

INTRA-EU SOLIDARITY

**THE TEMPORARY PROTECTION DIRECTIVE, EASO, AMIF,
HOTSPOTS, RELOCATION**

**SOLIDARITY WITH THIRD STATES,
COOPERATION, EXTERNALISATION**

Temporary Protection Directive, 2001

**2001/55 EC Directive on 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**

2001 July 20, OJ L 212/12

TEMPORARY PROTECTION DIRECTIVE

Goal:

minimum standards for giving temporary protection
in the event of a mass influx of displaced persons

+

to promote a **balance of effort** between Member
States

Basic principles:

Neither replaces nor excludes recognition as
Convention refugee

Any **discrimination** among persons with temporary
protection is **forbidden**

TEMPORARY PROTECTION DIRECTIVE

Beneficiaries = 'displaced persons'

who

have **had to leave** their country or region of origin,
or have been **evacuated**,
and are unable to return in safe and durable conditions

in particular:

- (i) persons who have fled areas of **armed conflict or endemic violence**;
- (ii) persons at **serious risk of**, or who have been the victims of, **systematic or generalised violations** of their **human rights**;

TEMPORARY PROTECTION DIRECTIVE

Mass influx means arrival in the Community of a large number of displaced persons, who come from a specific country or geographical area

The **Council decides by qualified majority** the start and end of T.P.

Duration

1 year + max **two times 6 months**
= total max: **2 years**

Council may end it earlier, but must not exceed two years'

TEMPORARY PROTECTION DIRECTIVE

Rights of beneficiaries:

Entry **visa** for free

Residence permit, identity paper,

Employment, self employment under the same conditions as **recognized refugees**

Suitable **accommodation** or the means to obtain housing.

Social **welfare and means of subsistence**, if they do not have sufficient resources

Medical care in emergency cases and illness

Specific assistance to **vulnerable groups**

TEMPORARY PROTECTION DIRECTIVE

Further rights:

if **minor** aged: **schooling** like the nationals

family unification (partner also, broader family) if

if they had lived together

parted due to circumstances surrounding the
mass influx

extends to spouse (partner) , dependent non-
married child, exceptionally to other
traumatized close relative.

TEMPORARY PROTECTION DIRECTIVE

Relation to Convention status

Temporarily protected **may qualify as Convention Refugees**

Access to determination procedure must be guaranteed

The decision on status **may be suspended** for the time of T.P.

Non-recognition of Conv. status does not affect T.P.

Not applied until April 2017

EUROPEAN ASYLUM SUPPORT OFFICE (EASO)

**REGULATION (EU) No 439/2010 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL**

of 19 May 2010

establishing a European Asylum Support Office

OJ L 132/11, 29.5.2010

EASO

Purposes

Coordinate and strengthen **practical cooperation** among Member States and improve the implementation of the CEAS;

Operative support to MS subject to **particular pressure** on their asylum and reception systems

Scientific and technical assistance in regard to the policy and legislation of the Union

EASO

Priorities

Support of training

Country of origin info
(Portal, analyses)

Capacity building
(Support of countries under particular pressure)

Promotion of the implementation of CEAS (Assisting the Commission in supervising implementation)

Start of operation: 19 June 2011.

For developments check: <http://easo.europa.eu/>

Last annual report: *[Annual Report on the Situation of Asylum in the European Union, 2015](#)*

Latest asylum trends: <https://www.easo.europa.eu/latest-asylum-trends>

COI: <https://www.easo.europa.eu/latest-publications>

ASYLUM SUPPORT TEAMS

ASTs are multidisciplinary teams of EU experts deployed by EASO in a Member State for a limited time in order to support the asylum system of that Member State.

Experts are made available by MS-s. They appear in EASO 'asylum intervention pool'.

Deployment is upon request and based on agreement between the State and EASO.

ASTs may provide expertise in relation to, among other matters, reception, training, information on countries of origin and knowledge of the handling and management of asylum cases, including those of vulnerable groups.

Costs are born by EASO

Deployments, so far:

Greece, 2011-; Italy, 2013-, Cyprus 2014-, Luxembourg, 2012, Bulgaria, 2013-2015;

EASO PRIORITIES, 2016

Hotspots: increased presence of staff and of teams of Member States experts on site, aiming to support in particular Italy and Greece in addressing the increased pressure on their asylum systems.

EU-Turkey Statement: support to the Greek Asylum Service in the implementation of the 2016 March EU-Turkey Statement through various activities.

Relocation - support the relocation measures agreed at EU level, such as the relocation of 160 000 persons in clear need of protection from Italy and Greece.

THE ASYLUM AND MIGRATION AND INTEGRATION FUND

THE ASYLUM MIGRATION AND INTEGRATION FUND (AMIF)

Replaces European Refugee Fund, the European Fund for the Integration of third-country nationals and the European Return Fund

2014-2020 (seven years)

Total: **3 137 million** Euros (in current prices)

Member states may use **2 752 million** Euros **of which 360** million to cover specific actions (e..g. joint processing centres, joint returns) + Union Resettlement Programme from third tries + transfer of beneficiaries of international protection from one Member State to another.

