ReSOMA:
Research Social platform On Migration and Asylum

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Duration:  24 months

<table>
<thead>
<tr>
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<th>WP1 – Setting &amp; responding to the Policy Agenda</th>
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<td>ISMU</td>
<td>Final check and submission</td>
</tr>
</tbody>
</table>
Content

1 LIST OF ABBREVIATIONS AND DEFINITIONS ........................................................................ 4
2 INTRODUCTION .................................................................................................................. 5
3 THE ASK THE EXPERT POLICY BRIEFS – FROM CONCEPT TO PUBLICATION .................. 6
  3.1 Outset of the policy briefs and simplification proposal ...................................................... 6
  3.2 Drafting and publishing the policy briefs ......................................................................... 6
  3.3 Challenges encountered ................................................................................................. 7
4 CONCLUSIONS .................................................................................................................... 8
5 ANNEXES ........................................................................................................................... 9
Annex I – Template for ReSOMA public deliverables .............................................................. 9
Annex II - Semplification of WP1 .......................................................................................... 12
Annex III – Final Ask the expert policy briefs ....................................................................... 16
### 1 LIST OF ABBREVIATIONS AND DEFINITIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>DoA</td>
<td>Description of Action</td>
</tr>
<tr>
<td>EC</td>
<td>European Commission</td>
</tr>
<tr>
<td>H2020</td>
<td>Horizon 2020</td>
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<tr>
<td>Y1</td>
<td>First annual cycle of the project</td>
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<tr>
<td>AE</td>
<td>Ask the Expert (Policy Briefs)</td>
</tr>
<tr>
<td>KO</td>
<td>Kick-Off Meeting</td>
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<tr>
<td>SG</td>
<td>Steering Group</td>
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<td>PO</td>
<td>Project Officer</td>
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<td>AB</td>
<td>Advisory Board</td>
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2 INTRODUCTION

The Ask the expert policy briefs are highly informative tools embedded in the WP1 “Setting and Responding to the Policy Agenda” that aim at facilitating knowledge sharing and social capital development. By reacting to current events and developments that shape the European migration and integration debate during the duration of the project, these policy briefs will provide timely, evidence-based input to public debates as they unfold and feed in the overall process of identifying the unmet needs and defining policy trends.

An overall of 6 policy briefs (2 each for migration, asylum and integration) per year will be sourced and drafted by lead experts (ISMU on asylum and migration and EUR on integration), with additional assistance by MPG and CEPS. The expert database will be used to identify and access leading expertise for the topic at hand. Also, via IMISCOE/ EUR access can be obtained to a broader network of scholars on all three topics, including possible collaborations with the H2020 CROSS-MIGRATION project.

These tools are designed to work in complementarity with the other tasks from WP1. Along with data collected through the Social Research Panel Survey and consultations with the Steering Group and the Advisory Board, the Ask the expert policy briefs will feed into 9 annual Synthetic state-of-the-art policy briefs. These reports will be the major impetus for the first part of the first annual project cycle.
3 THE ASK THE EXPERT POLICY BRIEFS – FROM CONCEPT TO PUBLICATION

3.1 OUTSET OF THE POLICY BRIEFS AND SEMPLIFICATION PROPOSAL

The debate on the AE began before the KO with MPG, ISMU and EUR meeting virtually to discuss the interaction of tasks between Tasks 1.1, 1.2 and 1.3 of WP1. The results of this exchange was later shared with the consortium during the KO. Upon agreement of all partners during the meeting, EUR started to work on simplification of tasks in WP1 which, among other things, involved identifying every task and thinking on how they would build up on each other in the first 6 months of Y1.

Following the KO, the lead experts had a virtual meeting to discuss possible topics for the first year. This list of topics was shared with all the partners before the 27/02 SG meeting. This list was disseminated to the whole Consortium by ISMU and was complemented with a list of topics resulting from a brainstorming session by MPG.

The topic selection process made it clear that partners would need to rethink the purpose of the first round of AE (@M2). Instead of looking at individual topics in depth, they agreed that experts would write their first briefs on the list of 9 topics and that these would be further investigated through desk research by MPG and CEPS in the framework of the other deliverables of WP1.

In early March, EUR, ISMU and MPG had a virtual meeting to discuss the WP implementation details. Lead experts also joined to agree on the new time line and contributions to the overall interaction of tasks. They all agreed on the new timeline for the first AE to be ready by the first week of April. As a matter of fact, in Y1 discussions on topics started at the first SG meeting, which took place at the end of M1. Due to this and due to the delays in setting up the Advisory Board and hence the longer time needed to get their feedback on topics, it was suggested that the final version of the first AE be ready one month later than what was stated in the Grant Agreement. Postponing this deadline would have no impact on the other deliverables foreseen in WP1.

EUR, ISMU, MPG and CEPS met one week later to talk about the simplification proposal and discuss the interaction between WP 1, 2 and 3. As WP1 leader, EUR finalised the proposal and shared it with MPG and ISMU for final check. Later on, ISMU sent it to the PO on 19/03. On 26/03 the PO accepted the proposal in the version featured in Annex II.

3.2 DRAFTING AND PUBLISHING THE POLICY BRIEFS

Once the PO agreed on the simplification proposal, the Asylum Lead Expert (ISMU) shared the first draft of the AE template with fellow experts. Upon transmission and integration of their feedback, the template was shared with CEPS and MPG.

All the while, MPG shared the final list of topics with ISMU and EUR. EUR communicated the message with the rest of the lead experts team and was therefore mandated to act as messenger between lead experts...
and MPG/CEPS for deliverables from Tasks 1.1 and 1.2. The feedback loop was nevertheless kept open to the AB with whom partners engaged in exchanges over email, especially on the topics relating to asylum.

