0	0	
0	0		0	0		0	0		0	0		0	0	
0	0		0	0		0	0		0	0		0	0	
20	0		15	0		5	0		25	0		5	0	
0	0		0	0		0	0		0	0		0	0	
75	10	13.3%	85	35	41.2%	105	45	42.9%	105	0	0.0%	55	5	9.1%
725	40	5.5%	1,050	30	2.9%	655	65	9.9%	1,385	55	4.0%	450	35	7.8%
15	5		20	5		55	5	9.1%	45	0		10	0	

**Table K: Positive first-instance decisions on asylum applications: Absolute numbers and protection rates, Pakistan**

	2008	2008	2008	2009	2009	2009	2010	2010	2010	2011	2011
	Total	Total pos	%	Total	Total pos	%	Total	Total pos	%	Total	Total pos
European Union (28 countries)	14,965	430	2.9%	8,355	615	7.4%	6,380	685	10.7%	11,395	1,390
Belgium	140	10	7.1%	180	5	2.8%	145	5	3.4%	195	5
Bulgaria	0	0		0	0		0	0		10	0
Czech Republic	10	5		0	0		5	0		5	0
Denmark	5	0		10	0		15	0		20	0
Germany	235	15	6.4%	310	50	16.1%	800	70	8.8%	1,100	160
Estonia	0	0		0	0		0	0		0	0
Ireland	210	15	7.1%	300	10	3.3%	170	0	0.0%	205	15
Greece	11,415	0	0.0%	3,080	0	0.0%	845	0	0.0%	2,635	5
Spain	25	5		65	10	15.4%	65	40	61.5%	50	10
France	365	20	5.5%	575	25	4.3%	540	15	2.8%	880	20
Croatia	:	:		:	:		:	:		:	:
Italy	630	130	20.6%	1,230	310	25.2%	720	280	38.9%	1,735	605
Cyprus	0	0		230	0	0.0%	105	0	0.0%	150	0
Latvia	0	0		0	0		0	0		0	0
Lithuania	0	0		5	0		0	0		0	0
Luxembourg	0	0		0	0		0	0		0	0
Hungary	45	5		15	5		20	0		45	0
Malta	0	0		0	0		15	5		45	30
Netherlands	40	0		45	10		75	20	26.7%	110	35
Austria	65	5	7.7%	125	5	4.0%	315	5	1.6%	795	10
Poland	20	0		20	0		20	0		10	0
Portugal	0	0		0	0		0	0		5	5
Romania	185	0	0.0%	50	0	0.0%	45	0		60	0
Slovenia	0	0		0	0		0	0		15	0
Slovakia	50	0	0.0%	50	15	30.0%	15	0		5	0
Finland	5	0		5	0		10	0		20	5
Sweden	60	15	25.0%	90	5	5.6%	90	5	5.6%	150	25
United Kingdom	1,455	200	13.7%	1,970	165	8.4%	2,360	230	9.7%	3,155	455