THE ASYLUM MIGRATION AND INTEGRATION FUND (AMIF)

Of the remaining **2 392** million

Nationally 20 % must go to measures to support legal migration and promote the effective integration of migrants and 20 % to asylum measures

For resettlement MSs will receive a lump sum of 6,000 euros for each resettled person, which can be increased up to €10,000 for vulnerable persons or persons coming from priority areas.

385 million set aside for Union actions, emergency assistance, the European Migration Network and technical assistance of the Commission

THE ASYLUM MIGRATION AND INTEGRATION FUND (AMIF)

Activities to be funded

- **Asylum systems – reception (non-exhaustive list)**

E.G. The provision of material aid, support services, health and psychological care; translation and interpretation, the provision of legal assistance and representation; alternative measures to detention; accommodation infrastructure and services;

- **Member States' capacity to develop, monitor and evaluate their asylum policies and procedures**

Collect, analyse and disseminate qualitative and quantitative data among others for the early warning mechanism in the Dublin regulation

- **Resettlement and relocation**

E.g. establishment and development of national resettlement and relocation programmes;

THE ASYLUM MIGRATION AND INTEGRATION FUND (AMIF)

Allocation

Minimum amount (5 or 10 million) + % average of 2011-2013 allocations European Refugee Fund + Integration Fund + Return Fund

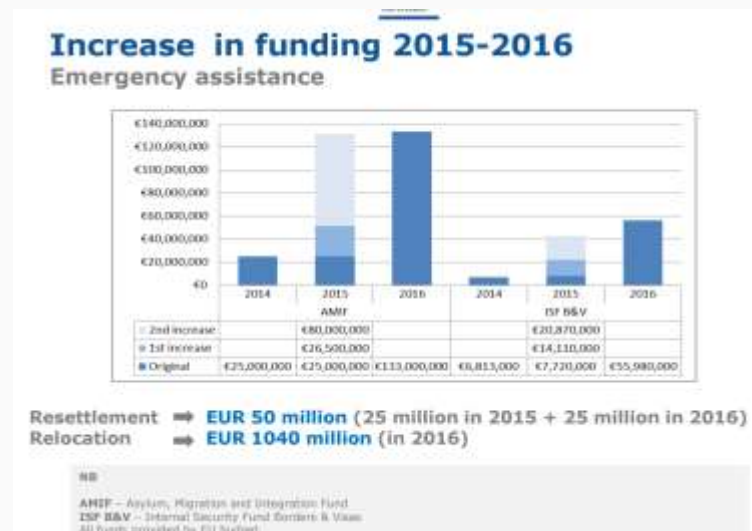
Examples:

France: 265 565 577

Germany: 208 416 877

Greece: 259 348 877

Hungary: 23 713 477



http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/eam_state_of_play_and_future_actions_20160113_en.pdf (20160308)

Union agencies (EASO, Frontex) will also receive financial support from the fund

THE EXCEPTIONAL YEARS 2015 - 2017

**FAILURE OF THE SYSTEM, EFFORTS
TO RESCUE SOLIDARITY WITHIN
THE EU**

SOURCES OF MALFUNCTIONING OF THE CEAS

A DOZEN SYMPTOMS OF MALFUNCTIONING OF THE CEAS



1. Thousands of **deaths** at sea and inland
2. The overall **impression of a „crisis“**, which is **seen as a European crisis**
3. The **tensions between Member States** (e.g. Sweden-Denmark, Austria – Greece, Hungary – Austria, Slovenia, Croatia, etc.)
4. **The uneasy relationship with Turkey**
5. The grossly **unfair participation in the provision of protection** to refugees reaching EU territory
6. The repeated, but so far **largely fruitless sweeping legislative and political efforts**, including negotiations with transit countries and states of the regions of origin and decisions to resettle and relocate refugees and asylum seekers

A DOZEN SYMPTOMS OF MALFUNCTIONING OF THE CEAS

7. The intention to (discriminately) select among asylum seekers according to their religion
8. The breakdown of the Dublin system
9. The inability to return those persons who are not in need of international protection
10. Fences at the external and internal borders & reintroduction of border controls at Schengen internal borders
11. Increased and illegal resort to detention repeatedly condemned by the European Court of Human Rights. Physical and verbal brutalisation of irregular migrants.
12. The increasing gap between the views of MS as to the future of CEAS

THE CAUSES OF FAILURE - DESIGN

The **Dublin regime** on determining the state whose duty is to conduct RSD: **manifestly unjust**, NOT burden sharing but shifting

Dublin: after family and visa/residence permit the external border crossed  perimeter states exposed to large numbers of application  Greece defaults in 2011, Hungary, Croatia, Slovenia, Austria in 2015

Minimal tools of **solidarity** before 2015

- AMIF - monetary
- EASO – sending expert teams
- Temporary protection: voluntary offers to take over (never used)