Once the three AE were finalised they were disseminated to the Consortium by ISMU - first the one on integration, then the ones on migration and asylum – in order to gather feedback. Lead experts had some email exchanges with some partners - mostly on things related to the format of the AE - while ISMU, MPG and CEPS provided some content-based feedback. On MPG’s and CEPS’s request to provide further feedback on the AE through Skype calls, ISMU made it clear that the experts would need written feedback as soon as possible and that virtual calls on topic development for tasks 1.1 and 1.2 could be set up a little later. After the documents were reviewed by the Quality Manager (internally at ISMU) as per the Consortium Agreement and the Project Management Manual (D6.1) and the final drafts of the policy briefs were circulated among the SG and all comments were integrated.

The final versions of the policy briefs were eventually integrated into an ad-hoc format. ISMU developed a template (see Annex 1) for all public deliverables foreseen in the framework of ReSOMA that will be used consistently. It features a cover with the ReSOMA and the EC logos as well as a brief project description and contact information in the back. The use of the characteristic S of the ReSOMA logo in the background of the cover will secure an easy recognition of publications while ensuring coherence of visual identity.

The AE will be published on the ReSOMA Platform and will be disseminated through the ReSOMA Twitter account.

3.3 CHALLENGES ENCOUNTERED

Most of the challenges encountered during the decision-making, drafting and feedback process behind the AE relate to communication. As early as the first SG Meeting, it became clear that there was not enough communication among partners on the tasks ahead of them and how to achieve interaction between the tasks without letting the same work done twice by different people. In addition, due to the tight deadlines of the AE and the simplification proposal the interaction among partners needs to be highly fluid and reactive.

The way partners handled some communication-related issues, however, have helped them develop some good practice that could guide the implementation of future tasks:

1. Many project activities are highly dependent on each other, all the more so the ones from WP1. This will become more clear as the project reach greater maturity and calls for avoiding making communication to bureaucratic by adding in roles for team members. Electing a key person handling communication between different teams revealed to be a successful practice, like in the case of the Lead expert on integration (EUR) becoming the messenger between CEPS/MPG and the Lead experts team. Partners might consider adopting this approach when implementing future WPs.

2. It is important that all partners agree on when feedback is needed and when feedback needs to be provided (e.g. deadlines). Partners have been considering adopting a tag system in the subjects of emails with a capitalised description of the aim of individual emails (e.g. “ACTION NEEDED” to set up a meeting, “FEEDBACK NEEDED” to get immediate/quick feedback, “UPDATE” to inform each other, “CONFIRMATION/APPROVAL NEEDED” if all partners have to approve something etc.).
4 CONCLUSIONS

Due to the selection of topics and the establishment of the AB as part of the outset of the ReSOMA Project, partners had to rethink the aim of the first round of AE (@M2). As a result, instead of looking at individual topics in depth, these policy briefs would outline the final list of 9 topics and that these would be further investigated through desk research in the framework of the other deliverables of WP1.

The same constraints imposed a restructuring of the WP1 calendar which affected also the first round of the AE. This is way the AE were published with a one-month delay compared to what was lay out in the Grant Agreement. This, however, will not impact the flow of activities of the rest of WP1.

Once the template was produced, Lead experts drafted the AE on asylum, migration and integration and circulated it to the whole Consortium for feedback. The poor coordination among partners when having to provide feedback highlighted the main challenges of this deliverable, i.e communication. As a matter of fact, due to the tight deadlines of the AE and the simplification proposal the interaction among partners needs to be highly fluid and reactive. Based on the lesson learnt of this deliverable, partners could mandate certain staff members to act as “connectors” facilitating communication among different teams, like it was done with the Lead expert on Integration (EUR) facilitating communication between all Lead experts and MPG/CEPS. Another recommendation is to add capitalised tags in email subject lines to facilitate reactivity of responses by differentiating the aim of the email. Such recommendations will be embedded in the implementation of future project activities.
5 ANNEXES

Annex I – Template for ReSOMA public deliverables
Responsibility-sharing for asylum decision-making

The issue


ReSOMA - Research Social Platform on Migration and Asylum

is a project funded under the Horizon 2020 Programme that aims at creating a platform for regular collaboration and exchange between Europe's well-developed networks of migration researchers, stakeholders and practitioners to foster evidence-based policymaking. Being a Coordination and Support Action (CSA), ReSOMA is meant to communicate directly with policymakers by providing ready-to-use evidence on policy, policy perceptions and policy options on migration, asylum and integration gathered among researchers, stakeholders and practitioners.

www.resoma.eu
@MigrationFloor
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Annex II - Simplification of WP1

Research Social Platform on Migration and Asylum

Simplification proposal for Work Package 1
Motivation
All deliverables, milestones, and events of WP 1 will be carried out assuring the proper quality and ending time of the WP 1. As all the activities of this WP will be accomplished within the first six months of the first project year, several tasks have to be carried out simultaneously in a very short time, which requires small readjustments. These changes include postponing the submission of two deliverables and some changes in the implementation of the milestone of national stakeholder outreach in order to avoid implementation problems in stakeholder outreach during the summer period, which will then lead to a 15-day earlier submission of the feedback summary reports. The budget allocated for the original activities will not be impacted by the proposed changes.