Source: Eurostat [migr\_asydcfsta], extracted on 28 March, 2017

## Appendix B: Data Tables

2011	2012	2012	2012	2013	2013	2013	2014	2014	2014	2015	2015	2015	2016	2016	2016
%	Total	Total pos	%												
12.2%	15,555	2,405	15.5%	18,345	3,300	18.0%	15,985	4,280	26.8%	18,905	4,995	26.4%	32,625	5,670	17.4%
2.6%	435	25	5.7%	900	50	5.6%	560	75	13.4%	385	80	20.8%	340	55	16.2%
	25	0		10	0		15	0		40	0		400	0	0.0%
	10	5		10	0		5	0		5	0		5	0	
	40	10		70	10	14.3%	50	5	10.0%	40	10		15	0	
14.5%	1,615	300	18.6%	2,305	810	35.1%	2,055	565	27.5%	1,140	195	17.1%	10,310	430	4.2%
	0	0		0	0		0	0		0	0		0	0	
7.3%	125	15	12.0%	85	10	11.8%	90	30	33.3%	155	15	9.7%	460	10	2.2%
0.2%	3,310	0	0.0%	4,295	15	0.3%	2,490	65	2.6%	1,545	35	2.3%	2,380	55	2.3%
20.0%	65	35	53.8%	100	65	65.0%	105	55	52.4%	115	60	52.2%	100	45	45.0%
2.3%	1,610	35	2.2%	1,870	90	4.8%	1,760	140	8.0%	2,680	165	6.2%	1,930	145	7.5%
	5	0		5	0		5	0		5	0		5	0	
34.9%	2,070	1,170	56.5%	2,435	1,135	46.6%	4,660	2,405	51.6%	7,920	3,495	44.1%	11,620	4,290	36.9%
0.0%	45	0		20	0		30	0		65	0	0.0%	125	0	0.0%
	0	0		0	0		0	0		0	0		20	0	
	0	0		0	0		5	0		0	0		0	0	
	0	0		0	0		0	0		0	0		0	0	
	145	10	6.9%	900	5	0.6%	140	5	3.6%	265	10	3.8%	545	10	1.8%
	20	0		5	0		10	5		5	0		5	0	
31.8%	145	65	44.8%	135	30	22.2%	155	40	25.8%	190	70	36.8%	110	35	31.8%
1.3%	1,665	25	1.5%	1,130	35	3.1%	160	35	21.9%	315	40	12.7%	850	35	4.1%
	20	0		15	5		15	5		10	0		10	0	
	5	0		5	5		20	15		20	5		35	20	
0.0%	140	0	0.0%	105	10	9.5%	40	10		30	0		100	0	0.0%
	5	0		20	0		0	0		0	0		20	0	
	0	0		5	0		5	0		0	0		10	0	
	5	0		30	5		15	5		20	10		55	20	36.4%
16.7%	175	40	22.9%	260	50	19.2%	175	55	31.4%	90	25	27.8%	410	70	17.1%
14.4%	3,870	660	17.1%	3,635	970	26.7%	3,425	770	22.5%	3,860	770	19.9%	2,760	440	15.9%

**Table L: Positive first-instance decisions on asylum applications: Absolute numbers and protection rates, Iraq**

	2008	2008	2008	2009	2009	2009	2010	2010	2010	2011	2011
	Total	Total pos	%	Total	Total pos	%	Total	Total pos	%	Total	Total pos
European Union (28 countries)	32,755	15,095	46.1%	24,355	11,700	48.0%	15,645	8,200	52.4%	13,945	7,535
Belgium	1,145	605	52.8%	1,180	605	51.3%	1,185	725	61.2%	1,500	1,145
Bulgaria	355	230	64.8%	295	200	67.8%	170	85	50.0%	310	125
Czech Republic	40	30		5	5		20	15		5	5
Denmark	250	155	62.0%	210	110	52.4%	120	50	41.7%	105	30
Germany	7,260	5,815	80.1%	8,850	5,750	65.0%	6,460	3,445	53.3%	5,200	2,875
Estonia	0	0		0	0		0	0		0	0
Ireland	245	110	44.9%	130	20	15.4%	20	0		25	0
Greece	3,990	10	0.3%	905	30	3.3%	145	15	10.3%	235	20
Spain	120	60	50.0%	45	35		10	5		15	10
France	340	280	82.4%	535	440	82.2%	335	250	74.6%	240	155
Croatia	:	:		:	:		:	:		:	:
Italy	485	425	87.6%	450	355	78.9%	365	295	80.8%	325	215
Cyprus	0	0		165	150	90.9%	280	245	87.5%	225	15
Latvia	0	0		0	0		0	0		0	0
Lithuania	0	0		0	0		0	0		0	0
Luxembourg	5	0		60	50	83.3%	50	15	30.0%	40	10
Hungary	80	55	68.8%	55	35	63.6%	20	10		25	5
Malta	5	0		5	0		5	0		0	0
Netherlands	3,325	2,225	66.9%	4,490	1,850	41.2%	2,255	1,225	54.3%	2,270	1,245
Austria	495	395	79.8%	375	285	76.0%	385	255	66.2%	390	295
Poland	30	30		30	25		15	10		25	25
Portugal	0	0		0	0		0	0		0	0
Romania	135	95	70.4%	95	80	84.2%	50	20	40.0%	40	25
Slovenia	0	0		0	0		5	0		5	0
Slovakia	45	35		15	10		5	5		5	0
Finland	420	235	56.0%	710	370	52.1%	1,030	580	56.3%	560	330
Sweden	12,340	3,830	31.0%	4,230	1,000	23.6%	1,785	785	44.0%	1,930	890
United Kingdom	1,645	470	28.6%	1,510	285	18.9%	925	170	18.4%	455	120