THE CAUSES OF FAILURE - DESIGN

- The system is based on coercion both in excluding the migrants of the EU territory and in transferring them to the responsible state under the Dublin regulation → that increases the role of the human smugglers in avoiding state control - prices go up leading to increased supply of smuggling services → increased supply leads to falling prices → other groups decide to make their way to Europe

THE CAUSES OF FAILURE - OVERLOAD AND UNEQUAL DISTRIBUTION

Overload number of (first) applications, EU 27 or 28 + Iceland. Liechtenstein, Norway and Switzerland:

2011	2012	2013	2014	2015	2016
341,795	373.550	464,505	662,165	1,322,145*	1,236,325

Source: Eurostat data (20160313 and EASO 2017 0220)

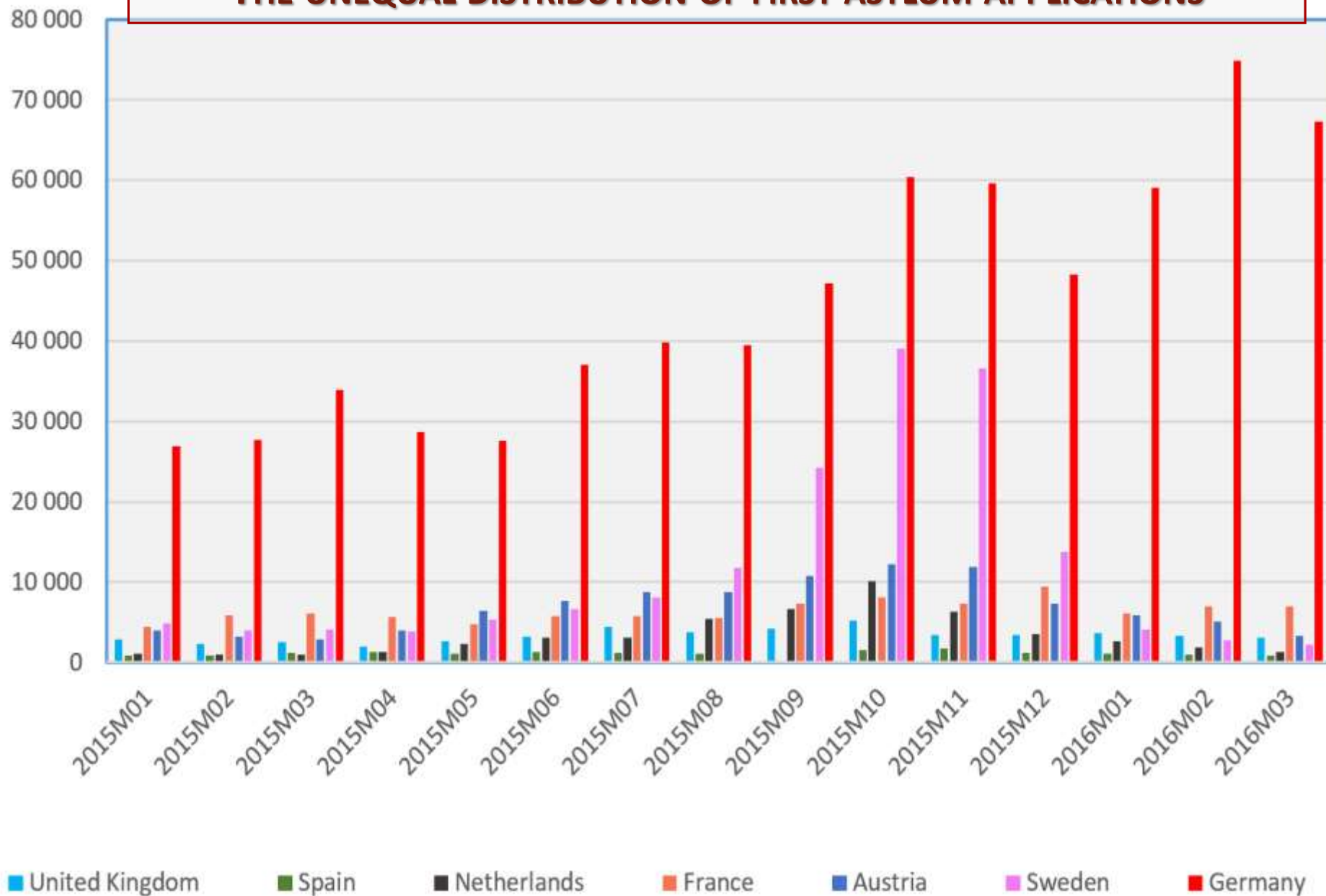
But:

- Major groups with **unlikely claims** (Serbia, Kosovo, BiH, etc.)