Overview of proposed simplification:

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<tr>
<th>N°</th>
<th>Title</th>
<th>Lead beneficiary</th>
<th>Type</th>
<th>Due date (in months)</th>
<th>Actual date (in months)</th>
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<td>D1.1</td>
<td>Social Research Panel Survey</td>
<td>MPG</td>
<td>Other</td>
<td>M4 (31\textsuperscript{st} May 2018)</td>
<td>M5 (30\textsuperscript{th} June 2018)</td>
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<td>D1.5</td>
<td>&quot;Ask the expert&quot; policy briefs @M2</td>
<td>ISMU</td>
<td>Report</td>
<td>M2 (31\textsuperscript{st} March 2018)</td>
<td>M3 (30\textsuperscript{th} April 2018)</td>
</tr>
<tr>
<td></td>
<td>National stakeholder virtual consultation @M6</td>
<td>EUR</td>
<td>Event</td>
<td>M6 (31\textsuperscript{st} July 2018)</td>
<td>M5 (June 20\textsuperscript{th} 2018)</td>
</tr>
<tr>
<td>D1.9</td>
<td>National stakeholder outreach &amp; feedback summary reports @M6</td>
<td>EUR</td>
<td>Report</td>
<td>M6 (31\textsuperscript{st} July 2018)</td>
<td>M6 (July 15\textsuperscript{th} 2018)</td>
</tr>
</tbody>
</table>

D.1.1 Social Research Panel Survey @M4 – confidential
This survey is dependent on the availability of the expert database, which is yet to be gathered. If we postpone the deliverable one month (from M4 to M5), it will give MPG sufficient time to collect and analyze survey that is based on a substantive number of expert feedback to enrich Synthetic State-of-the-art policy brief (D 1.3). This will not affect the delivery of D 1.3 that is due M5.

D.1.3 Ask the expert policy brief @M2 – public
Partners agreed that the first Ask the expert’ policy briefs @M2 will be the first attempt to reach out to the academic knowledge available on the 9 topics to be researched in year one. The second ‘Ask the expert’ policy briefs @M5 will be a reflection on the draft synthetic reports (D1.3). In order to achieve interaction of tasks in WP1 and make sure each deliverable feed each other along the way, it is important that the experts write their first briefs on the list of 9 topics that will be further investigated through desk research by MPG and CEPS.
In this first year, discussions on topics started at the first Steering Group meeting, which took place at the end of M1. Due to the time needed to set up the Advisory Board and thus on receiving AB’s feedback on topics (20 March 2018), the final version of the first ‘Ask the expert’ briefs will be ready by the end of April (@M3).

Task 1.4. Milestone: National Stakeholder outreach @M6 - confidential

As stated in the proposal, the nine expert policy briefs (cf. Task 1.2) will be discussed in specific national contexts throughout Europe. For each topic, a structured feedback process will be implemented in at least seven most relevant Member States, with a capacity to implement more than 60 topic-specific feedback loops in each annual cycle. Each topic-specific national feedback loop will involve moderated feedback video conferences with 8 to 10 leading experts, i.e. selected stakeholder organisations, policy practitioners and researchers. Results will be documented according to standardised templates, feeding into overall nine (per year) topical summary reports (D 1.9) about the implications of the policy agendas on Member States level.

In order to achieve reaching maximum number of national stakeholders in a variety of most relevant Member States, within the given time and resources (D 1.9 due M6), WP1 partners discussed and agreed on the following modifications. Three field experts, who will be selected by EUR from the IMISCOE Research Network (and when this is not possible, from academic institutes beyond the IMISCOE network), will do the national stakeholder outreach. This means there will be one expert for each one of the three fields, Migration, Integration and Asylum.

The field experts will reach out national stakeholders and conduct group and/or individual consultations. The field expert will cover all the three subtopics in each consultation. For each field, the consultations will be done in 6 most relevant countries. The field experts will first contact national/local members of ReSOMA beneficiaries, namely PICUM, ECRE, Eurocities and Social Platform. Each field expert will contact per topic 8-10 stakeholders (hence conduct 6 countries x 8 or 10 consultations = 48-60 feedback loops on each topic). This means that each field expert will conduct between 144 and 180 feedback loops, or between 432 and 540 total feedback loops for all consultations in year 1.

These consultations will be based on the semi-structured interview guideline prepared by EUR (and agreed by ISMU and MPG). The field experts will do the consultations either in the form of focus groups or individual interviews over the phone and/or skype. At the end of each country consultation, the field expert will fill out a 4-5-page topical report templates provided by EUR. Therefore, by June 20 2018, EUR will receive 6 country specific consultation reports on each topic.

D. 1.9. National stakeholder feedback summary reports @M6 – public

Based on the topic-specific feedback loops and the synthetic reports prepared by CEPS/MPG, EUR will compile nine topical summary reports about the implications of the related policy agendas on Member States. The reports will be 2-3 pages topical summaries (‘policy briefs’) that will identify shared problems as well as benefits that emerge during the local implementation processes, and compile suggestions offered by the national stakeholders for the future steps.
Process validation will be done in three levels in order to achieve a good standard and reliability of the information gathered during the national stakeholder consultations. EUR will reassure that topical report templates have content validity, that is, they capture all major dimensions that are identified in the draft synthetic report (D1.3) as well as the ‘Ask the expert’ policy briefs (D1.5) During the consultation process, firstly, for respondent-related validation, the field experts will share their consultation notes with the stakeholders that they consulted before they write the country report on each topic. Thirdly, the field experts will get practice-related validation by asking the stakeholders indicate which parts of the consultation can be used or not in the final feedback summary report (public deliverable).

Since EUR will start working on the synthesis of the information immediately after the national stakeholder consultations are finalized, the 9 topical summary reports will be completed within three weeks. Following quality review, the revised version will be ready to publish 15 days earlier than the end of the original month of submission.

Financial implications

The abovementioned changes in the implementation of WP1 primarily involve simplification of tasks rather than more fundamental changes that require financial amendments. There will be no financial implications, as all deliverables and tasks will be achieved. Within 1.9 there will be a change in the spending of ‘in kind contributions from third parties’; rather than having 9 experts covering 9 topics we will have 3 experts covering the 9 topics that have been clustered in 3 fields (migration, asylum and integration). This clustering of a similar amount of work in the hands of fewer experts is to enhance the efficiency of the implementation of the stakeholder outreach (i.e. making use of overlaps between stakeholders between topics). This clustering into field works will apply only for year 1.
The Ask the expert policy briefs are highly informative tools proposed in the framework of the ReSOMA project that aim at facilitating knowledge sharing and social capital development. By reacting to current events and developments that shape the European migration and integration debate during the duration of the project, these policy briefs will provide timely, evidence-based input to public debates as they unfold and feed in the overall process of identifying the unmet needs and defining policy trends.