Source: Eurostat [migr\_asydcfsta], extracted on 28 March, 2017

## Appendix B: Data Tables

2011	2012	2012	2012	2013	2013	2013	2014	2014	2014	2015	2015	2015	2016	2016	2016
%	Total	Total pos	%	Total	Total pos	%	Total	Total pos	%	Total	Total pos	%	Total	Total pos	%
54.0%	11,245	6,040	53.7%	9,780	5,040	51.5%	10,785	7,595	70.4%	26,045	22,360	85.9%	100,775	63,980	63.5%
76.3%	1,245	305	24.5%	585	230	39.3%	1,180	815	69.1%	1,390	960	69.1%	5,600	3,290	58.8%
40.3%	245	65	26.5%	170	75	44.1%	205	90	43.9%	335	155	46.3%	475	75	15.8%
	5	5		15	15		15	10		20	15		175	150	85.7%
28.6%	100	10	10.0%	110	20	18.2%	115	15	13.0%	105	25	23.8%	480	60	12.5%
55.3%	4,470	2,780	62.2%	4,030	2,275	56.5%	3,885	3,390	87.3%	15,145	14,880	98.3%	62,750	48,150	76.7%
	0	0		0	0		0	0		0	0		25	25	
	15	10		15	10		55	45	81.8%	35	30		40	35	
8.5%	170	5	2.9%	240	20	8.3%	575	80	13.9%	170	110	64.7%	180	115	63.9%
	15	10		5	5		5	0		5	5		85	85	100.0%
64.6%	220	160	72.7%	140	100	71.4%	610	575	94.3%	2,785	2,740	98.4%	2,540	2,075	81.7%
	0	0		0	0		0	0		5	5		35	20	
66.2%	260	240	92.3%	625	455	72.8%	770	700	90.9%	655	585	89.3%	925	880	95.1%
6.7%	70	20	28.6%	30	15		30	25		35	35		55	40	72.7%
	0	0		0	0		0	0		10	0		65	30	46.2%
	5	5		0	0		0	0		20	20		15	5	
	50	20	40.0%	40	10		20	10		20	20		125	100	80.0%
	35	10		15	10		30	20		120	45	37.5%	555	70	12.6%
	5	0		5	0		5	5		5	5		15	15	
54.8%	1,885	1,205	63.9%	915	430	47.0%	775	325	41.9%	395	255	64.6%	2,035	980	48.2%
75.6%	445	335	75.3%	360	260	72.2%	330	315	95.5%	965	910	94.3%	3,235	2,605	80.5%
	5	0		5	5		25	25		50	50	100.0%	20	20	
	0	0		0	0		0	0		0	0		15	10	
62.5%	30	20		35	20		210	120	57.1%	215	60	27.9%	200	135	67.5%
	0	0		0	0		0	0		15	0		40	30	
	5	5		10	5		5	5		15	15		150	150	100.0%
58.9%	605	385	63.6%	930	640	68.8%	530	405	76.4%	715	605	84.6%	11,770	2,770	23.5%
46.1%	1,030	350	34.0%	1,160	330	28.4%	805	400	49.7%	1,410	515	36.5%	6,210	1,680	27.1%
26.4%	325	100	30.8%	345	110	31.9%	595	210	35.3%	1,405	310	22.1%	2,955	375	12.7%

**Table M: Positive first-instance decisions on asylum applications: Absolute numbers and protection rates, Afghanistan**