* *Only the formal applications submitted in Germany are included. Primary registration includes a further 600000 persons (altogether: 1.091.894)*

<http://www.n-tv.de/politik/Fast-1-1-Millionen-Fluechtlinge-registriert-article16687996.html> (20160313)

THE UNEQUAL DISTRIBUTION OF FIRST ASYLUM APPLICATIONS



THE CAUSES OF FAILURE – FREE RIDING BY IGNORING EU LAW

Free rider member states

Greece, Italy, Hungary, Croatia, Slovenia, Austria

Legal obligation derived from the EU acquis

Register claim + submit fingerprint to Eurodac + start Refugee Status Determination procedure + keep within territory + provide adequate reception conditions + return (remove) those without a right to stay and not applying for asylum

Actual practice: **allowing to leave** or **actively transporting** to next MS „waving through”

Not performing duties

under the two relocation decisions from September

Not transposing the EU acquis in an appropriate manner

If Member States do not increase their relocations soon, and if the pressure on Greece and Italy is not alleviated, the Commission will not hesitate to make use of its powers under the Treaties.

Commission: Tenth report on relocation and resettlement COM(2017) 202 final, 2 March 2017, p.8
of the Council

relocations
2015.

**WHAT SOLIDARITY IS CONCEIVABLE *AMONG* EU
MEMBER STATES GOING BEYOND AMIF?**

=

RELOCATION, HOTSPOTS, DUBLIN RECAST

ACTUAL RELOCATION DECISIONS

Relocation: distributing among Member States those asylum seekers who are already within the EU and have a good chance of being recognised – i.e. members of groups with 75% recognition rate in the previous quarter (Syrians, Iraqis and Eritreans)

2 decisions:

- COUNCIL DECISION (EU) 2015/1523 of **14 September** 2015
40 000 persons **24,000 from Italy, 16,000 from Greece**
- COUNCIL DECISION (EU) 2015/1601 of **22 September** 2015
120 000 persons First year: **15,600 from Italy and 50,400 from Greece** Second year: 54,000 either form the same two or from other Member States.

No relocation to Denmark, Ireland, UK, Greece and Italy – 23 MS take up the 40 plus 120 thousand

Difficult cases (not „in clear need”) **remain in** the competence of the **frontline states**

Relocating MS get **6000 Euros/head**

In exchange: Greece, Italy must develop „roadmap”

HOW MANY – THE KEY BEHIND THE COMPULSORY RELOCATION DECISION

- a) **Population** - 40% weighting
- b) **Total GDP** - 40% weighting
- c) Average number of **asylum applications over the 5 preceding years** per million inhabitants with a cap of 30% of the population and GDP - 10% weighting (**reducing the share**)
- d) **Unemployment rate** with a cap of 30% of the population and GDP - 10% weighting (**reducing the share**)

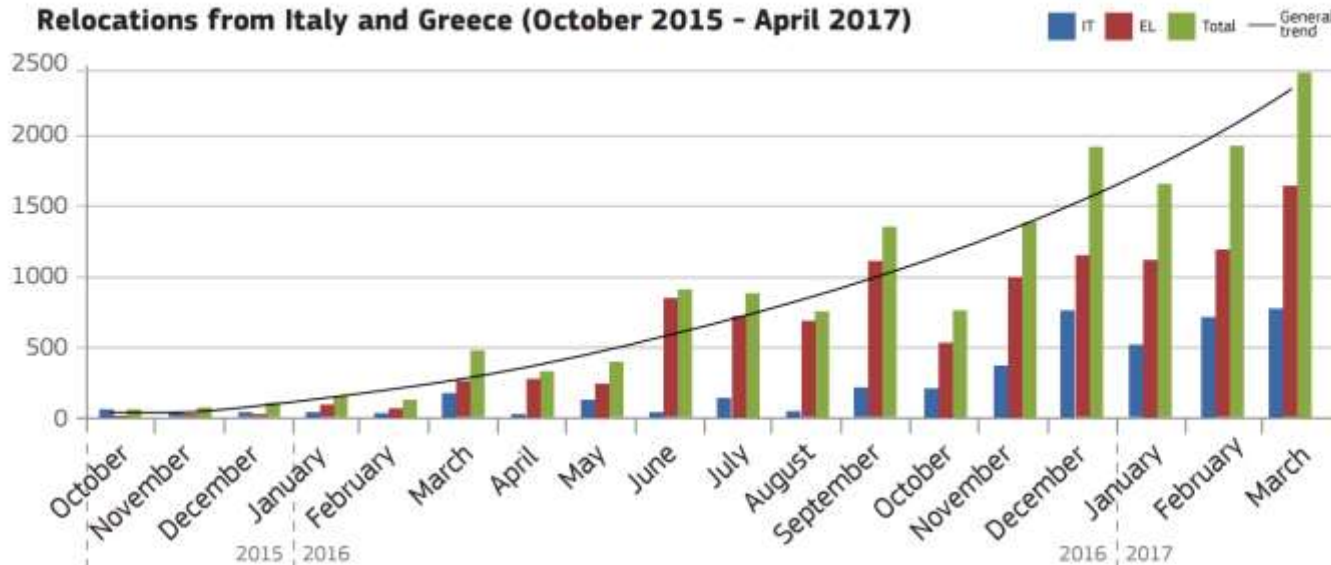
RELOCATION (state of play as of 10 April 2017)

