

MEDAM (Mercator Dialogue on Asylum and Migration)

Research Report

2021 MEDAM Assessment Report on Asylum and Migration Policies in Europe. The EU and Turkey: Toward sustainable cooperation in migration management and refugee protection

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Mercator Dialogue on
Asylum and Migration



2021 MEDAM ASSESSMENT REPORT
ON ASYLUM AND MIGRATION POLICIES IN EUROPE

The EU and Turkey: Toward sustainable cooperation in migration management and refugee protection

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Preface

On September 23, 2020, the European Commission under President Ursula von der Leyen presented its New Pact on Migration and Asylum. This bundle of new legislative and non-legislative proposals as well as an accompanying Communication are to form the basis for the realignment of European asylum and migration policy. Negotiations between the EU member states were planned to begin swiftly and drive forward the reform.

Yet, the ongoing COVID-19 pandemic has usurped the attention of European policy makers and citizens alike. Adding to a continued lack of agreement among EU member states, negotiations on the Common European Asylum System appear to have stalled again—with the risk of further entrenching the impasse that has persisted since 2016.

Pressing issues remain, such as the asymmetry in arrivals and asylum applications in the EU's external border states as well as some destination countries. The current system of responsibility sharing under the Dublin Regulation does not compensate for these asymmetries, and the implementation of common standards for reception conditions and asylum procedures in individual EU member states remains inconsistent. Inadequate reception capacity and substandard living conditions in EU border states coupled with recent allegations of Frontex personnel being involved in violent pushbacks in the Aegean Sea bring the problems into focus and make it clear that a new and strong push for a crisis-proof asylum and migration system is urgently needed.

More people are fleeing war and persecution than ever before. Equally, a rising number of people are hoping to escape economic hardship and poverty.

Some destination countries feel that they alone cannot fill the gaps in the international governance of refugee protection. And while refugees, asylum seekers, and other migrants naturally try to reach those destination countries that offer the best standards of protection and future living conditions, the *need to share* responsibility without undermining humanitarian principles and impairing bilateral relations *will require tradeoffs* among EU member states. *It will also call for a careful balancing of interests* between the EU and countries of origin and transit.

The New Pact emphasizes tailor-made partnerships with countries of origin, transit, and first asylum. In this report, we analyze the main elements of the proposed New Pact along with the special role of EU-Turkey migration cooperation to explore challenges and policy implications for EU cooperation with non-EU countries.

Some of our MEDAM research and policy recommendations have already found their way into the elaborate process of the EU's migration and asylum policy reform. With this report, we aim to continue providing research-based insights and recommendations to support the von der Leyen Commission in the complex task of developing a functional, solid foundation for the EU's refugee protection and migration policy.

We could not do so without the generous support of Stiftung Mercator, which has financed the Mercator Dialogue on Asylum and Migration since 2016. The foundation's engagement emphasizes its commitment to fostering a Europe that protects refugees, strengthens European cohesion, and seizes the opportunities and talent through which migrants can contribute to the continent. This effort needs a fresh start.



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While MEDAM team members share a whole-system approach to analyzing migration, not every author agrees with all policy conclusions in all sections of this report.

Main messages

■ Message #1:

New Pact for Migration and Asylum: structural weaknesses suggest the EU needs to move beyond rule-making and assume more responsibility for financing and operating the EU asylum system (section 5.1).

The European Commission has proposed the New Pact for Migration and Asylum to resolve the shortcomings of the existing EU asylum system through better cooperation with migrants' countries of origin (the 'external dimension') and among EU member states (the 'internal dimension'). The Pact proposal includes numerous measures that are all deemed necessary and jointly sufficient for the Pact to work. However, we identify two structural weaknesses that may prevent the Pact from functioning as planned: First, the Commission's approach to the external dimension does not adequately consider the interests and constraints faced by country of origin governments. Hence, cooperation on the crucial and sensitive issue of returning rejected asylum seekers from the EU to countries of origin may not be feasible (see main message 2). Second, along the internal dimension, the proposed architecture of instruments for mandatory and flexible solidarity is so complex that member states cannot be sure that their obligations will be predictable, manageable, or fair (see main message 3); thus, member states may ultimately not support the Pact. To overcome these structural weaknesses, the EU itself will have to assume more responsibility for financing and operating the asylum system.

