

ASK THE EXPERT
POLICY BRIEF

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ASYLUM

Secondary movements within the EU



The **Ask the Expert Policy Briefs** are **highly informative tools** proposed in the framework of the ReSOMA project. They tap into the **most recent academic research** on the 9 topics covered by ReSOMA and map it out in a way that is **accessible to a non-academic audience**. By doing so, the briefs introduce the **policy-relevant research** conducted by researchers with different approaches and perspectives on the same topic.

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Ask the Expert Policy Brief

Secondary movements within the EU

By Marina D'Odorico & Erika Colombo

Factors determining secondary movements

The assessment in academic literature of the main reasons behind secondary movements of asylum seekers and beneficiaries of international protection within the European Union reveals that the national differences in reception and integration opportunities between Member States is one of the major causes of the phenomenon (to see which factors influence asylum destination choice: Poppy and Mayblin, 2016; to see an example of comparison between local reception and accommodation structures in some Member States: Glorius, Oesch, Nienaber and Doomernik, 2019).

However, this circumstance may be read from two different points of view: if on one side, secondary movements are the reflection of asylum seekers' need to reach countries with more appropriate reception conditions, better

opportunities and more desirable welfare standards, on the other, the secondary migration can be seen as the direct outcome of the failure of many EU Member States in complying with their obligations under the Reception Conditions Directive and under the Qualification and Procedure Directives. This is why, in Dublin cases, both the ECtHR¹ and the CJEU² have ruled that in certain cases and in the presence of specific conditions, sending an applicant back to a State of first entry where reception conditions are substandard may amount to inhuman and degrading treatment according to the article 3 of the European Convention of human rights or to the article 4 of the Charter of fundamental rights of the European Union (articles that fix the principle of *non-refoulement*).

These different perspectives clearly emerge from the scholars' analyses. For example, a research led by Brekke and Brochmann (2015) illustrates the

¹ See: ECtHR, *M.S.S. v Belgium and Greece* [GC], Application No. 30696/09; ECtHR, *T.I c.UK*, Application No. 43844/98.

² See: CJEU, *N. S. (C-411/10) v Secretary of State for the Home Department* and *M. E. and Others (C-493/10) v Refugee Applications Commissioner and Minister for Justice, Equality and Law Reform*; CJEU, *Pál Aranyosi (C-*

404/15) and Robert Căldăraru (C-659/15) v Generalstaatsanwaltschaft Bremen; CJEU, *C. K. and Others v Republika Slovenija (C-578/16)*; CJEU, *Abubacarr Jawo v Bundesrepublik Deutschland (C-163/17)*; CJEU, *Ibrahim (C-297/17)*, *Ibrahim (C-381/17)*, *Sharqawi (C-319/17)* and *others and Magamadov (C-438/17) v Bundesrepublik Deutschland*.

huge gap between the European Union's ambition to create a harmonized reception system for asylum seekers and the realities on the ground. The researchers - using as parameter for their analysis the secondary movement of Eritrean asylum seekers from Italy to Norway - explain how the inadequate standards in reception systems of some Member States (Italy, in this case) stimulate the secondary migration, but, at the same time, how this phenomenon leads to challenge the creation of a Common European Asylum System (see also: Belloni, 2016). Therefore, the monitoring of the above-mentioned migratory phenomenon has been pursued by a more recent research, led by Kuschminder (2019), which points out how the governance shortcomings of the relocation programme in Italy has influenced secondary movements within the Italian territory.

Also, a report drawn up by the same researcher (Kuschminder, 2018) explores the results of a survey of more than 500 refugees and other migrants in Greece. Among them, more than 80% had arrived in Greece intending to continue to other European destinations, such as Germany, Sweden, and the United Kingdom. Nevertheless, the fact that only one-third of respondents changed their plans after arriving in Greece suggests how migrants have fixed destination preferences and how changing these through informational campaigns or enforcement measures can be difficult. The analysis reveals

that perceptions of opportunity, stability and security are particularly important in forming these preferences. Moreover, that the lack of integration perspectives and employment opportunities in the country of reception is an important driver for secondary movement is also suggested by the fact that even a significant number of persons with a protection status still intend to move to another EU Member State for similar reasons.

