

Policy Paper

Redeploying EU asylum policy:

A way out of the governance quagmire

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#EUasylum
#redeployment
#FreshStart



Seeking a ‘fresh start’, the European Commission is working on a new Pact on Migration and Asylum. Among other issues, the future of the Common European Asylum System (CEAS) is at stake. For a genuine ‘fresh start’ in asylum policy, Marie Walter-Franke offers a redeployment strategy. This approach would source complementary solutions in related policy areas and, where appropriate, redistribute responsibilities horizontally and vertically. This Policy Paper applies redeployment to two areas critical to crisis management: a humanitarian approach to large arrivals and a sustainable reception policy.

Executive summary

The European Commission is working towards a fresh start in asylum reforms, blocked by divisions among member states and EU Institutions. The upcoming Pact for Migration and Asylum will include a new flexible responsibility-sharing system. Will this redraft find sufficient political support? Unclear. Will flexible solidarity deliver in practice? Even more doubtful.

This policy paper offers an **alternative strategy** aimed at performing on both rights protection and migration management. I propose to circumvent entrenched divisions by **redeploying asylum policymaking**. Redeployment has two dimensions:

- **Horizontal:** The EU should move away from big package reforms and open the policymaking process to a broader set of actors. Acknowledging the cross-cutting nature of asylum policy issues, relevant political resorts should be closely involved besides Home Affairs and, where appropriate, competences should be reallocated.
- **Vertical:** the distribution of competences and resources at all levels of governance should be revisited to improve consistency between goals and action. In particular, EU agencies, cities and regions can contribute to improve implementation.

The horizontal and vertical redeployment of EU asylum policy will help defuse ongoing conflicts and restore the EU's credibility by showing results. Both are necessary to create a virtuous dynamic and improve the performance and sustainability of the Common European Asylum System.

The paper puts forward a series of proposals, focussing on redeploying the EU's crisis response instruments:

- The EU should develop **humanitarian solutions for forced displacement crises**:
 - Before the window of opportunity closes, the EU should strike a deal on relocation from the Greek hotspots
 - **rescEU**, the EU's disaster prevention reserve, should provide initial response in migration crises
 - The EU's **temporary protection system** should be reformed to (a) provide clear binding rules for this form of complementary protection and (b) become operational in events of mass influx.

- The reception of applicants for protection should be redeployed towards **integration policy**:
 - The Commission should develop a cross-cutting '**reception, integration and inclusion agenda**'
 - A sizable budget should be earmarked for integration policy in the next MFF, across EU funds
 - **Reception capacities at regional and local level** should be bolstered through easy access to funding and training

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Introduction

All stakeholders agree on one thing: the EU asylum policy does not work adequately. Reformed in 2013, the Common European Asylum System (CEAS) has not levelled the playing field, and EU action remains largely reactive. The overall results are underwhelming on access to protection as well as crisis management. Transposition and implementation vary in quality; recognition rates differ significantly; and violations of fundamental rights remain widespread. Meanwhile, high-level diplomacy is necessary to solve emergencies, which entails high costs and substantial delays.

Political support is difficult to secure in a polarized and contested field. The programmatic documents published by the EU over the last decades – pacts, agendas, and action plans – tend to resemble old wine in new bottles, recycling old ideas and existing initiatives. After four years of discussions, Commission President Ursula von der Leyen and her team are trying to create a new dynamic for a ‘fresh start’ with a new ‘Pact on Asylum and Migration’.

Despite the efforts of Home Affairs Commissioner Ylva Johansson, the upcoming Pact might fall short of a fresh start for asylum policy, as divisions between member states still run deep. We are moving towards a model of flexible solidarity, blending responsibility-sharing on asylum with border control and return policy. Even if a CEAS reform is successfully adopted on this basis, there is reason to doubt that it will solve the CEAS’s problems in practice. Seeking a genuine fresh start, this paper proposes a thought experiment focussing on policy design. To achieve a more balanced and effective asylum policy, I propose redeploying contents and processes horizontally and vertically.

“Seeking a genuine fresh start, this paper proposes a thought experiment focussing on policy design.”

So far, asylum policy is handled as a sub-chapter of a larger agenda on managed migration. It is negotiated by home affairs experts as a closely-knit package. Acknowledging the cross-cutting nature of the policy fields involved in the CEAS, I propose to disentangle the asylum package, reallocating some elements horizontally outside the sphere of home affairs and the managed migration paradigm.

Under the vertical dimension of redeployment, the distribution of competences and resources between the EU policymaking Institutions, EU specialized agencies, member state governments and sub-national authorities should be reviewed to maximize each level’s contribution to achieving overall policy goals and improve implementation.

The first section outlines the core idea of redeployment and its horizontal and vertical dimensions, while the second and third sections put forward a series of concrete proposals applying the redeployment model to the CEAS’s crisis response instruments. The innovations I suggest on both the horizontal and the vertical dimensions rely partly on successful experiences and existing reform approaches, offering ways to take them to the next level.

1 Switching lenses: Redeployment of EU asylum policy

Policy design is about intentional policymaking: using knowledge to improve processes, instruments and institutions to better attain goals and solve problems.¹ It is the opposite of haphazardly-driven, reactive policy. “Sound policy design” is exactly what the EU advocates as good governance.² Can this approach help address the current blockage in asylum policy? The thought experiment proposed in this paper focuses on altering policymaking processes to achieve better results. I suggest a redeployment strategy which would restructure and complement the existing policy design.

1.1 Redeployment: Addressing blockage through policy design

Since becoming a competence of the EU in the late 1990s, asylum policy developed within larger policy programs on migration and security.³ The CEAS itself was designed by the Commission’s DG Home Affairs as a set of interdependent building blocks, which were adopted and reformed in two big efforts that each spread over five years. As part of the European Agenda on Migration,⁴ a third asylum reform package was put forward by the Commission in 2016.

As detailed in *Table 1*, negotiations have stalled at varying stage of advancement since June 2018 because of the Council’s ‘package approach’. In Council, the threat of failing on the whole reform effort is supposed to help convince veto players to play along. In this case, the package approach failed to secure agreement: due to divisions on a few issues,⁵ none of the reforms were adopted before the 2019 elections of the European Parliament. As a result, major problems in the CEAS remain unsolved, especially the lack of solidarity in the management of arrivals and the significant implementation gap.

To deliver a ‘fresh start’, Commissioner Ylva Johansson is working hard to integrate the contrasting viewpoints of the member states into one compromise model for the future of EU reforms. The solidarity *à la carte* we are moving towards in the Pact on Migration and Asylum might be politically more palatable than previous proposals, but I doubt that, if adopted, it will address the deficiencies of the CEAS. Is there an alternative to forcing a breakthrough on old debates?

¹ Michael Howlett, Ishani Mukherjee y Jun J. Woo, “From tools to toolkits in policy design studies: the new design orientation towards policy formulation research”, *Policy & Politics* 43, no. 2 (2015).

² European Commission, “Quality of Public Administration. A Toolbox for Practitioners: Theme 1: Policy-making, implementation and innovation” (Directorate General for Employment, Social Affairs and Inclusion, Luxembourg, 2017).

³ The establishment of the CEAS followed the mandate of the European Council’s Tampere Programme. The The Hague programme (2005) and the Stockholm Programme (2009) were the basis of the first reform package.

⁴ European Commission, “A European Agenda on Migration” (European Commission, Brussels, 2015).

⁵ In particular the highly politicized aspects of responsibility-sharing and solidarity, the question of (common) border processing and the adoption of a common list of safe third countries. See Kris Pollet, “All in vain? The fate of EP positions on asylum reform after the European elections” *EU Immigration and Asylum Law and Policy Blog* (2020).

