

Chasing Efficiency

Can operational changes fix European asylum systems?

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Executive Summary

The heightened arrivals of asylum seekers and migrants on European shores in 2015–16 sent policymakers across the continent scrambling for new strategies to manage migration. Proposals to reform the European Union's legal framework for asylum were the first out of the starting blocks but, several years later, no such agreement has been reached. And with new EU leadership having taken office in late 2019, Brussels is hungry for fresh ideas that will either revive or reform the Common European Asylum System (CEAS). Crucial to this search will be a recognition that, while deficiencies still plague Europe's asylum systems, these systems have changed significantly since the onset of the migration and refugee crisis—even in the absence of legal reforms.

With new EU leadership having taken office in late 2019, Brussels is hungry for fresh ideas that will either revive or reform the Common European Asylum System.

The mounting pressure on asylum systems as arrivals rose in 2014 and 2015 left European countries, and especially those on the asylum seekers' travel routes, no other choice but to tackle deficiencies head on, from incomplete registration of newcomers to poor reception conditions and lengthy asylum procedures. These and other problems were neither new nor unknown to national and EU policymakers, but the institutional crises that followed the large-scale arrivals fostered change where multiple rounds of EU legal reforms and funding from the Asylum, Migration, and Integration Fund (AMIF) had struggled to do so. This sense of urgency was underpinned by recognition that fair and swift asylum procedures were needed not only to guarantee access to protection for those in need, but also to deter misuse of asylum systems and to maintain public and political support.

State and nonstate actors began to dissect asylum and return systems and find answers to persistent questions, including why reaching a final decision on certain asylum cases took so long and why certain rejected asylum seekers were so difficult to return to their countries of origin. A common conclusion was that these issues demanded not (solely) legal but often process-focused solutions. Across Europe, Member States tested new or revamped old ideas to improve the operation of their asylum systems as they register those seeking protection, offer them reception and material assistance, investigate their protection claims, and then, depending on the outcome of their cases, integrate or return them. This was a period of intense innovation, driven by necessity. The task now is to take what has been learned about practices that foster swift, high-quality asylum processes and explore how the European Union can best promote their application across the bloc.

A. Registration

When arrivals began to rise in 2014, registration services were among the first parts of asylum systems to crumble. Registration of asylum seekers was often haphazard, delayed, or—in some cases—completely absent. Asylum seekers slept in parks or at train stations until their appointment with the registration office, and delays in the submission of asylum claims at registration points hampered the work of asylum

authorities, leading to lengthy asylum procedures and contested decisions. The Dublin system for determining which Member State is responsible for reviewing an asylum claim ground to a halt. Since then, several EU countries, at times with assistance from the European Asylum Support Office (EASO), have revised registration systems in three particularly notable ways:

- **Recognising newcomers' intent to seek asylum before an official claim is filed and speeding up their access to services.** Registration officials recording the intent to seek international protection and issuing an official document to that effect has enabled newcomers in several Member States to swiftly access accommodation and other types of material assistance that their asylum seeker status entitles them to. Other registration tasks, such as lodging the actual asylum claim and checking which Member State is responsible for it, follow at a slightly later stage.
- **Setting up first-arrival centres to streamline registration and reception processes.** At these centres, registration, reception, and, at times, asylum authorities are co-located and work together. First-arrival centres often break with the traditional, linear approach of completing all registration tasks, then moving on to reception, and then to asylum processing. Instead, these centres have restructured their operations around what newly arrived asylum seekers and the authorities that work with them need in those first days or weeks.
- **Improving the quality of the data collected about new arrivals in the registration phase.** Gathering more complete information at this early stage about, among other things, an asylum seeker's identity, personal history, travel route, and reasons for fleeing enables asylum authorities to verify with greater speed and certainty whether the person is entitled to protection.

B. Reception

Some of these new registration practices have removed the administrative barriers that can prevent asylum seekers from accessing reception services. However, the number of reception places that authorities had available, as well as the mechanisms to swiftly increase them, proved sorely inadequate to accommodate the 2015–16 arrivals. Across Europe, *ad hoc* measures (e.g., tent camps, hotel rooms) were deployed to ease the pressure on reception systems, consuming considerable funds, time, and political capital. This crisis did, however, spur new, strategic insights into how to operate more stress-resilient reception systems:

- **A *de facto* rulebook has emerged on how to swiftly scale up and down reception capacity.** This hard-won expertise includes an improved understanding of what groundwork is needed to allow a system to respond to shifting arrival numbers, including by preparing (vacant government) buildings for future use and concluding agreements with neighbouring regional or local authorities on the potential use or sharing of spaces. But if reception staff across Europe are to access this accumulated, yet mostly informal, knowledge, evidence-based assessments of new and old measures and formal manuals are needed.
- **Cross-government task forces and multi-stakeholder support plans can help inject flexibility into reception systems.** The number of reception places available is not only a function of the inflow of asylum seekers but also of the rate at which beds open up again. Support for caseworkers in swiftly

processing asylum claims, local authorities in securing housing for recognised refugees, and third-country liaison officers in obtaining travel documents for rejected asylum seekers subject to return can all help ensure that capacity is freed up for new arrivals.

- **Closer monitoring of reception capacity is needed so it is known at all times how many places are available and how quickly these levels may rise or fall.** Doing so enables swift and strategic decision-making, yet few Member States check occupancy levels on a daily basis. Potential avenues forward include supporting national authorities in building monitoring and early warning systems and investing in EASO as it identifies common indicators of reception capacity and quality that Member States can use.
- **The missing piece is clarity on how to define and assess optimal reception capacity.** This includes how many beds a Member State should have available on a continuous basis (i.e., the baseline) and how quickly it should be able to increase this capacity (i.e., flexibility). Without such benchmarks, policymakers move on thin ground whenever they assess, support, or counter concerns that some Member States purposively keep the number of reception places low or ignore maltreatment in reception facilities to prevent asylum seekers from arriving or being returned to their territory via the Dublin system, or to avoid having to take a (fair) part in solidarity mechanisms.

C. *Asylum processing*

The swelling backlog of asylum applications that followed the large-scale arrivals of 2015–16 underscored the urgency of fair and swift asylum procedures. While already a cause for concern in earlier years, the approach of setting processing deadlines via EU legislation had failed to cut the backlog. Several national asylum authorities have shifted to a strategy of mapping their heterogeneous caseload, unravelling the mechanisms that were causing procedural delays, and testing tailored, process-focused solutions to each one. Next to increasing capacity (e.g., with extra caseworkers and training), authorities have:

While already a cause for concern in earlier years, the approach of setting processing deadlines via EU legislation had failed to cut the backlog.

- **Tailored the asylum procedure(s) to incoming asylum cases using a triage system.** At the registration phase, some asylum authorities began conducting an initial assessment and assigning cases to different tracks for processing. This has allowed for a speedy resolution of some cases but lengthened others that were given less priority. With such a system now employed in several Member States and others considering it, the model is ripe for evaluation and finetuning. Key considerations include the variety of tracks and the criteria to be used to assign cases to them (e.g., country of origin, the ease with which personal information can be verified); what procedural steps to include (e.g., whether to conduct a personal interview, what processing times are to be expected); and which staff to deploy. EASO could kickstart this work by supporting the evaluation of existing triage systems.
- **Co-located authorities and services involved in processing asylum cases under one roof.** Preliminary studies suggest that this institutional setup can cut processing times, especially for less

complex cases. The physical proximity of these actors renders operational disconnects (e.g., delays between appointments) more visible and tangible, while offering opportunities to test procedural changes that could address them (e.g., clustering the steps for each case, while reserving a preparatory period during which different stakeholders can gather and/or verify evidence). Trickier, however, is finding the right balance between maintaining the independence that the different authorities need to fulfil their mandates (e.g., legal advisors and caseworkers) and allowing co-location to naturally trigger (cross-service) adaptation and cooperation.

- **Conducted asylum procedures at border or disembarkation points.** Several governments have pushed for this in an attempt to deter asylum seekers from moving onwards from the border and to keep migrants from entering the territory without valid travel documents or grounds for protection. By offering rapid clarity to applicants on whether they can stay or not, such processes minimise the time they spend in limbo and facilitate the return of rejected asylum seekers. At present, there is insufficient evidence to support policymakers as they seek to decide which processing model(s) could serve these aims at external EU borders and for those rescued at sea; pilot testing different models could help them identify a way forward.

D. Return

Governments consider the return of rejected asylum seekers essential to preserving the legitimacy of their asylum systems. Across Europe, Member States have urged their migration and asylum authorities to fairly, yet swiftly, decide who merits protection and to then return those who do not. Frustrated with low return rates, Member States have renewed their attempts to set up readmission agreements with common origin countries, but also discerned untapped options within their asylum system, including:

- **Duly registering and verifying the identity of asylum applicants early on.** To establish asylum seekers' identity early, even in the registration phase, asylum authorities in some Member States have begun eliciting the support of other authorities (e.g., the police) and using new technologies (e.g., language detection software to suggest where, based on dialect, the applicant may be from). New tools could allow for a more light-touch approach to registration yet warrant further investment and testing to ensure the reliability and validity of the data produced and to establish (the limitations of) their use in asylum and return procedures.

- **Improving the speed and accuracy with which unfounded asylum claims are processed.** A short yet quality asylum procedure not only limits the time asylum seekers spend in limbo and associated harmful effects on their and their families' wellbeing, it also decreases the odds of the case stalling because the applicant cannot be identified or, for those rejected, because factors unrelated to protection prevent return (e.g., because they have formed a new family in Europe in the intervening time). To ensure that lengthy asylum procedures do not diminish the possibility of return, some governments have dedicated more staff to regular asylum case processing, set up processing centres, and experimented with system of triage and asylum tracks.

- **Notifying asylum seekers' whose protection claims are presumed unfounded of their return options.** Pilot initiatives in a few Member States indicate that return counsellors can speed up the

return of those without protection needs, if they are deemed knowledgeable and trustworthy by the migrants with whom they work. Laying the groundwork for potential return before the end of the asylum procedure can reduce the strain on public authorities and communities hosting migrants whose protection claims are rejected but who cannot be quickly returned to their countries of origin.

E. Joint approaches to managing mixed arrivals at EU entry points

Member State experiences with these and other approaches to improving asylum systems offer critical lessons learnt for policymakers assessing the viability of past, present, and future proposals of EU-wide measures. The European Union, together with coalitions of 'willing Member States', have launched several proposals for a joint EU solution to managing irregular entry at the bloc's (external) borders in an efficient manner that respects migrants' rights. While the name has shifted—from 'solidarity mechanisms' or 'controlled centres' to, most recently, 'temporary arrangements'—the key operational tasks such a mechanism would take on essentially remain the same: identification, registration, reception, asylum processing, and the return of those without protection needs.

A Joint EU mechanism

would likely need to take on…

1. Identification
2. Registration
3. Reception
4. Asylum processing
5. Return of rejected asylum seekers

Pilot projects, funded by the European Union and supported by its agencies (e.g., EASO, Frontex), would help translate insights gained at the national level into a better understanding of what may work in operational terms for such an EU joint initiative. This could, over time, pave the way for a more permanent mechanism, with this mechanism featuring as one of the key milestones of a strategic roadmap that EU policymakers could adopt to reform European asylum and migration systems. Such pilots should be diverse in terms of location (taking place in both external border and non-border regions), as well as the procedures and techniques they use to swiftly register and identify applicants, speed up the assessment of protection needs, secure a higher return rate, and determine the reception capacity needed to operate the programme. These pilots could also be a vehicle for working out the remaining 'wildcards' that Member States agreeing to host such a centre would have sign up to; these details, left undecided in official documents thus far, include a logic for deciding which Member State is responsible when an asylum case proves too complex to be resolved at the centre or when a rejected asylum seeker or migrant cannot be returned.

In sum, examining and adjusting the nuts and bolts of asylum systems across Europe are no longer the sole domain of lawmakers. Understanding the operational dimension, and how changes to it are reshaping these systems, has proven a vital task for all policymakers who aim to advance the goals of asylum policy and secure durable improvements. The era of using (purely) legislative reform to attempt to fix European asylum systems and preserve the integrity of protection regimes has come to an end; the future lies with policy-making approaches, such as a strategic roadmap, that mobilise the *full* set of tools available.

1 Introduction

Asylum systems in Europe came under enormous strain in 2015–16, when more than 2 million asylum seekers reached European shores,[1] many moving onward across the continent. Asylum and migration authorities across the European Union struggled to keep up with registering these new arrivals, finding reception places for them, and processing the swelling stack of asylum claims. The Berlin public authority responsible for registering such claims, the State Office of Health and Social Affairs (LaGeSo),[2] was a microcosm of these problems. At the height of the crisis, hundreds and sometimes thousands[3] of asylum seekers queued on its doorstep every morning, having slept outside overnight. The resulting chaos threatened personal security as frustrations grew. Women with small children, the elderly, and those with health problems were left vulnerable to abuse,[4] while others were able to game the system by registering twice to double their allowances.[5] LaGeSo staff scoured empty military barracks, schools, and other government buildings to find appropriate housing, but often found themselves pushed into expensive contracts with private providers due to administrative barriers. And an archaic case management system—registering asylum seekers on paper and then distributing them to caseworkers alphabetically—led to a situation where some officials were overwhelmed while others had little to do. By October 2015, the number of asylum cases pending for more than six months had grown to 139,933 across Germany,[6] mirroring the long waiting times that asylum seekers faced in many parts of Europe.

To relieve the immediate pressure, EU policymakers set up a redistribution system in July 2015 that would move newly arrived asylum seekers from frontline countries, Greece and Italy, and tabled proposals to reform the legal framework for protection in the European Union in the medium to long term.[7] These proposals aimed to revise harmonised standards for who is to be granted international protection and with what rights (Qualification Directive), how authorities are to investigate whether the grounds for protection are met (Asylum Procedures Directive), what support asylum seekers are to be given while awaiting decisions on their cases (Reception Conditions Directive), and which EU Member State is responsible for a

1 Eurostat, 'Asylum and First Time Asylum Applicants by Citizenship, Age and Sex. Annual Aggregated Data (Rounded) [migr_asyappctza]', updated 15 October 2019.
2 'LaGeSo' stands for the Landesamt für Gesundheit und Soziales.
3 In October 2015, media reports suggested that more than 2000 asylum seekers waited in front of LaGeSo every day. See Jens Schneider, 'Zehn Tage Schlange Stehen', *Süddeutsche Zeitung*, 8 October 2015.
4 The German media covered the knock-on effects of the bureaucratic breakdown at the LaGeSo, including the lack of security and medical attention to asylum seekers who had to register there. See, for example, Bodo Straub, 'Der Fall Mohamed - eine Chronik', *Der Tagesspiegel,* 30 October 2015; Sabine Beikler and Sylvia Vogt, 'Die Zustände vor dem Lageso sind lebensgefährlich', *Der Tagesspiegel*, 8 October 2015.
5 Keynote speech by Sebastian Muschter, Senior Vice President, Bertelsmann Stiftung and Former President (interim), LaGeSo, at Expert Workshop on Registration, organised by the Bertelsmann Stiftung and the Migration Policy Institute (MPI) Europe, Berlin, 27 February 2018.
6 German Bundestag, 'Ergänzende Informationen zur Asylstatistik für das dritte Quartal 2015 - Drucksache 18/6860' (response by the German federal government to a question from members of parliament, Berlin, 30 November 2015).
7 European Parliament, 'Legislative Train Schedule—Reform of the Common European Asylum System (CEAS)', updated 20 October 2019.

case and, if it is successful, for offering the applicant protection (Dublin III Regulation).[8] But with Member States unable to find consensus on how to share responsibility for migrants seeking protection within EU territory and unwilling to proceed with the reform of other parts of the asylum system, negotiations soon ground to a halt. Not a single asylum-related proposal was approved in the subsequent four years. Negotiations are slowly resuming with a new European Parliament and Commission having taken office following the May 2019 elections. However, enthusiasm among policymakers to reopen the Pandora's box of asylum reform is at an all-time low.

Yet, while reform efforts at the EU level have stalled, the 2015–19 period has seen extensive creativity and experimentation at the national level. Many EU Member States have overhauled large parts of, if not their entire, asylum systems. Four years after the peak of the crisis, Berlin, for example, is one of 22 German localities testing the 'arrival centre' model in which the entire asylum procedure—medical examinations, identity and security checks, registration, interviews and decisions, and even housing—takes place under one roof.[9] Such innovations, while seemingly incremental and localised, have in practice redefined how the asylum system is run in Berlin, and in Germany more broadly.[10]

While reform efforts at the EU level have stalled, the 2015–19 period has seen extensive creativity and experimentation at the national level.

These reforms have been driven by recognition among leaders that throwing more resources and staff at struggling agencies, where they will do more of the same, is not only time-consuming and costly, but also ineffective. The weaknesses lay deeper, in the very structure of asylum systems.[11] To effectively meet present and future challenges, agencies need to engage in end-to-end system redesign. Many innovative, smart solutions haven been introduced in the last five years, including pre-registration to swiftly register asylum seekers and grant them access to reception support, first arrival processes in which registration and reception authorities work alongside one another, and the triaging of asylum claims to speed up processing times.

This report unpacks these and other creative approaches EU policymakers and Member States have taken at each stage of the asylum process to improve the performance of national asylum systems and help them meet their obligations under EU law. It explores the challenges that gave rise to these solutions, the degree to which they have proven effective, and the policy tradeoffs that must be weighed when considering whether these approaches could be scaled up or rolled out in different contexts. After examining innovations in different stages of the asylum pathway—registration, reception, asylum processing, and, if

8 The most well-known element of the Dublin III Regulation is its focus on the first country of entry principle, which makes the Member State that allowed/facilitated an asylum seeker's entry into the European Union responsible for his/her application for protection. See '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)', *Official Journal of the European Union* 2013 L 180/31, 29 June 2013.

9 For more information on these centres, see German Federal Office for Migration and Refugees (BAMF), 'Arrival Centres and AnkER Facilities', updated 14 November 2019.

10 Many of these changes are discussed in Janne Grote, 'The Changing Influx of Asylum Seekers in 2014-2016: Responses in Germany' (working paper no. 79, German National Contact Point for the European Migration Network, BAMF, Nuremberg, 2018).

11 Hanne Beirens, *Cracked Foundation, Uncertain Future: Structural Weaknesses in the Common European Asylum System* (Brussels: MPI Europe, 2018).

applicable, return—the report investigates how the lessons learnt along the way may be deployed to assess present and future proposals for EU disembarkation and/or solidarity mechanisms.

The many instances of innovation and adaptation highlighted in this report provide a powerful antidote to the message that, in the absence of reforms to EU asylum law, the much-needed system changes identified during the 2015–16 crisis will not occur. On the contrary, it seems hard to imagine that asylum authorities in Member States affected by the crisis will return to the pre-2015 blueprint. The opportunity now is to distil these lessons from across Europe to further support the development of stress-resilient asylum systems, whether at the national or EU/international level.

2 Registration

Asylum seeker registration serves three distinct purposes. First, it bestows the official status of 'asylum seeker' on a person seeking protection. Without proof of official asylum seeker status, some service providers may be barred from working with the person (for instance, if homeless shelters are not entitled to offer beds to migrants without legal status in the country). Second, registration triggers the investigation into whether someone is entitled to international protection by recording personal details, reason for fleeing, and route of travel. Third, it activates the mechanism that determines which Member State is responsible for the applicant's asylum claim (i.e., the Dublin system).[12]

As the pace and scale of arrivals grew in 2015, registration was often haphazard, delayed, or in some cases did not take place at all. Many asylum seekers slept in parks or at train stations until their appointment with the registration office. The delayed submission of asylum claims at registration points hampered the work of asylum authorities, resulting in lengthy asylum procedures and contested decisions. The Dublin system ground to a halt. The pressing need to register all who cross external EU borders, and to do so swiftly and accurately, triggered conversations at the EU level about establishing hotspots[13] to perform this function and about expanding the mandate of the European Border and Coast Guard Agency (also known as Frontex) to strengthen national border management.[14]

Meanwhile, several Member States, including Belgium, France, Germany, and the Netherlands, revised their registration systems, with three particularly notable changes. First, these countries reorganised their processes, prioritising the tasks of officially recognising asylum seekers and speeding up their access to services; other registration functions, such as activating the asylum procedure and determining Member State responsibility, were to be carried out later (see Section 2.A). To streamline the registration and reception process for asylum seekers, Member States also experimented with the setup of first-arrival centres where registration, reception, and, at times, asylum authorities are co-housed and work together (Section 2.B). Furthermore, to enable asylum authorities to verify with greater speed and certainty whether

12 This mechanism is regulated via the Dublin III Regulation. See 'Regulation (EU) No 604/2013'.

13 For more information on hotspots, see Maria Margarita Mentzelopoulou and Katrien Luyten, 'Hotspots at EU External Borders: State of Play' (briefing, European Parliamentary Research Service, Brussels, June 2018).