16 340 people have been relocated since the launch of the scheme

Member States	Relocated from Italy	Relocated from Greece	Member States	Relocated from Italy	Relocated from Greece
Austria	X	X	Lithuania	8	229
Belgium	121	371	Luxembourg	61	216
Bulgaria	X	29	Malta	47	65
Croatia	9	10	Netherlands	521	1115
Cyprus	10	55	Poland	X	X
Czech Republic	X	12	Portugal	299	929
Denmark	X	X	Romania	45	523
Estonia	X	100	Slovenia	34	131
Finland	602	738	Slovakia	X	16
France	327	2830	Spain	144	742
Germany	1481	2030	Sweden	39	X
Hungary	X	X	Liechtenstein	X	10
Ireland	X	382	Norway	679	343
Latvia	27	243	Switzerland	471	78

	Relocated from Italy	Relocated from Greece
TOTAL	5001	11 339

Relocations from Italy and Greece (October 2015 - April 2017)



Relocation
as of 10
April 2017

Source:
https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/eur-opean-agenda-migration/2017_0412_update_of_the_factsheet_on_relocation_and_resettlement_en.pdf
(20170425)

HOTSPOTS

Hotspots = in Italy and Greece: **complex sites** where experts from different EU MS work together in receiving and screening the applications and organising the return of those not in need of international protection. **4 in Italy, 5 in Greece.**