Table 1: Status of negotiations on the 2016 CEAS reform package (as of May 2020)*

CEAS Instrument	Trilogue process	Institutions' positions	Status
EU Agency for Asylum – EUAA (replacing EASO)	<p>2016 proposal: Agreement reached in December 2017.</p> <p>Com published an amended proposal in Sept. 2018, increasing the EUAA's operational capacity. Trilogue has not started</p>	<p>EP & Council stand by 2017 agreement.</p> <p>EP rejected Com's changes in Dec. 2018. Council has not agreed on a negotiating mandate for trilogue.</p>	<p>Formal adoption is withheld in Council due to the 'package approach'</p> <p>EP and Com await Council's position</p>
Eurodac reform	Agreement reached in June 2018	<p>EP & Council stand by 2018 agreement Com: favours adoption of the reform independently from the rest of the package</p>	Adoption is withheld in Council due to the 'package approach'
Qualification Regulation	<p>Informal provisional agreement reached in June 2018 but failed in Council. EP rejected compromise proposals in Sept. 2018 and Jan. 2019</p>	<p>Com: awaits progress Council: common position adopted in Jan. 2019 EP: stands by 2018 informal agreement</p>	Remaining issues undisclosed. Probably contentious: the internal protection alternative and sanctions against secondary movements
Reception Conditions Directive	<p>Informal provisional agreement reached in June 2018 but failed in Council. EP rejected compromise proposals in Sept. 2018 and Jan. 2019</p>	<p>Com: awaits progress Council: common position adopted in Jan. 2019 EP: stands by 2018 informal agreement</p>	Remaining issues undisclosed. Probably contentious: detention rules, access to work and integration facilities.
Resettlement Directive	Informal provisional agreement reached in June 2018 but failed in Council.	<p>Com: awaits progress EP: stands by 2018 informal agreement Council: compromise proposal agreed on 26 February 2019</p>	New Council mandate to resume trilogue negotiations withheld as member states stick to the 'package approach'
Asylum Procedures Directive	Trilogue negotiations have not started	<p>EP: adopted negotiating position in April 2018. Council: negotiations progressed, but no agreement on border procedures and safe third country provisions</p>	Com : working on redraft
Dublin IV Regulation	Trilogue negotiations have not started	<p>EP: negotiating position adopted in April 2018. Council: divided on responsibility-sharing. No progress at working level</p>	Com : working on redraft

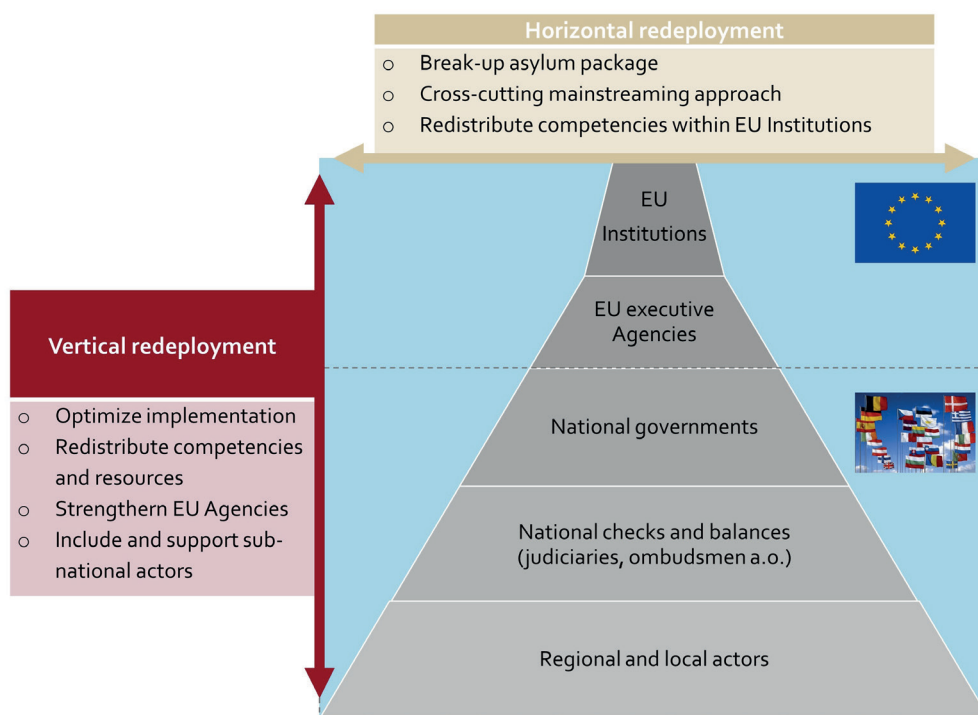
*Com: Commission; EP: European Parliament, including positions from the responsible Committee LIBE (Committee on Civil Liberties, Justice and Home Affairs); Council: Council of the EU and its working levels: COREPER (Committee of Permanent Representations of the member states) and Asylum Working Party. Sources: Databases Eur-lex; Parliament's legislative train; public register of Council documents, esp. Presidency progress report from February 2018

This paper proposes another kind of ‘fresh start’: a redeployment strategy. Under the term ‘redemption’, I propose rethinking how asylum policy is conceived and crafted fundamentally. Moving away from framing asylum narrowly as an issue of internal security, the multifaceted nature of asylum requires a cross-sectoral policy design. To reform and complement the CEAS, the policy process should engage relevant actors beyond the realm of home affairs, involving all levels of governance. Where appropriate, the distribution of competences and responsibilities should be restructured horizontally and vertically.

“This paper proposes another kind of ‘fresh start’: a redeployment strategy.”

The asylum package would be disentangled in separate policy conversations, anchored in various policy fields and would unfold on independent timelines. This could generate more balanced outcomes, while the process would be less liable to stalling strategies. As depicted in Figure 1, the redeployment strategy I propose has two main dimensions: horizontal and vertical.

Figure 1: Redeployment of EU asylum policy



1.2 A genuine fresh start through horizontal redeployment

Horizontally, I propose to reconsider the policymaking strategy. Considering the current quagmire, CEAS policy goals might be better achieved through other means than one more big reform. The asylum reform package should be disentangled, creating separate, issue-based conversations of limited scope. Within each of these conversations, complementary solutions could be sourced from outside the field of home affairs in related policy fields where synergies exist but are underused. In the long run, following a mainstreaming approach,⁶ the rights and needs of refugees and asylum seekers should be integrated as a pol-

⁶ Positive experiences were made at EU level on gender equality, the inclusion of persons with disabilities and child protection. Applying mainstreaming to asylum would incorporate a concern for the needs and rights of applicants for protection and beneficiaries of refugee status and subsidiary protection in all relevant EU policies. See Alexander Wolffhardt, “Sustaining mainstreaming of immigrant integration: Discussion Brief” (2018).

icy objective in all relevant policy areas, rather than handled in isolation in a dedicated policy.

By broadening the policymaking venue and thus the range of actors involved, horizontal redeployment would address what I call the ‘home bias’. So far, because asylum policy is anchored in home affairs, the actors in charge are primarily concerned with protecting the European home.⁷ Asylum policies have been framed in terms of security, in relationship to border control, to policing movement. That is the job of the ministers of the interior, and that is how they have thought and developed asylum policy historically.⁸ However, this ‘home bias’ leads to sub-optimal outcomes, as seen in the response to the crisis on the Greek-Turkish border from February 2020,⁹ the ongoing Covid-19 crisis management¹⁰ or the solidarity *à la carte* model that is taking shape under the new Pact.

The ‘home bias’ undermines the relative weight of compliance with the international refugee legal regime and human rights in EU asylum policy. It also leaves EU resources from other fields underused. Redeployment could change that. By acknowledging the multifaceted nature of asylum and the complexity of forced migration, better policy outcome can be achieved for persons in search of protection as well as for member states.

“By broadening the policymaking venue and thus the range of actors involved, horizontal redeployment would address the ‘home bias’.”