14 In September 2018, the Commission proposed an updated mandate for the European Border and Coast Guard Agency (Frontex) that, after negotiations, was approved by the European Parliament in April 2019. The revisions include the creation of a new standing corps of 10,000 EU border guards with executive powers and their own equipment by 2027. See European Parliament, 'Legislative Train Schedule—Regulation on the European Border and Coast Guard', updated 20 October 2019.

a person is entitled to international protection and to facilitate the return of those who do not, these countries invested in boosting the quality of the data collected at the registration phase (Section 2.C).

A. *Two-stage registration processes*

Several EU Member States started pre-registering new arrivals to do away with the long queues at registration offices and the chaos that local authorities faced when newcomers were stuck in registration limbo. The practice of pre-registration sprung from migration authorities distilling what asylum seekers and service providers need to meet housing, food, clothing, and other basic needs, and then ensuring that a first visit to the registration office achieves this bare minimum. Several registration authorities, including those in Belgium, France, Germany, and Greece, subsequently shifted to registering a newcomer's *intent* to apply for asylum and issuing a document as proof (Step 1, pre-registration), leaving the more involved process of lodging an asylum *claim* to a later date (Step 2, full registration).

The move to two-step registration was sometimes *ad hoc* and localised, and sometimes orchestrated from the top down. For example, authorities in Belgium handed out letters to asylum seekers queuing at registration offices to inform them of the delays, when to come back, and where to access pre-registration emergency shelters.[15] However, this letter did not entitle asylum seekers to access regular reception facilities or other reception supports, such as clothing, as provided for in EU law.[16] Moreover, without a legal framework regulating these practices, there was minimal scope for legal recourse when, for instance, asylum seekers were denied access to emergency shelters. In Germany, by contrast, pre-registration was more formalised: the federal government developed an official arrival certificate (Ankunftsnachweis) that is recognised by all partner organisations, such as reception and emergency shelters.[17] Data recorded in the process of granting arrival certificates is shared in real time across Länder, reducing double registrations of asylum seekers and improving other aspects of the asylum system (e.g., monitoring reception capacity and use).

Pre-registration not only offers authorities some leeway in terms of when full registration is completed, but also where it is done, as illustrated in Greece. Between May and July 2016, mobile asylum units from the Greek Asylum Service visited informal refugee camps on the Greek mainland to offer temporary pre-registration services. These teams reached newcomers with limited knowledge of and access to the standard registration process—a large group, given that around 70 per cent of arrivals[18] did not enter the country at hotspots where such information and services were more readily available.

15 Access to emergency shelters was not made available at the same time as this launch of the pre-registration phase and, once available, it was often limited to the equivalent of a night shelter, where persons could arrive at 8pm and had to leave by 8am. See Chloé Serme-Morin and Sarah Coupechoux, *Fourth Overview of Housing Exclusion in Europe* (Brussels: Fondation Abbé Pierre and FEANTSA, 2019).

16 'Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 Laying Down Standards for the Reception of Applicants for International Protection (Recast)', *Official Journal of the European Union* 2013 L 180/96, 29 June 2013.

17 This document gradually took on other functions, such as granting access to (emergency or pre-registration) reception facilities, which in effect discontinued the use of another document, known as the 'certificate of having registered as an asylum seeker' (Bescheinigung über die Meldung als Asylsuchender).

18 This percentage refers to the share of non-hotspot arrivals in Greece between 1 January and 31 July 2016. See Aspasia Papadopoulou, *The Implementation of the Hotspots in Italy and Greece* (Brussels: European Council on Refugees and Exiles, 2016).

Whether pre-registration, an innovation forged by necessity, may improve asylum systems going forward warrants further research. The practices tested in Belgium, Germany, and Greece suggest this may offer particular value in cases of sudden or large-scale asylum inflows. Aside from unlocking newcomers' access to reception services, it offers immediate relief to overstretched registration authorities, which can then redirect staff capacity to other pressing priorities. More broadly, it prevents registration from creating bottlenecks and backlogs, which can become very visible symbols of a malfunctioning asylum system.

Aside from unlocking newcomers' access to reception services, it offers immediate relief to overstretched registration authorities.

The tradeoff is that a two-step registration process requires more financial and human resources than a one-stop process. Plus, it creates an additional administrative layer at the registration phase.[19] Thus, while pre-registration may happen more quickly, the entire registration process may take weeks or months (e.g., 42 days in Greece in 201820), as a result of which the overall asylum procedure may take even longer.21 For this reason, some Member States have argued against the proposed reform of the Asylum Procedures Directive, which would further embed this practice national processes.22 However, comparative analyses of Member State practices are warranted to answer other pressing questions, such as whether pre-registration is only cost-efficient during large or sudden inflows and, when applied, what extra staff are required for the process to operate smoothly.

B. Arrival centres

In an attempt to better align registration with reception services, some European countries, including France, Germany, Switzerland, and later Belgium, set up first-arrival centres. At the heart of this model lies the idea of placing all relevant registration and reception authorities under one roof, enabling asylum seekers to swiftly find and access them.

19 Participant comments during Expert Workshop on Registration, organised by the Bertelsmann Stiftung and MPI Europe, Berlin, 27–28 February 2018.

20 Greek Council for Refugees, 'Registration of the Asylum Application: Greece', Asylum Information Database (AIDA), accessed 14 October 2019.

21 See, for example, Swedish National Contact Point for the European Migration Network (EMN), *The Changing Influx of Asylum Seekers in 2014-2016: Member States' Responses – Country Report Sweden* (Norrköping, Sweden: Migrationsverket, 2018).

22 Proposed reforms go as far as defining the timeframe for Steps 1 and 2, the format of the pre-registration document, and the rights to which document holders are entitled. The 2016 proposal describes the difference between registration (Art. 27) and lodging the asylum application (Art. 28), stating that registration should occur promptly within three working days, extending to ten days in cases of a disproportionate number of new arrivals, upon which an official document should be issued certifying official registration (Art. 29). The proposal goes on to specify that the asylum application itself should be lodged within ten working days of registration, flexible to a month in periods of heightened arrivals. See European Parliament, 'Legislative Train Schedule—Reform of the CEAS'.

BOX 1
The first arrival process in France

In the French asylum system, 'guichet unique' ('one-stop shop') refers to a type of first-arrival centre launched in July 2015, and of which there are now 34. These centres are responsible for recording asylum applications and house both prefecture and French Office of Immigration and Integration (OFII) asylum caseworkers.

The following steps occur once a migrant arrives at a guichet unique to apply for asylum:

1. Prefecture asylum caseworkers fingerprint the applicant and, during a screening interview, decide if France is responsible for the asylum claim after the applicant's data and fingerprints are checked against the EURODAC database.
2. If an applicant is eligible to seek asylum in France,
   - → the prefecture records the applicant in the National Mechanism of Reception (Dispositif national d'accueil);
   - → an OFII caseworker conducts a vulnerability assessment and gives asylum seekers who report medical problems a 'health vulnerability' envelope with a medical certificate to be completed by a doctor;
   - → the OFII caseworker starts the administrative process through which the applicant will receive an asylum allowance; and
   - → applicants are given an asylum claim certificate that is equivalent to a temporary residence permit and is valid for one month; they are also given an asylum application form to be completed and signed by the French Office for the Protection of Refugees and Stateless Persons (OFPRA) within 21 days.
3. The asylum application is sent to OFPRA, which arranges for a substantive interview with the applicant that will take place at its headquarters and after which the office decides whether to grant international protection.

Sources: OFPRA, 'Demander l'asile en France', accessed 14 October 2019; France Terre Asile, 'Questions-réponses « Infos Migrants »', accessed 14 October 2019.

From an institutional perspective, first-arrival centres establish direct operational links between authorities without creating additional administrative layers (as is the case with, for example, two-step registration processes). In such facilities, appointments can be swiftly adjusted, and staff from different institutions can simply cross the corridor to ask for more information on, for example, a required document. This alignment between procedural steps not only renders authorities' operations more efficient but also reduces the overall waiting time for asylum seekers.[23]

These benefits are, however, lost when a lack of staff capacity or coordination within arrival centres results in overcrowding and prevents staff from distributing material assistance to those arriving or staying at

23 Participant comments during Expert Workshop on Registration; European Council on Refugees and Exiles (ECRE), 'The Length of Asylum Procedures in Europe' (policy brief, AIDA, Brussels, October 2016).

the centres. Moreover, the decision by some governments to make asylum seekers' stay in arrival centres obligatory has, especially in combination with lengthy asylum procedures, raised criticisms about *de facto* or *de jure* restriction on applicants' movement.[24]

C. Using registration to improve other parts of the asylum system

Registration has been traditionally regarded as activating the asylum procedure, in which the registration of a claim pushes the proverbial start button. The 2015–16 crisis, however, inspired several Member States to revisit whether registration data could also alleviate backlogs in asylum and return procedures.

With regard to the asylum procedure, for example, caseworkers may be able to more swiftly grant international protection to some asylum seekers who have their identity confirmed by police and security forces at the registration phase. In some cases, asylum authorities may even decide to prioritise more straightforward cases (e.g., those of applicants confirmed to be Syrians fleeing their country's civil war) or to forgo the personal interview to speed up the procedure (see Section 4). Another example concerns presumed Dublin cases, in which registration offices record that asylum seekers have taken travel routes that suggest they have passed through other EU Member States and thus should be transferred to those countries, in line with the first entry principle of the Dublin III Regulation. If registration authorities do not gather further information—such as an applicant's wish to join a brother or sister in the country where the asylum claim is filed—this may only come to the surface months later in the Dublin interview after an unnecessarily delay in the protection procedure.[25]

Further down the line, should the asylum authorities reject an application for protection and hand the case over to the return authorities, the work done during the registration phase to verify the applicant's identity affects the speed and ease of return. With identity documents, biometric data, and other corroborating evidence gathered at the registration phase, return authorities can go straight to the applicant's country of nationality, explain why they deem the person to be a citizen of that country, and request that the country prepare a laissez-passer or other necessary documents to facilitate the return (see Section 5).

There are, nonetheless, obstacles to collecting such data at the registration phase. Not only do asylum seekers sometimes lack identity documents or refuse to have their fingerprints taken, but registration authorities may also have to operate in small, crowded, and makeshift facilities or with few fingerprint machines available. Anecdotal evidence also suggests varied and fragmented awareness among registration officers of how the data they record affects applicants' chances of ultimately gaining protection and their broader trajectory in asylum and, if applicable, return procedures.[26]

Keen to improve the quality and speed of decision-making, several Member States and the European Asylum Support Office (EASO) have started to rethink what data registration authorities could usefully

24 Minos Mouzourakis, Kris Pollet, and Jean-David Ott, *The AnkER Centres: Implications for Asylum Procedures, Reception and Return* (Brussels: ECRE, 2019).

25 For a discussion of this kind of delay, see Sheila Maas et al., *Evaluation of the Dublin III Regulation* (Brussels: ICF International and DG Migration and Home Affairs, 2015).

26 Author conversations with Belgian officials at the Office of the Commissioner General for Refugees and Stateless Persons, Brussels, July 2019.

gather, how to boost accuracy, and how data are then fed into the asylum procedure. Staff exchanges between police departments, migration authorities, and caseworker agencies have improved understanding of why registration officers may not pick up or record certain details when lodging asylum claims, plus stimulated thinking on how to correct this in the future. In this regard, the decision by the Swedish Migration Agency (Migrationsverket) to move staff from the adjudication to the registration team at the height of arrivals in late 2015 improved collaboration between registration and asylum authorities. Similarly, the creation of a rotating staff pool in the German Federal Office for Migration and Refugees (BAMF), while initially an emergency measure, had the advantage of breaking down institutional siloes.[27] By 2017, 18 EU Member States were regularly involving police to assist caseworkers in establishing asylum applicants' identity. In Germany, for example, the Federal Criminal Police Office (BKA) and the German Federal Office of Administration (BVA) use forensic measures to establish identity and provide this information to asylum caseworkers.[28]

Staff exchanges between police departments, migration authorities, and caseworker agencies have improved understanding of why registration officers may not pick up or record certain details.

Member States have also experimented with the deployment of technological tools to improve the use of (more) registration data in the asylum process. Germany, for example, has begun to develop language biometrics in cooperation with university language centres to provide a first, automated estimate of where applicants are from based on their dialects, which is then fed into the interview stage of the asylum procedure.[29] To reduce the double registration of asylum seekers due to spelling discrepancies that arise when Arabic names are written in different ways using the Latin alphabet (whether intentionally or unintentionally), Germany introduced a new keyboard tool in September 2017 that transcribes Arabic in a standardised way.[30] Authorities at the federal, regional, and local levels can access the data produced by these IT systems through a centralised database that expands on Germany's Central Register of Foreigners (AZR). To help identify asylum seekers with damaged fingerprints in the EURODAC database, countries such as Sweden have deployed tools including facial recognition software and deep-tissue fingerprint scanning.[31] More broadly, the use of electronic fingerprint machines has enabled the Swedish Migration Agency to complete such checks (e.g., of registrants' data against EURODAC) within a short timeframe of 15 to 20 minutes.

Further work to test innovations and to spread the effective ones across EU Member States is needed. Such tools may provide caseworkers with more, and more trustworthy, information on applicants' identity, nationality, or social group affiliations, potentially speeding up decisions, but the data they produce are neither flawless nor likely to resolve complex cases. The margin of error of biometric tools, language

27 Interested employees are trained in at least two areas of the process, such as asylum, security, integration, and return, allowing for their smooth reassignment to those areas of the asylum system should they experience pressure.

28 For details on these country practices, see EMN, *Challenges and Practices for Establishing the Identity of Third-Country Nationals in Migration Procedures* (Brussels: DG Migration and Home Affairs, 2017).

29 For more information, see Anonymous, 'Automatic Speech Analysis Software Used to Verify Refugees' Dialects', Deutsche Welle, 17 March 2017.

30 Grote, 'The Changing Influx of Asylum Seekers in 2014-2016: Responses in Germany'.

31 Susan Fratzke, *Weathering Crisis, Forging Ahead: Swedish Asylum and Integration Policy* (Washington, DC: MPI, 2017).

detection software, and other piloted measures is still significant[32] requiring governments to think carefully about when, where, and why to deploy them. Establishing clear standards for the corroborating evidence required to validate data produced by each tool is a prerequisite (e.g., in Germany, the results of a language software test must be used in conjunction with assessments made by language experts and caseworkers[33]), as is procedural flexibility to incorporate information that registration tests or tools were unable to pick up.

Such tools may provide caseworkers with more, and more trustworthy, information ... but the data they produce are neither flawless nor likely to resolve complex cases.

In addition, assessing whether a person's situation merits international protection will always include a certain degree of subjective interpretation, which current technological tools cannot accommodate.[34] This is particularly true for complex cases where a combination of, for example, an asylum seeker's personal history (atypical sociopolitical profile), region of origin (not at the centre of a conflict but subjected to occasional violent attacks), and the available country of origin information (e.g., when certain facts are not corroborated to date) render a clear-cut decision difficult. In sum, an asylum system that uses the latest technological tools during registration, but is then overly reliant on the data they produce when deciding cases, is neither desirable nor feasible.

D. Registration and the Dublin system

In spite of this progress, the third function of registration—that is, tying responsibility for asylum claims and asylum seekers to a particular EU country—could end up reducing Member States' incentives to improve their registration systems. Assignment of responsibility hinges on asylum seekers' registration in EURODAC. Cooperation and co-location of authorities, such as at hotspots in the Member States along external EU borders or at first-arrival centres in other Member States, have proven successful in raising the EURODAC registration rate (i.e., the percentage of persons arriving who are registered) and speed.[35] With many Member States keen to detect and prevent secondary movement from the first EU country asylum seekers enter, and to ensure that country's government assumes responsibility for those asylum seekers, proper registration is of utmost importance.

32 European Union Agency for Fundamental Rights, 'Under Watchful Eyes – Biometrics, EU IT-Systems and Fundamental Rights', accessed 2 December 2019.

33 These experts listen to a recording of the applicant's oral statements provided during the personal interview, which cover information about his or her person, place of origin, family, and travel route. The use of expert analysis alongside language-assessment tools results in a more integrated assessment by triangulating the information produced in both steps to come to a decision about whether the information provided by the applicant about his or her identity, nationality, and region of origin is true. See Julian Tangermann, 'Documenting and Establishing Identity in the Migration Process Challenges and Practices in the German Context' (working paper 76, German National Contact Point for the EMN, Nuremberg, July 2017).

34 Computer programmes are already able to detect patterns in decision-making made by administrators and may be programmed to mimick their behaviour, but this does not guarantee that those decision-making patterns are valid.

35 Papadopoulou, *The Implementation of the Hotspots in Italy and Greece*.

Yet at a national level, the Dublin architecture is known to incentivise border guards and other law enforcement authorities to deter third-country nationals from entering their country's territory at external[36] or internal[37] EU borders, or to allow them to travel onwards to another Member State without registration. In particular, the Dublin system's use of the first country of entry principle to determine national responsibility for asylum cases[38] has limited the incentives to register asylum seekers rather than trying to push the burden onto another country. In the absence of a policy move to disentangle registration from the question of responsibility(-sharing), the progress made on registration in the wake of the 2015–16 crisis may remain limited.

3 Reception

Reception systems provide asylum seekers with initial housing, food, clothing, health care, education for children, and employment-related services. Decent reception conditions offer a dignified welcome to those fleeing persecution and reduce pressures on host communities by preventing homelessness and destitution.[39] Furthermore, with basic needs met and a period of rest after an often long and arduous journey, asylum seekers are in a better position to work with asylum authorities to establish why they should receive protection.[40] Adequate reception also reduces the likelihood of asylum seekers moving onto other destinations (i.e., secondary movement),[41] which increases the burden on neighbouring localities, countries, or regions.

Reception systems, alongside registration, were the first parts of European asylum systems to buckle under the weight of the large inflows that began in 2014. Authorities struggled to secure beds and school places for newcomers. Many asylum seekers ended up sleeping rough or in makeshift camps, and images of mothers bathing or feeding their children in unsanitary conditions went viral. While local communities and

36 Pushbacks refer to collective expulsions of migrants without any individual assessment of their protection needs—a practice that is prohibited in Article 4 of Protocol No. 4 to the European Convention on Human Rights. These practices risk refoulement, meaning that a person may be forcibly sent back to a country where he or she may face persecution or other forms of serious harm, as set out in Article 33 of the 1951 Refugee Convention. For information on pushbacks at EU external borders see, for example, Tineke Strik, *Pushback Policies and Practice in Council of Europe Member States* (Brussels: Council of Europe, 2019).

37 For information on pushbacks at EU internal borders see, for example, Forum réfugiés-Cosi, 'Access to the Territory and Push Backs: France', AIDA, accessed 28 August 2019.

38 Family unity and vulnerability (e.g., that of unaccompanied minors) are, by law, the primary criteria to establish responsibility for examining the asylum application. If not applicable, Dublin authorities investigate which Member State facilitated the asylum seeker's entry into the European Union (i.e., the first entry principle) via, for example, a visa or residence permit granted or fingerprints taken after the applicant crossed the border. An evaluation of the Dublin III Regulation found that this first entry principle is *de facto* dominant in the responsibility determination process. See 'Regulation (EU) No 604/2013'; Maas et al., *Evaluation of the Dublin III Regulation*.

39 The Reception Conditions Directive firmly places responsibility for the reception of asylum seekers with Member State public authorities. For more information on the material reception conditions to which asylum seekers are entitled, see 'Directive 2013/33/EU'.

40 With this purpose in mind, Dutch authorities grant asylum seekers a period of rest and preparation of at least six days after lodging their asylum claim, though some exceptions apply. See Dutch Council for Refugees, 'Country Report: Netherlands', AIDA, updated April 2019.

41 'Secondary movement' refers to the movement of migrants (both registered and unregistered) from the EU country in which they first arrive to another in the search of protection or permanent resettlement. According to a 2015 study, country-to-country differences in reception conditions, access to integration services, and social rights are the main factors behind the secondary migration of asylum seekers in Europe. See Jan-Paul Brekke and Grete Brochmann, 'Stuck in Transit: Secondary Migration of Asylum Seekers in Europe, National Differences, and the Dublin Regulation', *Journal of Refugee Studies* 28, no. 2 (2015): 145–162.

civil-society organisations sought to fill the void left by government authorities, offering food, clothing, and sometimes shelter, many asylum seekers were left to fend for themselves[42] and eventually chose to move on to other parts of the European Union. The Dublin system, which obliges asylum seekers to apply for protection in the first EU country they enter, was suspended, and many Member States (such as Austria, Belgium, France, Germany, the Netherlands, and Sweden) ended up assuming responsibility for those who had travelled onwards to, and through, their territory. Subsequent public outcry criticised governments for their inability to predict, prepare for, and respond to such large-scale movements—and more broadly, for their failure to prevent a humanitarian crisis from unfolding on EU soil.[43]

A first reaction in many Member States was to rapidly increase reception capacity (as will be discussed in Section 3.A). However, the crisis also made governments acutely aware that their reception systems sorely lacked resilience to migration shocks. As such, it provided the impetus for pilot projects and broader policy reforms aimed at improving reception conditions and the agility of reception services to respond to fluctuating arrival numbers (Sections 3.B–3.D).