The same conclusion is reached by another study (Takle and Seeberg, 2015), based on data collected in Norway, Sweden, and Germany from February to April 2015, which illustrates how decisions to engage in secondary movements within Europe not only depend on access to asylum procedures, divergences in outcomes and the level of reception conditions, but especially on future opportunities post recognition.

On the same topic, a recent report (Wyss, 2019) highlights the nature of mobility from a critical perspective based on multi-sited ethnographic research and interviews with migrants in Austria, Germany, Italy, and Switzerland. The article demonstrates how migrants use mobility to secure basic needs and avoid migration control attempts and how this mobility aggravates emotional instability.

However, a relevant point of view, illustrated by an article of a Franco-Amer-

ican ethicist scientist known for her research on immigration and security studies (Chebel d'Appollonia, 2019), expresses that the European multi-layered legal framework can be analyzed from two opposing perspectives on the differentiated integration of Member States. The first one, focused on the singular nature of arrangements in the field of migration, reveals that differentiated integration is a consequence of the Member States' unwillingness to move toward an "ever closer union". The second perspective, in contrast, refers to differentiation in migration policy as the inevitable reflection of differentiated integration in other policy areas. From this perspective, differentiated integration needs to be legitimized, in order to assure an effective remedy to prevent the risk of disintegration.

The Schengen crisis

The massive influx of migrants from North Africa and the Middle East during 2015 led to an EU-initiated collective securitisation of the Schengen space. In fact, some EU member states responded by re-introducing internal border controls, derogating from the Schengen regime, and by building new border fences.

Today, more than three years later, and although the number of asylum

seekers arriving has dropped dramatically, there are still five EU Schengen members conducting systematic internal border controls (Carrera, 2019). According to the latest available information from the European Commission Department for Migration and Home Affairs³, Austria, Norway, Sweden, Denmark, Germany and France have triggered the mechanism provided by Article 25 et seq. of the Schengen Borders Code.

But what is relevant to underline is that the main reasons invoked to justify the reintroduction on border checks are "the security situation in Europe and threats resulting from the continuous significant secondary movements". This illustrates how secondary movements within Europe are influencing the phenomenon of securitisation, which risks undermining the Schengen system.

Some scholars have drawn an interesting parallel between the two major crises of the two main European integration projects of the 1990s: the euro and Schengen (Schimmelfennig, 2018; Biermann, Guérin, Jagdhuber, Rittberger, Weiss, 2019). Both crises had similar causes and beginnings: the two critical situations exposed the functional shortcomings and the structural deficiencies of the euro project and of the Schengen system, produced conflicts

³ See: https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control_en.

among governments and generated a politicization of European integration in Member State societies. Nevertheless, the crises have resulted in significantly different outcomes: whereas the euro crisis has triggered various EU-level reforms and has brought about a major deepening of integration, the Schengen crisis has not. In fact, States least affected by migratory pressure seem to be satisfied with the institutional status quo, proving to be able to leave the more affected states aggrieved.

Finally, an original point of view (Ceccorulli, 2019) allows to look at this situation not as an answer to a single event (the massive influx of migrants in 2015), but as a product of both sequential and parallel interactions, from the Greek inability to control the external border to the temporary reintroduction of internal border controls by some member states. According to this perspective, the triggering events were not or not only “external” to the EU, but largely internal in origin: “wave-through” practices, implementation failures and unilateral moves. The securitisation of Schengen retained an emphasis on securing borders, but more as a means of ensuring good EU governance.