1.3 Vertical redeployment for better policy and implementationp

Vertical redeployment would contribute to inclusiveness in policy-making and help address the implementation gap. The need to make asylum policy design more open and inclusive was recently highlighted by ECRE and further NGOs: “Discussions about the development of policy and legislative proposals should go beyond Ministries of Interior to include all relevant ministries, implementing agencies, and civil society broadly understood, in particular refugees and migrants.”¹¹ Commissioner Johansson, who came to the Home Affairs portfolio after acting as minister for education, healthcare and employment, is very much aware of that and is creating an expert group of migrant advisors.¹² Her efforts should be further supported institutionally. Inclusiveness in decision-making should be implemented in the EU Commission, among Council formations but also in the member state governments, involving regions, communes, and civil society actors.

In the context of adopting the next Multiannual Financial Framework (MFF), strategic decisions must be taken on priorities and resources. Where needed, their vertical distribution should be reconsidered. Mirroring horizontal redeployment

⁷ William Walters, “Secure borders, safe haven, domopolitics”, *Citizenship Studies* 8, no. 3 (2004).

⁸ Sandra Lavenex, “Shifting up and out: The foreign policy of European immigration control”, *West European Politics* 29, no. 2 (2006).

⁹ The temporary opening of the Turkish side and the arrival of 20,000 persons led to an escalation at the Greek border crossings, including push-backs and the disproportionate use of force. No access to asylum applications was possible.

¹⁰ Policy answers included closing and fortifying borders, additional freedom restrictions, suspending the right to apply for asylum, slowing resettlements and relocations. These responses lacked solidarity and coordination and undermined fundamental rights. See ECRE “Information sheet 5 May 2020: Covid-19 measures related to asylum and migration across Europe”, 5 May 2020.

¹¹ ECRE Press release, “The new Pact on Asylum and Migration: An opportunity seized or squandered?”, 14 February 2020.

¹² Friends of Europe online event: “Developing a fresh start on migration”, 18 May 2020.

at EU level, national checks and balances should be protected and empowered in the member states. Ombudsmen, human rights institutions but also the judiciary, the free press and active civil society are crucial to a balanced asylum policy. EU specialized agencies¹³ have a key role to play in bolstering the monitoring of national asylum systems and related governance structures, as well as providing training and organizing networking among sub-national actors. For a better overall balance at EU and national levels, resource asymmetry among EU agencies themselves should also be addressed. In particular the European Asylum Support Office (EASO) and the Fundamental Rights Agency (FRA) should be strengthened: their capacities are not sufficient to fulfil their mandate, and have grown slowly compared to the European Border and Coast Guard's (EBCG, formerly Frontex).

Vertical redeployment also entails empowering local and regional actors and their networks. As primary actors of integration and inclusion in practice, their perspectives often differ strongly from positions defended at national level. Mayors such as Palermo's Leoluca Orlando have created a transnational movement of municipalities ready to welcome persons rescued at sea or relocated from EU member states.¹⁴ As raised by Oomen, "decoupling" between the political stance at local and national levels¹⁵ and the rise of the relevance of sub-national actors have fuelled a "local turn" in the discussion on the future of the CEAS.¹⁶ For policy development, local and regional actors and their organizations can relay the specific needs and challenges of regions and communes. For implementation, local authorities can act where national government are paralyzed politically, if given the means and leeway. Subnational actors are thus a precious resource for better implementation and more balanced EU asylum policies.

To exemplify how redeployment could operate, the following sections put forward a series of proposals on how to handle two big issues the EU has struggled with in recent years: handling arrivals and related emergencies, and organizing the reception of persons seeking protection.

2 Towards a humanitarian approach to arrivals

The EU is a major contributor and provider of humanitarian aid, but these capabilities play a limited role in the asylum field. I suggest three complementary measures for a sustainable management of arrivals, handling what in fact are humanitarian problems with humanitarian tools. The horizontal redeployment of problem-solving towards the humanitarian field underlying the three proposals is supported by a vertical dimension, with an increased involvement of agencies and sub-national actors.

¹³ In this redeployment model, EU Agencies are represented a level below the main EU institutions to the extent that they act in an executive role, rather than in a policymaking role.

¹⁴ See Jascha Galaski, "Sanctuary Cities Challenge Restrictive Migration Policies", liberties.eu, 13 February 2020.

¹⁵ Barbara Oomen, "Decoupling and Teaming up: The Rise and Proliferation of Transnational Municipal Networks in the Field of Migration", *International Migration Review* (2019), p. 4.

¹⁶ Petra Bendel, Hannes Schammann, Christiane Heimann, Janina Stürner, "A Local Turn for European Refugee Politics: Recommendations for Strengthening Municipalities and Local Communities in refugee and asylum policy of the EU" (Heinrich-Böll-Stiftung e.V., 2019).

2.1 The Greek hotspots: test case for a humanitarian approach

In 2015, ‘Reception and Identification Centres’ or ‘hotspots’ were established in Italy and Greece to manage and contain arrivals. As part of the 2016 EU-Turkey statement, onward movement from the Greek islands was forbidden. With slow asylum procedures, impossible returns and few relocations, the situation deteriorated quickly in the overcrowded camps. This human rights catastrophe was tolerated as a deterrent for future arrivals. The threat of a Covid-19 disaster provided a necessary reminder that such forms of migration deterrence is harmful for everyone, not only migrants.

With movement slowed down by lockdowns worldwide, the Corona crisis provided a window of opportunity to set aside ‘pull effects’ fears and solve the hotspots issue. Separating the hotspots issue from longer-term asylum reforms, disaster prevention should be the motive for action, rather than the principle of solidarity on which member states are divided. Commissioner for Crisis Management Janez Lenarčič, in charge of developing an “integrated approach” to protracted displacement,¹⁷ should take the lead on managing the emergency from a humanitarian standpoint. A primarily humanitarian approach to the hotspots is necessary because asylum policy instruments do not provide solutions.¹⁸ Things are moving in that direction: sizable financial and material aid already goes to Greece¹⁹ and humanitarian relocations have resumed.

“A primarily humanitarian approach to the hotspots is necessary because asylum policy instruments do not provide solutions.”

Following a humanitarian deal to relocate 1,600 unaccompanied minors,²⁰ transfers started in April.²¹ Numbers are small but it is an important first step that increases the pressure for participating states to fulfil their pledges and, hopefully, for more to join the effort. In camps such as Moria on Lesbos, 5,000 unaccompanied minors and countless families with children remain in urgent need of solutions.²² To meet their child protection obligations, member states should expedite and broaden the relocation scheme, simplifying selection procedures that attracted much criticism.²³

¹⁷ Ursula von der Leyen, “Mission letter” to Commissioner for crisis Janez Lenarčič, 1 December 2019, p. 5.

¹⁸ Under Dublin rules, Greece is responsible for most asylum cases but struggles to cope. Article 78(3) TFEU, the legal basis for the CEAS, provides for support to member states “confronted by an emergency situation characterised by a sudden inflow of nationals of third countries” but that is not currently the problem.

¹⁹ The EU is currently co-funding Corona-related *material help on the Greek islands* via the EU Civil Protection Mechanism. Under the *Emergency Support Mechanism*, Greece received €643 million between 2016 and 2019. During the Evros border crisis in February 2020, another €350 million – extendable up to €700 million – were committed. The lion’s share will go to border enforcement, not humanitarian measures.

²⁰ Answering a Greek call for help from November 2019, ten states (Belgium, Bulgaria, Croatia, France, Finland, Germany, Ireland, Lithuania, Luxembourg and Portugal) *committed on 6 March 2020* to relocate 1,600 unaccompanied minors.

²¹ 12 children were flown to Luxembourg, 47 to Germany. Finland (100 children), Portugal (50 children) and Switzerland (22 children) are next. France is set to relocate 750 people, including 350 children. Further transfers to Germany are planned.