A. Upscaling and downscaling reception capacity

At different points in the 2015–16 period, monthly arrivals reached 91,275 in Germany, 47,095 in Hungary, and 39,060 in Sweden.[44] The number of reception places required and the speed with which they had to be arranged was unprecedented.[45] On 22 October 2015, the Swedish Migration Agency raised considerably its forecast for the number of asylum seekers that were likely to arrive in the country by the end of the year, up from 74,000 to 140,000–190,000, and predicted a shortfall of 25,000–45,000 reception places. Anecdotes abound of the inventiveness with which reception authorities bought time, such as bus drivers told to 'just keep driving' through Sweden as the Migration Agency feverishly searched for beds for their asylum seeker passengers.[46] Other Member States and localities were also creative in finding housing. In Ghent, Belgium, for example, a





42 Some reports on the 2015–16 crisis have highlighted the increased risk of asylum seeking women and children being forced into prostitution. See, for example, Mary Honeyball, 'Report on the Situation of Women Refugees and Asylum Seekers in the EU (2015/2325[INI])' (report for the plenary sitting of the Committee on Women's Rights and Gender Equality, European Parliament, Brussels, February 2016).

43 Elizabeth Collett and Camille Le Coz, *After the Storm: Learning from the EU Response to the Migration Crisis* (Brussels: MPI Europe, 2018).

44 BAMF, 'Asylgeschäftsstatistik für den Monat Dezember 2015' (statistical update 124, BAMF, Nuremberg December 2015); BAMF, *Asylgeschäftsstatistik für den Monat Dezember 2016* (Nuremberg: BAMF, 2016).

45 The Local, 'Sweden Doubles Refugee Arrival Forecast for 2015', The Local, 22 October 2015.

46 Participant comments during Expert Workshop on Asylum Procedures, organised by the Bertelsmann Stiftung and MPI Europe and hosted by the Migration Studies Delegation (Delmi), Stockholm, 4 June 2018.

newly constructed floating facility on a pontoon ship in the harbour provided shelter to 430 asylum seekers between March 2016 and March 2017.[47]

Across Europe, the main strategies for meeting asylum seekers' reception needs included:

- **Setting up (provisional) reception facilities in vacant public buildings.** This included military barracks, schools, and disused government offices. Recognising that spikes in arrivals do not necessarily warrant the scaling up of permanent reception centres, the EU Reception Conditions Directive allows Member States to use temporary facilities that do not meet the standards for accommodation[48] (e.g., Italy's extraordinary centres, or Centri di Accoglienza Straordinaria, set up in 2016).
- **Erecting tents, containers, or other temporary constructions.** Facilities such as the pontoon ship in Ghent offered a basic form shelter to asylum seekers, and Member States often placed these in holiday parks or less densely populated city districts.49 For example, Duinrell Holiday Park in the Netherlands housed up to 900 asylum seekers during earlier reception facility shortages.[50]
- **Using hotel rooms or other private facilities.** Due to the high costs associated with such housing arrangements, governments (including in Belgium and Ireland) have generally only used them as a last resort, for example to avoid fines imposed by courts.[51] Staying in hotel rooms can also make it difficult for asylum seekers to access state services, which may operate out of traditional reception centres, and drives up the cost of living (e.g., because there are no cooking facilities).

Inventiveness also featured in the legal, administrative, and financial strategies that governments deployed to 'flex up' and 'flex down' their reception capacity:

- **Increasing the reception budget.** Some governments reallocated national or local funds, or requested support from EU funds, such as the Asylum, Migration, and Integration Fund (AMIF). Over the course of 2015–16, Member State national authorities implemented 17 AMIF emergency actions to expand asylum reception capacity, including by refurbishing and extending existing reception accommodation, increasing staffing at reception facilities, and creating temporary accommodation. The Swedish Migration Agency, for example, received 35 million euros in 2015 alone to increase reception capacity.[52]
- **Negotiating access to reception facilities across geographical or administrative borders.** In some Member States, such as Sweden, this was formalised in a distribution policy, while in others it was done through *ad hoc* measures. For example, in 2015, Slovakia agreed to house up to 500 asylum

47 City of Ghent, 'Reno-opvangcentrum van G4S Care zal asielzoekers herbergen tot maart 2017' (news release, 20 December 2016).
48 Art. 18(9) allows the Member State to derogate 'in duly justified circumstances' from the standards provided in the Reception Conditions Directive. See 'Directive 2013/33/EU'.
49 Maddy Savage, 'Refugees Refuse Beds at Swedish Holiday Park', The Local, 26 October 2015.
50 Amy Townsend, 'Duinrell Holiday Park to House Asylum Seekers over the Winter', The Hague Online, 7 November 2013.
51 EMN, *The Organisation of Reception Facilities in Belgium* (Brussels: European Commission, 2013).
52 Rachel Westerby, *Follow the Money II: Assessing the Use of EU Asylum, Migration and Integration Fund (AMIF) Funding at the National Level 2014-2018* (Brussels: UN High Commissioner for Refugees and ECRE, 2019); European Commission, 'Direct Award of Action Grants to Provide Emergency Assistance under the Asylum, Migration and Integration Fund', accessed 4 October 2019.

seekers from the overcrowded Austrian arrival centre in Traiskirchen, just south of Vienna, until the Austrian authorities had processed their applications for protection.[53]

- **Granting additional powers to those responsible for securing extra reception places.** For example, in October 2015, Austria passed the *Federal Constitutional Act Concerning the Accommodation and Allocation of Foreigners in Need of Aid and Protection*, which enabled the federal government to establish accommodation facilities even in provinces, districts, or municipalities that opposed the plans. In the same year, the head of Berlin's LaGeSo, who was responsible for the registration and accommodation of asylum seekers, was vested with significant decision-making powers to cope with the large inflows.[54]
- **Mobilising operational EASO support to improve reception conditions.** In Cyprus and Bulgaria, for example, EASO staff supported national asylum authorities with tasks such as early identification of people with special reception needs.[55]

Some Member States had already tested these types of reception measures during past, national crises.[56] As a result, they were better equipped to respond to the pressures of the 2015–16 period—both in terms of knowing what had worked (or failed) the last time and in their overall preparations. Indeed, having previously done the groundwork enabled some countries to do away with time delays and exorbitant costs and helped them to maintain decent reception conditions—to an extent. 'We did it again … but it squeaked and cracked',[57] in the words of one official, summing up the mood among many stakeholders, including staff of the Dutch ministries, reception agency, and local authorities involved in the 2015–16 reception efforts. All expressed a keen interest in drawing lessons to avoid a similar situation with the next surge in asylum seeker arrivals in the

Having previously done the groundwork enabled some countries to do away with time delays and exorbitant costs and helped them to maintain decent reception conditions.

53 After a lack of space in the Traiskirchen centre forced some 1,200 people to sleep rough, the use of empty spaces in a Slovak reception centre helped to lift the pressure on Viennese authorities to find or build extra spaces. Interior ministries from both countries agreed to move the asylum seekers gradually, but the agreement caused an outcry among residents of Gabcikovo, the Slovak town where they were to be temporarily housed. Although a referendum in the town saw nearly 97 per cent of voters oppose the plan, the plan went ahead as the Slovak Ministry of Interior considered the local referendum nonbinding. See Deutsche Welle, 'Slovakians Vote "No" to Taking in Austria's Homeless Asylum Seekers', Deutsche Welle, 3 August 2015; Michael Kegels, *Getting the Balance Right: Strengthening Asylum Reception Capacity at National and EU Levels* (Brussels: MPI Europe, 2016).

54 For example, this included greater powers to implement emergency reception measures with additional support from the newly launched National Staff Refugee Management (LKF) unit. For more information, see Sebastian Muschter, *Gestalten statt Verwalten! Lernen aus der LAGeSo-Krise* (Berlin: Ideen-mit-Wirkung.de, 2018); LaGeSo Berlin, *Jahresbericht 2016* (Berlin: LaGeSo, 2017).

55 For an overview of the operational support plans agreed between the European Asylum Support Office (EASO) and different EU Member States see EASO, 'Archive of Operations', accessed 11 September 2019. See also EASO, 'Types of Operations', accessed 11 September 2019.

56 Reception crises were already common in the pre-2014 period. A number of Member States received support from the European Refugee Fund (ERF) and, often, operational support from EASO to scale up reception facilities, including Belgium (2008–12), Bulgaria (2013–14), Cyprus (2004–05; 2007), France (2007–13), Hungary (2013), Greece (2006–08), Italy (2011), and Malta (2011). See Hanne Beirens, Sheila Maas, Salvatore Petronella, and Maurice van der Velden, *Study on the Temporary Protection Directive* (Brussels: ICF International, 2016).

57 Advisory Committee on Migration Affairs (ACVZ), *Pieken en dalen: Naar een duurzaam systeem voor opvang van asielzoekers en huisvesting en integratie van vergunninghouders* (The Hague: ACVZ, 2017).

Netherlands. The lessons they drew as to what the 'groundwork' should include echoed those identified in other parts of Europe:

- **Adopting governance and financial management rules for emergency situations.** This should include clear rules identifying who has executive powers, over which parts of the budget, and with what objectives. This clarifies responsibilities and provides those involved with a mandate for action.
- **Building in-house capacity related to accessing EU funds and operational support.** To respond to large or sudden shifts in inflows of asylum seekers, Member State reception agencies benefit from having staff members who understand which EU funds can be tapped for additional support, how to access them, and how to ensure funding is quickly channelled to on-the-ground actors.
- **Concluding agreements with neighbouring regional or local authorities.** Having agreements in place on the potential use or sharing of space (e.g., facilities or space use agreements) pre-empts often lengthy negotiations that are otherwise conducted in the midst of crisis.
- **Physically preparing emergency reception venues, such as military barracks, for use.** Ensuring that such locations have key features, such as electricity and WiFi internet, facilitates their immediate use when needed and reduces operational delays.
- **Setting standard operating procedures in advance.** These should include checklists and guidelines on relevant support measures to save time and forestall knee-jerk reactions that put speed over suitability during times of high influx.[58]
- **Investigating the legality of specific reception options in advance.** This avoids reception agencies having to negotiate legal challenges during a crisis and allows them to put approved plans into action immediately. It could also alleviate local tensions, such as those that arose in 2016 when Belgium and the Netherlands agreed to house some asylum seekers who had applied for protection in Belgium in vacant Dutch prison facilities.[59]
- **Maintaining buffer capacity.** Doing so gives the reception agency breathing space as new places are sought and helps to prevent the closing of last-minute, and often expensive, contracts with private providers.
- **Weaving these and other practices in a contingency plan.** EASO's guidelines[60] set out how Member States can do this to foster more well-rounded, comprehensive preparations to meet future pressures on the reception system.

58 Keynote speech by Michael Kegels, Director of Operations, the Belgian Federal Agency for the Reception of Asylum Seekers (Fedasil), at Expert Workshop on Reception, organised by the Bertelsmann Stiftung and MPI Europe and hosted by the Calouste Gulbenkian Foundation, Lisbon, 26–27 April 2018.

59 In 2016, the Netherlands allowed Belgium to rent some of its (vacant) prisons to temporarily turn them into centres for asylum seekers. The decision attracted criticism from Dutch neighbourhood associations, who pointed to the risks of housing asylum seekers from wartorn countries, such as Syria, in prison cells, given that many had been imprisoned before or during their flight. See Dan Bilefsky, 'Dutch Get Creative to Solve a Prison Problem: Too Many Empty Cells', *The New York Times*, 9 February 2017.

60 These EASO guidelines include some of the points mentioned in this bulleted list, including establishing standard operating procedures, negotiating procurement contracts, and investigating EU funds in advance. See EASO, 'EASO Guidance on Contingency Planning in the Context of Reception' (Practical Guides Series, EASO, Valletta, March 2018).

A *de facto* rulebook has emerged for reception agencies and their partners on how to swiftly scale up and down capacity in response to rising and falling arrival numbers. However, if reception staff in Europe and beyond are to access this accumulated, but mostly informal, knowledge and use it to make informed decisions about how to respond to the pressures their reception systems are experiencing, a process of describing, evaluating, and recording these measures (e.g., in manuals) will have to take place. National or EU projects funded via the European Commission, EASO, or EU financial instruments (e.g., AMIF) may offer the perfect vehicle for such stock-taking and shared-learning efforts.

B. Understanding other reception pressures

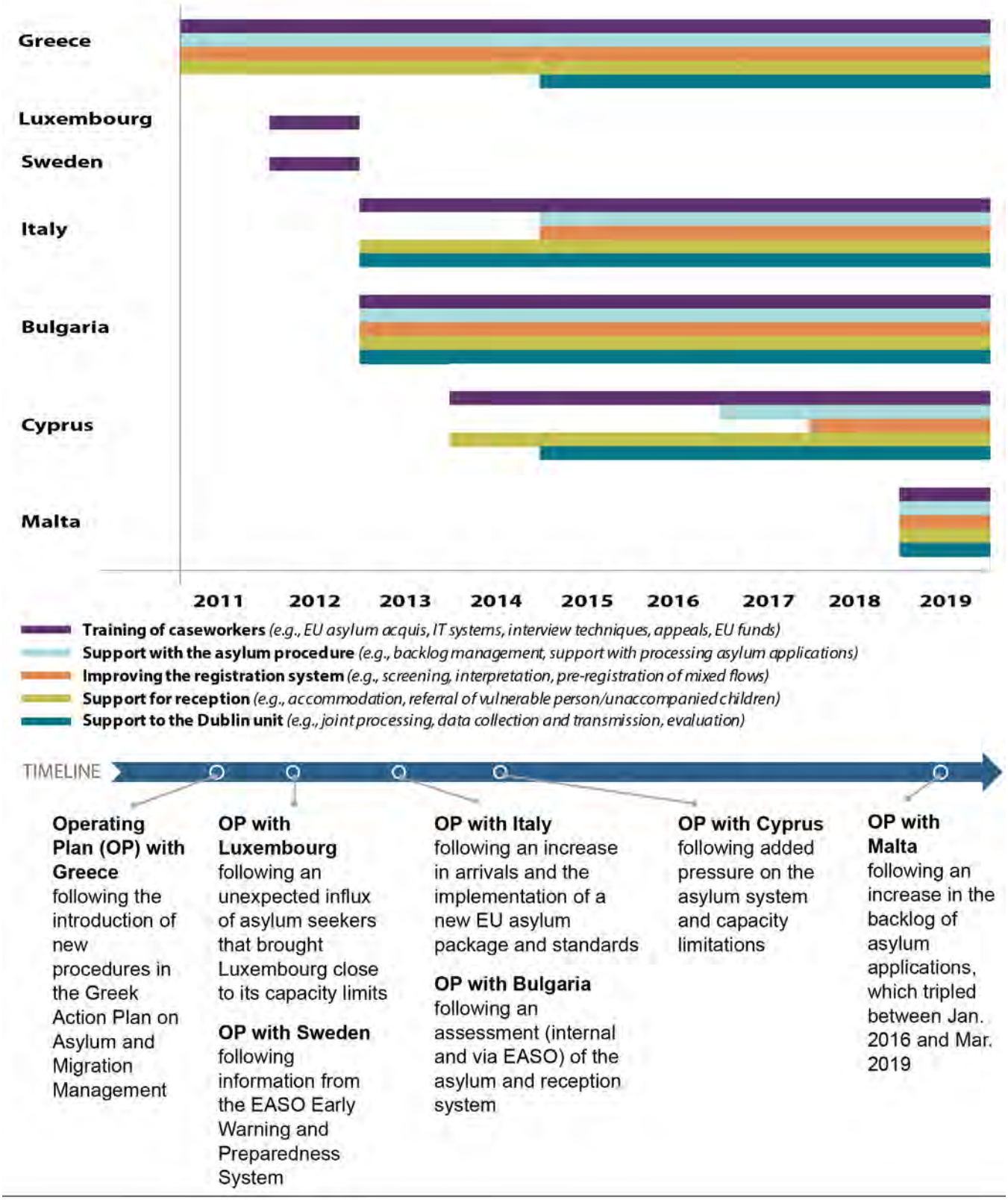
The availability of reception places is not only a function of how many and how quickly asylum seekers arrive in a country, but also of the speed with which they move on to more permanent living arrangements. For instance, in 2013, two-thirds of reception facilities in Norway were taken up by either rejected asylum seekers or refugees who could not yet move into municipal housing.[61] Alongside creating extra beds, it is then important to recruit additional caseworkers to speed up asylum processing,[62] mobilise the Ministry of Foreign Affairs to establish or implement a readmission agreement with the primary origin countries of rejected asylum seekers,[63] and urge local authorities to help recognised refugees quickly access other accommodations.

The 2015–16 crisis demonstrated how vital it is to connect the dots by designing strategies that tackle issues affecting multiple parts of asylum and migration systems (e.g., poor registration practices, limited reception spaces, and lengthy asylum procedures). This multipronged approach can be detected in the multiple forms of support built into the operating plans (OPs) that EASO developed and implemented in Bulgaria, Cyprus, Greece, Italy, Luxembourg, Malta, and Sweden (see Figure 1).[64]

61 Heidi Larsen, *The Organisation of Reception Facilities for Asylum Seekers in Norway* (Oslo: Norwegian Directorate of Immigration, Department for Regions, Reception, and Return, 2014).
62 This is further discussed in Section 4 on asylum processing.
63 This is further discussed in Section 5 on the return of rejected asylum seekers.
64 See EASO, 'Types of Operations'.

FIGURE 1

EASO operational support to Member States, 2011–19



Source: Author compilation based on European Asylum Support Office (EASO), 'Archive of Operations', accessed 24 September 2019.

For Member States that received support from EASO, this type of integrated strategy is now part of their collective memory and likely to shape their response to future pressures. Belgian administrative officials, for example, have concluded that speedier asylum procedures during the 2014–16 period could have cut the bill for providing reception services by 200 million euros.[65] For other Member States, EASO has developed a virtual manual of how to respond to a crisis and, more generally, how system administrators should continuously plan and review the performance of their reception and broader asylum systems.[66] These guidelines suggest the need for joined-up thinking across asylum authorities and their partners.[67]

Potential next steps could include extending this approach to 'normal' or non-emergency operations or periodically bringing in a team of asylum and migration experts to reflect on where and how to improve coordination between institutions. A more ambitious approach would be to move beyond making decisions based on the menu of measures that several EU Member States have tested and towards use of a more dynamic tool that could illustrate to decisionmakers how certain adjustments could yield different gains in time, resources, and other considerations. Such a system could help them make decisions on, for example, whether to invest in training for registration officers or in creating a system of asylum tracks or channels (see Section 4.A). Before it could be operationalised, such a tool would require solid, medium-term research, as well as a system-based analysis of how different parts of migration systems interact with and affect one another.

C. *Monitoring reception capacity*

The relentless pressure to secure reception places for new arrivals in 2015–16 not only motivated reception, asylum, and other authorities to cooperate, it also pinpointed the sore spots of such multipronged, interinstitutional coordination. Success is contingent on detecting bottlenecks swiftly and accurately (e.g., recognising that reception facilities for asylum seekers are quickly filling up because refugees cannot be moved to municipalities after having their claims accepted and rejected asylum seekers are not being returned to their origin countries). Effective cooperation also requires the relevant authorities to come together to decide how to resolve these bottlenecks.

The timely detection of bottlenecks requires a system to monitor reception capacity in real-time and send out early warnings at predefined thresholds (e.g., when 90 per cent of reception facilities are full). In 2014, less than half of EU Member States regularly monitored the degree to which reception facilities were in use

65 Participant comments during Expert Workshop on Reception. Similarly, in 2018, the Belgian State Secretary of Asylum and Migration estimated that a prolonged stay in reception facilities due to reception bottlenecks cost the government an extra 28 million euros. See Marjan Temmerman, 'Asielzoekers blijven langer in opvang en dat kost geld', VRT NWS, 9 April 2019.

66 As of 2014, 16 Member States had developed national or regional emergency plans for influxes of asylum seekers. EASO's reception guidelines aim to support these measures with concrete advice on designing and implementing three contingency planning phases (Phase I 'Prepare and Develop', Phase II 'Respond and Lead', and Phase III 'Review and Adjust'). During the 2018 EASO Consultative Forum, civil-society actors received instructions on how to apply these guidelines in practice. For more information, see EMN, *The Organisation of Reception Facilities for Asylum Seekers in Different Member States* (Brussels: European Commission, 2014); EASO, '8th EASO Consultative Forum Plenary Meeting', accessed 15 September 2019; EASO, 'EASO Guidance on Contingency Planning'.

67 For example, the guidelines note that asylum should be seen as an interlinked system, with a need to transcend the barriers between actors such as reception and case-determining authorities. See EASO, 'EASO Guidance on Contingency Planning'.

and/or the number of (registered) asylum seekers left without a roof above their heads.[68] Of those, only a handful checked the occupancy rate daily (e.g., Austria, Czechia, Finland, France, Italy, and Spain); others did so less frequently, on a weekly (e.g., Ireland) or monthly basis (e.g., the Netherlands). The number of Member States regularly producing estimates of future reception needs based on migration forecasts was even smaller,[69] severely hampering the ability of reception agencies across the bloc to duly prepare for and respond to rises and falls in arrivals.