- The main objectives of the New Pact are to ensure that human rights are respected at the EU's external borders and persecuted individuals receive protection; asylum applicants who are not recognized as refugees return to their countries of origin quickly; and responsibility for refugee protection is shared fairly between the EU and non-EU countries as well as among EU member states.
- To achieve these objectives, the proposed measures in all three, interdependent pillars of the New Pact need to become fully functional: (i) the border procedure to receive and screen asylum seekers and quickly process the applications of those who are not likely to be recognized as refugees; (ii) solidarity among EU member states through a menu of instruments, particularly relocation of asylum seekers from member states of first arrival to other member states and "return sponsorship" (one member state returns migrants to their countries of origin from another member state); and (iii) cooperation with

countries of origin and transit to contain irregular migration and return those migrants who do not receive permission to remain in the EU.

- In the ongoing negotiations between the Commission and member states, many pre-existing conflicts of interest have been transposed onto seemingly technical issues. Clearly, the Pact's architecture of instruments depends on a level of trust and willingness to cooperate that does not currently exist among member states and European institutions. One possible response might be more monitoring and tighter EU control over member state compliance with EU asylum rules. Yet, the complexity of the Pact's architecture precludes effective top-down enforcement. Instead, the economic theory of public goods and fiscal federalism suggests that to produce a common public good (refugee protection) in the presence of ample opportunities for free-riding, the EU needs not only common rules (asylum law is already an EU competency), but also financial and operational responsibility centralized at the EU level.

■ Message #2:

External dimension of the New Pact: For more effective cooperation by countries of origin on the return of rejected asylum seekers, instead of over-emphasizing less-for-less conditionality the EU needs to offer positive incentives (section 2.5).

The New Pact proposal assumes that the return rate of unsuccessful asylum applicants from the EU is low because countries of origin fail to cooperate with the return and readmission of their citizens. To promote cooperation, the Commission wants to introduce robust migration-related conditionality to a wide range of policy areas, from visa issuance for a country's citizens to trade policy and development cooperation. In the Pact proposal as well as the Commission's current actions, the focus is on less-for-less conditionality, without adequately considering the economic and political constraints that many countries of origin face when they support the mandatory return of their migrant citizens: migrant remittances would be reduced, hurting recipient households as well as destination country economies overall and governments would face popular opposition. Therefore, positive incentives for countries of origin, especially visa facilitation or liberalization and more opportunities for legal labor migration will be required to sustain cooperation in migration management.

- The lack of active support from some countries of origin is only one important reason why return rates from the EU for rejected asylum applicants are low. Another reason is bureaucratic mismanagement in many EU member states. Both need to be addressed if return rates are to increase.
- The New Pact proposal calls for all EU and member state stakeholders to sing from the same hymn sheet in imposing migration-related conditionality on partner countries. It is nonetheless far from clear whether stakeholders in areas as diverse as trade policy, external relations, climate change mitigation, and development cooperation will subject their own policy agendas to that of immigration control.
- The example of migration cooperation between the Western Balkan countries and EU member states, especially Germany, suggests that positive incentives for countries of origin may render cooperation attractive and politically sustainable. Opportunities for travel, study, and work in the EU are all part of an effective package of positive incentives, along with trade and development cooperation. While some of these policy areas are member state competencies, coordination and funding from the EU will likely be required for the EU to make meaningful offers to countries of origin.

■ Message #3:

Internal dimension of the New Pact: without transparent and credible governance, EU member states are rightly concerned that the proposed combination of border procedure and solidarity instruments may leave them with open-ended commitments and an excessive fiscal and administrative burden.

The Pact proposal relies on a complex combination of highly interdependent policy instruments to offer international protection to those who need it while discouraging irregular immigration to the EU by those who do not need protection. At the same time, it seeks to share responsibility for the asylum system equitably among EU member states and keep the overall fiscal and administrative burden manageable. In this environment, individual member states have pervasive incentives to expend less effort on implementing mandated measures than would be optimal from a Union point of view, thereby shifting their financial and administrative burden onto other member states. Meanwhile, the Pact proposal remains vague on how member states' obligations would be monitored and enforced. As a result, it will be difficult to generate

sufficient support among member states for the proposed reform.