²² Ewan Watt, “European countries must act urgently to help unaccompanied children in Greek refugee camps”, *Theirworld*, 21 May 2020,

²³ Heiner Hoffmann, “Flüchtlingskinder. Von der Hoffnung zum Fiasko”, *ARD Tagesschau.de*, 5 May 2020.

As part of the European response to the Corona epidemic, persons at higher risk of infection should be eligible for humanitarian relocation to other EU states with stronger medical capacities. Potential candidates have already been identified.²⁴ They could be transferred to EU partners, building on existing initiatives such as common repatriation flights or welcoming patients from other states.

Ultimately, all residents of the hotspots urgently need humane solutions in Greece or other member states. Looking pragmatically at the issue, targeted schemes may be more palatable politically but a blanket relocation scheme would be easier to implement considering the capacity deficits in the Greek asylum system and the pressure it faces resuming processing activities in May 2020.²⁵

For success, any further ad hoc relocation scheme should avoid previous hurdles. A blueprint for procedures is the ‘Malta deal’ from September 2019.²⁶ Despite its faults,²⁷ the deal included crucial technical improvements compared to the 2015 relocation schemes.²⁸ In particular, it was based on a simplified relocation procedure (Point 4 of the declaration), which does not include the review of the likelihood of success of the asylum claim, only Eurodac registration, security and health screening. This is crucial: the ‘likelihood review’ had made it difficult for Greek authorities to identify candidates for the 2015 relocation schemes. From non-papers published in April, it appears that there is political support for lean relocation procedures.²⁹ Applied to the setting of the Greek camps, the Malta procedure could allow for rapid relocation of all persons whose asylum claims have already gone through the initial steps of registration, security screening and family reunification/Dublin. The enhanced EASO capacities on the islands,³⁰ now occupied with matching unaccompanied minors to pledges,³¹ could turn their focus towards completing preliminary procedures for all residents to enable a fast roll-out of relocation.

²⁴ Supported by the EU, Greece started transferring 2,380 persons particularly at risk of Corona virus to the mainland mid-April. See Euractiv, “Greece to move migrants out of congested island camps”, 16 April 2020.

²⁵ ECRE, “Greece: Chaotic Resumption of Procedures, Hundreds of Children Detained, Crack-Down on NGOs, New Evidence of Push-backs to Turkey”, 22 May 2020.

²⁶ To replace the ship-by-ship distribution negotiations that kept rescued persons for days or weeks onboard overcrowded rescue ships, the Malta *declaration* from France, Germany, Italy and Malta aimed at distributing persons rescued at sea based on ‘pre-declared pledges’, using the Dublin discretionary clause as a legal basis.

²⁷ Disembarkation remained an issue and no further state officially joined the deal. See Lucas Rasche, “Far from a fresh start on migration: What to make of the solidarity mechanism for the Mediterranean”, policy brief (Jacques Delors Institut Berlin, Berlin, 2019).

²⁸ Nikolaj Nielsen, “EU states fell short on sharing refugees, say auditors”, EUobserver, 14 November 2019.

²⁹ The *non-paper* from southern member states suggests procedures based on “pre-distribution checks (security and health)” and “links that exist between an asylum seeker and a member state” (first three Dublin criteria of family reunification, previous residence/visa, previous issue of academic or professional diplomas). The *Letter* from France, Italy, Germany and Spain suggests “pre-screening (registration, security and medical checks, identification)”, also it does foresee triaging applicants on the external borders.

³⁰ EASO is increasing its presence in Greece in 2020 to help conduct procedures. This represents a commitment of €36 million and 1,000 EASO staff. See “2020 Operational & Technical Assistance Plan agreed by EASO and Greece”, Valletta Harbour and Athens, 20 December 2019; EASO Press Release “EASO operations in Greece to expand significantly”, 28 January 2020.

³¹ EASO press release: “EASO facilitating relocation of Unaccompanied Minors from Greece”, 13 May 2020.

It is clear that, in the absence of a set redistribution mechanism, securing pledges will be a big hurdle. In the past, up to 16 member states participated in the voluntary redistribution of persons rescued at sea. Different coalitions might be found for child protection, corona response and/or a blanket humanitarian relocation scheme. Meaningful financial incentives would provide arguments to sub-national actors currently lobbying their governments. Many European cities are willing to welcome people regardless of status and are actively pursuing the issue through networks such as *Solidarity Cities*³² or *Seebrücke*.³³ They can act as soon as governments grant visas or entry permits. The EU can support municipal

activism by contributing financially, as far as possible under the current MFF. Lucas Rasche proposes €12,000 per relocated person, i.e. double the amount currently disbursed through the Asylum, Migration and Integration Fund (AMIF).³⁴ Humanitarian funding from the Civil Protection Mechanism³⁵ and Frontex operational capacities could help cover logistic and transportation costs.

The proposed *ad hoc* schemes would rely partially on CEAS legal bases, in particular the discretionary clause in the Dublin Regulation, but solve problems for which the current CEAS is not equipped. A potential success would bolster further initiatives, anchoring the management of arrivals and relocation in the humanitarian field.

Table 2: Solving the Greek camp crisis through redeployment

Horizontal redeployment	Vertical redeployment
<ul style="list-style-type: none"> • Use the Corona crisis as window of opportunity to reach humanitarian deals to close the Greek camps, based on light 'Malta' procedures and financial incentives • Leadership by Commissioner for Crisis Management Lenarčič, coordinating contributions from various DGs and the voluntary participation of member states, with a humanitarian focus. 	<ul style="list-style-type: none"> • Capitalize on activism from sub-national actors, support their involvement with financial incentives • Involve EU Agencies closely: EUAA/EASO for relocation procedures and EBCG/Frontex for transfer logistics

2.2 Building EU intervention capabilities in migration-related crises

As crucial as it is, the evacuation of the Greek camps would not solve collective action problems on future arrivals, nor would it address the current precarious situations of refugees and migrants in other member states and the Western Balkans. To solve these issues and prevent them in the future, the EU needs a functional European management of arrivals. Currently, answers are being sought in asylum and migration policies. I argue that what the EU most urgently needs is a European humanitarian mechanism able to intervene in migration-related emergencies. 'rescEU', the European reserve for humanitarian disaster management, could play that role.

³² About *Solidarity Cities*.

³³ About *Seebrücke*.

³⁴ Lucas Rasche, "In Greece, the Corona crisis threatens to become a disaster: Policy position" (Jacques Delors Center, Hertie School, 2020).

³⁵ Established in 2001, the *EU Civil Protection Mechanism* coordinates and organizes cooperation among civil protection authorities from its 31 member states (EU28, Iceland, Norway, North Macedonia).

A gap in EU response needs to be filled: the lack of intervention capabilities to meet humanitarian needs in migration-related emergencies. Roughly three quarters of EU humanitarian aid are disbursed to support displaced persons worldwide, including within the EU.³⁶ But as things stand, the EU can only support and coordinate the action of member states, international organizations or NGOs. This is an issue of competence: on humanitarian aid and civil protection, the EU only has a supporting “parallel competence” limited to coordination and co-financing.³⁷ As a result, no EU body is competent or equipped to intervene in cases of migration-related emergencies. EASO is increasingly active on the ground to support national asylum systems. Frontex/EBCG helps patrol the external borders and, together with EUROPOL, supports the registration process. Within its limited means, FRA conducts missions to offer expertise and monitor the respect of fundamental rights by EU agencies and national authorities in Italy and Greece.³⁸ These activities intersect with the management of humanitarian emergencies but do not address them as such. Because of this gap, the EU had no intervention capacity able to address the needs of migrants or host communities during the large arrivals of the last few years by land or sea, nor smaller events as the Evros border crisis from February 2020.