These costs may be especially difficult to justify if there is little or no existing evidence of the medium-term political and operational gains that might be expected.

Setting up monitoring systems is slow and costly. Doing so involves identifying the relevant actors[70] and gaining their agreement on what the monitoring system will observe, who will gather and input data, and what types of analyses will be conducted when (e.g., monthly reports on different topics). The human and financial resources required for this initial setup can be off-putting to both policymakers looking for quick fixes to an ongoing reception crisis and to government agencies under pressure to quickly get asylum seekers off the streets. Moreover, these costs may be especially difficult to justify if there is little or no existing evidence of the medium-term political and operational gains that might be expected, such as savings on emergency housing or improving public perception of the government's ability to control asylum flows.

In recognition of these costs, the European Commission offered to provide practical support to help Member States fulfil their obligation to monitor reception conditions.[71] In 2016, the Commission proposed that EASO develop a set of indicators for monitoring reception systems' capacity and quality and that it advise and support Member States in this regard.[72] Work on the indicators is ongoing,[73] with Member States free to use this tool or not.

In response to the second challenge—the need to enable swift, yet strategic, decision-making on problems affecting reception and other parts of migration systems—cross-government committees and task forces were launched within or across the local, regional, national, and EU levels. The European Commission

68 These included Austria, Czechia, Cyprus, Finland, France, Ireland, Italy, the Netherlands, Spain, and Norway. Such a monitoring system can enable the identification of possible shortages (or excess capacity) and facilitate action at short notice. See EMN, *The Organisation of Reception Facilities for Asylum Seekers in Different Member States*.

69 Some countries (Belgium, Ireland, Lithuania, the Netherlands, Slovenia, Sweden, Norway, and United Kingdom, as of 2014) make use of projections or risk analyses to manage the (accommodation) capacity of their reception network in the medium and long term. For example, Norway has a forecast and coordination mechanism that makes projections four times a year on the basis of an analysis of current trends in the arrival of applicants in the European Union and Norway as well as of case processing, integration, and return capacities. These projections are then used as a basis for operational planning and budgeting by all affected agencies. See EMN, *The Organisation of Reception Facilities for Asylum Seekers in Different Member States*.

70 Statistical offices are key partners, as are reception agencies and their partners, local housing services, and the authorities responsible for registration, asylum processing, integration, and return.

71 As per Article 28 of the 2013 recast Reception Conditions Directive. See Directive '2013/33/EU'.

72 Article 27 of the proposed recast of the Reception Conditions Directive. See European Commission, 'Proposal for a Directive of the European Parliament and of the Council Laying Down Standards for the Reception of Applicants for International Protection (Recast)' (COM[2016] 465 final, 13 July 2016).

73 See EASO, 'EASO Guidance on Reception Conditions: Operational Standards and Indicators' (Practical Guide Series, EASO, Valletta, September 2016).

created the Task Force on Migration to support the political objectives set out in the 2015 European Agenda on Migration; Austria established an 'extended crisis board' comprising representatives of the Federal Ministries of the Interior and Defence, the provinces, fire fighters, and nongovernmental organisations (NGOs);[74] and several Belgian provinces and cities convened refugee task forces.[75]

While originally set up as temporary measures to identify and mitigate pressures on the asylum system, after which they would be discontinued, some have been turned into more permanent structures, as is the case for the Dutch committee convening state and municipality actors.[76] Because several Member States run reception facilities via or in cooperation with NGOs and civil-society or private actors, and depend on local authorities to identify available spaces for those granted international protection, convening regular meetings with all stakeholders involved is particularly useful. It can, for example, foster swift agreement on who will arrange suitable accommodation for particular vulnerable groups (e.g., unaccompanied children and youth)[77] or who will liaise with a municipality where public backlash is threatening the continued presence of asylum seekers there. However, holding such coordination meetings can be a time-consuming endeavour and therefore requires careful reflection as to their frequency and the issues included on meeting agendas.

D. The missing piece: Defining optimal reception capacity

The crisis spurred a variety of, often new, strategies to secure sufficient reception capacity by better using existing facilities and smartly increasing access to additional places when needed. The question Member States and the European Union were unable to solve—or attain any level of agreement on—is what constitutes sufficient reception capacity. How many beds should a Member State have available on a continuous basis (i.e., the baseline), and how quickly should it be able to increase this stock (i.e., flexibility[78])? Being able to define baseline capacity and the degree of flexibility needed is not only essential for running functional and cost-efficient reception systems, it is also crucial for any policy initiative that aims to spread responsibility for receiving newcomers evenly, or at least fairly, across a region.

74 EMN, 'Country Fact Sheet: Austria 2015' (fact sheet, European Commission, Brussels, 2016); Julia Ruiz, *The Changing Influx of Asylum Seekers in 2014–2016: Austria's Response* (Vienna: EMN and International Organization for Migration, 2018).

75 In Ghent, for example, the Refugee Task Forces comprised the Agency for Integration and Civic Integration, the Flemish Public Employment Service, civil-society actors under the Refugee Solidarity project, and the Federation of Enterprises in Belgium (FEB). Its activities include a job day to recruit social orientation teachers, programme counsellors, and language counsellors; supported the running of 363 shelter spaces; and the launch of an action plan for labour market integration. See EMN, *2016 Annual Report on Asylum and Migration Policy in Belgium* (Brussels: European Commission, 2017).

76 In 2015, the Dutch government created a temporary cooperation structure between the Central Agency for the Reception of Asylum Seekers (COA), the Association of Dutch Municipalities (VGN), and other social partners. As of 2016, the committee was still working despite a drop in asylum applications. See Government of Netherlands, 'Uitwerkingsakkoord Verhoogde Asielinstroom', accessed 13 January 2020; Parlementaire Monitor, 'Brief regering; Voortgang integratie en participatie verhoogde asielinstroom – Vreemdelingenbeleid', updated 27 October 2016.

77 In Sweden, for example, vulnerable groups (e.g., victims of torture and certain female applicants) could access special reception centres or facilities run by a local municipality or county council. See Swedish National Contact Point for the EMN, *The Organisation of Reception Facilities for Asylum Seekers in Sweden* (Norrköping, Sweden: Migrationsverket, 2013).

78 For example, in France increasing the housing stock to match rapid asylum-related growth in demand has proven a difficult task. In 2018, the Ministry of Interior reported in a note that, despite a twofold growth in the housing stock since 2012, the share of asylum seekers given accommodations had not increased accordingly. According to the French Office for the Protection of Refugees and Stateless Persons (OFPRA), asylum applications grew by 22.5 per cent in 2018. See Jean-Noël Escudié, 'L'Intérieur Fixe un Objectif de 5.500 Places d'Hébergement Supplémentaires Pour les Demandeurs d'Asile en 2019', Banque des Territoires, 14 January 2019; OFPRA, *Rapport d'Activité 2018* (Paris : OFPRA, 2018).

Without a benchmark for reception capacity, it is difficult for publics to understand and assess their governments' claims about public spending on asylum or reassurances that they have regained control over migration flows to their territory. Without such metrics, it is also easier for decisionmakers to dismiss warnings that asylum seekers are not being adequately received upon arrival, and potentially driving up costs if new beds have to be found at short notice. This has fostered nearly two decades of chronic underinvestment in reception systems across Europe, leaving them unable to respond to changing asylum inflows and often in need of 'emergency support'.[79] This partly explains why the several rounds of EU legal reforms since 2003 that have raised reception standards have not attained the desired reception outcomes.[80]

The lack of national or EU-wide benchmarks for optimal reception capacity also impedes the smooth running of a solidarity mechanism or other forms of (local, regional, or national) cooperation to spread reception efforts. For example, each solidarity mechanism set up by the European Union to deal with large inflows, whether *ad hoc* (e.g., relocation mechanism) or regulated (e.g., the Temporary Protection Directive), has been rooted in the practice of asking Member States to propose the number of persons they could receive.[81] It is no surprise that Member States such as Sweden and Germany, which generally run quality reception systems with high capacity, can offer more reception places than countries such as Latvia, where the average number of asylum applications each year remains below the 100 mark and reception capacity is comparably low.[82]

The lack of national or EU-wide benchmarks for optimal reception capacity also impedes the smooth running of a solidarity mechanism or other forms of (local, regional, or national) cooperation.

On each occasion, whether during the Balkan crisis in the 1990s or the 2015–16 EU refugee and migration crisis, this imbalance has stirred frustration among Member States and led to questions about the fairness of the Common European Asylum System (CEAS). More than the voluntary nature of the offers solicited, it was the absence of a tool comparing Member State efforts over time that created frustration and further eroded

79 An Organisation for Economic Cooperation and Development (OECD) briefing paper from January 2017 states that government spending for the reception of asylum seekers and refugees varies significantly across countries and even among governmental authorities within a single country. It continues that long-term investment needs are not catered to because governments are too focused on current spending, resulting in both over- and underinvestment. See OECD, 'Who Bears the Cost of Integrating Refugees?' (Migration Policy Debates no. 13, OECD Publishing, Paris, January 2017). The United Kingdom, for example, routinely underinvests in reception capacity and often hosts asylum seekers in unsuitable accommodation under private contracts with little oversight. See Frances Perraudin, 'UK Asylum Seekers Live in Squalid, Unsafe Slum Conditions', *The Guardian*, 27 October 2017.

80 EMN, *The Organisation of Reception Facilities for Asylum Seekers in Different Member States*; Martin Wagner and Paul Baumgartner, *The Implementation of the Common European Asylum System* (Brussels: European Commission, 2016).

81 This process is captured in Article 5 of the Temporary Protection Directive, which sets out the duration and implementation of temporary protection. Activating this procedure can be cumbersome and lengthy, meaning it is likely to fail in meeting immediate protection needs. For more information, see Beirens, Maas, Petronella, and van der Velden, *Study on the 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 of the European Communities* 2001 L 212/12, 7 August 2001.

82 Eurostat, 'Asylum and First Time Asylum Applicants by Citizenship, Age and Sex'.

mutual trust in other Member States' willingness to do their share.[83] Indeed, concerns that some Member States purposefully keep the number of reception places they have low or ignore reports of maltreatment in their reception facilities to prevent asylum seekers from first arriving or, later on, being returned to their territory via the Dublin system are now widespread.[84]

Both domestically and at the EU level, baseline and flexibility benchmarks for optimal reception capacity are thus required. Without them, the incentive to apply newly gained insights into how to run flexible yet cost-efficient reception systems may quickly wane and knowledge may be forgotten.

4 Processing Asylum Claims

An asylum procedure that swiftly gathers the information that caseworkers and appeal authorities need to decide a case constitutes the linchpin of any asylum system. The legitimacy of an international protection regime hinges on its ability to distinguish between applicants who are in need of protection and those who are not. Moreover, the delivery of clear, swift decisions benefits both applicants and host communities by allowing authorities to jumpstart integration supports for recognised refugees, to promptly return migrants deemed not to have a valid claim to protection, and to apply public resources efficiently and responsibly.

While already a cause for concern in the years preceding the 2015–16 influx in arrivals, the swelling backlog of asylum applications during that period underscored the urgency of fair and efficient asylum procedures. The Europe-wide count of third-country national asylum applications pending for more than six months (the EU benchmark for a first instance decision) fluctuated from 280,958 at the end of 2015 to 492,976 one year later. Total pending applications across all instances in the European Union reached 1,098,275 by the end of 2016. At the Member State level, the number of pending applications stretched

The psychosocial and economic costs of such long wait times to both asylum seekers and their families, as well as to their host communities ... are high and can have effects that stretch on for years afterwards.

83 Proposals to establish a solidarity mechanism within the CEAS have often been criticised by the Member States because of their obligatory nature. For example, in September 2015 the Commission for the first time proposed a controversial and largely unpopular mandatory distribution key, which obliged Member States to relocate 120,000 people from Italy, Greece, and Hungary within two years. Closed-door discussions seem to indicate that, while Member States would be willing to allow for some degree of voluntary participation in asylum efforts, policymakers and governments want to have a yardstick to measure what Member States contribute to the CEAS over time. For more information, see Jacopo Barigazzi and Maïa De La Baume, 'EU Forces through Refugee Deal', Politico, 21 September 2015; European Commission, 'Refugee Crisis – Q&A on Emergency Relocation' (press release, 22 September 2015).

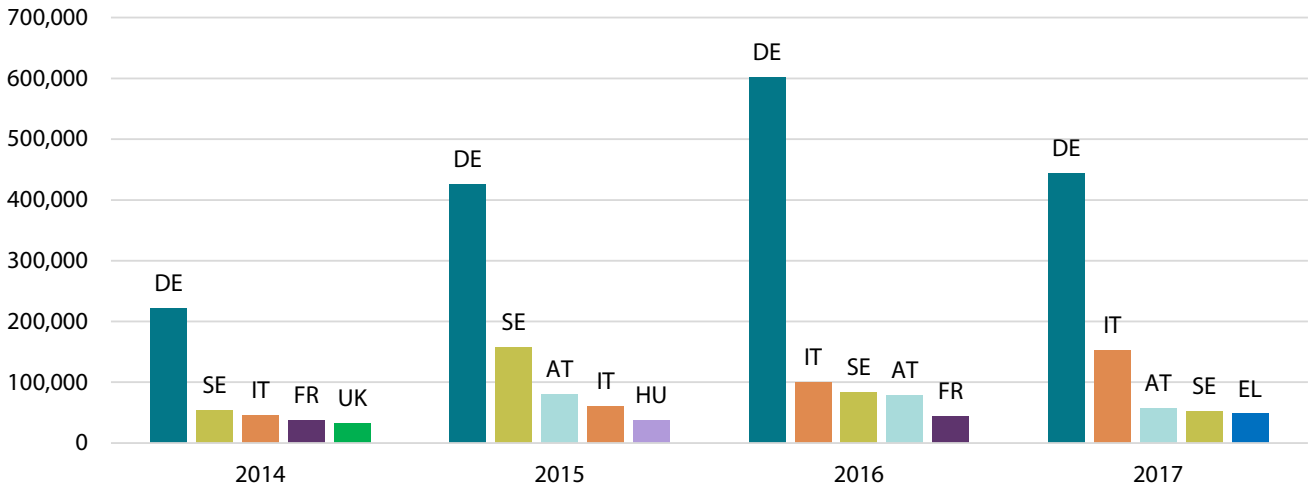
84 In 2011, following two landmark court rulings—by the European Court of Human Rights (ECtHR) in *M.S.S. v. Belgium and Greece* and by the Court of Justice of the European Union (CJEU) in *N.S./M.E*—Dublin transfers to Greece from other Member States were suspended. More recently, a court suspended a transfer from Germany to France, saying the poor reception conditions the mother and daughter faced there would violate their rights under Article 3 of the European Convention of Human Rights (ECHR). See ECRE, 'To Dublin or Not to Dublin?' (policy note 16, ECRE, Brussels, 2018); European Database of Asylum Law, 'Germany: Transfer to France Suspended Due to Situation for Dublin Returnees', updated 25 April 2019.

as high as 601,905 in Germany in 2016, of which 21 per cent involved Afghan applicants and 18 per cent Syrian applicants (see Figure 2).

The psychosocial and economic costs of such long wait times to both asylum seekers and their families, as well as to their host communities (particularly when asylum seekers have limited rights to employment), are high and can have effects that stretch on for years afterwards.[85] In addition, lengthy asylum procedures and limited success in returning those whose claims are rejected have led leaders in some EU Member States to question the continued viability of allowing spontaneous arrivals of asylum seekers (in contrast to, for example, systems that facilitate humanitarian migrants' entry via resettlement programmes).[86]

FIGURE 2

Pending asylum cases in top recipient EU countries, end of year 2014–17



Source: Eurostat, 'Persons Subject of Asylum Applications Pending at the End of the Month by Citizenship, Age and Sex. Monthly Data (Rounded) [migr_asypenctzm]', updated 16 October 2019.

As when faced with other shortcomings in the asylum system, the dominant EU response has been to revise the legal provisions that regulate Member State asylum procedures. The Commission has thus proposed a new regulation, which would replace the Asylum Procedures Directive and set (stricter) time limits for each stage of the procedure.[87] But asylum systems face real operational challenges to shortening

85 Phillip Connor, *Still in Limbo: About a Million Asylum Seekers Await Word on Whether They Can Call Europe Home* (Washington, DC: Pew Research Center, 2017); Maria Vincenza Desiderio, *Integrating Refugees into Host Country Labor Markets: Challenges and Policy Options* (Washington, DC: MPI, 2016).

86 For example, in December 2018 the Belgian State Secretary for Asylum Policy and Migration Theo Francken advocated for a 'shift from a passive to an active model of migration, in which asylum requests are not filed after illegal entry but organized via humanitarian visas or other legal pathways'. See European Platform of Reception Agencies (EPRA), *EPRA Final Conference Report* (Brussels: EPRA, 2018).

87 With its proposal for a recast of the Asylum Procedures Regulation, the Commission clarifies, for example, the official start of the asylum procedure and shortens the maximum time within which the first decision is to be issued (six months in normal circumstances, and nine instead of 15 months in exceptional circumstances, such as when a disproportionate number of simultaneous asylum applications are filed or 'complex issues of fact or law' are involved). See Article 31 of the 'Directive 2013/32/EU on Common Procedures for Granting and Withdrawing International Protection (Recast)', *Official Journal of the European Union* 2013 L 180/60, 29 June 2013; Article 34 of European Commission, 'Proposal for a Regulation of the European Parliament and of the Council Establishing a Common Procedure for International Protection in the Union and Repealing Directive 2013/32/EU' (COM[2016] 467 final, 13 July 2016).

processing times, meaning that an approach to tightening asylum procedures that focuses purely on the legal dimension could unduly penalise Member States such as Greece, where a relatively new and still understaffed Greek Asylum Service faces a huge backlog.[88] Moreover, present data on the total number of pending cases mask huge variation among these cases as well as the reasons for their prolonged review.

It will only be possible to find a way out of this operational deadlock if the nuanced dynamics of processing backlogs are unveiled and practical, tailored solutions are identified. Asylum authorities in several EU Member States have employed new operational measures to arrive at swift, yet valid, decisions on asylum claims, ranging from increasing capacity (e.g., by hiring extra caseworkers and providing training[89]) and tailoring the asylum procedure(s) to the incoming caseload (see Section 4.A), to co-locating authorities and services with processing responsibilities (Section 4.B), to conducting asylum procedures at the border (Section 4.C).

A. Tailoring asylum procedures to the incoming caseload

At any given time, asylum systems in the European Union may receive applications from persons originating from a wide range of countries—from Albania and Pakistan to Ethiopia and Venezuela, as shown in Figure 3. These applicants have different ethnic, religious, and political affiliations and varied personal characteristics (e.g., having served in the military). All of these factors affect their chances of receiving international protection. Whereas the nature of the Syrian conflict often provides Syrians fleeing to the European Union a clear-cut case for protection,[90] those fleeing protracted conflicts in countries where violence emerges in one region, then dies down, and re-emerges in another area (as in Afghanistan) present far more complex cases.[91] Furthermore, the evidence that asylum seekers are able to furnish in support of their claims, or that asylum authorities can gather on the specific locality or social group that the applicant claims to be from, varies greatly in detail and quality. Many arrive without identity documents or destroy these upon the (sometimes misguided) suggestion of smugglers.[92]

88 This legal approach also risks ignoring the fact that the Member States that have received the most asylum seekers (e.g., France, Germany, and Sweden) have been unable to resolve their backlogs, in spite of multiple rounds of legal reforms at both the national and EU levels.

89 For example, EU, international, and national stakeholders have offered training opportunities with the aim of improving the quality of, and often also convergence on, adjudication. See, for example, EASO, 'EASO Practical Guide: Evidence Assessment' (Practical Guide Series, EASO, Valletta, March 2015); UN High Commissioner for Refugees (UNHCR), *ASQAEM Summary: Asylum Systems Quality Assurance and Evaluation Mechanism Project in the Central and Eastern Europe Sub-Region* (Geneva: UNHCR, 2010); Belgian Office of the Commissioner General for Refugees and Stateless Persons, 'Gender-Related Persecution', accessed 14 October 2019.