	2008	2008	2008	2009	2009	2009	2010	2010	2010	2011	2011	2011
	Total	Total pos	%									
European Union (28 countries)	10,810	3,985	36.9%	14,190	5,870	41.4%	18,225	8,115	44.5%	22,900	10,395	45.4%
Belgium	860	200	23.3%	1,245	285	22.9%	1,415	665	47.0%	1,530	820	53.6%
Bulgaria	45	20		45	30		25	10		50	25	50.0%
Czech Republic	30	0		10	10		5	5		15	15	
Denmark	115	60	52.2%	380	210	55.3%	1,075	475	44.2%	1,220	375	30.7%
Germany	375	180	48.0%	1,595	950	59.6%	4,970	2,195	44.2%	6,495	2,260	34.8%
Estonia	0	0		0	0		20	10		5	0	
Ireland	85	5	5.9%	85	10	11.8%	70	5	7.1%	70	10	14.3%
Greece	2,500	20	0.8%	1,600	20	1.3%	205	15	7.3%	320	35	10.9%
Spain	25	10		55	10	18.2%	45	20		35	20	
France	215	65	30.2%	360	135	37.5%	455	155	34.1%	490	185	37.8%
Croatia	:	:		:	:		:	:		:	:	
Italy	1,635	1,050	64.2%	775	695	89.7%	740	670	90.5%	1,230	860	69.9%
Cyprus	0	0		40	0		30	0		30	0	
Latvia	0	0		10	0		25	15		10	5	
Lithuania	0	0		5	5		15	10		15	10	
Luxembourg	10	5		0	0		5	0		10	0	
Hungary	80	60	75.0%	320	145	45.3%	370	125	33.8%	390	90	23.1%
Malta	0	0		0	0		0	0		0	0	
Netherlands	430	165	38.4%	1,000	285	28.5%	1,905	665	34.9%	2,510	1,055	42.0%
Austria	945	655	69.3%	1,765	875	49.6%	2,090	975	46.7%	2,595	1,415	54.5%
Poland	10	5		5	5		15	10		20	5	
Portugal	0	0		0	0		0	0		0	0	
Romania	0	0		25	15		50	25	50.0%	40	20	
Slovenia	0	0		5	5		10	0		25	0	
Slovakia	45	30		50	45	90.0%	60	40	66.7%	45	40	
Finland	70	45	64.3%	190	65	34.2%	390	165	42.3%	295	135	45.8%
Sweden	815	360	44.2%	1,120	635	56.7%	1,790	1,025	57.3%	3,815	2,555	67.0%
United Kingdom	2,515	1,045	41.6%	3,490	1,445	41.4%	2,440	830	34.0%	1,625	450	27.7%

Source: Eurostat [migr\_asydcfsta], extracted on 28 March, 2017

## Appendix B: Data Tables

2012	2012	2012	2013	2013	2013	2014	2014	2014	2015	2015	2015	2016	2016	2016
Total	Total pos	%	Total	Total pos	%									
21,655	10,130	46.8%	22,795	11,850	52.0%	19,410	12,570	64.8%	19,310	12,925	66.9%	102,940	58,425	56.8%
2,530	1,495	59.1%	2,570	1,435	55.8%	1,980	1,255	63.4%	1,470	985	67.0%	2,455	1,485	60.5%
45	15		45	5		110	25	22.7%	100	5	5.0%	605	10	1.7%
15	10		10	10		15	5		25	5		25	20	
615	170	27.6%	600	235	39.2%	335	110	32.8%	260	80	30.8%	975	255	26.2%
4,495	1,805	40.2%	5,995	2,935	49.0%	5,145	3,400	66.1%	3,900	2,840	72.8%	63,405	38,090	60.1%
0	0		0	0		0	0		10	0		5	5	
45	5		55	10	18.2%	60	50	83.3%	50	40	80.0%	85	40	47.1%
370	25	6.8%	930	100	10.8%	1,805	510	28.3%	625	345	55.2%	440	205	46.6%
40	35		30	25		45	30		55	50	90.9%	45	40	
605	275	45.5%	905	600	66.3%	735	610	83.0%	845	700	82.8%	4,545	3,750	82.5%
10	0		10	0		10	0		5	0		35	15	
1,025	960	93.7%	1,765	1,600	90.7%	2,515	2,400	95.4%	3,430	3,280	95.6%	4,125	4,000	97.0%
20	0		30	0		0	0		0	0		0	0	
5	0		20	0		0	0		10	5		30	10	
30	25		30	30		30	30		15	15		10	5	
10	5		40	20		0	0		0	0		15	10	
475	175	36.8%	280	85	30.4%	325	85	26.2%	455	85	18.7%	1,585	100	6.3%
0	0		0	0		0	0		0	0		0	0	
1,880	650	34.6%	1,350	615	45.6%	830	415	50.0%	685	360	52.6%	1,670	575	34.4%
3,575	1,255	35.1%	3,215	1,450	45.1%	1,535	1,385	90.2%	2,690	2,110	78.4%	7,035	3,870	55.0%
30	5		50	20	40.0%	50	35	70.0%	20	15		5	0	
0	0		5	5		0	0		0	0		5	5	
65	25	38.5%	65	10	15.4%	300	60	20.0%	105	15	14.3%	65	15	23.1%
50	10	20.0%	20	5		5	0		10	0		40	15	
85	40	47.1%	40	15		60	50	83.3%	5	0		10	10	
360	255	70.8%	300	200	66.7%	145	110	75.9%	155	105	67.7%	4,210	1,645	39.1%
4,190	2,535	60.5%	3,260	1,995	61.2%	1,970	1,460	74.1%	2,220	1,075	48.4%	9,165	3,420	37.3%
1,085	360	33.2%	1,190	445	37.4%	1,415	540	38.2%	2,170	790	36.4%	2,350	825	35.1%