I argue that the EU could fill this gap using its civil protection resources, a growing area of action for the Union. In 2019, the Union Civil Protection Mechanism (UCPM) was enhanced with rescEU.³⁹ This new body disposes of dedicated response capacities and experts committed by member states and co-financed by the EU that can be mobilized to respond to disasters. rescEU is a last resort instrument, meaning that it can only be mobilized in case all other national and European capabilities, including under the UCPM, are exhausted. Its mandate follows the UCPM's and is thus broadly defined, aiming at protecting “primarily people, but also the environment and property” from any natural or man-made catastrophes.⁴⁰ So far, rescEU has been activated twice to help combat forest fires and then Covid-19.

The Corona pandemic boosted the relevance of EU Civil Protection, and especially rescEU: “citizens expect the EU to act during a crisis” as Commissioner Lenarčič stated on 2 June 2020.⁴¹ As part of the proposed €750 billion recovery package ‘Next Generation EU’, the Commission proposes to extend the mandate of rescEU, triple its budget from €1,1 to €3,1 billion, and add a capacity for the EU to procure and fully finance resources.⁴² It would be the second time within months that rescEU is strengthened.

³⁶ According to DG ECHO, €1,2 billion or 75% of humanitarian aid went to refugees and IDPs in 2018. It was €1,9 billion, or 87% of the budget in 2016. This covers a very broad spectrum of projects, including support to international organisations and NGOs.

³⁷ Federico Casolari, “Europe (2018)”, in Yearbook of International Disaster Law, vol 1, nr. 1 (2019), p. 347-349.

³⁸ FRA, “Programming document 2020–2022”, 2020, p. 70.

³⁹ Commission Implementing Decision (EU) 2019/570 of 8 April 2019 laying down rules for the implementation of Decision No 1313/2013/EU as regards rescEU capacities [...], OJ L 99, 10.4.2019, p. 41–45.

⁴⁰ Article 1, Decision No 1313/2013/EU on a Union Civil Protection Mechanism, OJ L 347, 20.12.2013, p. 924–947

⁴¹ Press conference by Commissioner Janez Lenarčič on “RescEU and humanitarian aid”, Brussels, 2 June 2020.

⁴² European Commission, Proposal for a Decision of the European Parliament and of the Council amending Decision No 1313/2013/EU on a Union Civil Protection Mechanism, 2 June 2020, COM(2020) 220 final.

I suggest that rescEU missions could become a form of EU solidary response in migration-related emergencies. According to Federico Casolari, the UCPM mandate in Decision 1313/2013 could potentially cover the management of events comparable to the so-called “refugee crisis”.⁴³ To prevent harm, this broad mandate could arguably cover first response on the coast and borders and the coordinated management of large arrivals but also search and rescue at sea and disembarkation coordination.

“RescEU missions could become a form of EU solidary response in migration-related emergencies.”

Going in this direction would be coherent with the capacity developments that have already been proposed to answer more effectively to medical emergencies. As part of the ‘EU4Health’ programme, rescEU would be able to procure substantial capabilities: reserves of medical personnel and disaster response experts, as well as “medical equipment, medical evacuation planes, field hospitals, firefighting planes and helicopters”.⁴⁴ Capabilities needed in forced-migration related crises partially overlap: at absolute minimum, first response includes emergency healthcare (physical and mental), reception facilities adequate for the specific needs of vulnerable persons and minors, and the provision of information on asylum procedures. In the long run, this minimum level of capabilities could be extended to search and rescue vessels or the operation of humanitarian corridors. With such additional capabilities, rescEU would be able to provide support to member states unable to tend to the specific needs of refugees and persons seeking protection, in order to guarantee that their rights under EU law are enforced in emergency situations.

A dedicated Task Force in DG ECHO (European Civil Protection and Humanitarian Aid Operations) could be put in charge of the overall management. The Task force would coordinate partnerships with member states, NGOs, EU agencies and UN Refugee and Migration Agencies UNHCR and IOM,⁴⁵ and, when needed, implement a mission of rescEU.⁴⁶ This Task Force could be established in the enhanced Emergency Response Coordination Centre (ERCC), which monitors emergencies and coordinates EU civil protection response, and already extended its focus to migration during the asylum governance crisis. The ERCC can create adequate structures to anticipate and respond to migration-related emergencies.

Building on its existing humanitarian and civil protection structures, the EU could thus fill gaps in the existing framework in terms of answering humanitarian needs and protecting fundamental rights, balancing out the current focus on border enforcement and preventing secondary movement. Even in the absence of an automatic and compulsory redistribution mechanism, building such structures would be a considerable improvement in the EU’s emergency response.

Currently, using rescEU in migration-related emergencies would be quite difficult, as it requires a request for help from member state(s) concerned, a voluntary commitment by member states participating in UCPM, and an acceptance by the

⁴³ Interview conducted on 16 June 2020.

⁴⁴ European Commission, Factsheet: “*rescEU: Helping protect citizens in times of need*”, 2 June 2020.

⁴⁵ The United Nations High Commissioner on Refugees (UNHCR) is the UN organisation in charge of implementing the Geneva Convention. The International Organization for Migration (IOM) has a broader mandate concerning all forms of migration and migration policies.

⁴⁶ A stronger role for DG ECHO was already suggested in the 2018 report on the Emergency Support Instrument, according to which DG ECHO could take the lead on designing a sustainable framework to coordinate funding streams and actors in emergency response.

concerned member state. As rescEU is a last instance mechanism, all other channels of help would also have to be exhausted, and there are many. In my view, this set up is inadequate for disaster response and to meet EU citizens' expectations. In the long run, the EU's role in civil protection is at stake. In future reforms of EU Treaties, the competences of the EU on civil protection and humanitarian aid will likely be strengthened. A major question in that context is whether the EU should be able to act without invitation from a member state, or even against it on the basis of a majority in Council or a decision of the Court of Justice. As part of the conversation on the EU's ability to defend the rule of law, it could be worthwhile to explore possibilities to act in extreme cases, where member states tolerate or create the conditions for protracted humanitarian crises.

Table 3: Redeployment: EU intervention capabilities in migration-related crises

Horizontal redeployment	Vertical redeployment
<ul style="list-style-type: none"> • Complementing crisis diplomacy with permanent EU humanitarian capabilities relying on the EU Civil Protection Mechanism • New, instrumental role for rescEU, including the procurement and financing of specific capabilities for migration-related crises. • New Task Force on humanitarian emergency in DG ECHO e.g. located in the ERCC • Consider Treaty change to increase the EU's civil protection competencies 	–

2.3 Temporary protection: making it fit for purpose

My third proposal for a humanitarian management of arrivals is a reform of the EU temporary protection system. The 2001 Directive on Temporary Protection in a mass influx of displaced persons (TPD)⁴⁷ was one of the first CEAS instruments adopted in the wake of large displacements from former Yugoslavia. Its purpose is to offer swift protection to large groups of people displaced from third countries in situations where the asylum system of member states is overwhelmed. In EU law, temporary protection as a status is distinct from refugee and subsidiary protections, which are regulated under the EU Qualification Directive (see table 4).⁴⁸ Temporary protection is a complementary form of protection: obtaining temporary protection does not prejudice on eligibility for refugee or subsidiary protection. In a mass influx situation, the TPD would organize the reception of displaced persons through relocations and financial solidarity.

Since 2001, several significant spikes in arrivals did overwhelm asylum systems, not least the 2015-2016 asylum governance crisis. Nevertheless, the TPD remained a dead letter because a number of key dispositions are vague and the political hur-

⁴⁷ 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, OJ L 212, 7.8.2001, p. 12–23.

