

## Reforming the Common European Asylum System

The migratory crisis in 2015-2016 put the European Union's Common European Asylum System (CEAS) under intense scrutiny and revealed its weaknesses. Despite the fact that the Member States have worked towards a common approach to asylum for almost 20 years, the Union still lacks a mechanism that ensures a balanced distribution of asylum seekers and a fair sharing of responsibilities among the 28 Member States. Neither is there any clear trend towards an approximation of national authorities' decision-making on asylum requests, which remains strikingly diverse. This Delmi-study by Bernd Parusel and Jan Schneider focuses on the way forward for asylum decision-making and responsibility-sharing in the European Union.

### **Towards sharing of asylum-related responsibilities in the EU?**

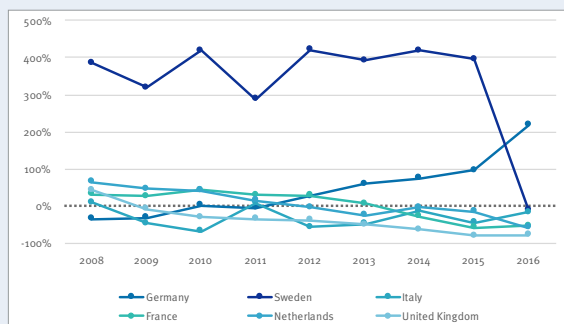
How to devise an equitable responsibility-sharing mechanism among the Member States for the intake of asylum seekers is one of the key challenges of the Common European Asylum System (CEAS). This Delmi-study focuses on the variations in dispersal effects of four different distribution keys, and on their appropriateness. Several allocation criteria, such as Member

States' population size, wealth (GDP), size of territory, unemployment rate or the number of asylum seekers accepted in previous years, are tested in calculation models. The discussion reveals that the design of multi-factor distribution keys bears some pitfalls and should therefore be kept simple and comprehensible.

If the *de facto* number of asylum seekers received in recent years by EU Member States is contrasted to hypothetical fair quotas, the results show that some

Member States have greatly “overperformed” with regard to the number of asylum seekers they have admitted, whereas others have remained far below a fair share. Most strikingly, Sweden, for much of the past decade, has taken in three or four times as many asylum seekers as would have been appropriate, considering its population size and economic power. For Germany, there is a strong upward deviation since 2013, while other states, like the UK, show a downward trend. This also indicates that the Dublin regulation and its “first country of arrival” criterion for the determination of the Member State responsible for processing an asylum application have perpetuated the imbalances regarding responsibility-sharing among the Member States.

**Figure 1. Deviation (in percent) of de facto asylum applications quota from hypothetical fair quota (based on Member States’ economic strength and population)**



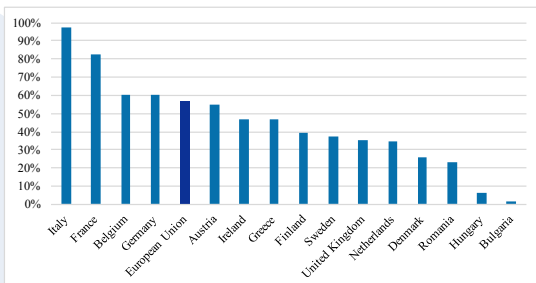
Source: Eurostat, own calculation

## Towards an approximation of Member States’ asylum decisions

Likewise, as regards the aim of the EU to achieve greater convergence regarding the Member States’ decision-making in asylum cases, progress has been very limited. While an overall trend towards higher protection rates can be identified over time, not least due to increased numbers of asylum seekers from war-ridden countries such as Syria, country of origin-specific asylum outcomes still vary greatly. The study compares national recognition rates for five relevant countries of origin (Syria, Afghanistan, Iraq, Pakistan and Kosovo). The cases of Afghanistan and Iraq are particularly illustrative: 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; for Afghanistan, protection rates oscillated between 1.7 percent and 97 percent.

In Sweden, the asylum decision-making practice has more or less been in line with the EU average, with some remarkable exceptions: Concerning Iraqi nationals, Sweden has been more restrictive than the EU as a whole over the entire period from 2008 to 2016. While Sweden had a comparatively generous approach towards asylum seekers from Afghanistan from 2008 to 2014, it was again stricter than the EU mainstream in 2015 and 2016.

**Figure 2. EU Member States first-instance protection rates (share of positive decisions among all decisions taken) for asylum seekers from Afghanistan, 2016**



Source: Eurostat, own calculations. Only Member States that took more than 50 decisions are included, for reliability reasons.

The study also finds wide differences between the Member States as regards the types of protection granted in those cases in which a positive decision is taken. In the case of Syrian asylum applicants in 2016, for example, Ireland, Greece, Italy, Lithuania, Luxembourg, Austria and the United Kingdom almost consistently granted refugee status. By contrast, the Czech Republic, Spain, Cyprus, Latvia, Hungary, Malta and Sweden almost exclusively granted subsidiary protection.

## Implications for the Common European Asylum System

Responsibility-sharing and harmonised asylum outcomes are key factors for the functioning of a

Common European Asylum System, not the least because they are closely interlinked. An approximation of asylum decisions is a precondition for a successful responsibility-sharing system, as it would be unfair to allocate an asylum seeker to a Member State where they would have very small chances 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.

Apart from responsibility-sharing and asylum outcomes, a truly Common European Asylum System also depends on greater harmonisation regarding reception arrangements for asylum seekers and procedural standards, a stronger role for the European Asylum Support Office (EASO), and cooperation with countries of origin and of transit.

The EU also has to address the long-standing 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. Resettlement and humanitarian admission programmes need to be expanded and more legal pathways to protection in Europe should be opened, the study suggests.

## Policy recommendations

On asylum decision-making, the study proposes an enhanced role for a future EU asylum agency, which could include a “fire brigade” function to identify, analyse and actively mitigate situations in which national asylum recognition rates for applicants from specific countries of origin differ too strongly, through adjustment measures. In the end, however, only a transfer of the power to decide on asylum applications from national authorities to an EU agency would safeguard coherent outcomes across the EU.

As regards responsibility-sharing, the study presents four ideal-typical future scenarios for policy-makers to contemplate and derive solutions from:

1. **“Status quo”**: The Dublin regulation remains the only system for responsibility allocation among the Member States;
2. **“Dublin plus”**: The Dublin regulation is contin-

ued, but complemented by a new, corrective allocation mechanism. This mechanism would prescribe that – once an EU Member State receives way more than equitable asylum applications – all others have to admit the surplus in accordance with fair quotas to be determined by a distribution key;

3. **“Fair quotas”**: A new quota-based allocation system would entirely replace the “first country of arrival” principle of the Dublin system;
4. **“Free choice”**: Asylum seekers would be entirely free to choose their country of destination.

Within these scenarios, a number of other aspects should also be considered, such as transition periods for “skeptical” Member States; options to move money instead of people by allowing Member States to (partly) ransom themselves; and controlling conditions regarding intra-EU freedom of movement rights for those asylum seekers who are granted protection.



Bernd Parusel & Jan Schneider, “Reforming the Common European Asylum System: Responsibility-sharing and the harmonisation of asylum outcomes”

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The whole report is available at [www.delmi.se](http://www.delmi.se)



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