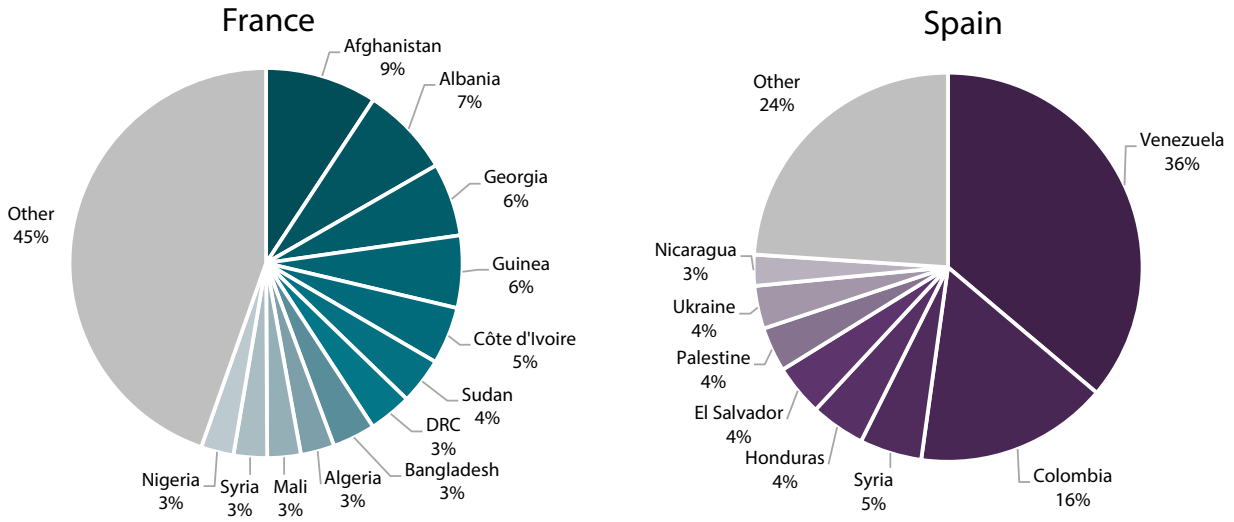
90 The average recognition rate for Syrians in the 2015–18 period was 94 per cent. See Eurostat, 'Asylum Statistics', updated 10 May 2019.

91 The Qualification Directive allows Member States to apply the 'internal protection alternative' to decline applicants' claims for asylum on the basis that they could seek refuge in a 'safe zone' within their countries of origin (Art. 8). Member States currently apply this legal provision, although three (Italy, Spain, and Sweden) have chosen not to. How authorities apply this provision (e.g., which type of country of origin information they consult, and how they interpret the concept) shapes asylum seekers' chances of receiving international protection—potentially introducing more variation in recognition rates across the European Union for applicants of the same nationality. See 'Directive 2011/95/EU of the European Parliament and of the Council of 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)', *Official Journal of the European Union* 2011 L 337/9, 20 December 2011; Beirens, *Cracked Foundation, Uncertain Future*.

92 EMN, *Challenges and Practices for Establishing the Identity of Third-Country Nationals*.

FIGURE 3

Top citizenships of (non-EU) first-time asylum applicants in France and Spain, by share of applications, 2018



DRC = Democratic Republic of the Congo.
Note: The countries included in each chart are those whose nationals represented 3 per cent or more of asylum applications in 2018.
Source: Eurostat, 'Asylum and First Time Asylum Applicants by Citizenship, Age and Sex. Annual Aggregated Data (Rounded) [migr_asyappctza]', updated 26 November 2019.

To date, however, the dominant practice in Member States is to process this diversity of claims via the same standard asylum procedure. In 2013, Member States agreed to adopt a single common asylum procedure, with the ambition of achieving the same quality of review for asylum requests across the bloc. The road to the adoption of a single, common asylum procedure (via the recast of the Asylum Procedures Directive) was long and rife with tough negotiations; concerns that adding alternative tracks to the regular asylum procedure would not be a refinement but rather a deviation from the golden standard, were—and are—widespread among civil-society organisations, the UN High Commissioner for Refugees (UNHCR), as well as some government actors.[93] For example, past efforts to process cases with a high likelihood of rejection via special procedures (i.e., fast-track procedures[94]) have repeatedly met with criticism that this would lower protection standards. Civil-society organisations, UNHCR, and legal experts have questioned whether a procedure that cuts particular procedural safeguards, such as personal interviews, or that shortens the

93 One of the primary achievements of the CEAS is defining a common asylum procedure and firmly embedding it in EU law via the 2013 Asylum Procedures Directive (recast). After the European Commission tabled its proposal for the directive in 2009, negotiations progressed slowly and—although the initial deadline was the end 2010—only concluded in 2013. See 'Directive 2013/32/EU'.

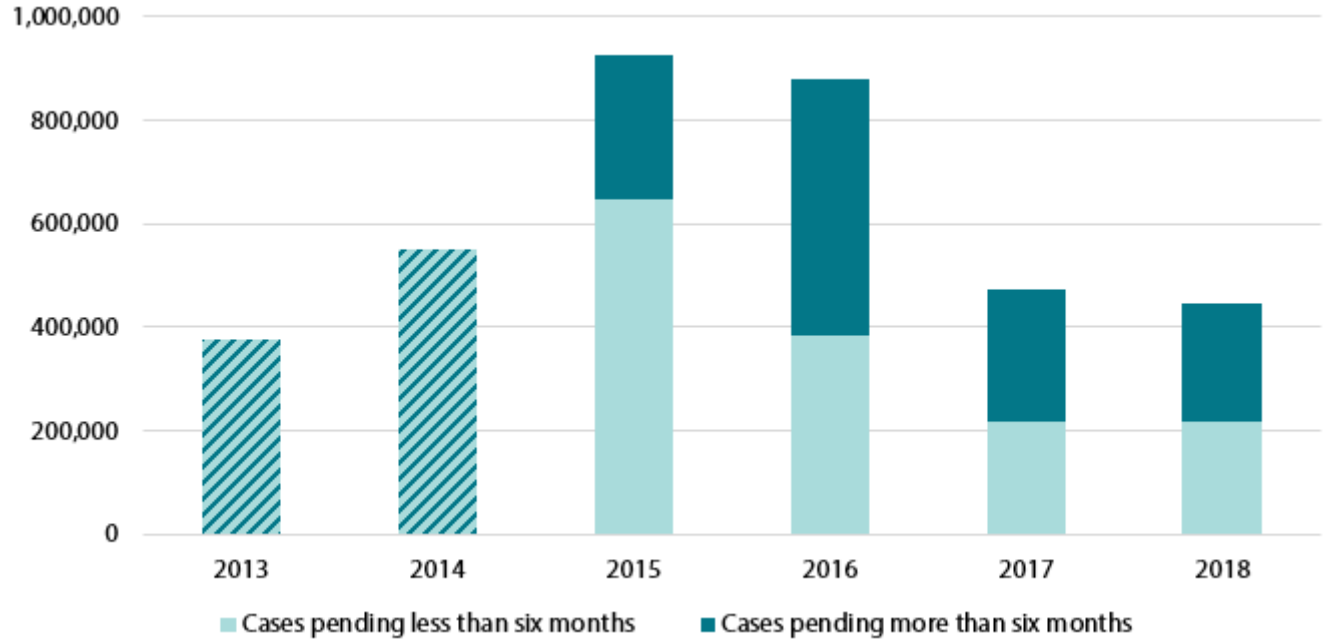
94 In 2005, the European Union introduced the option for Member States to fast-track manifestly unfounded cases under Article 23(4) of the Asylum Procedures Directive. The 2013 recast of the directive clarified that in such cases, Member States should be able to accelerate the examination procedure by introducing 'shorter, but reasonable, time limits for certain procedural steps'. See 'Directive 2005/85/EC of 1 December 2005 on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status', *Official Journal of the European Union* 2005 L 326/13, 13 December 2005; 'Directive 2013/32/EU'.

decision-making period offers asylum authorities the tools to duly assess whether an individual's case warrants protection.[95]

This efficiency versus quality debate took a new turn in 2014 as backlogs in European countries reached new heights (see Figure 4). A shared preoccupation among governmental and nongovernmental actors emerged in questions of how to relieve pressure on asylum authorities by making smart resource decisions and avoid public backlash.[96] They also grappled with what to do with the thousands of newcomers with no or a delayed right to work, which hampered their self-sufficiency and potential contributions to host communities.

FIGURE 4

Backlog of asylum applications in EU+ countries, end of the year 2013–18



Notes: This figure includes data for EU Member States, plus Switzerland and Norway. For 2013 and 2014, the available data are not broken down by the length of time a case was pending.
Sources: EASO, 'Latest Asylum Trends - 2019', updated August 2019; EASO, 'Latest Asylum Trends – Overview 2017', updated 1 February 2018; EASO, *Annual Report on the Situation of Asylum in the European Union 2015* (Brussels: European Union Publications Office, 2016).

The idea of designing a set of tailored asylum procedures to reflect the diversity on incoming caseloads has gained traction in some European countries—including Belgium, Germany, Greece, Norway, Sweden, and Switzerland. Often inspired by features of the Dutch asylum system (see Box 2), authorities in these other countries conduct a first screening of incoming asylum claims based on the data gathered at the

95 UNHCR, ECRE, and others have long fought the idea of differentiated (and especially shorter) asylum procedures, though a July 2018 UNHCR report proposes such differentiation. A preliminary version of this report, presented at an MPI Europe closed-door roundtable on asylum procedures, was well received by Member State representatives. See UNHCR, 'UNHCR Discussion Paper on Accelerated and Simplified Procedures in the European Union' (discussion paper, UNHCR, Geneva, July 2018). See ECRE, 'Accelerated, Prioritised and Fast-Track Asylum Procedures: Legal Frameworks and Practice in Europe' (policy brief, AIDA, Brussels, May 2017).

96 Kegels, *Getting the Balance Right*.

registration stage (see Section 2.C). Two questions often steer the (experimental) categorisation or 'triage' of cases:

1. At first sight, is it a clear, straightforward case known as manifestly founded or unfounded, and thus likely to be quickly approved or rejected?[97] Such cases might involve, for example, a Syrian with a passport or a migrant verified as coming from Senegal, which some Member States consider a safe third country.
2. How much work will be required to arrive at a decision on the claim? For example, if the applicant has no identity documents and claims to originate from Eritrea, but early information on his or her travel route, mother tongue/accent, and knowledge of local events render this questionable, asylum authorities will need to consult other data sources.

Depending on the answers to these questions, asylum claims are then assigned to matching asylum procedures (i.e., 'asylum tracks' or 'channels'). For example, several Member States opted to forego conducting a personal interview for individuals whose asylum claims are designated as potentially well founded, focusing instead on verifying the person's identity (e.g., whether the applicant is Syrian).[98] The time this frees up allows caseworkers to review more cases or invest their efforts in more complex ones. Another benefit is that asylum authorities can prioritise and swiftly resolve straightforward cases. As refugees with genuine claims quickly obtain recognition and access to integration services, and rejected asylum seekers are duly informed of their return options, the pressure on receiving communities to deal with a population in legal limbo is reduced if not entirely lifted.

The first—informal—evaluations of triage and asylum tracking systems are mixed. In general, these systems have allowed for the speedy resolution of cases for certain nationalities (or types of cases), but considerably lengthened processing times for others. For example, while the average waiting time in Sweden was 288 days in 2019,[99] cases with a high likelihood of receiving international protection, such as those submitted by Eritreans (with a 73 per cent recognition rate in Sweden), wait 230 days while complex cases, such as those of Afghans (with a 37 per cent recognition rate), wait on average 581 days.[100] This risks doubly disadvantaging asylum seekers with complex cases, leaving them in prolonged legal limbo and excluding them from integration services that are reserved for recognised refugees and asylum seekers deemed likely to be recognised.

97 Article 31(8) of the recast Asylum Procedures Directive defines the conditions that constitute manifestly founded and unfounded cases. These range from applicants being from a safe country of origin through to misleading authorities by presenting false information or withholding documents. See 'Directive 2013/32/EU'.

98 While only a handful of Member States have developed a full-blown triage and asylum track system, several have long-standing procedures for unfounded or manifestly unfounded cases and, during the 2014–16 period, set up one for manifestly founded cases. Whereas Member States can fast-track applications in the former two categories, on the assumption that they will likely be denied, they may favourably prioritise manifestly founded cases under the assumption that these will likely be approved. This is in line with EU asylum legislation, which allows, but does not oblige, Member States to expedite claims via: (1) prioritised procedures for those that are well founded, with normal time limits, principles, and guarantees (Directive 2013/32/EU, Recital 19 and Art. 31(7)); and (2) accelerated procedures for those that are potentially manifestly unfounded, during which 'shorter but reasonable time limits for certain procedural steps' are permitted (Directive 2013/32/EU', Recital 20, 2013 and Art. 31(8)).

99 Swedish Migration Agency, 'Asylum Decisions - 2018, 2019', accessed 13 January 2020.

100 Participant comments during Expert Workshop on Reception.

BOX 2
The Dutch system for triaging asylum cases

Prior to the large asylum and migration inflows of 2015–16, the Dutch asylum system only conducted an initial screening of incoming cases deemed the responsibility of another EU Member State, channelling these applications into a Dublin procedure. All other cases were directed to the regular examination procedure. Average processing times grew and quickly became viewed as unnecessarily lengthy (27.4 weeks as of October 2015, up from 18.5 weeks in October 2014). One factor identified as contributing to this situation was the application of the same procedure to both straightforward and complex cases.

In response, the Dutch Immigration and Naturalisation Service (IND) introduced the 'five tracks' policy in March 2016, creating different processing channels to improve efficiency: 1) Dublin procedure; 2) applicants from a safe country of origin or with legal residence in another EU Member State; 3) manifestly well-founded cases (e.g., applicants of specific nationalities); 4) general asylum procedure; and 5) cases deemed manifestly well founded after a limited investigation. Here, Track 5 involves cases that would fall under Track 3, except the applicants do not hold documents to substantiate their identity or nationality. Track 4, also known as the 'regular procedure', starts with a six-day rest and preparation period following the registration of an asylum claim.

The IND places applicants in these tracks during the identification and registration process. The criteria used to make this decision largely centre on nationality, including the concept of 'safe countries of origin'. Currently, only Tracks 1, 2, and 4 are in use; the others can be activated or deactivated by the State Secretary of the Ministry of Justice and Security after consulting with the Council of Ministers. In the 12-week period leading up to 16 May 2018, the Dutch authorities assigned 51 per cent of the asylum cases they processed to Track 4, 40 per cent to Track 1, and 9 per cent to Track 2.

Sources: European Commission, 'Country Responsible for Asylum Application', accessed 8 July 2019; Algemene Rekenkamer, 'Asylum Inflow 2014-2016: A Cohort of Asylum Seekers', accessed 13 September 2019; Minos Mouzourakis, *Admissibility, Responsibility and Safety in European Asylum Procedures* (Brussels: European Council on Refugees and Exiles, 2016); Author interview with Dutch Ministry of Justice official, May 2018.

In the absence of a common, robust methodology, concerns have re-emerged that track-based systems will eventually erode the quality of asylum processing.[101] In addition to differences in the criteria and benchmarks that EU Member States use to assign cases to a specific asylum track, safeguards to ensure that cases are subsequently channelled through the appropriate tracks are still under development. For example, it is up to caseworkers to signal that a dossier allocated to a track for manifestly unfounded claims because the applicant is from a 'safe country' should be moved upon receipt of new information (for example, about the asylum seeker's sexual orientation and associated persecution risks). The Swedish Migration Agency conducts randomised controls to review the quality of asylum claim processing, which may pick up incorrect track allocations; it also has senior or experienced caseworkers who provide feedback and adjust

101 Participant comments during Expert Workshop on Asylum Procedures.

triage practices, as needed.[102] Support from, for example, EASO could also help Member States develop robust triage methodologies.

But even if proven to cut backlogs, it must be noted that altering registration, reception, or asylum processing practices to speed them up can backfire. Some governments decided to shelve the idea of triaging asylum claims out of concern that it could create a pull effect. At the height of the 2015–16 crisis, Norway established a track for manifestly founded cases but then discontinued it out of concern that swiftly granting asylum to Syrians or others with clear protection needs would attract (secondary) movement.[103] A more well-rounded, long-term evaluation of the costs and benefits of triage systems, including their effects on the swiftness with which recognised refugees are integrated and rejected asylum seekers are returned, is needed to properly inform governments of where efficiency gains may lie.

B. Cooperation and co-location of asylum authorities

A triage system, which heavily relies on the first screening of an asylum file, reinforces the importance of 'getting it right' from the start of the procedure. Identifying the appropriate asylum track for a claim is only feasible if registration authorities are able to pick up and record information on the applicant's relevant personal history, identification, and journey details. As explained in Section 4.A, misallocation or belated transfer of a case between asylum tracks can be avoided if, for example, the registration authorities detect that a newcomer is from Senegal (a presumed safe country of origin) but is at risk of female genital mutilation (a ground for protection in most Member States). The early collection of key information is also important in states without an (official) triage system. Anecdotal evidence indicates that caseworkers often form a first impression of an applicant's protection needs upon receipt of the file from the registration offices.[104] The introduction of a significant amount of new information *after* the registration phase (e.g., in the interview that the caseworker conducts with the asylum seeker) may not alter that first assessment; in fact, it may undermine the caseworker's trust in the accuracy of the case if the new information appears to conflict with the details gathered at registration. Informing registration authorities, as well as the interpreters and legal staff assisting them, of how registration files may affect asylum seekers' chances of receiving protection, or organising staff exchanges between registration and processing authorities, can help correct for this.

With the 2015 rise in asylum claims, frustration also grew amid concerns that operational disconnects between asylum, migration, and border management authorities were inhibiting speedy and high-quality

102 Operating or experimenting with a triage system also requires asylum authorities to reflect on what skills and levels of experience caseworkers should have to work within such a system. One approach for assuring quality asylum decisions is to allocate senior staff to tracks with more complex cases and junior staff to tracks with cases that are more straightforward and likely to receive protection. Even where this is done, however, quality checks are still important. Norway, for example, has quality assurance measures at multiple stages of the adjudication process—both within departments as well as at a regional and national level. See EMN, 'EMN Ad-Hoc Query on Quality Management Best Practices within the Field of Asylum Decision-Making in the First Instance' (ad hoc query, European Commission, Brussels, June 2017).

103 Participant comments during Expert Workshop on Asylum Procedures.

104 Studies have shown that caseworkers may not be able to completely shut out emotions or biases as they review asylum applications and conduct interviews. Moreover, even after caseworkers skim an applicant's file to 'get an idea' and conduct an interview to get the 'complete picture', additional evidence such as expert reports or further documents may still be needed to make a valid, neutral decision on the claim. See Julia Dahlvik, *Inside Asylum Bureaucracy: Organizing Refugee Status Determination in Austria* (Cham, Switzerland: Springer International Publishing, 2018).

decisions on asylum claims. It soon became clear that to break these institutional siloes, strategies that extend beyond information provision or awareness-raising would have to be put in place. Task forces offered a vehicle for different partners to identify operational bottlenecks and devise suitable responses, as did staff exchange programmes and rotation pools (see Box 3).

BOX 3
Norway: Institutional cooperation to speed up Dublin procedures

In 2014, the Norwegian Directorate of Immigration (UDI), the National Police Immigration Service (PU), and the Immigration Appeals Board (UNE) launched a project called 'Dublin from A to Z'. Their aim was to achieve a more efficient and coherent asylum process through closer operational coordination. At the time, one in five Dublin cases were still awaiting transfer to the European country responsible for them, mainly due to the limited cooperation and coordination between the three Norwegian agencies involved in different steps of case processing: the PU registers asylum applications, takes fingerprints for identification, and facilitates asylum seekers' departure; UDI sends a transfer request to the country deemed responsible for the case; and UNE handles appeals.

The three organisations thoroughly reviewed all parts of the country's procedure for Dublin cases to create a new case management process, with each agency using process mapping and other streamlining tools. In the absence of joint infrastructure, agency representatives had a series of meetings aimed at sharing knowledge and establishing common goals. This institutional development initially generated resistance on the part of the authorities involved because it added additional administrative and operational layers on top of an already strained, high-pressure work environment. But eventually it became clear that such coordination was key to improving not only the speed with which cases are decided but also the quality of decisions made by different authorities. The project successfully reduced the processing time for Dublin cases from six to two months and freed up 500 reception places, which in turn saved authorities approximately NOK 70 million.

Sources: Government of Norway, 'Tidstyv-dusør til prosjektet "Dublin fra A til Å"', updated 28 January 2015; Svein Vestrum Olsson, Sverre Olav Trovik, and Mari Allgot Lie, 'Frp retter opp feil etter NRKs faktasjekk', Norwegian Broadcasting Corporation (NRK), 2 August 2017; European Border and Coast Guard Agency (Frontex), *Programming Document 2018-2020* (Warsaw: Frontex, 2017), 211.

Some Member States have taken cooperation between authorities a step further by placing authorities working on the asylum procedure under one roof.[105] In Switzerland, for example, the State Secretariat for Migration (SEM) set up processing centres in the cities of Zurich (in 2014) and Boudry (in 2018). At these centres, which also accommodate asylum seekers until a decision is made on their claims, the relevant authorities conduct identity and security checks, register claims, conduct personal interviews, and draft asylum decisions.