⁴⁸ Directive 2011/95/EU of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), OJ L 337, 20.12.2011, p. 9–26.

dles for triggering the scheme are high.⁴⁹ No attempt to address these issues and reform the TPD was made so far. The 2015 European Agenda on Migration did not mention temporary protection at all.⁵⁰ The Commission even suggested in 2016 that the TPD might be repealed as redundant if responsibility-sharing is adopted as part of the Dublin Regulation.⁵¹

Table 4: Forms of protection provided for in EU law

Forms of protection	EU legal basis	International law
Refugee protection (from persecution)	2011 Qualification Directive on international protection	UN Refugee Convention ⁵³ (known as Geneva Convention)
Subsidiary protection (from serious harm)		No Convention on this protection status. Several instruments of international law are relevant. ⁵⁴
Temporary protection	2001 Temporary protection Directive	n.a.

Note: Further forms of complementary protection also exist at national level.

In my opinion, the TPD could be useful if reformed, for two distinct reasons. Firstly, a clearer European framework on temporary protection is needed to streamline and correct national practices of this form of humanitarian protection. Secondly, if the EU is going to adopt a flexible solidarity model unfit to properly correct the imperfections of the Dublin system, it should rather do so for temporary protection, where this can actually provide an improvement to the status quo during an emergency.

Firstly, practice has shown that temporary protection entails significant risks.⁵⁴ In particular, it can undermine refugee and especially subsidiary protection if used in their stead, rather than as a complementary, transitional, tool. A number of

⁴⁹ Hanne Beirens, Sheila Maas, Salvatore Petronella y Maurice von der Velden, *Study on the Temporary Protection Directive: Final report* (Luxembourg: Publications Office, 2016); Meltem Ineli-Ciger, “Time to Activate the Temporary Protection Directive”, *European Journal of Migration and Law* 18, no. 1 (2016); Clara Burbano-Herrera, “Why has the EU’s Temporary Protection Directive not been applied during the migration crisis in order to receive Syrians and other asylum seekers?” *AfricLaw*, 10 June 2016.

⁵⁰ Olga Mitrovic, “Used during the Balkan crises, the EU’s Temporary Protection Directive may now be a solution to Europe’s refugee emergency”, *EuroPP – European Politics and Policy Blog*, LSE, 3 September 2015.

⁵¹ European Commission, *Towards a Reform of the Common European Asylum System and Enhancing Legal Avenues To Europe*, 6 April 2016, p. 7.

⁵² United Nations, *Convention relating to the status of refugees and stateless persons (1951) and its 1967 Protocol*.

⁵³ Relevant binding international standards includes the UN *Conventions include the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1984) and the Council of Europe’s *European Convention for the Protection of Human Rights and Fundamental Freedoms* (1950).

⁵⁴ Salvo Nicolosi, “Let Sleeping Dogs Lie? Temporary Protection in European Union Asylum Law”, *Reflaw note*, 5 January 2017. Jean-François Durieux, “Temporary Protection: Hovering at the Edges of Refugee Law”, *Netherlands Yearbook of International Law* 2014, vol 45 (2015), pp 221–253.

member states have made temporary protection part of their legal regimes outside of exceptional circumstances, creating a lower form of protection. Common European standards are needed to help rectify the use of temporary protection, clarifying the scope and purpose of temporary protection in a binding way. Transforming the Directive into a Regulation could be an option to give direct effect to its standards, addressing the discrepancy in practices we see today.

“Common European standards are needed to help rectify the use of temporary protection.”

As it is now, the bundle of rights defined under the TPD is quite comprehensive. Revising it under the current political climate might result in undermining the Directive’s progressive construct. Here, ethical compromises could be justifiable if the status of temporary protection is clearly limited in time and circumscribed to situations of mass arrivals, when asylum systems are unfit to cope.⁵⁵ To palliate a race to the bottom, benchmarks can be sourced from the UNHCR guidelines on temporary protection arrangements from 2014.⁵⁶ They are not binding, but the EU is bound to take the UNHCR’s interpretation of international law into account in its own policies.

Secondly, a recast Temporary Protection system would provide a functional collective response to support overwhelmed member states in times of crisis. Compared to the *ad hoc* schemes that were implemented so far, the built-in solidarity mechanisms in the Temporary protection Directive are its main asset in that regard. The activation of pre-established responsibility-sharing mechanisms would reduce the cost and delay of case-by-case relocation deals and increase the volume of transfers of persons and resources. Politically, these built-in solidarity mechanisms are however also the big weakness of the Temporary Protection system. By taking in displaced persons under responsibility-sharing, it is clear that European states would accept potential asylum applicants due to their *non-refoulement* obligations. As displayed in the Dublin negotiation, a number of them refuse this more or less categorically.

In my opinion, it is still worthwhile to pursue responsibility-sharing specifically in a reform of the TPD rather than Dublin, because temporary protection could become the minimum common denominator in the difficult debate on solidarity. The TPD and the Dublin system have different goals and levels of ambition. In the Dublin system, responsibility-sharing is supposed to deliver fairness, correcting the unequal distribution of the ‘burden’ so each state shoulders a ‘fair share’. By contrast, responsibility-sharing on temporary protection is disaster prevention: in case of mass arrivals, it is only there to avert the collapse of asylum systems and the hardship it creates for displaced persons. It does not have to be perfect or just, just to help relieve pressure.

“Responsibility-sharing on temporary protection is disaster prevention: It does not have to be perfect or just, just to help relieve pressure.”

Assuming that a sufficient number of member states agree that a solution to large arrivals is needed, the solidarity *à la carte* model that the Commission is pushing for Dublin would actually be more suitable for the temporary protection regime. If this is a success, a genuinely fair and pan-European responsibility-sharing regime could become more palatable for reluctant member states at a later stage. A

⁵⁵ For example, the minimum level of reception conditions and the rights attached to the status could be kept lower than for other forms of protection (for example with regard to access to travel documents or family reunification). Granting temporary protection could also exclude the creation of a long-lasting obligation towards the beneficiary, provided that they can lodge an asylum application.

⁵⁶ UNHCR; “Guidelines on Temporary Protection or Stay Arrangements”, February 2014.

functioning temporary protection system would be a first step towards European solidarity. Applicable only in exceptional situations, it would later remain complementary to a 'normal times' Dublin corrective mechanism, if one can ever be agreed upon.

What needs to be reformed for the TPD to become operational? First, the activation mechanism needs to be improved and clarified. As outlined in a report on the instrument from 2016,⁵⁷ only the Commission can start the procedure by formally proposing an activation to the Council, which then takes a Decision by qualified majority. Member states must send a formal activation request to the Commission, and cannot propose it themselves, while the Parliament plays no role in the decision. This set-up should be reconsidered, opening for the possibility for more actors to propose the scheme's activation and increasing speediness by simplifying the formal process.⁵⁸ Secondly, actors have disagreed on the criteria of activation in the past, in particular what constitutes a 'mass influx' or an 'adverse effect' on the asylum system of member states. These criteria and indicators must be clarified in a recast of the instrument. Objective criteria are needed to prevent the discussion on activation to be captured into a discussion around 'pull factors', which tends to be fatal. The 2016 study puts forward a series of policy options on how to reform these provisions, providing a basis for the policy discussion.⁵⁹

Cutting down on the flexibility of the existing mechanism, the system would have to rely on an automatic relocation mechanism among participating states based for instance on GDP and population.⁶⁰ Initially, participation to the scheme could be voluntary but then become compulsory. Member states would be required to maintain reception capacities at an adequate level in standby, but could remain free to manage them jointly, opening for some flexibility. The reception of relocated persons would be supported financially from the EU budget. The system should be managed and coordinated by a permanent structure, either in the Commission or as part of the future EU Asylum Agency. This is essential since redistribution does not fare well in *ad hoc* high-level summits. Before the expiry of the temporary protection period, beneficiaries would have to be able to apply for regular asylum or other residency permits.

The reform of the TPD would be one of several measures aimed at improving the collective management of forced migration to Europe. Complementary proactive policies could at least include the European Resettlement Program (relying on the adoption of a Resettlement Directive, which is within reach), humanitarian corridors from conflict zones such as Idlib in Syria or the Libyan detention camps, and humanitarian visas. Together, the diversification in access routes might help de-escalate the blockage on solidarity.