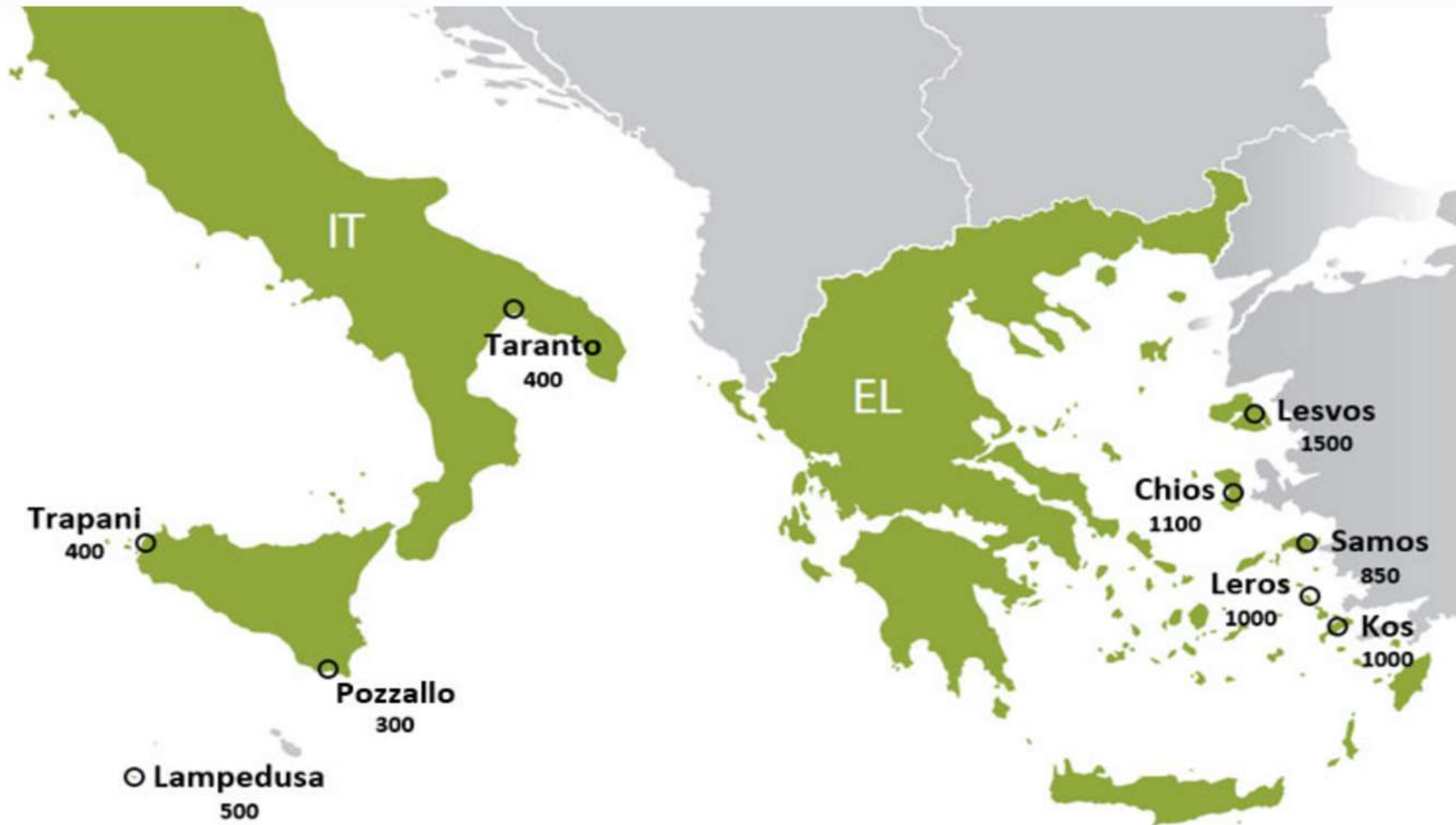
ECRE conclusion, December 2016

„The hotspots have **certainly not helped in relieving the pressure from Italy and Greece** as was their stated objective: instead, they have **led to an increase in the number of asylum applicants waiting in Italy and Greece**, consolidating the challenges and shortcomings already inherent in the Dublin system. The **hotspots approach has also led to more repressive measures, often disrespecting fundamental rights**, which are applied by national authorities as a result of EU pressure to control the arrivals; yet despite EU pressure, it is the Member States that are held ultimately responsible for this implementation. The implementation of the EU-Turkey deal is a prime example of this EU pressure shifting responsibilities to the national level.”

ECRE: *The implementation of the hotspots in Italy and Greece*, p.
<http://www.ecre.org/wp-content/uploads/2016/12/HOTSPOTS-Report-5.12.2016..pdf>

MAP OF THE FUNCTIONING HOTSPOTS

of hotspots in Greece (5) and Italy (4) and their reception capacity (No. of persons) a
mber 2016



THE STATE OF PLAY WITH THE HOTSPOTS

EARLY FEBRUARY 2017

GREECE

HOTSPOTS IN GREECE					
	LESVOS	CHIOS	SAMOS	LEROS	KOS
Total Reception Capacity	1500	1100	850	1000	1000
EU Presence	Frontex: 139 Officers (Debriefing, screening, fingerprinters and registration teams, Border Surveillance Officers, Advance Level Document Officer, Team Leaders, Frontex Supporting Officers) 66 Officers under the EU-Turkey Statement	Frontex: 104 Officers (Debriefing, screening and Advance Level document expert teams, Border Surveillance Officer) 2 Officers under the EU-Turkey Statement	Frontex: 100 Officers (Screening and debriefing teams, Border Surveillance Officer and Advance Level Document Officer)	Frontex: 54 Officers (Screening and debriefing teams, Border Surveillance Officer and Advance Level Document Officer)	Frontex: 61 Officers (Screening and debriefing teams, Border Surveillance Officer and Advance Level Document Officer)
	EASO: 19 Member State experts under the EU-Turkey Agreement, 27 interpreters, 5 EASO staff and 7 interim staff seconded to the Greek Asylum Service	EASO: 19 Member State experts under the EU-Turkey Agreement, 23 interpreters, 3 EASO staff and 4 interim staff seconded to the Greek Asylum Service	EASO: 14 Member State experts for preparation of the EU-Turkey Agreement, 12 interpreters, 3 EASO staff and 2 interim staff seconded to the Greek Asylum Service	EASO: 8 Member State experts under the EU-Turkey Agreement, 9 interpreters, 2 EASO staff and 2 members of interim staff seconded to the Greek Asylum Service	EASO: 9 Member State experts under the EU-Turkey Agreement, 9 interpreters, 2 EASO staff and 2 interim staff seconded to the Greek Asylum Service

ITALY

HOTSPOTS IN ITALY				
	LAMPEDUSA	POZZALLO	TARANTO	TRAPANI
Total Reception Capacity	500	300	400	400
EU Presence	Frontex: 23 experts	Frontex: 23 experts	Frontex: 13 experts	Frontex: 21 experts
	EASO: 2 Member State Experts	EASO: 2 Member State Experts	EASO: 3 Member State Experts	EASO: 2 Member State Experts
	EASO: 3 cultural mediators (Arabic, Tigrinya)	EASO: 2 cultural mediators (Arabic, Tigrinya)	EASO: 3 cultural mediators (Arabic, Tigrinya)	EASO: 2 cultural mediators (Arabic, Tigrinya)

EFFORTS TO RECAST THE CEAS - OVERVIEW

New asylum acquis package, 2016 Spring and Summer

Priorities

1) Establishing a **sustainable and fair system for determining** the Member State responsible for asylum seekers

Adapting the Common European Asylum System to deal better with the arrival of a high number of asylum seekers/refugees → amend the Dublin Regulation → corrective fairness mechanism based on a distribution key.

2) **Reinforcing** the Eurodac system

3) Achieving **greater convergence** in the EU asylum system

Strengthening and harmonising further the Common European Asylum System rules, so as to ensure more equal treatment across the EU and reduce undue pull factors to come to the EU.

→ Regulation establishing a single common asylum procedure, → a new Qualification Regulation
→ replacing targeted modifications of the Reception Conditions Directive.

4) **Preventing secondary movements** within the EU

Sanctions in the new regulations and the reception condition directive to discourage and sanction irregular moves to other Member States.

5) Creation of a **European Asylum Agency**

with new policy-implementing role as well as a strengthened operational role and providing sufficient financial resources and legal means for that purpose.

THE PROPOSED CHANGES AFFECTING INTER-STATE SOLIDARITY IN DUBLIN IV.