An overall of 6 policy briefs (2 each for migration, asylum and integration) per year will be sourced and drafted by lead experts from project partners with additional assistance by leading European think-tanks. In addition, the project will access leading expertise for the topic at hand through collaboration with research networks and other EU-funded research projects.

LINGUISTIC VERSION

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Contact: resoma@resoma.eu
The issue

The right to family life is key to the integration of foreigners in European society. In principle, the right to family life is solidly anchored in international and EU law. In practice, EU secondary law establishes specific rules to enforce such a right for third country nationals regularly residing in the EU. When it comes to beneficiaries of international protection, however, the Family Reunification Directive (2003/86/EC) introduces favourable rights for refugees whilst it does not apply to beneficiaries of subsidiary protection.

Despite efforts at EU level towards harmonising family rights for refugees and beneficiaries of subsidiary protection (notably through the Commission interpretative guideline on the Family Reunification Directive), there is still room for manoeuvre for MS to limit these rights. Germany is a case in point. With the Act on the Introduction of Accelerated Asylum Procedures, Germany has suspended the right to family reunion (until March 2018) for those under subsidiary protection from March 2016 onwards. Similarly, Sweden introduced a temporary act in 2016 suspending family reunification for beneficiaries of subsidiary protection until 2019. Other discrepancies concern alleviated conditions to allow family reunion (i.e. exemption from requirements to provide evidence of sufficient stable and regular resources, accommodation, sickness insurance and compliance with integration requirements).

Studies report the challenges faced by refugees concerning family reunification. Beneficiaries of subsidiary protection are subject to even more significant obstacles (see ECRE 2017a). A range of legal and practical barriers often renders the right to family reunification ineffective in practice for beneficiaries of international protection. The lack of clear information on the possibility to enjoy the right to family life and the request to prove family ties are two examples.

Stakeholders (ECRE, Red Cross, UNHCR, etc.) highlight the difficulties in demonstrating the relationships because often the corresponding documentary evidence is missing or difficult to obtain. Documents certifying birth, marriage, etc. might be impossible to get because some countries of origin do not provide such documents or because there is the impossibility to contact the competent administration.
As far as unaccompanied minors are concerned, experts highlight that some Member States extend the right to family reunification of minor refugees to their parents only. This provision risks increasing the hardships faced by this vulnerable target group and keeping families apart (Groenendijk et al., 2017).

Perverse effects are produced by limiting the access to family reunification. It is possible here to recall both the risk to go against the efforts aimed to develop new strategies for discouraging people to undertake dangerous journeys and to discriminate people based on their statuses without taking into account their needs. Indeed, the family reunification path is one of the current routes to enter safely the EU territories avoiding undertaking dangerous journeys. At the same time, blind national policies affect the possibility to develop active integration processes and put beneficiaries of international protection in unsustainable situations.

Policy considerations

Since family reunion is a fundamental right that considerably eases migrants’ integration into receiving societies, it should not be used as a tool to stem migrations flows.

There would be great benefit in widening the ways to ascertain family ties so as to compensate the absence of documents proving legal bonds which are oftentimes hard to obtain.
The issue

The very existence of a unified EU space without internal borders depends on member states’ capacity to collaborate on migration-related issues. Accordingly, the Common European Asylum System (CEAS) was created to harmonise national legal frameworks on international protection and organise, to some extent, responsibility-sharing amongst MS. However, increasing influxes concentrated in some EU MS over the years have strained some Countries’ reception systems and shed light on solidarity shortages across the EU.

A series of responsibility-sharing instruments were put in place over the years, although with limited effects. The European Refugee Fund (set up in 2000 with Council Decision 2000/596/EC), for a start, provided funding to face sudden increase in arrivals of asylum seekers. The Asylum Migration and Integration Fund (2014-2020), its successor, also aims at organising solidarity between MS. The amount available is however limited, and its functioning privileges programming over managing emergency.

In a different manner, the Hotspot approach was thought as a way to help MSs at the EU’s external borders cope with increased arrivals. The approach, which foresees the collaboration between EU agencies (EASO, Frontex and Europol) and the responsible MS, is prone to different kinds of problems linked to facilities availability and establishment of standard procedures. In addition, even the aforementioned European agencies face several challenges due to the lack of participation from the other MS which, for example, do not (or not timely) make experts available.

A last instrument worth mentioning is the temporary relocation mechanism put forth by the Commission, refused by four MS in its adoption phase, and further hampered in its application by a series of other MS. Scholars appreciate the relocation schemes and the resettlement system, recognising the advantage for both the migrants and the Member States. Indeed, the relocation system can balance the dysfunctionalities of the Dublin system. Several experts reported the importance to take fully into account the asylum seekers’ preferences in order to support the future integration paths and reduce secondary movements (Carrera et al., 2017; Geddes et al., 2017; Ripoll Servant, 2017; Kats, 2017).

Another issue highlighted by experts is the threshold limiting the relocation to individuals holding nationalities for which the EU-wide recognition rate of asylum
claims is at least 75% according to Eurostat statistics. This policy reduces the range of potential candidates by excluding other people in desperate need of protection.

Failed attempts to enforce solidarity in the management of arrivals of asylum seeker are detrimental to migrants seeking effective protection, to civil society organisations working with them, to national governments struggling with influxes, to public opinion in those MS, and, consequently, to the unity of the Union as a whole. As things stand, the CEAS needs to be revised if MS are to commit to more solidarity in this respect. That being stated, the adoption of Dublin IV (providing for a permanent relocation mechanism), which was supposed to occur in June 2018, seems compromised, thus heralding further bumps on the road to more responsibility-sharing (Enderlein, 2016; Pascouau, 2018).