⁵⁷ Beirens et al., *Study on the Temporary Protection Directive*.

⁵⁸ Beirens et al., *Study on the Temporary Protection Directive*, p. 19–24.

⁵⁹ Beirens et al., *Study on the Temporary Protection Directive*, p. 38–47.

⁶⁰ Following existing fair share models envisaged for the Dublin responsibility-sharing mechanism.

Table 5: Making the EU temporary protection system fit for purpose

Horizontal redeployment	Vertical redeployment
<ul style="list-style-type: none"> • Address problematic national practices by circumscribing the use of temporary protection to humanitarian emergencies • Prevent large arrivals from turning into humanitarian disasters with an operational system for collective crisis management • Part of a cross-cutting effort on legal entry for forced migrants and refugees 	<ul style="list-style-type: none"> • Centralized management and coordination, either at the Commission or at EUAA • Flexibility for arrangements among member states in the management of reception facilities

Building upon existing initiatives and proposals, this section has outlined the potential of redeploying the management of existing bottlenecks and future arrivals towards the humanitarian and civil protection fields. I put forward three proposals for redeployment: a relocation scheme to clear the Greek hotspots, a permanent intervention mechanism to act in future migration-related crises, and a reform of the EU's unused temporary protection system. All three rely on horizontal redeployment, focussing on humanitarian solutions for the Greek hotspots and the management of future arrivals. On the vertical dimension, EU agencies and sub-national actors have important roles to play in the formation and management of schemes relying on coalitions of the willing. The next section turns to another area where the CEAS is, so far, failing its targets: harmonizing reception conditions.

3 Towards sustainable reception systems: Investing in integration and inclusion

The quality and adaptability of reception systems vary considerably among European countries and regions. Experiences made across Europe over the last few years are rich in lessons on how governments and societies should handle reception, and how that relates to integration and inclusion. The EU should help national actors invest in sustainable reception systems. To do so, I propose a double redeployment of the issue of improving and harmonizing reception conditions. Acknowledging that reception is primarily a matter of integration policy, future policymaking should be mainstreamed horizontally. Vertically, the EU's ability to support regional and local actors should be further developed.

3.1 Horizontal redeployment: A reception, integration, and inclusion agenda

The Reception Conditions Directive⁶¹ (RCD) sets minimum standards on benefits, services and rights that should be available to applicants for international protection.⁶² Existing standards have been criticized as vague and overly flexible, with a limited harmonization impact. The way forward for further harmonization is

⁶¹ Directive 2013/33/EU of laying down standards for the reception of applicants for international protection (recast), OJ L 180, 29 June 2013, p. 96–116.

⁶² The Directive sets minimum standards for accommodation, access to healthcare, education and the labour market, integration facilities as well as rules on freedom of movement, residence permits and detention.

contested: Proponents of further harmonization criticize the lack of a European level-playing field, arguing that it results in injustices and/or secondary movement. Proponents of deference to national systems put forward the variety among national social, educational, health or labor systems and remind of the necessity to respect subsidiarity. Due to the ‘home bias’, the ongoing RCD reform process has focussed on a problematic minimum common denominator:⁶³ reception systems designed to facilitate return and disincentivize movement to and within Europe, with limited allowances for early labor market integration. Ignoring lessons learned from the practice, such reforms would have a negative impact on future integration and inclusion by bolstering restrictive approaches to reception, without delivering on qualitative harmonization.

Acknowledging that the substance of the RCD is primarily a matter of integration, re-deployment is needed to re-balance policymaking on reception and to progress towards a European level playing field. Rather than handling the complex and multifaceted challenges of reception of applicants for international protection as an insulated issue through one targeted EU directive, the rationale would be to incorporate reception systems into integration and inclusion policies, set to be a major chapter for the Commission’s future work under the upcoming Pact for Migration and Asylum.

Like integration, reception involves competences from a multiplicity of policy areas, in particular education, labour and social policies, healthcare, child protection, minority rights, gender equality, transportation and culture. Each of these resorts is already engaged to some extent in improving reception systems and promoting inclusion policies. These efforts should be systematically encouraged and coordinated. To that end, the Commission should develop a multiannual and cross-cutting ‘reception, integration, and inclusion’ agenda, mainstreaming a concern for the rights and specific needs of applicants and beneficiaries into the work of all relevant resorts. The reception, integration and inclusion agenda would build upon the 2016 ‘Action Plan on the Integration of Third-Country Nationals’,⁶⁴ which already set the groundwork for a whole-of-government approach to integration, including explicitly refugees and applicants in its scope.

On the specific issue of reception, the agenda should be concerned with the development of agile reception systems upholding CEAS minimum standards. Over the last four years, all member states had to mobilize resources to increase their reception capacities, requiring migration and asylum authorities to cooperate intensely with other administrations, nationally, regionally and locally, as well as with civil society organizations. These investments should be upscaled into a sustainable reception management. By institutionalizing and optimizing cooperation among resorts and levels of governance, national reception systems should be able to adapt fast to absorb varying numbers of persons relocated, resettled or arriving spontaneously in Europe to apply for international protection.⁶⁵

⁶³ In the 2016 RCD recast proposal of the Commission, undercutting incentives for secondary movement and potential pull factors was cited explicitly as policy objective. To do so, the freedom of movement of applicant was to be limited geographically, with potential sanctions ranging from cuts in benefits and up to detention.

⁶⁴ Commission Communication, “*Action Plan on the integration of third country nationals*”, Brussels, 7 June 2016, COM(2016) 377 final.

⁶⁵ Hanne Beirens, “*Chasing Efficiency: Can Operational Changes Fix European Asylum Systems?*” (Migration Policy Institute Europe; Bertelsmann Stiftung, Brussels, Gütersloh, 2020), p. 19–20.

Secondly, the agenda should promote reception systems working in coherence with integration systems and longer-term inclusion policies, acknowledging that reception is part of integration, and that the inclusion process must start upon arrival. So far, concerns about pull factors have undermined the Commission's efforts to push for early access to education, the labor market and integration facilities, although most member states recognize that the social inclusion of applicants is in their best interest. The Corona crisis provided unexpected proof of this, with refugees and applicants proving a key resource in supporting healthcare systems and the agricultural sector.⁶⁶ The focus of the agenda should

however not remain confined to labour market integration. Each resort of the Commission should engage with sectoral stakeholders and relevant governmental actors to work out how to integrate a concern for inclusion into existing and future programmes, and how this feeds back towards reception systems. There, the output of years of governance networking, good practice gathering and research financing by the Commission, including under the 2016 Action Plan on integration, would be put to good use.

In terms of the management of the mainstreaming process, leadership on various work packages could be spread in the college of Commissioners to mitigate the 'home bias'. Existing capacities from each resort would be harnessed and synergies created, while allowing for policy development in each field to acquire its own temporality. Mainstreaming will help refocus the high-level decision-making process towards more objective and less politicized conversations, reducing the vulnerability of EU policies to instrumentalization for migration control. In practice, at national level, there is a wealth of cross-resorts cooperation that would inform the process.⁶⁷ Coordination of the measures could lay jointly with DG Home and the legal service, to guarantee that the common standards set in CEAS legislation are being upheld and the reception and inclusion framework is compatible with return and security agendas.

For redeployment to succeed, timing is of the essence: the main way the EU can act in this regard is by investing substantially in adequate programmes. The agenda's financial planning must be integrated in the next Multiannual Financial Framework (MFF) currently under negotiations. This could rely on ongoing processes: integration was rightly identified as a priority by the Commission in its 2018 proposal for the Asylum and Migration Fund (AMF) in the next funding period. Mainstreaming integration is in the works as regards funding: next to the AMF, the Commission has proposed to include integration as an objective in structural funds – the European Social Fund Plus (ESF+) and the European Regional Development Fund (ERDF).⁶⁸

The upcoming German Presidency presents an opportunity to push for an 'agenda on reception, integration and inclusion' and a consequent budget in the next MFF,

⁶⁶ Nikolaj Nielsen, "Refugees across Europe help fight the pandemic", EUobserver, Brussels, 8 April 2020.