**Table N: Positive first-instance decisions on asylum applications: Absolute numbers and protection rates, Syria**

	2008	2008	2008	2009	2009	2009	2010	2010	2010	2011	2011	2011	2012	2012
	Total	Total pos	%	Total	Total pos									
European Union (28 countries)	3,175	470	14.8%	3,795	590	15.5%	4,510	1,160	25.7%	3,675	1,675	45.6%	17,735	16,165
Belgium	325	85	26.2%	240	50	20.8%	285	100	35.1%	120	65	54.2%	630	595
Bulgaria	15	0		25	5		25	5		55	5	9.1%	85	55
Czech Republic	10	5		25	0		30	5		10	0		15	10
Denmark	65	55	84.6%	195	135	69.2%	595	345	58.0%	570	360	63.2%	795	680
Germany	575	115	20.0%	845	155	18.3%	1,995	375	18.8%	985	430	43.7%	7,755	7,465
Estonia	0	0		5	0		0	0		0	0		5	0
Ireland	10	0		5	0		0	0		5	0		20	15
Greece	1,090	0	0.0%	890	0	0.0%	100	0	0.0%	150	5	3.3%	150	0
Spain	125	15	12.0%	40	5		25	0		10	0		20	0
France	35	10		35	10		110	25	22.7%	55	40	72.7%	375	340
Croatia	:	:		:	:		:	:		:	:		10	10
Italy	30	25		90	65	72.2%	60	30	50.0%	125	65	52.0%	215	200
Cyprus	0	0		330	5	1.5%	210	15	7.1%	60	0	0.0%	30	5
Latvia	0	0		5	0		0	0		5	5		15	15
Lithuania	0	0		0	0		0	0		0	0		0	0
Luxembourg	0	0		0	0		0	0		10	0		5	5
Hungary	10	5		10	0		10	0		25	5		75	45
Malta	0	0		5	5		15	15		50	50	100.0%	115	115
Netherlands	70	10	14.3%	110	25	22.7%	140	45	32.1%	85	25	29.4%	630	585
Austria	150	50	33.3%	200	35	17.5%	255	60	23.5%	430	300	69.8%	810	740
Poland	0	0		10	0		0	0		0	0		5	5
Portugal	0	0		0	0		0	0		0	0		0	0
Romania	0	0		5	0		10	0		10	0		165	120
Slovenia	0	0		0	0		0	0		0	0		15	0
Slovakia	5	0		5	5		0	0		0	0		5	0
Finland	10	0		10	0		30	5		40	30		165	145
Sweden	530	60	11.3%	505	35	6.9%	415	90	21.7%	530	145	27.4%	4,470	4,090
United Kingdom	125	30	24.0%	200	50	25.0%	190	40	21.1%	355	150	42.3%	1,150	920