Processing centres not only foster a more comprehensive understanding of how the different parts of the asylum procedure affect one another, they also facilitate gradual adaptations. Whether it is via formal meetings or conversations at the coffee machine, co-location of service providers offers an environment conducive to staff exchanges. Staff need only cross the hallway to align diaries to reduce waiting times between procedural steps (e.g., registration and personal interview) or swiftly share documents required

105 See Section 2.B for discussion of a similar institutional development in relation to registration and reception of asylum seekers, with the setup of first-arrival centres.

for asylum seekers to, for example, access the labour market. Broader obstacles may also come to light, as when the Swiss authorities uncovering that asylum seekers and their legal advisors often had a poor understanding of the asylum procedure; the authorities subsequently revised what information is shared and how, testing new communication tools (e.g., videos) and setting up a helpdesk for lawyers.[106]

Next to offering a laboratory for procedural changes, large and small, the co-location of asylum authorities within Swiss processing centres also improved asylum outcomes, with quality decisions being made 39 per cent faster.[107] To explain their lower appeal rates, and the lower rate at which appeals overturned first instance decisions, evaluations of these pilot processing centres point to the ability of these spaces to foster trust among key actors, notably between legal representatives and government immigration officers.

Co-locating asylum authorities in Swiss processing centres allowed quality decisions to be made **39%** *faster*

Investing in a facility that is sufficiently large to house representatives from different migration authorities and that is conducive to regular staff exchanges may be costly and time consuming. What is trickier, however, is finding the right balance between maintaining the independence with which each agency fulfils its mandate and allowing co-location to naturally trigger (cross-service) adaptation and smart system thinking. The unwritten agreement that has emerged at a one-stop shop in Portugal where police, government actors, and NGOs share a building can serve as a model; police officers stationed at the centre to perform functions such as security and identity checks for asylum seekers have agreed not to ask other (irregular) migrants for identity documents and hence obstruct their access to social welfare, housing, or employment services in the building.[108] Similarly, processing centres that house both legal representatives and caseworkers need to have rules or agreements in place to avoid accusations that the two parties are teaming up with one another,[109] while still allowing the professional exchanges that build trust in first instance decisions. In Switzerland, this has, as noted above, reduced the appeal rate.

More recently, legal experts and NGOs have expressed concerns about processing centres, reporting increased use of detention or restrictions on asylum seekers' movement and a tendency to channel many applications into accelerated procedures.[110] Should these centres become narrowly focused on speed and preventing onward movement, the model may be shelved following legal challenges.

106 Eduard Gnesa, *Verbesserung der Integration von Flüchtlingen und vorläufig Aufgenommenen in den Arbeitsmarkt* (Bern: SEM, 2018); SEM, 'Beschleunigte Asylverfahren: Ziehle im Testbetrieb erreicht', accessed 8 July 2018.

107 This refers to an average duration of 60.9 days for the accelerated first instance procedure and 51.5 days for Dublin procedure in Zurich, as well as 50 days for the asylum procedure at first instance in Boudry. See Swiss Refugee Council, 'Accelerated Procedure – Switzerland', AIDA, accessed 13 September 2019.

108 Caterina Reis Oliveira, Maria Abranches, and Claire Healy, *Handbook on How to Implement a One-Stop-Shop for Immigrant Integration* (Lisbon: High Commission for Immigration and Intercultural Dialogue, 2009).

109 In France, there is some apprehension about the idea of having representatives of the authorities who process asylum claims present in first-arrival centres (guichet unique). Author conversation with a French Court of Auditors official, July 2019.

110 Mouzourakis, Pollet, and Ott, *The AnkER Centres*.

C. *Processing at border or disembarkation points*

The place where asylum seekers lodge their protection claims and have them processed has also come under scrutiny. In Europe, as well as other parts of the globe (e.g., the U.S.-Mexico border), there is a strong policy push to conduct asylum procedures at the border, shortly after newcomers have disembarked from a ship or crossed a land border and indicated their wish to seek asylum. Policymakers arguing in favour of processing asylum claims at the border[111] often describe it as a way to:

- prevent (e.g., via detention) or deter (via rapid processing) asylum seekers from moving onwards from the border to other parts of the territory, putting pressure on authorities in those other localities;
- quickly offer clarity to applicants on whether or not they will be able to stay;
- facilitate return after a rejected asylum claim or within the framework of interstate agreements; and
- in the medium term, discourage entry attempts by those without valid travel documents or grounds for protection.

Within this vein, Germany established AnkER centres (Ankerzentren) near its southern border in August 2018. At these centres, asylum seekers are given accommodation and their applications are processed until authorities either distribute them to municipalities or, if their claims are rejected, return them to their origin countries.[112] Even earlier, in late 2015, Hungary put metal shipping containers at its land borders with Croatia and Serbia to serve as 'transit zones'.[113] However, such practices have often stark implications for migration authorities, as was discovered by the Swedish Migration Agency when it considered moving part of its operations to the country's southern border. Next to moving physical equipment (e.g., fingerprinting machines), such a move requires the construction of new infrastructure along the border (e.g., buildings or temporary facilities) and a willingness on the part of staff to relocate there.[114] For example, the Hungarian Office of Immigration and Nationality (OIN) was tasked with processing 100 asylum seekers per day, but this target was not attained amidst the arrival of several thousand newcomers at the Hungarian border.[115]

Policymakers in Europe have also experimented with alternative procedures to speed up asylum decisions at national or EU borders or at disembarkation points. Even before 2015, several European countries were

111 Currently, there is limited evidence on the benefits or weaknesses often ascribed to border processing, with more research needed. See, for example, see Philippe de Bruycker, Alice Bloomfield, Evangelia Tsourdi, and Joanna Petin, *Alternatives to Immigration an Asylum Detention in the EU: Time for Implementation* (Brussels: Universite Libre de Bruxelles, Odysseus Network, 2015); ECRE, 'Border Procedures: Not a Panacea' (policy note 21, ECRE, Brussels, July 2019).

112 Mouzourakis, Pollet, and Ott, *The AnkER Centres*.

113 Andrew Connelly, 'Hungary Condemned for Using "Starvation Tactics" to Deter Asylum Seekers', *The New Humanitarian,* 8 May 2019.

114 Presentation by Björn Bergström, Specialist, Swedish Migration Agency, during the Final Conference on Reception Authorities' Common Challenges in Perspective, EPRA, 4 December 2018, described in EPRA, *EPRA Final Conference Report*.

115 UNHCR, *Hungary as a Country of Asylum* (Geneva: UNHCR, 2016).

using border, admissibility,[116] or accelerated asylum procedures.[117] These procedures, which are permitted by the Asylum Procedures Directive,[118] were meant to result in shorter processing times. In 2018, the European Union debated introducing a mandatory border procedure in all Member States to enable them to swiftly deal with the arrival of mixed flows of humanitarian and economic migrants and to prevent their onward movement, though this was not adopted.[119] In the United States and Canada,[120] similar proposals have been put on the table as possible options for dealing with sudden increases in irregular border crossings.

If quick decision-making is the primary purpose of these alternative procedures, the increase in legal challenges of first instance decisions over due process concerns has thwarted this aim.

The risk of these faster procedures, as articulated by critics,[121] is that they typically remove some of the procedural safeguards that ensure asylum seekers and their legal representatives are able to provide the information needed to support their cases for protection. Furthermore, authorities may not have sufficient time and resources to verify asylum claims, particularly those that are more complex, resulting in an overall lowering of protection standards among cases processed at the border. This leaner process and timeline has led many cases to be brought to the appeal stage, with asylum seekers and their legal representatives arguing that the merits of their claims should have been (properly) reviewed. If quick decision-making is the primary purpose of these alternative procedures, the increase in legal challenges of first instance decisions over due process concerns has thwarted this aim, as noted by ECRE and UNHCR.[122] Instead, these actors propose increasing investments in the regular asylum procedure to speed up its decision-making while maintaining procedural standards.

The processing centres, triage systems, and other measures different Member States have employed in recent years may offer policymakers and researchers real, live test cases to examine the longstanding question: Is it faster, cheaper, and more reliable to swiftly review the merits of an asylum case using such tools, or do their limitations undercut their benefits? At present, there is insufficient evidence to provide an answer. More research will be needed to guide policymakers as they grapple with questions about which processing model is to be used at external EU borders and for migrants rescued at sea.

116 An admissibility procedure determines whether an application may be considered inadmissible pursuant to Article 33 of the Asylum Procedures Directive (recast); that is, whether the Member State is required to examine the merit of the case for international protection or can deny this on, for example, the basis that the person already enjoys protection in another country. See IARLJ-Europe, *Asylum Procedures and the Principle of Non-Refoulement* (Brussels: EASO, 2018).

117 EASO, *Annual Report on the Situation of Asylum in the European Union 2014* (Luxembourg: European Commission Publications Office, 2015).

118 The recast Asylum Procedures Directive sets out the basic principles and guarantees for border, admissibility, and accelerated procedures. See 'Directive 2013/32/EU'.

119 Council of the European Union, 'Border Procedures' (Council Note 13376/18, 19 October 2018).

120 Testimony of Susan Fratzke, Policy Analyst and Programme Coordinator, MPI International Programme, before the Canadian House of Commons, Standing Committee on Citizenship and Immigration, *Subject Matter of Clauses 301 to 310 (Part 4, Division 16) (Immigration and Refugee Protection Act) of Bill C-97, An Act to Implement Certain Provisions of the Budget Tabled in Parliament on March 19, 2019 and Other Measures*, 159th Hear., 1st sess., 8 May 2019; Susan Fratzke, *International Experience Suggests Safe Third-Country Agreement Would Not Solve the U.S.-Mexico Border Crisis* (Washington, DC: MPI, 2019).

121 ECRE, 'Accelerated, Prioritised and Fast-Track Asylum Procedures: Legal Frameworks and Practice in Europe' (policy brief, AIDA, Brussels, May 2017); UNHCR, 'Fair and Fast - Accelerated and Simplified Procedures in the European Union' (discussion paper, UNHCR, Geneva, July 2018).

122 ECRE, 'Accelerated, Prioritised and Fast-Track Asylum Procedures'; UNHCR, 'Fair and Fast'.

5 Return of Rejected Asylum Seekers

Governments consider the return of rejected asylum seekers to their origin countries essential to preserving the legitimacy of the asylum system. Such returns communicate to domestic publics and would-be immigrants that international protection regimes are reserved for those with a legitimate fear for persecution. When this is not the case, and other migrants are able to enter a country by filing unfounded claims, this both runs up the costs of the asylum system and risks delaying the recognition and protection of refugees with genuine claims. More importantly, because protection systems in the European Union mostly process applications from spontaneous arrivals (rather than refugees seeking resettlement from a third country), a negative decision removes a migrant from the asylum system but not from the national territory. Without the right to stay or work, these irregular immigrants may still tap into government- or NGO-run support structures (e.g., shelters for homeless persons) or join the informal economy. The effective removal of rejected asylum seekers, thus, both lifts undue strain on asylum and social welfare systems and, over time, may discourage future economic migrants from misusing the asylum channel in an attempt to settle in the European Union.

After issuing a final negative decision on an asylum claim, asylum authorities hand the applicant's case over[123] to the migration or law enforcement authorities responsible for returning migrants deemed not to have a right to stay to their origin countries. This kickstarts the return procedure, during which migration and/or law enforcement officials examine where the person is to be returned and whether the return will be voluntary or forced.[124] The return procedure ends with the issuing of a return decision and, where applicable,[125] an order for removal from the territory. In certain cases, authorities may opt not to issue a return decision, or to suspend or withdraw it, instead authorising the person to stay for compassionate, humanitarian, or other reasons.[126] Alternately, they may issue the return decision but postpone the migrant's removal, for example, out of respect for the principle of nonrefoulement.[127] Migrants who opt to return to their countries of origin voluntarily have up 30 days to leave the Member State territory on their own initiative and means.[128] To encourage return, many EU countries run assisted voluntary return and/or reintegration assistance programmes, which offer rejected asylum seekers some amount of logistical and

123 Problems have been documented in this handover, for example, where files are incomplete or migration/law enforcement authorities do not have access to specific parts of the rejection decision; this is sometimes due to critical procedural safeguards (e.g., protection of personal information) but other times it delays the return procedure unnecessarily. See EMN, *The Return of Rejected Asylum Seekers: Challenges and Good Practices* (Brussels: European Commission, 2016).

124 The Return Directive sets out the common standards and procedures. A return decision can be issued to any third-country national residing illegally on the territory of the Member State, except in exceptional conditions (Art. 6). Voluntary departures may occur within seven to 30 days following an asylum application (Art. 7(1)), and the directive establishes the conditions necessary to avoid the risk of absconding while also guaranteeing the safe and orderly return of vulnerable groups, such as families with children. See 'Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on Common Standards and Procedures in Member States for Returning Illegally Staying Third-Country Nationals', *Official Journal of the European Union* 2008 L 348/98, 24 December 2008.

125 Per Article 8 of the Return Directive, removal can be pursued in two cases: when no period for voluntary return has been granted and if the period for voluntary return has expired. See 'Directive 2008/115/EC'.

126 'Directive 2008/115/EC', Art. 6(4).

127 'Directive 2008/115/EC', Art. 9.

128 Article 7 of the Return Directive sets out the general standards on voluntary departure. See 'Directive 2008/115/EC'.

financial support for travel and help preparing for life after return (e.g., help developing a business plan or enrolling in vocational training).[129]

As roughly 2.6 million asylum seekers arrived on EU soil during the 2015–16 crisis,[130] governments were keen to be seen as both standing in solidary with those affected by the humanitarian tragedy unfolding in Syria and yet tough on migrants who sought to misuse the asylum channel to access Europe for other reasons. Migration and asylum authorities were urged to fairly, yet swiftly, decide who merited protection and then to equally swiftly return those who did not. Speaking about the Syrian crisis, for example, Italian Prime Minister Matteo Renzi in 2015 declared that those who had a right to stay in Italy must stay, but others should be returned to stem the 'surge that threatens the very idea of Europe'.[131]

This political commitment to timely returns, however, ran up against poorly functioning return systems. The rates at which migrants ordered to leave the European Union were actually returned (whether voluntarily or involuntarily) varied across the bloc, but as of 2015 stood at 15 per cent in France and 17 per cent in Italy. While the number of return decisions issued across all Member States between 2013 and 2018 remained relatively constant at around 500,000 each year, the return rate decreased from 42 per cent in 2013 to 33 per cent in 2018 (see Table 1). During the same 2013–18 period, the size of the irregular migrant population in the European Union is estimated to have grown by 149,230 persons, with a spike in 2015 during a temporary increase of 1,483,270 persons.[132] While return rates do not offer a complete picture—due to repeat counts of return decisions made in different national contexts and from one year to the next, for example—these data provide a broad overview of Member States' return capacity and trends over time.

TABLE 1

Third-country nationals ordered to leave EU territories and returns implemented, 2013–18

	2013	2014	2015	2016	2017	2018
Third-country nationals ordered to leave	430,450	470,080	528,645	486,150	505,300	478,155
Returns implemented	184,765	170,415	196,190	228,905	189,740	170,360
Return rate	42%	36%	37%	47%	37%	35%

Notes: These return rates are calculations of the share of third-country nationals ordered to leave who are subsequently returned to their origin countries, counting both voluntary and forced returns. It should be noted that migrants who leave in a given year may have been ordered to leave in a prior year.
Sources: Eurostat, 'Third Country Nationals Ordered to Leave - Annual Data (Rounded) [migr_eiord]', updated 23 September 2019; Eurostat, 'Third Country Nationals Returned Following an Order to Leave - Annual Data (Rounded) [migr_eirtn]', updated 23 September 2019.

129 EMN, 'Overview: Incentives to Return to a Third Country and Support Provided to Migrants for Their Reintegration' (fact sheet, European Commission, Brussels, June 2016); Kathleen Newland and Brian Salant, *Balancing Acts: Policy Frameworks for Migrant Return and Reintegration* (Washington, DC: MPI, 2018).

130 Eurostat, 'Asylum and First Time Asylum Applicants by Citizenship, Age and Sex'.

131 Prime Minister Renzi made these remarks in the Italian Senate on 24 June 2015. See Annalisa Camilli, 'I Rimpatri Forzati Sono Costosi, Inutili e Disumani', Internazionale, 24 June 2015.

132 These figures should not be taken as indicative of the actual population of migrants staying irregularly in any given Member State. According to Eurostat, the statistical unit of 'third country nationals found to be illegally present' includes all those persons who have been found to have entered the country illegally as well as those who have overstayed their permits or who have been found to be illegally employed. Hence, these figures only refer to migrants who have been apprehended at some point, as opposed to all immigrants without regular status. See Eurostat, 'Third Country Nationals Found to Be Illegally Present - Annual Data (Rounded) [migr_eipre]', updated 23 August 2019.

This trend triggered a greater push from governments to identify the procedural and logistical weaknesses hindering the European Union's collective ability to return migrants who do not have a right to international protection.[133] Next to problems related to rejected asylum seekers absconding and to their origin countries' fluctuating willingness to cooperate on facilitating their readmission, observers concluded that the asylum system constituted an important, yet often ignored, piece of the return puzzle.[134] Member States have tested a range of practices to promote better return outcomes, ranging from duly registering and verifying the identity of applicants early in the asylum process (see Section 5.A), through to improving the speed and accuracy with which unfounded asylum claims are processed (Section 5.B) and notifying migrants with limited chances of earning the right to stay of their return options (Section 5.C).

A. Links with registration of new arrivals

Establishing the identity of rejected asylum seekers is a prerequisite for return authorities' ability to determine their countries of origin. If their identity was ascertained during the registration phase of the asylum procedure, authorities can move more swiftly through the return procedure and, if a return decision is issued, organise the logistics of the return, potentially including reintegration supports. Proper identification of asylum seekers at registration can help authorities avoid the build-up of a backlog of return cases, which is particularly important when the annual number of negative final decisions issued on asylum cases rises.

If, however, return authorities must themselves determine rejected asylum seekers' identity at the start of the return procedure, this can lead to delays. Not only does it lengthen the return procedure, it also introduces a risk of non-identification. Information that may have been readily available at the registration stage and helped to identify the person may no longer exist one, two, or three years later when the person receives a final negative decision on his or her asylum claim and is subject to a return procedure. This may include the personal belongings that the asylum seeker had upon arrival, insights gathered from people who knew the asylum seeker in the origin country or who met the person on the journey to Europe, or records from other countries or localities where the person stayed or passed through.

To ascertain third-country nationals' identity and negotiate their return with their countries of origin, passports or other identity documents are the golden standard. But many asylum seekers arrive without these. The closest alternative in many cases is a match of the person's fingerprints with a record in, for example, EURODAC that clearly establishes the person's identity and country of origin. Alternative methods

133 As part of this push, the Commission proposed a new Frontex mandate in 2018, which was later adopted, that grants the agency new executive powers for returns, including 'the preparation of the return decision' (Art.49(1a)) and the 'capacity to perform all tasks and exercise all powers for border control and return' (Art.83(1)). The European Council officially adopted the proposal on 8 November 2019. See European Commission, 'Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard' (COM[2018] 631 final, 12 September 2018); European Commission, 'EU Delivers on Stronger European Border and Coast Guard to Support Member States' (press release, 8 November 2019). A proposal to reform the Return Directive, which was not adopted, included measures aimed at swifter returns: to speed up the identification process and receive a travel permit, for example, Member States shall 'impose on third-country nationals the obligation to cooperate with the competent authorities of the Member States at all stages of the return procedures' (Art. 7(1)). See European Commission, 'Proposal for a Directive of the European Parliament and of the Council on Common Standards and Procedures in Member States for Returning Illegally Staying Third-Country Nationals (Recast)' (COM[2018] 634 final, 12 September 2018).

134 Wouter van Ballegooij and Cecilia Navarra, *The Cost of Non-Europe in Asylum Policy* (Brussels: European Parliamentary Research Service, 2018).

used by some return authorities include linguistic analysis to determine a migrant's probable country and/or region of origin, searching through smartphones and other digital devices, social media analysis, requests for information and cooperation submitted to (presumed) origin countries, iris scans, and DNA analysis, to name but a few.[135]

The litmus test for these methods is whether the third country considers the evidence they produce sufficient to prove that the person in question is one of their nationals and, after agreeing to readmit the person, issues a travel or laissez-passer document to make return possible.[136] If the third country rejects the evidence as circumstantial or invalid, the return is put on hold. Particularly low return rates to certain countries have prompted some Member States to send their governments urgent reminders of their responsibility to take back their nationals; Germany sent one such round of reminders to 17 'particularly problematic states'[137] in 2016, at a time when more than one-quarter of the 207,484 migrants ordered to leave still resided in Germany without a Duldung (a temporarily suspension of deportation).[138]

With these challenges in mind, several European countries have invested in the early identification of asylum seekers at the registration phase of the asylum procedure. As noted in Section 2, many of the latest techniques to gather identity-related information (e.g., language software) warrant further investment and testing with different populations to ensure the reliability and validity of the data they produce. For example, language software may detect that an asylum seeker speaks a local dialect from a certain region within a third country, provisionally linking the person to a region in which armed groups are operating. However, the person may in fact have grown up in a refugee camp and acquired the dialect via family members or carers who were displaced years earlier in the protracted conflict. Caseworkers, police authorities, and others may therefore need to turn to other data sources to pinpoint the asylum seeker's identity, nationality, and citizenship, in order to determine both the right to protection and, if applicable, the place to which the person should be returned.[139] It is thus crucial that these stakeholders know what different

It is thus crucial that these stakeholders know what different sources of identity data can and cannot prove with certainty and, hence, what weight they are to be given in asylum and return procedures.