⁶⁷ Alexander Wolffhardt, "Future EU funding to support the integration of refugees and migrants: ReSOMA Final Synthetic Report" (2019).

⁶⁸ Pierre G. Van Wolleghem, "Where is the EU's Migrant Integration Policy Heading?", International Review of Public Policy 1, no. 2 (2019): 231. On most recent developments, Giacomo Manca, "Op-ed: The EU Recovery Plan for Europe – Potential for Inclusion but on a tied Deadline", ECRE News, 29 May 2020.

since Germany is most interested in harmonizing reception conditions and mutualizing costs. However, the German government is arguing for a reception system based on systematic screening procedures on the external borders upon entry, followed by redistribution of applicants across the EU. This might provide a solution to the current lack of solidarity and the considerable delays in procedures in many member states. On the other hand, such a system is likely to lead to the systematic encampment and social exclusion of applicants. This risk is major, considering the experience so far with Greek and Italian hotspots but also the German reception “Anker” centres, Hungarian “transit zones” – among others. Putting integration and inclusion at the centre of the conversation on reception is essential to balancing out externalization tendencies and finding a sustainable compromise.

“Putting integration and inclusion at the centre of the conversation on reception is essential to balancing out externalization tendencies and finding a sustainable compromise.”

3.2 Vertical redeployment: the “local turn” in reception

The 2015 asylum governance crisis boosted the relevance of regional and local authorities, as well as their political activism regarding the policy field of migration and asylum. Although local authorities were not legally competent in asylum matters in most countries, they stepped in de facto to organize the reception of asylum-seekers and refugees.⁶⁹ Cities and regions implemented cross-cutting approaches to emergency reception, established specialized coordination units and cooperation. Regional and local authorities request better recognition of their contribution and expertise, and easier access to direct EU funding. Such requests are at the core of current campaigns such as Eurocities’ Integrating cities⁷⁰ or the Committee of the Regions’ #Regions4Integration programme.⁷¹

In coherence with the horizontal redeployment of reception towards integration policies at EU level, engaging systematically with local and regional actors and bolstering their capacities of action will be key to improving reception conditions for applicants and refugees across Europe. As recommended by the European Parliament, e.g. in its 2018 report on the future AMF, EU funding from all relevant funds, especially structural funds, should be directly accessible to local and regional authorities⁷² to help finance their reception systems and integration measures, in particular bespoke facilities for minors and vulnerable persons, as well as the provision of assistance to access reception services and benefits. To ease access to funding, the report of the Böll Stiftung on the ‘local turn’ recommends project-based applications financed by several EU funds, national one-stop shops, and more generous co-funding models.⁷³ To be able to handle fast-changing conditions, more flexibility should also be introduced in the use of these funds. In addition to these proposals, provided a financial solidarity mechanism is implemented as part of an EU-internal relocation scheme, a substantial part of the funds should go to the receiving municipality to support the provision of housing, municipal services and the involvement of local civil society actors.

“Engaging systematically with local and regional actors and bolstering their capacities of action will be key to improving reception conditions.”

⁶⁹ Eurocities, “*Refugee Reception and Integration in Cities*” (2016), p. 13.

⁷⁰ “Integrating cities” is an initiative of the network of *Solidarity cities*, which was initiated by the Athens mayor and is now focussing on promoting strategic integration, gender, employment and one-stop shop approaches to integration with a programme entitled “*Connection*”.

⁷¹ Press release, Committee of the Regions, “*Local leaders launch initiative to showcase migrant integration in EU regions and cities*”, 4 April 2019.

⁷² European Parliament legislative resolution of 13 March 2019 on the proposal for a regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund, P8_TC1-COD(2018)0248.

⁷³ Bendel et al., *A Local Turn for European Refugee Politics*, p. 6.

Difficulties in access to funding has had much to do with a lack of diligence at national level to commit resources in co-funding and support the local level on integration and reception. The Böll Stiftung's 'local turn' report made a strong case for a European mediation body to help in case of disagreement between the municipal and national levels.⁷⁴

In complement to improving the modalities of access to funding, the EU should finance and implement training programmes for local and regional actors. Indeed, much can be achieved in practice by empowering local and regional actors with information on what funding is accessible and how to access it. The Commission already started reacting to the increased relevance of sub-national actors. Through a dedicated website, it provides support for applying to integration funding from multiple EU funds.⁷⁵ This is essential, but not sufficient to ensuring that the information reaches the actors. In complement to online presence, EASO should invest in specific training programmes and information campaigns in partnership with cities networks and the Committee of Regions.

Ultimately, capacity-building at regional and local level would help address the lack of national funds dedicated to reception systems and the harmonization deficit on reception conditions. These financial and training efforts should aim to guarantee that at least the minimum rights prescribed in existing CEAS law are effectively guaranteed everywhere in practice. This can only be attained by investing in reception systems locally, where they unfold as integration and inclusion measures, rather than seeking to centralize and insulate reception facilities for applicants during a substantial part of their application.

Table 6: Investing in sustainable reception

Horizontal redeployment	Vertical redeployment
<ul style="list-style-type: none"> • Rethink reception of applicants for international protection as part of a "Reception, Integration and Inclusion" agenda • Mainstreaming of reception-related concerns throughout Commission resorts 	<ul style="list-style-type: none"> • Empower regional and local actors through funding and trainings for better implementation and alternative solutions • Mobilize EASO/EUAA for training, networking, and informing sub-national actors

In a nutshell, understanding reception as part of integration will help move away from the questionable tendency to try and Europeanise a sanctions-based approach to controlling secondary movement, which is undermining the improvement of national reception capacities and overall integration. Increasing the autonomy of actors at local level would allow to harness existing readiness to welcome additional contingents on a voluntary basis, helping with the blockage regarding the relocation from EU hotspots, Search and Rescue vessels and border zones.

⁷⁴ Bendel et al., *A Local Turn for European Refugee Politics*, p. 30.

⁷⁵ Commission "Inclusion of migrants and refugees in cities" website.

Conclusion

The developments of the last years have shown the need for a sustainable governance of asylum. The package approach and the home bias have proven inadequate in addressing the governance problems in the CEAS. Horizontal and vertical redeployment of asylum policy is proposed here as a way to rethink policy processes, in view of reforming and complementing the Common European Asylum System. Solutions are sought beyond the confines of the seven CEAS proposals themselves, in closely related areas of policymaking.

In a first set of proposals, I argued that there is potential in building upon the EU's considerable expertise on humanitarian intervention to address humanitarian challenges arising from forced migration. I firstly proposed a scheme to clear the Greek hotspots, using the corona crisis as a window of opportunity. Secondly, I argued for permanent intervention capacities, which could rely on the Union Civil Protection Mechanism and specifically rescEU, the EU disaster prevention reserve. Thirdly, I proposed addressing problematic national practices on complementary protection and the lack of solidarity among member states under a reformed Temporary Protection Directive.

With a second set of proposals, I suggested that one area that would most benefit from redeployment is reception conditions. There, questionable developments involving encampment, marginalization and sanctions can be countervailed by resolutely anchoring reception in integration and inclusion policy. As part of the next multiannual financial framework, a reception, integration, and inclusion agenda should integrate these aspects in one cross-cutting push for inclusive, sustainable policies. While EU competences are limited, the EU can make a difference through horizontal policy mainstreaming and increasing access to funding and training to local and regional authorities.

The proposals in this paper focused on asylum policy's 'first aid' instruments. The same methodology could be applied for other building blocks of the CEAS and, of course, other fields of EU migration policy.

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