“Institutional” reactions

Thus, the above-mentioned situation of crisis has laid the foundation for a considerable reform of the EU asylum rules, a project initiated by the Commission in 2015 and designed both to stop secondary movements and to ensure solidarity for Member States of first entry. It contains seven legislative proposals, among which five are ready to be concluded. In particular, the Commission would realize a harmonization of the reception conditions, the protection standards and the relocation patterns throughout the EU and the creation of a European Asylum Agency, to provide a greater convergence in the assessment of applications for international protection across the Member States. In addition, the European Parliament and Council are on the process of negotiating updated rules aiming to reinforce the EURODAC system, designed to store and search data on asylum applicants and irregular migrants. The new system would help immigration and asylum authorities to better control irregular immigration to the EU, detect secondary movements (migrants moving from the country in which they first arrived to seek protection elsewhere) and facilitate their readmission and return to their countries of origin⁴.

⁴ See: <https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/poli->

[cies/european-agenda-migration/20181204_com-2018-798-communication-annex_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20181204_com-2018-798-communication-annex_en.pdf).

Therefore, the Commission has recommended a modification of the Procedure Directive, in order to reduce the differences in recognition rates and to ensure common effective procedural guarantees for asylum seekers, and a rebuilding of the Dublin system⁵, introducing specific dispositions aimed at preventing secondary movements. To assure this objective, it proposes a new permanent responsibility for asylum applications, by deleting the current time limits in the Dublin regulation; the deletion of the rule which states that responsibility ceases when the person has left EU territory for more than three months; and the replacement of take back requests with take back notifications.

Nevertheless, the entire discussion on this reform is blocked due to the diverging views between EU Member States on solidarity. As these measures risk to continue to allocate the responsibility on Member States of first entry into the EU (i.e. at the external borders) and there is no consensus on how to alleviate the disproportionate burden on those countries that will result from it, the issue will remain at an impasse. How explained by the analysis conducted by Radjenovic (2019), an agreement on the balance between responsibility and solidarity regarding the distribution of asylum-seekers will be a cornerstone for the new EU asylum policy⁶.

⁵ Proposal for an EU Asylum Agency, Brussels, 4.5.2016, COM(2016) 271 final ([http://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com/2016/0271/COM_COM\(2016\)0271_EN.pdf](http://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com/2016/0271/COM_COM(2016)0271_EN.pdf)).

⁶ For a critical analysis of the Commission proposal, see: DI FILIPPO M. (2016), *Dublin 're-loaded' or time for ambitious pragmatism?*, 12 October 2016, <http://eumigrationlawblog.eu/dublin-reloaded/>; PROGIN-THEUERKAUF S. (2017), *The "Dublin IV"-Proposal: Towards*

more solidarity and protection of individual rights?, 2017, <https://www.sui-generis.ch/34>; HRUSCHKA C. (2016), *Enhancing efficiency and fairness? - The Commission proposal for a Dublin IV Regulation*, ERA Forum, December 2016, Volume 17, Issue 4, pp 521–534, <https://doi.org/10.1007/s12027-017-0451-x>.

Also see: <https://www.ecre.org/wp-content/uploads/2016/10/ECRE-Comments-Dublin-IV.pdf>.

Bibliography:

BELLONI M. (2016), *Refugees as Gamblers: Eritreans Seeking to Migrate Through Italy*, in *Journal of Immigrant & Refugee Studies*, 2016, Vol. 14, No. 1, 104–119, <https://doi.org/10.1080/15562948.2015.1060375>

BREKKE JP. AND BROCHMANN G. (2019), *Stuck in Transit: Secondary Migration of Asylum Seekers in Europe, National Differences, and the Dublin Regulation*, in *Journal of Refugee Studies*, June 2015, Vol. 28, No. 2, 145–162, <https://doi.org/10.1093/jrs/feu028>

BIERMANN F., GUÉRIN N., JAGDHUBER S., RITTBERGER B., WEISS M. (2019), *Political (non-)reform in the euro crisis and the refugee crisis: a liberal intergovernmentalist explanation*, in *Journal of European Public Policy*, 2019, Vol. 26, No. 2, 246–266 <https://doi.org/10.1080/13501763.2017.1408670>