135 For more on these and other methods, see EMN, *Challenges and Practices for Establishing the Identity of Third-Country Nationals*.

136 A 'laissez-passer' or travel document is a document issued by a government or international treaty organisation and can serve as valid proof of identity for an individual entering another country. See EMN, *Asylum and Migration Glossary 6.0* (Brussels: European Commission, 2018).

137 These countries were Algeria, Bangladesh, Benin, Burkina Faso, Egypt, Ethiopia, Ghana, Guinea, Guinea-Bissau, India, Lebanon, Mali, Morocco, Niger, Nigeria, Pakistan, and Tunisia. See Manuel Bewarder, Karsten Kammholz, and Marcel Leubecher, 'Diese 17 Staaten behindern Abschiebungen aus Deutschland', *Welt*, 23 February 2016.

138 Bewarder, Kammholz, and Leubecher, 'Diese 17 Staaten behindern Abschiebungen aus Deutschland'; Wolfgang Wichmann, 'Debatte über abgelehnte Asylanträge: 600.000 oder deutlich weniger?', Tagesschau, 29 May 2018.

139 Article 38 of the Asylum Procedures Directive sets out the general standards Member States must adhere to when using the 'safe third country' concept in the examination of asylum claims. In particular, state authorities must ensure that a number of conditions are fulfilled before declaring a country safe for return, including respect of the principle of nonrefoulement. Moreover, Member States must ensure that the applicant is *de facto* connected to the third country and must always proceed on a case by case basis. See 'Directive 2013/32/EU'.

sources of identity data can and cannot prove with certainty and, hence, what weight they are to be given in asylum and return procedures.

As governments seek to boost coordination to more quickly establish the identity of (rejected) asylum seekers, it is important to note that cooperation with the authorities in their presumed countries of origin is tightly regulated by international law—including the Refugee Convention and the EU Asylum Procedures Directive. The potential risks for those fleeing abusive regimes, even if they have not applied for asylum (yet), are high, as was argued in 2017 when the Belgian government invited a delegation of Sudanese officials to help identify migrants staying on Belgian soil.[140]

B. Links with the processing of asylum claims

A swift and unambiguous answer on whether international protection will be granted not only benefits those who receive it and the authorities supporting their integration, it also cuts the amount of time spent in legal limbo by those who will eventually have to return. Timely decision-making can thus limit the potentially harmful effects years of uncertainty can have on asylum seekers and their families. In countries where first instance decisions take several months or even years, such as Spain (16 months), Sweden (17 months), and Cyprus (two to three years),[141] false hopes may keep asylum seekers and their families in a situation of social and professional stagnation—even more so for asylum seekers who face long waits just to have their initial interview with the authorities, as is the case in Ireland (18–20 months) and Greece (some applicants have had their interviews scheduled for between 2022 and 2025).[142]

From the viewpoint of return authorities, a swift, high-quality asylum procedure decreases the odds that they will be unable to identify a rejected asylum seeker who is to be returned (as discussed in the previous section) and of factors unrelated to humanitarian protection obstructing the migrant's return. These include considerations related to family life, the best interests of the child, and the health of the third-country national.[143] With lengthy asylum procedures, the odds increase of asylum seekers, for example, marrying or starting a family after registration.[144]

Since 2014, European governments have increasingly targeted asylum procedures in their attempts to run more successful return systems. Some have rolled out practices to speed up the regular asylum procedure,

140 In September 2017, Belgian officials invited Sudanese state officials to assess the citizenship and legal status of 60 detained Sudanese migrants thought to be residing in Belgium irregularly. As a result, Belgian authorities made plans to repatriate 43 migrants who were given travel permits by the Sudanese government during the visit. The decision attracted widespread criticism from NGOs and some politicians, who raised concerns over the Sudanese government's track record of human rights abuses towards immigrants and called for the suspension of all forced returns. This public outcry led to the programme's suspension in December 2017 after ten deportations had been carried out. In February 2018, the Belgian Commissioner General for Refugees and Stateless Persons announced the results of an investigation that found the government's decision to be in breach of the principle of nonrefoulement, which is enshrined in customary international law and codified in several international treaties that Belgium has ratified. See Dirk Van den Bulck, *Respecting the Principle of Non-Refoulement When Organizing the Return of Persons to Sudan* (Brussels: Commissioner General for Refugees and Stateless Persons, 2018).

141 Minos Mouzourakis, Kris Pollet, and Jean-David Ott, *Housing Out of Reach? The Reception of Refugees and Asylum Seekers in Europe* (Brussels: ECRE, 2019).

142 Mouzourakis, Pollet, and Ott, *Housing Out of Reach?*

143 As stated in Article 5 of 'Directive 2008/115/EC'.

144 EMN, *The Effectiveness of Return in EU Member States, 2017* (Brussels: European Commission, 2018).

such as processing centres (see Section 4). Countries including Germany, the Netherlands, Sweden, and Switzerland have also tested alternatives to the predominant approach in Europe at the time of:

- identifying asylum cases that are considered manifestly unfounded and prioritising their review (i.e., prioritised procedure); or
- identifying asylum cases deemed manifestly unfounded and channelling them into a different asylum procedure (i.e., accelerated procedures).[145] Member States, such as Croatia, Germany, Greece, and Portugal, apply accelerated procedures, which do not have a suspensive effect on deportation; this could lead to cases where an asylum seeker is returned before an appeal decision has been made.[146]

By instead setting up a system of triage and asylum tracks (see Section 4.A), these Member States have shifted away from the over-prioritisation of 'bogus asylum seekers' that negatively affected other applicants. The triage systems piloted to date suggest a more balanced, but also relevant, set of criteria for allocating claims to specific asylum tracks or procedures, such as case complexity or time needed to complete extra research, rather than solely or even primarily whether a claim is presumed disingenuous. In present practice, however, governments still tend to prioritise the asylum tracks for cases deemed easier to decide as manifestly unfounded or from a safe country of origin.[147] Hence, if asylum systems do not reserve sufficient staff resources for *all* asylum tracks, triage can hinder the return of some migrants, with more complex cases deprioritised and the lengthy stay in the host state complicating the issuance or implementation of a return decision.[148]

C. *Links with reception practices*

The post-2014 period has also witnessed a rising interest among policymakers in leveraging the reception of asylum seekers to improve return rates. In Germany, for example, the 2017 *Act to Improve the Enforcement of the Obligation to Leave the Country* allows Länder to oblige asylum applicants deemed to have a low chance of receiving protection to remain in initial reception facilities (the arrival centres developed in 2015) until they are either granted asylum or removed, for a maximum of 24 months.[149] Other countries have designating special reception facilities for asylum seekers with limited chances of having their claims accepted,[150] including Austria and the Netherlands, which run such centres close to an airport.[151]

Moreover, several Member States have started to offer return counselling to asylum seekers in reception centres. While some inform all asylum seekers about assisted voluntary return and reintegration

145 This is permitted under the recast Asylum Procedures Directive, Art. 31(7). See 'Council Directive 2005/85/EC'.
146 ECRE, 'Accelerated, Prioritised and Fast-Track Asylum Procedures'.
147 International Organisation for Migration (IOM), *Assisted Voluntary Return and Reintegration 2017 Key Highlights* (Geneva: IOM, 2018).
148 Participant comments during Expert Workshop on Asylum Procedures.
149 German National Contact Point for the EMN, *Migration, Integration, Asylum: Political Developments in Germany 2017* (Nuremberg: BAMF, 2018).
150 In Germany, for example, asylum seekers who have been channelled into the accelerated procedure are placed in 'special reception centres'. See AIDA, 'Types of Accommodation', accessed at 26 June 2019; German National Contact Point for the EMN, *Migration, Integration, Asylum*.
151 Only families with children or unaccompanied minors are exempt. See Dutch Council for Refugees, 'Border Procedure (Border and Transit Zones): Netherlands', AIDA, accessed 3 July 2019.

opportunities when they file an application (e.g., the Netherlands[152] and Belgium[153]), others reserve this for those considered likely to be without protection needs (e.g., Germany[154]).

BOX 4
Belgium: Counselling on assisted voluntary return and reintegration opportunities

In Belgium, counselling on assisted voluntary return and reintegration (AVRR) is not only made available to irregular migrants and rejected asylum seekers, but also to other categories of migrants—from Dublin transferees and migrants in transit to another Member State, to any third-country nationals wishing to take part in the process. Unlike Germany, which only provides this information to migrants considered to be without protection needs, all asylum seekers in Belgium receive a brochure on AVRR when applying for international protection. When an asylum application is rejected, the applicant receives an order to leave the territory along with a second brochure about voluntary return.

Following the order to leave, rejected asylum seekers prepare for their return in reception centres managed by the Federal Agency for the Reception of Asylum Seekers (Fedasil). Return counsellors from the agency provide supervision, together with an officer from the Immigration Office, and explain the return trajectory with an information sheet available in 11 languages. Migrants outside of the reception network (those who did not seek asylum and are not allocated to a return place in a reception centre managed by Fedasil) can access information on voluntary return options at five Fedasil return desks spread across different cities or through the Immigration Office. Belgian return counsellors are also responsible for organising the actual return, in collaboration with International Organisation for Migration (IOM), and for assessing reintegration opportunities in the migrant's origin country.

In March 2019, Fedasil also launched Reach Out with funding from the Asylum, Migration, and Integration Fund (AMIF), the first project under the European Return and Reintegration Network (ERRIN). The Reach Out team handles return counselling with irregular migrants (especially those in transit) in major Belgian cities.

In terms of impact, Belgium considers counselling to be effective if it successfully engages migrants in all steps of the asylum and, if applicable, return process.

Sources: EMN, 'Policies and Practices on Return Counselling for Migrants in EU Member States and Norway' (brief, European Commission, Brussels, August 2019); Fedasil, 'Assistance', accessed 24 October 2019; IOM, 'Country Specific Approaches to Reintegration Assistance, Counselling and Visibility in Belgium (AMIF)', accessed 24 October 2019; ERRIN, '"Reach Out!" First Project Approved under ERRIN Facility', ERRIN, May 2019.

Adjusting the reception of asylum seekers to improve return rates has tradeoffs. From the perspective of the authorities, initial reception facilities (or arrival centres) close to an airport or border make it logistically easier to return rejected asylum seekers. In the medium term, tailoring reception practices more closely around protection needs can further discourage inadmissible or unfounded applications, with such applicants facing swifter returns, possible detention at the border zone, and reduced chances of absconding. On the other hand, these measures put persons with a low—but non-negligible—likelihood of obtain protection at an even greater disadvantage, preventing them from properly preparing for

152 Dutch Ministry of Security and Justice, Repatriation and Departure Service, *Assisted Voluntary Return and Reintegration of Migrants Returning from the Netherlands* (Rijswijk, Netherlands: Dutch Ministry of Security and Justice, 2017).
153 ERRIN, '"Reach Out!" First Project Approved under ERRIN Facility', ERRIN, May 2019.
154 Paula Hoffmeyer-Zlotnik, 'Return Policy in Germany in the Context of EU Rules and Standards' (working paper 77, BAMF, Nuremberg, September 2017).

and presenting their case. NGOs including the Dutch Council for Refugees have noted that housing asylum seekers in centres close to airports risks ignoring their interests and rights, as set out in European regulations and human rights standards.[155] Arbitrary detention, lack of access to independent legal advice, and limited privacy are among the various challenges that asylum seekers may face while in such facilities.

While the links between return and asylum systems can be improved, it is also clear that the firewalls inserted between parts of these systems exist for a reason and should be respected. As illustrated by the example of the Belgian government and Sudanese state officials, governments are held accountable if they pursue swift returns at the expense of procedural safeguards.

6 Lessons for Joint EU Responses to New Arrivals

There is a wealth of lessons to be learnt from Member States' recent experiences and experiments with the registration and reception of asylum seekers, the processing of their protection claims, and the return of those whose claims have been rejected. These lessons can help inform assessments of the viability of past, present, and future proposals for a joint EU initiative to ensure effective management of third-country nationals who enter the bloc irregularly and safeguard the right to asylum. The concept of 'controlled centres', for example, was first introduced in the run-up to the European Summit of June 2018[156] as part of a renewed and concerted effort to better manage migration to Europe. Tasked with elaborating on these concepts, the European Commission sketched preliminary blueprints in an informal, three-page non-paper published in July 2018.[157] In the aftermath of the European Summit, the EU-28 agreement was widely interpreted as a compromise between the position of frontline countries such as Italy and Greece and those of Visegrad countries, which had successfully advocated for making the system voluntary and for linking its implementation to the reform of the Dublin system.[158]

The controlled centres sketched in the July 2018 non-paper would conduct 'rapid and secure processing' of migrants disembarking in the European Union following a search and rescue operation; migrants arriving at other EU external borders (e.g., land borders) were not mentioned in the paper. The European Commission proposed the controlled centre take on six tasks: (1) identify and conduct security checks on incoming migrants; (2) distinguish between those who have a legal ground to enter the European Union and those who do not; (3) return those who do not have a legal ground to stay; (4) assess whether those who claim international protection have a solid ground for doing so; (5) allocate those who claim/receive asylum to an EU Member State where they can stay and integrate; and (6) ensure that incoming migrants only move onwards to another part of the European Union if authorised and coordinated by EU and crossnational actors.

Technical details on how a controlled centre would operate were few and sometimes vague in the non-paper, indicative of the speed with which the European Commission had to develop this new concept.

155 Dutch Council for Refugees, 'Border Procedure (Border and Transit Zones): Netherlands'.
156 Council of the European Union, 'European Council Conclusions, 28 June 2018' (press release, 29 June 2018).
157 European Commission, 'Non-Paper on "Controlled Centres" in the EU – Interim Framework' (non-paper, European Commission, Brussels, n.d.).
158 Ninon Bulckaert, '"Controlled Centres" for Migrants – Not "Hotspots", Say EU Leaders', Euractiv, 2 July 2018.

Indeed, in the months following the proposal, Commission officers and other policymakers started filling in the gaps, constructing the model as negotiations with countries on both sides of the Mediterranean evolved. Though the controlled centre proposal was never adopted, this type of model has taken on many names and forms in EU debates—including 'temporary arrangements'[159] and a 'solidarity mechanism'—and the above six tasks have remained central, as they likely will for any future joint EU strategy for managing irregular entry in an efficient and rights-respecting manner.

Working within the current Common European Asylum System (CEAS) and assuming no major legislative reform to this framework, this section investigates how such an EU joint mechanism might be designed to accomplish its six core tasks. It examines whether EU asylum and migration law sanctions the activities as proposed in the Commission non-paper on controlled centres, and whether EU agencies such as EASO and Frontex have the legal mandate and the human and financial resources to conduct them. Exploring the degree to which the proposed centres mirror developments at the national level sheds further light on the political and practical feasibility of such an approach—and some of the wildcards policymakers will need to consider.

Task 1. Registration and identification

Establishing a newly arrived migrant's identity and conducting security checks must immediately follow disembarkation and, where relevant, emergency medical help. It precedes any migration procedures, whether asylum or return. The Commission's 2018 non-paper nominated Frontex for this role, reflecting the fact that the agency has performed a similar role in the 'hotspots' set up in Italy and Greece to process new arrivals.[160] This experience will be helpful when determining, for example, the number of staff required to conduct identity and security checks for X new arrivals (the non-paper refers to 50 officers for 500 arrivals[161]) and the necessary hard- and software to secure swift and continuous identification operations (e.g., sufficient fingerprinting machines). The rapid mobilisation and deployment of staff and equipment from EU Member States will be critical to enabling Frontex to perform this task to its best abilities.[162]

In addition to the *speed* with which disembarking migrants are identified, the *validity* of the resulting identity data will play into the potential success of the centre. Uncertainty about new arrivals' identities or a person's use of multiple identities—at times, with multiple associated asylum applications—has long afflicted national migration and asylum systems, consuming extra processing resources and often stalling either the initiation of or decision-making in an asylum or return procedure.[163] While from a managerial perspective it may make sense for a centre to swiftly redirect these migrants to national authorities as they

159 European Commission, 'Communication from the Commission to the European Parliament, the European Council and the Council: Progress Report on the Implementation of the European Agenda on Migration' (COM[2019] 481 final, 16 October 2019).

160 FRONTEX, 'Situation at External Border', accessed 13 January 2020.

161 It is not clear if these calculations are based on the assumption that all 500 migrants would disembark (almost) at once or be spread over a certain period of time. See European Commission, 'Non-Paper on "Controlled Centres"'.

162 With regard to operations at external EU borders, it is important to recall that Frontex does not have its own border guards or equipment. Instead, it draws on the pool of border guards, aircrafts, boats, and other equipment that EU Member States make available for the specific operation and reimburses the costs of their deployment. See European Union, 'European Border and Coast Guard Agency (Frontex) Overview', accessed 25 February 2019.

163 EMN, *Challenges and Practices for Establishing the Identity of Third-Country Nationals*; Frontex, *Risk Analysis for 2019* (Warsaw: Frontex, 2019).

await identification, preserving the flow of cases through the centre, this presents the hosting Member States with a first wildcard: How many third-country nationals with (severe) identification problems are national authorities willing to take, given the associated risk of prolonged asylum or return procedures?

Even if joint centres at external EU borders were to adopt some of the innovate practices Member States are experimenting with (such as language recognition tools in Germany[164] and improved coordination in Norway,[165] discussed in Section 2), non-identification will remain a problem. Hence, the European Union and its Member States will need to negotiate who will be responsible for these persons and the related costs in terms of (extra) research, (longer) reception, and more. Policymakers should also consider what role the European Union could take in lightening this load, for example, in terms of extra funding, capacity-building, or Frontex staff deployment.

Task 2. Initial assessment of legal grounds to stay in the European Union

Following registration and identification, the joint centre would be tasked with a first 'triage' of cases—dividing incoming migrants into those who have a legal ground for being in the European Union and those who do not. This triage can be completed swiftly, with authorities (e.g., Frontex and EASO staff) investigating, for example, migrants' travel documents, residence permits or similar, and entry bans (as recorded in EU databases), and informing migrants of the possibility to apply for international protection. This triage would sort migrants into two broad classifications: those who cannot enter and must be returned, and those who can enter and stay provisionally/temporarily until the validity of their (protection) claims for staying in the European Union are determined.

Reviews of a similar practice applied at the hotspots indicate the importance of ensuring that centre personnel adequately inform arriving migrants of their right to ask for international protection and of the limited timeframe in which they can do so.[166] Because the return procedure is initiated promptly for those who do not claim asylum and are not lawfully present (see Section 4), this procedural safeguard is essential to safeguarding access to asylum for those in need.

After this initial assessment, the centre would initiate different next steps depending on the category or group into which an arriving migrant is sorted: return or asylum case processing.

Task 3. Activation of the return procedure

As with registration and identification, a swift and effective return of those with no right to remain in the European Union is essential for the operability of this model. If this is not guaranteed, it will result in operational bottlenecks (e.g., staff time is diverted from registration or security checks to complete cumbersome return procedures). Such delays would also lead to the rapid saturation of reception capacity within the centres, mirroring the problem Member State reception agencies have consistently reported

164 German National Contact Point for the EMN, *Migration, Integration, Asylum*.
165 Participant comments during Expert Workshop on Asylum Procedures.
166 See, for example, Papadopoulou, *The Implementation of the Hotspots in Italy and Greece*. This obligation is also laid down in Article 8 of the Asylum Procedures Directive. See 'Council Directive 2005/85/EC'.

where rejected asylum seekers are entitled to remain in reception facilities until their return is effected and no special facilities for returnees exist to free up reception spaces for incoming asylum seekers.[167]

What strategies could such centres employ to secure and speed up the return of migrants with no valid claim to stay in the European Union? These practices, drawing on national experiences, could include:

- **Limit the time a migrant with no legal ground to be in the European Union spends in EU territory.** Restricting this to the shortest time possible (the Commission non-paper refers to 72 hours) will limit the emergence of factors that may otherwise complicate the return of a person and his or her family, such as the educational trajectory of children or adolescents, the formation of new family ties, the strengthening of ties between migrants and the community they live in and contribute to (e.g., via jobs, volunteering, or social networks).[168]
- **Reduce the risk of abscondment.** Migrants who disappear from reception centres often do so in the first 24 to 48 hours after arriving in an EU Member State.[169] Making their presence in the centre mandatory would (help to) avoid their unauthorised onward movement to other parts of Europe or going underground.
- **Ensure adequate human and other resources.** Whether the centre has the necessary staff and funding will determine whether it is able to swiftly return migrants to their origin countries. The engagement of Frontex, which can initiate joint return flights, is key.[170]

EU and national actors involved in the joint centre would, in short, need to mobilise all that is within their power to speed up the return of those with no grounds to stay. In addition to ensuring the centre can continue to receive and process new arrivals, this also cuts the limbo period that migrants may otherwise experience due to delays in return operations. However, the factors that have stymied returns to date (see Section 5), including those related to the cooperation of third countries, will remain.