Source: Eurostat [migr\_asydcfsta], extracted on 28 March, 2017

## Appendix B: Data Tables

2012	2013	2013	2013	2014	2014	2014	2015	2015	2015	2016	2016	2016
%	Total	Total pos	%	Total	Total pos	%	Total	Total pos	%	Total	Total posns	%
91.1%	36,390	32,615	89.6%	72,250	68,655	95.0%	166,665	162,095	97.3%	405,685	398,110	98.1%
94.4%	1,620	1,535	94.8%	1,745	1,675	96.0%	3,750	3,670	97.9%	6,870	6,595	96.0%
64.7%	2,015	2,005	99.5%	6,420	6,405	99.8%	5,390	5,320	98.7%	1,280	1,210	94.5%
	115	105	91.3%	85	75	88.2%	150	130	86.7%	100	95	95.0%
85.5%	1,485	1,295	87.2%	4,130	3,985	96.5%	5,930	5,705	96.2%	5,400	5,250	97.2%
96.3%	9,200	8,700	94.6%	25,490	23,860	93.6%	103,845	101,415	97.7%	290,965	288,985	99.3%
	5	0		10	5		10	0		45	45	
	40	40		25	25		25	25		150	150	100.0%
0.0%	175	105	60.0%	980	590	60.2%	2,805	2,795	99.6%	3,000	1,660	55.3%
	160	150	93.8%	1,175	1,160	98.7%	710	655	92.3%	6,330	6,215	98.2%
90.7%	1,260	1,195	94.8%	2,040	1,950	95.6%	3,225	3,110	96.4%	5,420	5,275	97.3%
	10	10		5	0		0	0		45	35	
93.0%	780	395	50.6%	490	315	64.3%	580	330	56.9%	1,185	1,170	98.7%
	195	120	61.5%	930	930	100.0%	1,390	1,390	100.0%	1,095	1,095	100.0%
	15	15		20	20		15	15		70	70	100.0%
	10	10		0	0		5	5		140	140	100.0%
	20	10		45	40		85	80	94.1%	540	535	99.1%
60.0%	175	130	74.3%	260	180	69.2%	270	160	59.3%	1,000	95	9.5%
100.0%	270	270	100.0%	365	360	98.6%	275	270	98.2%	370	360	97.3%
92.9%	1,990	1,695	85.2%	5,950	5,440	91.4%	8,010	7,850	98.0%	13,295	12,895	97.0%
91.4%	1,120	935	83.5%	3,270	3,205	98.0%	7,985	7,940	99.4%	18,630	18,585	99.8%
	85	85	100.0%	130	130	100.0%	205	205	100.0%	45	45	
	15	15		5	0		5	0		60	60	100.0%
72.7%	870	785	90.2%	600	460	76.7%	565	335	59.3%	505	500	99.0%
	15	5		10	10		10	10		90	90	100.0%
	10	10		35	15		10	10		10	5	
87.9%	175	145	82.9%	115	100	87.0%	135	135	100.0%	1,065	1,065	100.0%
91.5%	12,875	11,390	88.5%	16,325	16,295	99.8%	18,905	18,470	97.7%	45,930	44,125	96.1%
80.0%	1,685	1,455	86.4%	1,610	1,425	88.5%	2,370	2,055	86.7%	2,050	1,765	86.1%

**Table O: Types of protection granted in 2016, Afghanistan**

	Total	Total positive	Geneva Convention	Geneva % of total pos
European Union (28 countries)	102,940	58,425	<b>20,095</b>	34.4%
Belgium	2,455	1,485	<b>655</b>	44.1%
Bulgaria	605	10	<b>0</b>	0.0%
Czech Republic	25	20	<b>5</b>	
Denmark	975	255	<b>45</b>	17.6%
Germany	63,405	38,090	<b>13,810</b>	36.3%
Estonia	5	5	<b>5</b>	
Ireland	85	40	<b>35</b>	87.5%
Greece	440	205	<b>110</b>	53.7%
Spain	45	40	<b>15</b>	
France	4,545	3,750	<b>915</b>	24.4%
Croatia	35	15	<b>15</b>	
Italy	4,125	4,000	<b>380</b>	9.5%
Cyprus	0	0	<b>0</b>	
Latvia	30	10	<b>5</b>	
Lithuania	10	5	<b>5</b>	
Luxembourg	15	10	<b>10</b>	
Hungary	1,585	100	<b>30</b>	30.0%
Malta	0	0	<b>0</b>	
Netherlands	1,670	575	<b>140</b>	24.3%
Austria	7,035	3,870	<b>1,515</b>	39.1%
Poland	5	0	<b>0</b>	
Portugal	5	5	<b>0</b>	
Romania	65	15	<b>15</b>	100.0%
Slovenia	40	15	<b>0</b>	
Slovakia	10	10	<b>0</b>	
Finland	4,210	1,645	<b>440</b>	26.7%
Sweden	9,165	3,420	<b>1,425</b>	41.7%
United Kingdom	2,350	825	<b>510</b>	61.8%