- The proposed border procedure (section 2.3) would require EU member states of first arrival to conduct expedited asylum procedures for applicants from countries of origin whose citizens have low international protection rates across the EU. Those applicants who do not receive asylum would return directly to their countries of origin. Member states of first arrival are concerned that, if return rates remain low (main message 2), they may be stuck with a growing population of rejected asylum seekers—especially since the solidarity tool of return sponsorship may not be effective (see below). Other member states are concerned that without a consistently applied border procedure, a growing number of irregular immigrants and asylum seekers would ultimately be relocated to all member states, making returns even more difficult. Finally, civil society stakeholders are concerned that member states might neglect the rights of migrants and asylum seekers as the emphasis would be on maximizing returns to countries of origin, rather than maintaining high standards in the protection of refugees.
- Regarding solidarity instruments (section 2.4), it is especially hard to make out why member states would want to engage in return sponsorship as this would require them to use their leverage in bilateral relations with particular countries of origin to facilitate the mandatory return of those countries' citizens from other EU member states. If the sponsored individual is not returned within a fairly short period (e.g., eight months), the sponsoring member state becomes permanently responsible for hosting this individual. It is unclear, however, how much 'extra' leverage member states have to help generate more returns. It is even less clear whether such member states would use their scarce leverage for immigration control (other than for returns from their own territory), rather than to promote their bilateral policy agendas.
- There are many examples of how member states can and do shift their responsibilities under the EU asylum system onto other member states. For instance, in the past, some countries at the external EU border ignored their obligation to register and fingerprint all newly arriving asylum seekers, allowing some to move permanently to other member states with better reception conditions. Few transfers back to member states of first arrival took place under the

Dublin rules because courts would prohibit returns when reception conditions did not meet basic humanitarian standards. Currently, some member states provide almost no subsistence support to their recognized refugees, leading to similar onward movements by such refugees to more hospitable member states. If such burden-shifting behavior remains unchecked, a race to the bottom in terms of reception conditions or more restrictions on mobility may result.

■ Message #4:

The 2016 EU-Turkey Statement: EU-Turkey migration cooperation under the Statement has worked well overall, although bilateral relations in general have deteriorated. Going forward, Turkey needs to address the needs of three distinct populations and the EU needs to decide how it will support Turkey in each case: (i) Syrians under temporary protection in Turkey; (ii) non-Syrian asylum seekers in Turkey; and (iii) Syrians in areas of northern Syria under Turkish military control (chapter 3).

The 2016 EU-Turkey Statement followed more than a decade of close cooperation between the EU and Turkey to establish a modern institutional and legal framework for migration governance in Turkey. The Statement also exemplifies some of the challenges that the New Pact seeks to address along the external dimension of EU migration policy. Since 2016, the EU has provided substantial humanitarian support for Syrian refugees and their host communities in Turkey, including cash assistance for vulnerable households and support for access to schooling and health care for Syrian refugees. Still, Turkey has probably borne most of the cost of hosting refugees, although the available data are sketchy (section 3.2). In return, Turkey has largely prevented irregular migration from Turkey to Greece, from where many irregular migrants had earlier moved on to Northern and Central Europe.

Other migration-related elements of the 2016 Statement have been implemented to a lesser extent than originally foreseen, including the return of irregular migrants from the Greek islands to Turkey if they did not receive asylum in Greece, or the resettlement of Syrian refugees directly from Turkey to EU member states. Even more disappointing, especially from Turkey's point of view, has been the lack of progress on non-migration elements in the Statement, such as visa liberalization for Turkish citizens in the EU, the modernization of the EU-Turkey customs union, or negotiations for Turkey's EU accession. This was due

to political developments in Turkey as well as the worsening of bilateral relations over issues like Cyprus and the definition of economic exclusion zones in the Aegean Sea and Eastern Mediterranean (section 3.1).

The humanitarian funding available under the 2016 Statement has now been committed to specific projects and is expected to be spent by end-2021. Ongoing negotiations between the EU and Turkey on future EU support should address the situation of three populations with humanitarian needs for whom Turkey has become responsible (section 3.3):

- First, the number of Syrian refugees under temporary protection in Turkey has grown further since 2016 and is now approximately 3.6 million (Turkey's resident population stood at roughly 85 million in early 2021). Most Syrians now in Turkey will not be able to return to Syria safely in the foreseeable future. To live with dignity in Turkey, they need to be able to integrate socially and economically. Successful integration will require a scaling-up of existing programs for vocational and language training, work permits, and full access to public services such as education and health care. As the task of integrating Syrian refugees has become larger as well as more demanding since 2016, going forward the principle of fair responsibility sharing calls for more international and EU support for refugees in Turkey.
- Second, Turkey applies the 1951 Refugee Convention only to European refugees. Asylum seekers from other countries (especially Afghanistan, Iran, and Iraq) may register for international protection and will not be returned where they might be in harm's way under the non-refoulement rule. They are expected to remain in Turkey with minimal social support until another country offers to resettle them. With few resettlement opportunities, many find themselves in limbo for many years. Unsurprisingly, this group has accounted for a large share of the irregular migrants who have arrived on the Greek islands in recent years. It is in the interest of both Turkey and the EU to address the needs of non-Syrian asylum seekers directly by ensuring they can live with dignity while in Turkey and have a decent prospect for permanent resettlement.
- Third, Turkey provides military security and has become responsible for the humanitarian needs of several million individuals in northern Syria, many of whom are displaced from other parts of Syria. The legal status and conditions on the ground vary across the areas under Turkish control and the

Turkish presence is linked to what Turkey considers its campaign against Kurdish separatism. At the same time, humanitarian needs are urgent and post-war reconstruction is beginning in several areas. The EU may want to consider how to help meet humanitarian needs and contribute to economic and political stability (where feasible) without compromising its policy positions or values.