Policy considerations

Responsibility-sharing instruments have been put in place to face the increased arrival of asylum seekers. However, it is more than necessary to recognise that the concept of solidarity is an intrinsic part of the CEAS regardless of the number of asylum applications. In the short run, the criteria for selecting who can participate in the relocation system and the Country where she/he can be relocated to (specifically by taking into account the asylum seeker’s preferences) should be revised by putting the asylum seekers’ interest at the centre of the system.
Responding to the policy agenda

Safe Third Country

The issue

The global international protection system relies on protection from persecution and the principle of non-refoulement. EU law (Asylum Procedures Directive—2005&2013) provides a general framework according to which a Country is safe when there is a democratic system, no persecution, no torture or inhuman or degrading treatment or punishment, no threat of violence and no armed conflict.

Under the safe third country concept, a receiving State is entitled to reject responsibility for the protection claim of asylum seekers who could have obtained protection in another country. Therefore, the safe third country concept is mostly applied for barring applicants from a full examination of the merits of their claim by declaring the application inadmissible (ECRE, 2017b).

Currently, the lists of Safe Third Countries are adopted at the national level, so that the State may be regarded as safe by one MS and unsafe by another. Other discrepancies stem from the way the Directive is transposed (e.g. a MS may emphasise more or less on gender or minorities) or from political motivations such as the will to curb inflows from specific Countries by declaring these countries safe (e.g. the assessment made by Germany on Afghanistan).

The EC proposal for an Asylum Procedure Regulation (COM(2016)467 final) required a mandatory application of the safe Third Country (and first country of asylum) concept. Experts highlighted that the approach is highly questionable since the concept has no clear legal basis in international refugee and human rights law. Another aspect feeds the debate: the Commission references to a threshold of “sufficient” protection ensured by Third Countries. In this regards, the current discourse sheds light on the need to state the notion of safety by foreseeing “effective” protection instead of “sufficient” protection (articles 44 and 45) (UNHCR, 2016, ECRE, 2017b, et al.). As a matter of fact, the protection gaps in Turkey and the conditions of people detained in Libya confirm the point (on the Greece-Turkey agreement, see Ulusoy and Battjes, 2017; Strik, 2017).

Another element of concern regards the reasons why Third Countries accept to be part of the EU’s asylum governance. In this regard, experts focus on the mutual interest coming from the agreements between MS and Third Countries. Indeed, some Third Countries are facing the challenge of receiving asylum seekers and are further impacted by the agreements with the EU or MS (Ceccorulli, 2017; Carrera and Guild, 2017).

To sum up, experts and stakeholder highlight the risk of shifting the responsibility to countries with lower protection...
standards than the European Union (Gogou, 2017; Pascouau, 2018).

Another issue regards the capacity to guarantee the human rights obligations when there are Third Countries involved.

**Policy considerations**

Given that the concept of Safe Third Country should remain on an optional basis, an effective protection (instead of sufficient) should be foreseen as a legal basis.

Indeed, the European Court of Human Rights concluded that when violations of human rights occur, the jurisdiction and responsibility go beyond the borders of the European Union (Carrera and Guild, 2017).

The assessment whether a third country is a first country of asylum has to be based on a careful and individualised case-by-case examination. In this regards, the meaningful connection between the asylum seekers and the territory need to be fully taken into account.
References

Besides the Legislation at EU and National level, the main studies and documents referred to are:


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The issue

To prevent and combat migrant smuggling is one of the EU priorities within common migration policy. Recently so called Facilitators Package was implemented which includes Directive 2002/90/EC according to which each EU MS is required to implement legislation introducing criminal sanctions against the facilitation of irregular entry, transit and residence, and Framework Decision 2002/946/JHA which reinforced the penal framework by setting out minimum rules for sanctions. Under the implemented law, any person who intentionally assists unauthorized entry, transit, or residence of a non-UE national in the EU, is to be sanctioned unless they are doing so for humanitarian reasons. Despite the fact that EU law allows not to criminalise the facilitation of irregular entry when it is conducted on humanitarian grounds, the Facilitators Package was criticised for its optional character, lack of clarity, coherence with international law and legal certainty. The Facilitation Directive does not provide a definition of the ‘humanitarian assistance’ concept, leaving considerable discretion to MS. In this context, the danger of criminalisation of humanitarian assistance provided by civil society organisations working with irregular migrants at the MS territory and at the external borders occurred. The tension between the criminalisation of people smuggling and those providing humanitarian assistance is concerned as a by-product of the Facilitators Package because it enables MS to provide criminal sanctions for a broad range of behaviours including people smuggling on the one side and humanitarian assistance on the other (Carrera et al. 2016). Moreover, this issue is connected to much broader debate related to process of migrants’ smuggling and criminalization of migration (Triandafyllidou 2018).

The study commissioned by the European Parliament highlights the tension between criminalizing people smuggling migrants and not those who provide humanitarian assistance to migrants in distress (Carrera et al. 2016:11, see also Allsopp 2016, Provera 2015). The study also finds variation in the way in which the Facilitators package is implemented at the national level. Such a variation bears effect on irregular migrants and those who assist them. Namely, civil society organisations fear sanctions and experience intimidation in their work with irregular migrants. Moreover, as a result of the discretionary implementation of the Facilitators Package in the national legislation and variety of interpretation by MS, there is a limitation to access to AMIF funding sources to projects providing humanitarian assistance to irregular migrants. As a consequence, serious part of support provided to irregular migrants by social partners remains unreported and unmonitored, which should be recognized
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as a negative indirect effect of existing EU law.