The lingering questions that require further attention thus include how to ensure migrants' continued presence in the centre and what will happen to those who cannot be returned. Should these unreturned migrants be the responsibility of the EU Member State in which the centre is located? Or should they be subject to a relocation or distribution plan to spread them out within Europe? If they remain in the country

167 Kegels, *Getting the Balance Right*; EMN, *The Organisation of Reception Facilities for Asylum Seekers in Different Member States*; Papadopoulou, *The Implementation of the Hotspots in Italy and Greece*.

168 At the Greek island hotspots, Greek courts and UNHCR have found that extended stay in camps and poor conditions negatively impacts personal health and integrity, and can 'perpetuate the trauma of displacement and create barriers to solutions, whatever form they take'. See Greek Council for Refugees, 'Conditions in Reception Facilities: Greece', AIDA, accessed 25 February 2019.

169 Children are often among those who abscond, which can expose them to violence, abuse, or neglect. See EMN, *Policies, Practices and Data on Unaccompanied Minors in the EU Member States and Norway* (Brussels: European Commission, 2015).

170 Article 68(3)(i) of the 'Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and Amending Regulation (EU) 2016/399 of the European Parliament and of the Council and Repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council', *Official Journal of the European Union* 2016 L251/1, 16 September 2016; European Union, 'European Border and Coast Guard Agency (Frontex) Overview'. For the legal basis for the organisation of these joint flights, see 'Council Decision 2004/573/EC of 29 April 2004 on the Organisation of Joint Flights for Removals from the Territory of Two or More Member States, of Third-Country Nationals Who Are Subjects of Individual Removal Orders', *Official Journal of the European Union* 2004 L261/28, 6 August 2004.

that hosts the centre, the burden they place on its society will depend on what type of status they are granted and its implications in terms of accessing, for example, education, the labour market, and social welfare benefits. The statuses and related rights that Member States have granted to such migrants in the past differ.[171] These persons—and the long-term societal costs determined by how they are treated—constitute a second wildcard that Member State would face when agreeing to host a centre.

Task 4. Processing asylum claims

The rapid yet robust examination of asylum claims, and hence the ability to quickly move third-country nationals through the centres, will make or break this model. If a (pilot) centre becomes an indefinite waiting room for migrants, this will inevitably be construed as the failure of the model.

The Commission non-paper refers to a stay of at most four to eight weeks, which would require a case processing system that can meet this short deadline.[172] This process would result in one of three outcomes: a positive asylum decision based on an asylum procedure conducted at the centre, a negative decision (and hence a return order) issued at the centre, or a referral of the claim to the regular asylum procedure of the host Member State, with the person moving out of the centre and into national reception facilities.

For joint centres to conduct swift yet fair processing of asylum claims, they should possess many of the features outlined in Section 4 as beneficial at the national level, including institutional cooperation and/or co-location of relevant authorities and a system of triage and asylum tracks. But, even with these features, the centres would face challenges similar to those national asylum systems have had to confront. To date, and even with considerable expertise and resources, none of these asylum systems have been able to avoid lengthy processing times of one year or more for a significant proportion of their asylum cases. Or to put it differently, when cases are complex or lacking in relevant details, even additional staff, a categorisation system for asylum claims, and quality country-of-origin information will not necessarily result in quicker decisions. The very nature of such cases warrants a regular procedure, not an accelerated or simplified one, to ensure there is adequate time to identify the person, assess the credibility of his or her statements, and gather evidence, and for the asylum authorities to agree on whether a ground for international protection is present.

When cases are complex or lacking in relevant details, even additional staff, a categorisation system for asylum claims, and quality country-of-origin information will not necessarily result in quicker decisions.

This explains why the Netherlands and Sweden,[173] which have recently overhauled their asylum systems to gear them towards rapid processing, expect to achieve a quick turnaround on only about 50 per cent

171 See Inês Máximo Pestana, '"Tolerated Stay": What Protection Does It Give?', *Forced Migration Review* 40 (August 2012): 38–39; EMN, *The Different National Practices Concerning Granting of Non-EU Harmonised Protection Statuses* (Brussels: European Commission, 2010).

172 European Commission, 'Non-Paper on "Controlled Centres"', 1.

173 The target is now set at three months for a first instance decision, and this for 50 per cent of incoming applications. Participant comments during Expert Workshop on Asylum Procedures; Bernd Parusel, 'Sweden's U-turn on Asylum', *Forced Migration Review* 52 (May 2016): 89–90.

of their incoming cases.[174] For example, in the 12-week period leading up to early September 2018, Dutch authorities assigned 55 per cent of the asylum cases they processed to the regular, rather than the rapid, procedure.[175] Norway and Switzerland[176] have also adopted legal and institutional reforms to reduce processing times to 21 and 10 days, respectively—a goal Norway is currently achieved for 30 per cent of cases.[177]

Again, a familiar question emerges: What will happen to third-country nationals whose asylum dossier cannot be rapidly processed at the centre? The Commission non-paper suggests the possibility of shifting the claim to the national asylum procedure and reception centre. This represents a third wildcard for a Member State that agrees to host a centre on its territory. How many asylum seekers will be transferred? If 50 per cent of cases cannot be decided in the timeframe required of the centre, the number of transfers could quickly accumulate. How lengthy and costly will the processing of their claims and intermittent reception in the country be? And should these lengthy cases not result in international protection after transfer from a centre, Member States will also need to decide who will take charge of their return and, if not possible, their tolerated stay in the European Union.

Task 5. Relocation of protection beneficiaries to other EU Member States

A plan should also be in place to determine what will happen to asylum seekers who are granted international protection via the (rapid) processing system operated within the joint centre. The Commission non-paper refers to voluntary relocation to another EU Member State, with coordination support from the Commission and financial support from the European Union (6,000 euro per person relocated).[178]

At this stage, the problems that plagued past relocation programmes—including EUREMA,[179] the relocation programme connected to the hotspots,[180] and the voluntary distribution mechanism set out in the Temporary Protection Directive[181]—are likely to resurface. These include the often-cumbersome task of matching refugees with hosting states, due to the (informal) selection criteria set by states and

174 The Netherlands, for example, reformed its asylum procedures in 2010 with the aim of processing all asylum claims within eight days. All asylum applications start in the short asylum procedure stream. If, within eight days, the asylum authority is not able to issue a decision, the case is to be transferred to the extended procedure, where a decision is to be issued within six months. For more information, see Dietrich Thränhardt, *Asylum Procedures in the Netherlands* (Gütersloh, Germany: Bertelsmann Stiftung, 2016).

175 Consultation with the Dutch Ministry of Justice, 4 September 2018.

176 Swiss Refugee Council, *Country Report: Switzerland*.

177 The average processing time in Norway was about eight months, including appeals. Participant comments during Expert Workshop on Asylum Procedures. Information on waiting times for asylum seekers can be found at Norwegian Directorate of Immigration (UDI), 'Waiting Time', accessed 21 October 2019.

178 European Commission, 'Non-Paper on "Controlled Centres"', 2–3.

179 The EU Pilot Project on Intra-EU Relocation from Malta (EUREMA) was implemented under ERF Community Actions in 2010 and 2011. For more information on this and on the second leg of this programme (EUREMA II), see European Resettlement Network, 'Intra-EU Relocation', accessed 21 October 2019. Several constraints affected the operations and outcomes of EUREMA, as detailed by, for example, EASO, *EASO Fact Finding Report on Intra-EU Relocation Activities from Malta* (Valletta: EASO, 2012); European Commission, '2nd Resettlement and Relocation Forum: "Solidarity in Practice"' (discussion paper, European Parliament, Directorate General for Home Affairs and Migration, Brussels, November 2014).

180 Collett and Le Coz, *After the Storm*; Mentzelopoulou and Luyten, 'Hotspots at EU External Borders'.

181 The Temporary Protection Directive includes voluntary distribution of displaced persons in case of mass influx. See 'Council Directive 2001/55/EC'. A 2015 evaluation of this directive outlined the severe obstacles to its implementation, including the fact that both the third-country national and the EU Member State had to agree to the transfer ('double voluntarism'). See Beirens, Maas, Petronella, and van der Velden, *Study on the Temporary Protection Directive*.

the expectations held by refugees (e.g., about employment opportunities and the presence of a migrant community or diaspora). The completion of the transfer can also be difficult due to, for example, slow exchanges between authorities in the Member States involved. More importantly, the degree to which refugees can be transferred to other parts of Europe remains uncertain and dependent on the process according to which Member States make pledges to settle recognised refugees.[182]

This presents a fourth wildcard to Member States that agree to host a centre. How many beneficiaries of international protection will be transferred to other EU Member States and how many will remain? And will the European Union financially support the integration of the latter group?

Task 6. Controlling the movement of migrants following arrival

Last but not least, the very concept of 'controlled centres' implies that migrants who arrive at such a centre will not be able to freely move onwards unless authorised and organised by the relevant authorities. But while preventing secondary movement to other parts of the European Union is a key priority for EU and national policymakers,[183] the Commission non-paper is silent on how this 'control' would happen.

Detention on a group basis and/or solely for the purpose of registration or reviewing asylum applications is not permitted under EU law. Instead, EU asylum law and jurisprudence require authorities to assess the need for detention on an individual basis.[184] Moreover, even if the eventual conclusion is that some form of detention is duly justified, the authorities must first seek alternatives to detention.[185] These may include, for example, regular check-ins with the reception facility, electronic ankle bands, or case management.[186] As such, the implicit assumption that persons disembarking from boats and led into a controlled centre can be obliged to stay there, or accommodated in closed reception facilities, will be difficult to translate into practice.

This fifth wildcard begs the questions: How is a Member State that hosts a centre to prevent the onward movement of newly disembarked migrants? And what will be the implications if it does occur? Debates within the European Union have often been a cat-and-mouse game where solidarity with external Member States regarding the reception and integration of beneficiaries of international protection is made dependent on first arrival states fulfilling their assigned tasks of registration, identification, security checks,

182 The negotiations that currently precede the docking of each Mediterranean rescue boat demonstrate that a more long-term arrangement would be preferable in order to smooth operations at the controlled centre. Al Jazeera, 'Italy: Rescue Ship with 104 People Can Dock after 11 Days at Sea', *Al Jazeera,* 29 October 2019.

183 An example is the German Minister of Interior's 2018 policy proposals to stop, and eventually discourage, secondary movement to Germany. See Horst Seehofer, 'Masterplan Migration' (proposal, 22 June 2018); Hanne Beirens, *Horst Seehofer's Migration Plan for Germany: Another Nail in the Coffin of Europe's Asylum System?* (Brussels: MPI Europe, 2018).

184 See Article 15(1) and 3(7) of 'Directive 2008/115/EC'; European Commission, 'Annex to the Commission Recommendation Establishing a Common "Return Handbook" to Be Used by Member States' Competent Authorities When Carrying Out Return Related Tasks' (C [2017] 6505, 27 September 2017), Section 1.6.

185 As per Article 15(1) of the Return Directive. See 'Directive 2008/115/EC'; European Commission, 'Annex to the Commission Recommendation Establishing a Common "Return Handbook"', 67–90; Council of Europe, *Twenty Guidelines on Forced Return* (Strasbourg: Council of Europe, 2005).

186 An interim report for the ongoing two-year project 'Alternatives to Detention: From Theory to Practice' suggests positive first results for a method of case management in which a social worker works with a migrant to secure his or her continued engagement with migration procedures and authorities. See Eiri Ohtani, 'Alternatives to Detention from Theory to Practice' (briefing paper, European Programme for Integration and Migration, Brussels, July 2018).

and preventing migrants of going underground and/or travelling to other parts of Europe. The expectation that disembarked migrants will remain in a centre will be similarly high.

Designing joint approaches as part of a broader rethinking of how new arrivals are managed

The challenges discussed in this section are not exhaustive, but they suggest a number of areas that require further refinement and agreement if an EU joint solution in this area is to be successful. As migration flows to Europe change in composition and more 'straightforward' cases of protection, such as those involving Syrians affected by civil war, diminish within the overall caseload, the problems of non-identification, complex asylum cases, and delayed returns may only multiply. These are very real possibilities that any pilot controlled centre—or other type of disembarkation and/or shared processing arrangement—will have to take into account.

More importantly, the wildcards present in the Commission's proposal for controlled centres cannot be dismissed as unique to that model, as any joint EU initiative to manage incoming arrivals will have to perform these six tasks. Would a more muscular EU asylum agency, able to perform more procedural steps, possibly take decisions, and draw on its growing country-of-origin data and analysis, ease this process? This would require a significant revision of EASO's mandate and legal reforms at both the EU and national level.

Independent of such legal reforms, the concept of controlled centres can be said to fit within policymakers' concern with running more efficient asylum and migration systems. The Member States that were particularly affected by the 2015–16 influx in arrivals are already moving in this direction (e.g., setting up first arrival or processing centres). The fruits of the experiments they have embarked upon over the last few years can now be reaped as the future of asylum in Europe is reshaped. The solidarity principles some of these Member States have applied within their own borders may even help to address the thorny issues that will face any EU disembarkation arrangement.

7 Conclusions

As new EU leadership takes office, Brussels is buzzing with the search for bright ideas on how to either revive or reform the Common European Asylum System (CEAS). But while many stakeholders may yearn for a fresh start, simply turning the page for the sake of doing so is not desirable. In 2020, the deficiencies of asylum systems across Europe are still plentiful; yet to a close observer, the make-up of these systems has significantly evolved since the height of the 2015–16 crisis. Future EU-level asylum policy endeavours can ill afford to ignore Member States' recent policy shifts and experiments to, for example, reduce the time

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that asylum authorities need to decide cases, to enable reception systems to swiftly scale up or down their capacity, and to speed up the return of migrants without protection needs.

This post-crisis experimentation at the national level is important not only because it is working to address shortcomings that have plagued asylum systems for decades, but also because it demonstrates that operational responses are an integral part of any viable solution—as much if not more so than proposals to reform the EU legal framework for asylum. Legal obligations to, for example, conclude asylum procedures within six months have done little to cut processing times across Europe. Yet, operations-focused ideas that have surfaced since 2015—such as the creation of 'processing centres' to bring all stakeholders involved in the asylum procedure under one roof, or the use triage or track systems to match asylum procedures to the incoming caseload—have helped to speed up the process for (certain) asylum cases in several Member States.

The migration crisis forced asylum authorities to return to the basics, and to commit to doing those basics well. Across the diversity of innovative practices that Member States have adopted to improve the performance of their asylum systems, both in terms of speed and quality, and to make these systems more resilient in the face of fluctuating inflows, certain shared approaches have begun to emerge: making initial registration more robust to streamline other stages of the process; improving cooperation within and across Member States to boost reception capacity; adjusting asylum procedures to support timely yet high-quality decision-making; and laying the groundwork early for the return of migrants whose asylum claims are rejected.

Asylum systems in several EU Member States, it could be argued, are no longer ruled by the standard four-step process but now follow a different rhythm. The sudden rise in arrivals that began in 2014 threw the flaws of the archetypical setup of these systems—a linear process starting with registration before moving through reception and case processing to arrive at a decision—into sharp relief. The gatekeeper role this model assigns to registration and its rigidly sequential nature partly explain the ease with which asylum systems were toppled in this period. Delays in the registration of asylum seekers had many sleeping rough, as reception facilities could only offer a bed to those with a registration document. Other key tasks, such as identity and security checks, also suffered delays due to bottlenecks in the registration phase.

What followed in many of the countries dotted along migratory routes through Europe was a substantial rethinking of how to organise an asylum (and, even broader, a migration) system. At the heart of this reconfiguration were:

- **A conceptual shift.** Rather than a lineal pipeline in which authorities must complete a specific task (e.g., registration, health check) before handing a case over to another authority to fulfil another task (e.g., allocation of reception place), a shift towards a more process-oriented approach seems to be unfolding. For example, rather than viewing return as a distinct procedure that starts after the asylum procedure has finished, and one that is the responsibility of a different set of authorities entirely, several Member States are moving towards a model in which tasks and steps taken across the continuum between registration and possible return speak to one another and require cooperation between authorities (e.g., identification practices that involve law enforcement, migration authorities, and caseworkers, with data collected at various stages in the asylum trajectory).

- **An organisational shift.** To successfully implement asylum processes, a range of authorities and related partners must work together. This co-dependence, which existed before but could no longer be ignored during the crisis, has spurred the creation of task forces to duly inform, coordinate, and facilitate this work. As one country after another—France, Germany, the Netherlands, Switzerland, and later Belgium—has overhauled its rigid sequencing of registration, then reception, and then asylum processing, new organisational structures have emerged to serve a system driven by the simple question: What do newly arrived asylum seekers and the authorities that work with them need in those first days or weeks? 'First-arrival' processes were thus born at, among others, the arrival centres in Germany and the guichet unique in France, where authorities are co-located in a single venue.

This careful scan across Europe has clearly shown that policy ambitions to reconfigure protection regimes can rarely succeed if they ignore these systems' inner workings or dismiss them as of lesser importance than the legal scaffolding around them. On the contrary, recognising how change occurs at the operational level is essential for understanding how states can be put on a trajectory towards running robust asylum systems and taking up their role in regional or global protection initiatives.

Some of the new practices Member States and EU actors have tested display potential weaknesses as well as promise. For example, while triage and track systems have so far been able to speed up processing times for part of an incoming caseload, they are still grappling with how to avoid unduly delaying the other cases, which often include those that are complex but may eventually result in protection. The next step for new models such as this is for in-depth, high-quality research to more comprehensively document their effects and to investigate how and under what conditions they can be scaled up or transferred to other contexts. This needs to go hand in hand with investment in national and EU-wide monitoring systems that can track the duration and outcomes of registration, processing, and return procedures; without the comparable data that such monitoring systems produce, discussions of what works or where to invest when asylum systems falter are conducted on unsteady ground.

Bringing these rapidly evolving insights on how to run quality and cost-efficient processes together to form the next generation of EU asylum and migration policies presents both opportunities and challenges as new EU leadership starts its tenure and eagerly seeks definitive solutions to these long-standing issues. Adopting a package of legal reforms rooted in the proposals circulated three or four years ago[187] risks ignoring this more recent surge of activity and creativity in the asylum and migration field. Instead, policymakers may find it more effective to develop a roadmap that sets out a strategy for fixing European asylum systems in the short, medium, and long term. Such a roadmap would lay out clear goals, following consultation with Member State governments and other key stakeholders, and milestones that Member States and the European Union could work towards to reach them. Goals, such as speedy, high-quality asylum processing across the European Union are supported by a wide consensus across government and nongovernment actors in Europe. Milestones could include, for example, an up-to-date assessment of Member States' reception capacity and quality that is comparable across countries; an evidence-based agreement on how to adapt asylum procedures to different caseloads; a greater degree of alignment on asylum decisions

187 As explained in the Introduction, the European Commission proposed a new package in the course of 2015–16 to revise the Common European Asylum System.

across Member States; and more effective practices to swiftly return migrants deemed not to have protection needs.

In pursuit of the goal of solidarity within the European Union, the roadmap could call for EASO and/or groups of Member States to test different approaches to managing new arrivals over land or sea and swiftly discerning their protection needs. A series of pilot schemes could investigate a range of questions (e.g., How effective is financial support or extra border staff in relieving pressure on asylum systems? What results in a swifter, clear outcome for asylum seekers and receiving societies—processing centres that use the regular asylum procedure or a border procedure?). Accompanied by solid evaluation, these schemes can lay the groundwork for a rethinking of solidary tools and approaches and steer the discussion away from the stagnant waters of Dublin.

Importantly, opting for a roadmap approach duly acknowledges the role that operational changes, both system tweaks and more substantial adjustments, have played and will continue to play in overcoming the structural shortcomings of European asylum systems—deficiencies that legal reforms can only do so much to correct. A roadmap has the potential to consolidate lessons from this period of intense learning, rigorously test new models, and scale the most promising innovations. It also naturally reserves a stronger role for the operational partners on this journey, such as EASO and nongovernmental actors, and calls for them to be given appropriate resources and mandates. Finally, this approach more readily recognises that Member States—given differences across national contexts (e.g., institutional makeup)—may employ a diversity of operational strategies to attain common, overarching goals. Incorporating a certain degree of flexibility into the roadmap in this way is feasible as long as robust monitoring and evaluation systems are in place to quickly detect signs of success and failure and route this information to the appropriate authorities for future action.

In the end, regardless of the form future policy changes take, it will be important to maintain the strong operational focus and openness to experimentation that has emerged in recent years, and to dedicate sufficient human and financial resources to building upon this momentum. The last five years have clearly shown that this operational dimension deserves an equal spot on policymakers' agendas, alongside legal reform, and that it may well hold the key to building more resilient and well-functioning asylum systems.

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