Source: Eurostat [migr\_asydcfsta], extracted on 21 April, 2017

Humanitarian	Hum % of total pos	Subsidiary protection	Subsidiary % of total pos	Temporary protection
20,780	35.6%	17,545	30.0%	0
:		830	55.9%	:
:		10	100.0%	:
0		15		:
25	9.8%	185	72.5%	:
18,440	48.4%	5,835	15.3%	:
0		0		:
:		5	12.5%	:
0	0.0%	95	46.3%	0
0		25		:
:		2,835	75.6%	:
0		0		:
40	1.0%	3,580	89.5%	:
0		0		:
:		5		:
0		0		0
:		5		:
0	0.0%	70	70.0%	0
0		0		0
100	17.4%	340	59.1%	:
15	0.4%	2,340	60.5%	0
0		0		0
:		0		:
0	0.0%	0	0.0%	:
:		10		:
5		5		:
730	44.4%	475	28.9%	:
1,120	32.7%	880	25.7%	:
305	37.0%	5	0.6%	:

**Table P: Types of protection granted in 2016, Syria**

	Total	Total positive	Geneva Convention	Geneva % of total pos
European Union (28 countries)	405,685	398,110	211,335	53.1%
Belgium	6,870	6,595	4,970	75.4%
Bulgaria	1,280	1,210	690	57.0%
Czech Republic	100	95	5	5.3%
Denmark	5,400	5,250	3,045	58.0%
Germany	290,965	288,985	166,520	57.6%
Estonia	45	45	20	
Ireland	150	150	150	100.0%
Greece	3,000	1,660	1,660	100.0%
Spain	6,330	6,215	55	0.9%
France	5,420	5,275	2,520	47.8%
Croatia	45	35	20	
Italy	1,185	1,170	1,100	94.0%
Cyprus	1,095	1,095	45	4.1%
Latvia	70	70	5	7.1%
Lithuania	140	140	135	96.4%
Luxembourg	540	535	535	100.0%
Hungary	1,000	95	10	10.5%
Malta	370	360	35	9.7%
Netherlands	13,295	12,895	6,735	52.2%
Austria	18,630	18,585	17,570	94.5%
Poland	45	45	40	
Portugal	60	60	30	50.0%
Romania	505	500	355	71.0%
Slovenia	90	90	70	77.8%
Slovakia	10	5	0	
Finland	1,065	1,065	745	70.0%
Sweden	45,930	44,125	2,520	5.7%
United Kingdom	2,050	1,765	1,750	99.2%

Source: Eurostat [migr\_asydcfsta], extracted on 21 April, 2017

Humanitarian	Hum % of total pos	Subsidiary protection	Subsidiary % of total pos	Temporary protection
990	0.2%	185,785	46.7%	0
:		1,625	24.6%	:
:		520	43.0%	:
0		90	94.7%	:
15	0.3%	2,190	41.7%	:
905	0.3%	121,560	42.1%	:
0		30		:
:		0	0.0%	:
0	0.0%	0	0.0%	0
0		6,160	99.1%	:
:		2,755	52.2%	:
0		15		:
5	0.4%	65	5.6%	:
0		1,050	95.9%	:
:		65	92.9%	:
0		5	3.6%	0
:		0	0.0%	:
0	0.0%	85	89.5%	0
0		325	90.3%	0
30	0.2%	6,130	47.5%	:
5	0.0%	1,010	5.4%	0
0		5		0
:		30	50.0%	:
0	0.0%	145	29.0%	:
:		20	22.2%	:
5		5		:
0	0.0%	315	29.6%	:
15	0.0%	41,590	94.3%	:
10	0.6%	5	0.3%	:

## List of previous publications

Rapport och Policy Brief 2014:1, *Radikala högerpartier och attityder till invandring i Europa*, av Mikael Hjerm och Andrea Bohman.