This issue is especially important in case of MS at the common EU external border that have faced increased arrivals at various times, such as Italy, Spain, Greece or Hungary. The lifeguards, ship owners, fishermen and NGO workers could be charged with human smuggling after intervening to save peoples’ lives at sea or offer help at the border zone. There are accusations of politicians and media that NGOs conducting lifesaving search and rescue operations (SAR) on the high seas and providing reception shelters across Europe indirectly encourage human smugglers and at the same time influence the migration crisis at the Mediterranean Sea. All of this lead to undermine the work of civil society actors and growing distrust between national authorities, NGOs partners and public opinion in the area of dealing with irregular migration.

Policy considerations

Practical guidance to support EU Member States to implement the Facilitators Package in a fundamental rights compliant manner should be considered (where punishment for humanitarian assistance at entry and the provision of non-profit humanitarian assistance should be explicitly excluded) (Carrera et al. 2016; FRA 2014).

More EU funds for social partners (cities and civil society organisations) should be available for humanitarian work with irregular migrants in the context of increasingly mixed migration flows, especially for such activities as emergency assistance for shelter and food, and education for the children of undocumented migrants (Carrera et al. 2016).
Responding to the policy agenda

Migration-related conditionality in EU external funding

The issue

In response to increasing number of migrants and asylum seekers arriving on the territory of the EU, several legal and political tools were adopted, addressed in particular to EU neighbourhood and African countries. Among others, EU Trust Funds (EUTF, for Central African Republic, Syria and recently Emergency Trust Fund for Africa), New Partnership Framework on Migration (2016), and EU Facility for Refugees in Turkey (2016) were launched. The aim is to address the root causes of irregular migration and displaced persons, promoting legal channels of migration, fighting against human trafficking and smuggling, facilitating return and reintegration of irregular migrants. These instruments introduce an approach based on conditionality regarding cooperation with third countries in the field of migration. In practice it means that the EU partnerships with the third countries and transfer of EU aid and development funds rely on conditionalities linked to migration control and cooperation in the field of returns and readmission (Lavenex, Panizzon 2013).

There are several important critical points to the conditionality approach as such, as well as to EU re-distributive policies based on it made by some scholars and experts (e.g. Koch 2015; Kölling 2017). Human rights violations and corruption were pointed out as important negative outcomes of conditioning approach. The effectiveness of conditionality in EU external funding requires a proper balance between clear definition of the terms of conditionality and certain flexibility; if conditions are too strict and narrow, this could become responsible for a low ratio of funds spent, if they are too wide – it could negatively impact the efficiency. Moreover, there is an allegation of lack of ‘democratic’ basis, that political decisions on external funding based on conditionality neglect the fundamental elements and treaty objectives of economic and social cohesion policy, as well as promotion of development cooperation and human rights principles (included, among others, in Lisbon Treaty). Other concerns are related to EUTF’s focus on quick-fix projects with the main aim to stem migratory flows to Europe while effective policy dealing with forced and irregular migration requires a long term and sustainable approach, and the fact that the geographic location of funded projects is based on the identification of places of origin of irregular migration to the EU rather than on analyses of the concrete needs of development aid (CONCORD 2018, Hauck et al. 2015). Thus, the important question arises about the long-term consequences of the new EU approach for development, human rights and
security of the partner countries, and stability in the whole African region. “The focus on short-term EU interests might jeopardize long term interests for African partners” (ECRE 2017b). The results of research done by Oxfam (2017:4) show that majority of EUTF funds was spent on migration management, and only 3% of the budget was allocated to developing safe and regular routes of migration what is contrary to commitments under the Valletta Action Plan. The concerns over EUTF transparency, accountability, and effectiveness were also raised by the European Parliament in the evaluation report on EUTF (EP 2016) and European Court of Auditors (2016).

Policy considerations

To monitor of the EUTF instrument especially in context of its effects on migration flows, human rights and protection space to respond to allegations on inadequate transparency of decision making processes and accountability measures (CONCORD 2018, EP 2016).

To increase funding for promotion regular channels for migration and mobility from and between European and African countries in line with the Valletta Action Plan and European Agenda on Migration.

To increase involvement of community-based organizations and more open and participative consultation processes during the selection of the projects (Hauck et al. 2015).
Responding to the policy agenda

Return rates

The issue

Every year around half a million of foreign nationals are ordered to leave the territory of the EU because they have entered or they are staying there irregularly. According to Eurostat, in 2014 only 34% of return decisions were effectively implemented what raise the question about the efficiency of return procedures. The comprehensive legal and institutional framework was developed within the EU to deal with the return processes including the Return Directive (2008) which introduced common standards relating to return of irregular migrants. The dedicated EU Action Plan on Return (September 2015) was introduced to increase the return rate, its aim is to implement more effective return procedures and more operational returns by the EU and MS to remove legal and practical obstacles in return proceedings. It is ambitious set of measures such as promoting best practice on voluntary returns and concept of uniform EU Travel Document to develop more coordinated approach in the area of return and to ensure the return rates increase. Additionally, the recently updated Return Handbook (2017) providing guidelines to national authorities, best practices and recommendations for carrying out return in an effective and human way as well as Commission recommendation on making returns more effective (EC 2017) have to be mentioned here. The role of the EU Agency FRONTEX is also significant by providing assistance for joint return operations and removal of irregular migrants from the EU territory. The readmission agreements are perceived as one of the most important instruments in this area (signed with countries of origin and transit countries, e.g. EC 2014; Panizzon 2014). However, readmission policy is also severely criticised since readmission agreements are considered as a tool that does not sufficiently consider the interests of partner countries and the proper protection of human rights (Alpes et.al. 2017, Billet 2010, Carrera 2016, Coleman 2009). The issue of longer detention of third-country nationals as a tool to achieve higher return rates is a highly discussed issue (FRA 2010).