- In take back situations – only notification – no request – duty to take back. (Responsibility does not expire with time)
- Chapter VII: **Corrective allocation mechanism**
 - Disproportionate number of applications (after eligibility)
 - Exceeds **150 %** of reference key (including resettled refugees)
 - **Reference key** = total of application in EU – share by MS based on
 - population size
 - total GDP

50 -50 % weight

If unwilling to participate **250 000 Euros/per each applicant**, who would have been allocated

Automated system

**SOLIDARITY WITH THIRD STATES,
COOPERATION, EXTERNALISATION**

TRADITIONAL MULTILATERAL AND BILATERAL COOPERATION FORMS IN MIGRATION MANAGEMENT AND CONTROL

Cotonou Agreement (2000): 79 African, Caribbean and Pacific states and the EU. (Expiry: 2020)

Khartoum process = EU-**Horn of Africa** Migration Route Initiative started in 2014, aimed at fighting irregular migration, human smuggling and trafficking

Rabat process = EU – Central and Western Africa + Tunisia and Algeria (observer) Established in 2006 – broad dialogue on migration and development <https://processus-de-rabat.org/en/>

Afghanistan

EU – Afghanistan declaration „**Joint Way Forward**” soft law (non legally binding) document, Kabul, 2 October **2016**

Libya

Italian – Libyan Memorandum of understanding of 2 February 2017

15 Return Agreements between the EU and other states (and territories)

Eastern Partnership mobility agreements

RESETTLEMENT FROM THIRD STATES

- The **ad hoc decision** of 20 July 2015 of the „Representatives of the Governments of the Member States meeting within the Council” (EU Doc 11130 /1 5) = Conclusions of the on **resettling through multilateral and national schemes 20 000 persons** in clear need of international protection

EU –Turkey Statement of 18 March 2016
1 : 1 Scheme – for a Syrian taken back from greece another Syrian refugee from Turkey to be resettled to the EU

- **Union Resettlement Framework** – Commission Proposal of 13 July 2016 (COM (2016) 468 final)
- Council – in „Annual Union resettlement Plan”- sets
 - Annual maximum total number
 - Number of persons to be taken by each MS (based on their offers)
 - Geographic priorities
- Commission - in „Targeted Union resettlement schemes” – sets
 - The actual number to be resettled by each state
 - Details of regions, specificities of co-operation
- MS choose the actual persons, who have to consent to the resettlement

15 492 people have been resettled under both schemes so far*

Member State/ Associated State	Total resettled under the 20 July scheme, including under the 1:1 mechanism with Turkey	Total resettled under the 1:1 mechanism with Turkey (since 4 April 2016)
Austria	1643	x
Belgium	752	242
Czech Republic	52	x
Denmark	481	x
Estonia	20	20
Finland	293	356 (outside of 20 July scheme)
France	1425	686 (228 within 20 July scheme + 458 outside of 20 July scheme)
Germany	1584	1584
Ireland	520	x
Italy	938	208
Latvia	10	10
Lithuania	25	25
Luxembourg	x	98 (outside of 20 July scheme)
Netherlands	1000	980 (556 within 20 July scheme + 424 outside of 20 July scheme)
Portugal	12	12
Spain	350	118
Sweden	491	279 (269 within 20 July scheme)
United Kingdom	2200	x
Iceland	50	x
Liechtenstein	20	x
Norway	3107	x
Switzerland	519	x
TOTAL	15 492	A total of 4 618 people were re- settled from Turkey under the 1:1 mechanism; 3272 of whom through the scheme of 20 July

ACTUAL RESETT- LEMENT

Source:
https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/2017_0412_update_of_the_factsheet_on_relocation_and_resettlement_en.pdf
 (20170425)

Financial assistance

- **Emergency Trust Fund for stability** and addressing **the root causes** of irregular migration and displaced persons **in Africa**.
 - Goals:
 - foster **stability** in the regions;
 - contribute to **better migration management**.
 - by **addressing the root causes** of destabilisation, forced displacement and irregular migration, by **promoting economic and equal opportunities, security and development**.
 - **2 556 million Euros** pledged
- **EU Regional Trust Fund in Response to the Syrian Crisis**
 - Countries covered: Egypt, Iraq, Jordan, Lebanon, Turkey, but also some Western Balkan states
 - Improving education, livelihoods and health
 - Goal: **1 000million Euros** by 2017

THE EU-TURKEY „STATEMENT” – THE DEAL OF 18 MARCH 2016

- „[A]ny application for asylum will be processed individually by the Greek authorities in accordance with the Asylum Procedures Directive, in cooperation with UNHCR”
- „All new irregular migrants crossing from Turkey into Greek islands as from 20 March 2016 will be returned to Turkey. This will take place in full accordance with EU and international law, thus excluding any kind of collective expulsion.”
- „[T]emporary and extraordinary measure”
- „Migrants not applying for asylum or whose application has been found unfounded or inadmissible in accordance with the said directive will be returned to Turkey”

Turkey suspended the implementation of that point in March 2017

THE EU-TURKEY „STATEMENT” – THE DEAL OF 18 MARCH 2016

- „For **every Syrian** being returned to Turkey from Greek islands, **another Syrian** will be resettled from Turkey to the EU taking into account the UN Vulnerability Criteria”
- **Visa liberalisation** among Schengen states for Turkey by the end of June 2016
- **Opening Chapter 33** in the accession negotiations
- **3 + 3 billion Euros** for the Facility for Refugees in Turkey

THE NEW PARTNERSHIP FRAMEWORK

COM(2016) 385 FINAL 7 JUNE 2016

The short term objectives:

- save lives at sea;
- increase the rate of returns to countries of origin
- avoid embarking on dangerous journeys to reach Europe.