Rapport och Policy Brief 2015:1, *Internationell migration och remitteringar i Etiopien*, av Lisa Andersson.

Kunskapsöversikt 2015:2, *Politiska remitteringar*, av Emma Lundgren Jörum och Åsa Lundgren.

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Rapport och Policy Brief 2015:8, *Valet och Vägen: Syriska flyktingar i Sverige*, av Emma Jörum Lundgren.

Rapport och Policy Brief 2015:9, *Arbetskraftsinvandring efter 2008 års reform*, av Catharina Calleman (red.) och Petra Herzfeld Olsson (red.).

Kunskapsöversikt 2016:1, *Alla tiders migration!*, av Dick Harrison.

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Kunskapsöversikt 2016:7, *Invandring och företagande*, av Martin Klinthäll, Craig Mitchell, Tobias Schölin, Zoran Slavnić och Susanne Urban.

Rapport och Policy Brief 2016:8, *Invandringens effekter på Sveriges ekonomiska utveckling*, av Bo Malmberg, Thomas Wemark, Jani Turunen och Linn Axelsson.

Kunskapsöversikt 2017:1, *De invandringskritiska partiernas politiska inflytande i Europa*, av Maria Tyrberg och Carl Dahlström.

Kunskapsöversikt 2017:2, *Hatbrott med främlingsfientliga och rasistiska motiv* av Berit Wigerfelt och Anders S Wigerfelt.

Avhandlingsnytt 2017:3, *Vägen till arbete. Utrikes föddas möte med den svenska arbetsmarknaden*, André Asplund, Caroline Tovatt och Sara Thalberg (redaktörer).

Policy Brief 2016:4, *Integration och tillit – långsiktiga konsekvenser av den stora invandringen till Norge*. Denna Policy Brief sammanfattar NOU 2017:2 om ”*Integrasjon og tillit – Langsiktige konsekvenser av høy invandring*”.

Kunskapsöversikt: 2017:5, *Invandringens historia – från ”folkhemmet” till dagens Sverige* av Mikael Byström och Pär Frohnert.

Rapport och Policy Brief 2017:6, *Invandring i medierna – Hur rapporterade svenska tidningar åren 2010-2015?* av Jesper Strömbäck, Felicia Andersson och Evelina Nedlund.

Rapport och Policy Brief 2017:7, *Valdeltagande och representation – Om invandring och politisk integration i Sverige*. Pieter Bevelander och Mikael Spång (red.)

Rapport och Policy Brief 2017:8, *Responsibility Sharing for Refugees in the Middle East and North Africa: Perspectives from Policymakers, Stakeholders, Refugees and Internally Displaced Persons*. Susan F. Martin, Rochelle Davis, Grace Benton & Zoya Waliany

This Delmi report aims at examining and taking stock of the Common European Asylum System (CEAS). It asks what has been achieved and what has failed, focusing on two of the most pressing challenges: (1) the unequal distribution of asylum seekers across the EU Member States and the search for a more equitable sharing of responsibilities; and (2) the wide variations regarding Member States' decision-making practices on asylum applications and the need to achieve more harmonised recognition rates. The authors label these two aspects “solidarity” (regarding equitable responsibility-sharing) and “fairness” (regarding the approximation of asylum decisions).

The report is written from a European perspective and designed to be of relevance for all Member States, but a special focus is applied on Sweden. While Sweden has by far exceeded the quantitative responsibility for asylum seekers that it would have in relation to its population size and its economic power during the period 2008-2015, it suddenly underperformed in 2016 as the number of incoming asylum seekers plunged following the introduction of a number of restrictive measures.

The Migration Studies Delegation is an independent committee that initiates studies and supplies research results as a basis for future migration policy decisions and to contribute to public debate.



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