There are several reasons for the low rate of returns. The evaluation of the return procedures showed several important shortcomings, among others, the lack or limited cooperation between the EU with some third countries in identifying and readmitting their nationals, insufficient coordination among all the services and authorities involved in the return process at the each MS and the EU level, long-drawn appeal process, inadequate information about voluntary return options among migrants (EC 2017). One of the most important challenges is related to the third-country nationals who cannot be removed from the territory of the Member States (non-returnable). The situation of unreturnable migrants is one of those
areas that is still mainly within national competence and is only marginally addressed by EU law (Cantor et al. 2017). The NGO partners pointed out several faults related to respecting the rights of the returnees and implementation of return procedures in line with fundamental and human rights, including arbitrariness of detention, the detention of children and their families and human rights violations in the context of removal procedures (ECRE 2017a, PICUM 2015).

Policy considerations

The need to further converge of national return procedures through common understanding of the term unreturnability, standardising the return process, rules on detention and return decisions issued in Member States across the EU along already existing standards on return and expulsions set by the EU legal framework (ECRE 2017a).

To establish clear rules on the legal status of vulnerable persons, such as elderly persons, children, victims of trafficking, unaccompanied minors should be treated with special attention according to their needs and should also be protected against forced removal (Caritas 2018).

More sufficient and long-term evaluation of return and reintegration programmes should be completed to better understanding of the various factors influencing sustainability of returns.
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The briefs here are based on the most up-to-date and relevant studies conducted on each topic.

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Better regulation of support for social inclusion of the undocumented

The issue

Inclusion/exclusion of undocumented migrants is where the two worlds of ‘integration’ and ‘migration regulation’ come together in often unforeseeable and highly complicating ways. This often leads to dilemmas for governance. For undocumented migrants and the neighborhood or city where they live, social inclusion of disadvantaged groups, among them people with irregular status, offers a pragmatic solution to the benefit of the society. At the same time, from the perspective of migration regulation (be it EU, national or even local/regional), undocumented legal status creates a grey zone for facilitators and service providers.

The estimated numbers of ‘undocumented’ migrants there were between 1.9 to 3.8 million in 2008 in the EU27 (Triandafyllidou 2009; Spencer 2017). With the increased number of arrivals in 2014, the number of undocumented migrants in the EU must have certainly increased. Studies show that majority of the irregular migrants enter the EU regularly but become undocumented during their stay, because of losing their residence permit through visa expiration, loss of work permit or rejection of asylum application (Chauvin & Garces-Mascarenas 2014). Yet they already integrate at the local level both through their everyday practices as workers, students, family members, and through institutional support.

Many of the current governance dilemmas for support of undocumented migrants stem from the co-existence of two sets of EU legislation, one targeted at inclusion and the other on regulation of migration. On the one hand, all EU member states that take part in AFSJ already transposed into national law the Facilitation Directive (2002/90/EC) and the related Framework Decisions on preventing facilitation of unauthorized entry, transit and residence (2002/946/JHA), as a means for governments to curtail irregular entries and stays in their territories. Here the emphasis is on irregular migration as delinked from the notion of irregular migrants as beneficiaries of fundamental rights. On the other hand, all Members grant irregular migrants urgent health care and education, consistent with the ESC, the ECHR and the Charter of Fundamental Rights of the EU, and, in some cases, the right to housing (Article 31 of the ESC). As van Durpel (2017) underlines, all Member states also transposed Racial Equality Directive (2000/43/EC), Employment Equality Directive (2000/78/EC) and Framework Decision (2008/913/JHA) determining offenses related to racism and xenophobia, as applicable for everyone.
located within the EU, hence also undocumented/irregular migrants.

These contradictions in the existing EU directives have different local implications. Civil society organizations may offer basic needs and services to undocumented migrants but avoid mentioning them in their reports for “fear of breaching funding guidelines” of the EU (Collett et al 2018: 105-115). In a similar vein, local authorities sometimes take pragmatic actions. While prioritizing their concerns for social cohesion and responsibility for service delivery in some cases over national policies of migration control, local authorities often follow “low visibility” in the modes of decision-making and service provision (Spencer 2017). A combination of (a) individual-level factors, such as pragmatic and/or humanitarian and ethical concerns of city officials’ who face with the consequences of exclusion, and (b) local and national political and institutional factors determine whether there is the will and capacity to provide support or facilitate access to services on the ground (Spencer 2017). Van Durpel’s (2017) recent comparison of more “inclusive cities,” such as Ghent, Milan and Barcelona (with maximal services to irregular migrants) versus Frankfurt, Rotterdam and London, shows that “inclusive cities” comply with regulations on anti-discrimination and racism whereas rather “exclusive cities” follow the footprints of the Facilitators’ Package.

Policy considerations

A better understanding of the factors leading to coexistence of inclusive and exclusive approaches to undocumented migrants is essential (a) for preventing criminalization of assistance that is otherwise consistent with EU’s commitment to fundamental rights and (b) for more convergent outcomes across different settings for undocumented/irregular migrants and for their immediate environment.

Adjusting policy expectations to the sociological reality and needs for social cohesion is important to overcome the dilemma of inclusion in the longer run that is consistent with the EU’s commitments to fundamental rights.
Responding to the policy agenda

Sustaining the mainstreaming of integration

The issue

Mainstreaming has been the cornerstone of integration policies starting from EU Common Basic Principles on Integration of 2004. Since then it has developed further in national and local policies as well as in EU policies (such as the European Handbooks on Integration and the EU Integration Agenda). Mainstreaming refers to a shift from specific to generic (or universalist) policies that involve the delivery of services to diverse populations rather than to specific groups. It embeds ‘migration-related diversity’ as a topic of relevance to anyone living in diverse societies, rather than only for migrants. Furthermore, it calls for a ‘poly-centric’ governance approach, where various actors, not only ‘the state,’ are involved in policies that often cross-cut various policies domains. Parallel to this, it foresees decentralization in the coordination of integration policy responsibilities (Scholten & van Breugel 2018). As in the case of gender mainstreaming, integration is then expected to be an integral part of general policy areas (housing, education, labour, among others) and not a new ‘policy silo.’