-

Long term objectives

- Address the root causes of irregular migration and forced displacement
- Provide reinforced EU support to third countries for capacity building and by advancing their political, social and economic situation.

CONCLUSION

**DEMISE OR
SOLIDARITY**

GEOGRAPHIC PROXIMITY IS MORALLY IRRELEVANT – THEN WHO SHOULD PROVIDE THE PUBLIC GOOD OF PROTECTION GLOBALLY AND REGIONALLY?

Why would Lebanon be more obliged to protect Syrian refugees (or Iran to protect Afghanis, or Kenya Somalis, etc.) **than Italy, Germany or Finland?**

Protection globally is a **public good** to which every member state of the global community should contribute. **Free riding** is immoral and antisocial

Demise of solidarity

EU at present

- Increases coercive tools (keeping out, penalizing for entry, detaining, transferring between countries by force = more of the policy which did not work
- Pursues externalisation
- Struggles with finding a principle for (flexible) solidarity

EU should „Sollen“

- See itself as a unified protection space
- Introduce significant resettlement quotas and/or humanitarian visas
- Contribute more to stopping the crises in the countries of origin
- Open up wider routes of regular immigration
- Effectively remove those without the right to stay

„Deterrence paradigm“
Gammeltoft-Hansen and Tan

(SOME) AVAILABLE OPTIONS

Decision making on asylum requests at the European level by EU agencies, on behalf of the EU (K. Hailbronner, G Goodwin-Gill)

Decision making at national level under national law, but with the active and intensive participation of EU staff (Heijer, Rijpma, Spijkerboer)

Conceivable arrangement: asylum seekers choose their country of preference which conducts the RSD. All costs associated with the reception, the procedure, the integration or the removal are aggregated and redistributed across the EU

New York v. Valetta

OUTCOME DOCUMENT FOR 19 SEPTEMBER 2016 HIGH-LEVEL MEETING TO ADDRESS LARGE MOVEMENTS OF REFUGEES AND MIGRANTS

The New York Declaration, 19 September 2016

The word „illegal” does not appear

„4.5 We underline the **centrality of international cooperation** to the refugee protection regime. We **recognize the burdens** that large movements of refugees place on national resources, especially in the case of developing countries. To address the needs of refugees and receiving States, **we commit to a more equitable sharing of the burden and responsibility** for hosting and supporting the world's refugees, while taking account of existing contributions and the differing capacities and resources among States.”

Malta Declaration by the members of the European Council on the external aspects of migration: addressing the Central Mediterranean route, 3 February 2017

The words „refugee”, „asylum” do not appear

Priorities:

- a) Training and equipping Libyan border guard
- b) Disrupting smugglers’ models and routes
- c) Enhancing resilience of local communities
- d) Reception capacities and conditions in Libya
- e) Support for IOM for voluntary returns
- f) Info campaigns in Libya and countries of origin
- g) Enhancing Libya’s land border protection with neighbours
- h) Surveilling alternative routes
- i) Supporting Italy- Libya bilateral deals
- j) Dialogue and cooperation with Libya’s neighbours on preventing departure and managing returns

SELECTED RELEVANT LITERATURE

- Battjes, Hemme; Brouwer, Evelien; Slingenberg, Lieneke and Spijkerboer, Thomas, *The Crisis of European Refugee Law: Lessons from Lake Success* (May 23, 2016). Available at
SSRN: <https://ssrn.com/abstract=2783247> or <http://dx.doi.org/10.2139/ssrn.2783247>
- den Heijer, Maarten; Rijpma, Jorrit and Spijkerboer, Thomas: Coercion, prohibition, and great expectations: the continuing failure of the Common European Asylum System, *Common Market Law Review* 53: 607–642, 2016.
- Gammeltoft-Hansen, Thomas and Tan, Nikolas F. : The End of the Deterrence Paradigm? Future Directions for Global Refugee Policy, *Journal of Migration and Human Security* Volume 5 Number 1 (2017): 28-56
- Gilbert, Geoff: Why Europe does not have a refugee crisis, *International Journal of refugee Law*, Vol. 27 (2015) pp531 – 535
- Peers, Steve: *The Refugee Crisis: What should the EU do next*
at: <http://eulawanalysis.blogspot.hu/2015/09/the-refugee-crisis-what-should-eu-do.html>

THANKS!

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