CARRERA S. (2019), *The state of the Schengen Area in the light of the 2019 European Parliament election*, EUI RSCAS PP; 2019/12; Special Edition for the EP Elections 2019, <http://hdl.handle.net/1814/61595>

CECCORULLI M. (2019), *Back to Schengen: the collective securitisation of the EU free-border area*, in *West European Politics*, 23 February 2019, Volume 42, 2019 - Issue 2: *The European Union, Security Governance and Collective Securitisation*, <https://www.tandfonline.com/doi/full/10.1080/01402382.2018.1510196?scroll=top&needAccess=true>

CHEBEL D'APPOLLONIA A. (2019), *EU migration policy and border controls: from chaotic to cohesive differentiation*, 21 March 2019, Volume 17, Issue 2, pp 192–208, <https://link.springer.com/article/10.1057/s41295-019-00159-4>

DI FILIPPO M. (2016), *Dublin 'reloaded' or time for ambitious pragmatism?*, 12 October 2016, <http://eumigrationlawblog.eu/dublin-reloaded/>

GLORIUS B., OESCH L., NIENABER B. AND DOOMERNIK J. (2019), *Refugee reception within a Common European asylum system: looking at convergences and divergences through a local-to-local comparison*, 4 January 2019, Vol. 73, Issue 1, No. 1, 19–29, <https://doi.org/10.3112/erdkunde.2019.01.04>

HRUSCHKA C. (2016), *Enhancing efficiency and fairness? - The Commission proposal for a Dublin IV Regulation*, ERA Forum, December 2016, Volume 17, Issue 4, pp 521–534, <https://doi.org/10.1007/s12027-017-0451-x>

JAMES P. AND MAYBLIN L. (2016), *Factors influencing asylum destination choice: A review of the evidence*, March 2016, <https://asylumwelfarework.files.wordpress.com/2015/03/asylum-seeker-pull-factors-working-paper.pdf>

KUSCHMINDER K. (2018), *Deciding Which Road to Take: Insights into How Migrants and Refugees in Greece Plan Onward Movement*, Policy Briefs, August 2018, <https://www.migrationpolicy.org/research/migrants-refugees-greece-onward-movement>

KUSCHMINDER K. (2019), *The Multi-level Governance of Asylum in Italy: Understanding Eritreans' Secondary Movements in Search of Relocation within Italy*, in *Journal of Refugee Studies*, 11 February 2019, <https://doi.org/10.1093/jrs/fey074>

PROGIN-THEUERKAUF S. (2017), *The "Dublin IV"-Proposal: Towards more solidarity and protection of individual rights?*, 2017, <https://www.sui-generis.ch/34>;

RADJENOVIC A. (2019), *Reform of the Dublin system*, 1 Marzo 2019; [http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI\(2016\)586639](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2016)586639)

SCHIMMELFENNIG F. (2018), *European integration (theory) in times of crisis. A comparison of the euro and Schengen crises*, in *Journal of European Public Policy*, 2018 Vol. 25, No. 7, 969–989 <https://doi.org/10.1080/13501763.2017.1421252>

TAKLE M. AND SEEBERG M. L. (2015), *All European countries are not the same! - The Dublin Regulation and onward migration in Europe*, NOVA Report 12/2015, <http://www.hioa.no/eng/About-HiOA/Centre-for-Welfare-and-Labour-Research/NOVA/Publikasjonar/Rapporter/2015/All-European-countries-are-not-the-same!>

Wyss A. (2019), *Stuck in Mobility? Interrupted Journeys of Migrants With Precarious Legal Status in Europe*, in *Journal of Immigrant & Refugee Studies*, 8 January 2019, Volume 17, 2019 - Issue 1: Social Policies as a Tool of Migration Control, Pages 77-93, <https://doi.org/10.1080/15562948.2018.1514091>

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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 policy makers by providing ready-to-use evidence on policy, policy perceptions and policy options on migration, asylum and integration gathered among researchers, stakeholders and practitioners.

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