The results of the recent UPSTREAM project that covered five EU countries show that mainstreaming practices is more intractable than the idea of mainstreaming suggests. While the inclusive forms of mainstreaming are observed mostly at the local level, the national policy level is determined mainly by two factors: austerity measures and politicization of migration through the rise of populist and anti-immigrant sentiments. Austerity measures in particular seem to trigger decentralization of integration policy responsibilities in the case of UK and France, whereas it led to government retrenchment in the Netherlands. Similarly, in some countries, rise of anti-immigrant sentiments are referred as drivers for abandoning group-specific approaches (Scholten & van Breugel 2018: 243-4).

Under these circumstances, the new trend is replacing the former integration policies, which used to target migrant populations directly with what seem as ‘proxy policies.’ These policies target migrants indirectly, not based on ethnicity or origin but rather based on specific needs, areas or problems. Examples include area-based proxies such as the UK’s Neighborhood Renewal Policy, Dutch Strong Neighborhoods program, Spanish Area Renewal Programs and French Urban Priority Zones, or needs-based proxies such as language assessments in schools and labor market reintegration agencies. However, at this current state, the new mainstreamed policies carry the risk of dilution of integration priorities altogether rather than embedding them into the mainstream (van Breugel & Scholten 2018: 147-8); this means that under the banner of mainstreaming, integration could vanish as a policy priority.
Researchers also pointed at the ‘boundaries’ to mainstreaming in its current form and the way EU funds are used to support mainstreaming integration priorities. Target group requirements and complex bureaucracy do not allow interested actors to use available EU funds in inclusive and innovative ways. Civil society actors, who are unlikely to turn the irregular migrants away, avoid mentioning them in their reports for “fear of breaching funding guidelines” (Collett et al 2018: 105-115). That applies in particular to groups that are in an especially vulnerable position (i.e. undocumented, but also recently arrived migrants) that for multiple reasons may have difficulties accessing ‘mainstream’ services.

Policy considerations

Developing a vision on integration governance that speaks to different vulnerable groups and social policy areas in which the EU is involved, starting with reconsidering existing funding requirements that impede the development of mainstreaming on the ground, and removing limitations linked to residence status.

A better understanding of how ‘proxy-policies’ can be developed in such a way to replace an ‘ethnic lens’ with a lens that focuses on areas, problems or needs, yet remains sensitized to migration-related needs.
Responding to the policy agenda

Cities as direct service-providers

The issue

Integration is a process that largely takes place in the concrete setting of neighborhoods or cities. Local authorities are directly influenced by and are primarily responsive to the migration-related diversity driven needs of the local communities instead of national policy frames (Jensen 2018; Scholten et al 2017). In addition, an inclusive image is essential to attract global investment into the cities and to be able to offer the social and cultural visions and services they require (Ambrosini 2017; Glick-Schiller and Çağlar 2009). Consequently, the role of cities in integration governance is increasingly framed as one of agency or ‘policy entrepreneurship’ rather than only that of implementation of national policies.

Cities’ power to influence integration policy-making and implementation are determined (1) on the horizontal dimension where local authorities interact with other public, private and social actors at a (trans)local level; and (2) on the vertical dimension where local authorities position themselves vis-a-vis national, regional and supranational level bureaucrats and policy-makers (Zapata-Barrero et al 2017). Vertically, we see increasingly autonomous and diverse positions of local authorities on migration-related diversity when contrasted with the multiculturalist backlash in national policies, as in the case of “inclusive and explicit multiculturalism in Frankfurt” or “a de-facto and tacit one in Marseille” (Ambrosini 2017: 598). Den Haag and Rotterdam authorities jointly responding to the same local concern, i.e. ‘increasing intra-EU movement,’ also shows that local governments could strategically organize agenda setting, by catching media attention, broadening the scope of action with horizontal public/private partners, organizing political events, basically for lobbying at the national level (Scholten et al 2017). Yet, there are structural limitations on cities’ entrepreneurial capacities regarding integration into education and labour market or overcoming residential segregation, as they require substantive funding that, even in the presence of EU funds, goes through national ministries (Ambrosini 2017; Caponio 2017).

Horizontally, different kinds of interactions help building institutionalized ties between local authorities and other local stakeholders, in the form of either purely ‘horizontal’ functions such as networking, exchanging policy lessons and ‘best practices’, or vertical functions such as advocacy at the national as well as European level. A comparison of two Italian cities quite embedded in several Transnational City Networks’ show that, in Milan such networks become a useful card for lobbying for national financial resources whereas in Turin transnational city ties serves the purpose of consolidating relations mainly with the local banking foundations at the expense of all local stakeholders including
immigrant associations (Caponio 2017). Moreover, even in the case of open adversarial political rhetoric towards migrants, with no prospect for pro-migrant Transnational City Network (TCN) involvement, it is possible to see continuity in service delivery. This is contingent upon several local structural factors such as, in Ambrosini's (2017: 596) words, “labour-market demand, social needs that cannot be easily ignored, resistance by civil servants, protests by civil society, and anti-discrimination limitations by judicial power.” Hence, so far, TCNs' impact on integration seems rather limited. The fact that urban policies are shaped along very different lines even in cities with similar diversity configurations complicates processes of policy learning and organizing advocacy in uniform ways.

**Policy considerations**

A European framework on integration needs to take account the urban dimension in integration governance, i.e. EU funds on integration should reflect the diversity of integration needs experienced in different urban settings and be more accessible to local authorities.

There is a need for further developing and institutionalizing venues for interaction between EU, national and local governments on integration governance to prevent decoupling or contradictions between policies at different levels.

Integration Network and the Urban Agenda Partnership may help further institutionalizing such a relationship only by getting further involved with diverse array of the local stakeholders, including immigrant associations.

Transnational City Networks as well as vertical ‘networks’ such as the European
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