Message #5:

Surveys of public policy preferences in Germany, Greece, and Turkey find public support for core aspects of the current EU-Turkey migration cooperation, and interviews with policy makers suggest support for continuing the cooperation along the broad lines of the 2016 EU-Turkey Statement (chapter 4).

EU cooperation with Turkey on migration management and refugee protection affects diverse stakeholders, including refugees themselves, host communities in Turkey, the Turkish state, Greek authorities and communities on the Greek Aegean, authorities and communities in Northern and Central Europe that received many irregular migrants in 2015 but far fewer since the 2016 Statement, and the European institutions. Hence, future migration cooperation between the EU and Turkey depends on the support (ultimately) of policy makers and voters in the affected countries. To better understand stakeholders' concerns, we conducted qualitative, in-depth interviews with policy makers in Turkey, Greece, Germany, and EU institutions. We also conducted online surveys using national samples of the voting-age population in Turkey, Greece, and Germany to learn about voters' preferences for EU-Turkey cooperation on irregular migration and refugee protection.

In total, we held 16 interviews with senior policy makers and experts, including 4 interviews in each of Germany, Greece, and Turkey, and another 4 interviews with EU officials working in selected EU institutions and agencies that deal with (aspects of) EU-Turkey cooperation on migration. Most of our interviewees were in senior policy positions and many had direct experience with negotiating or implementing the EU-Turkey Statement (or both). The principal aim of the interviews was to get a sense of selected senior policy makers' assessments of experiences with the EU-Turkey Statement, their views on their countries' or the EU's broad policy preferences vis-à-vis EU-Turkey cooperation on migration, and perceived constraints and opportunities for future cooperation.

The policy makers we interviewed expressed broad support for continuing the EU-Turkey policy coopera-

tion based on the fundamentals of the 2016 EU-Turkey Statement. They highlighted that the EU-Turkey cooperation had proven remarkably resilient in practice, despite the ongoing political debates and disagreements between Turkey and the EU, as well as among EU countries, about aspects of the cooperation.

To study public policy preferences for EU-Turkey cooperation on irregular migration and refugee protection, we conducted an online survey that involved 'conjoint survey experiments' with a total of 3,900 people in Turkey, Greece, and Germany. The national samples were selected to be representative of these countries' voting-age population in terms of age, gender, and region. Rather than asking people to assess and rate certain policies independent of one another, conjoint experiments require respondents to make a series of constrained choices between pairs of 'policy options' (in our case, 'cooperation agreements') that differ across several dimensions. Based on the 2016 EU-Turkey Statement and action plan, our study asked respondents to compare and assess hypothetical EU-Turkey policy packages for cooperation that included five policy dimensions: (i) EU financial assistance for refugees in Turkey; (ii) Turkish border-control measures to reduce irregular migration to the EU; (iii) the return of irregular migrants from Greece to Turkey; (iv) the resettlement of already-recognized refugees from Turkey to the EU; and (v) EU assistance to Greece for dealing with migrants and refugees.

- *Broad public support.* The results of our survey experiments suggest broad public support for the core migration-related policy features of the current EU-Turkey cooperation. We found that, when considering different types of cooperation, there is substantial public support for the status quo in most of the dimensions of the EU-Turkey Statement that we analyzed. However, the surveys also suggest public support for targeted reforms of the cooperation, especially with regard to the resettlement of refugees from Turkey to the EU.
- *Resettlement.* Our study of public policy preferences suggests that voters in all three countries we studied (Germany, Greece, and Turkey) prefer a policy that bases the number of people to be resettled each year on a percentage of the refugee population in Turkey (in our survey experiment, we specified 1 percent) over the 1:1 mechanism set out in the EU-Turkey Statement (which, according to our interviews with key policy makers, was never implemented in practice).
- *No pushbacks.* We also found that, in Germany and Greece, pushbacks from Greece to Turkey would reduce public support for the overall

EU-Turkey policy cooperation. In other words, there is public support for returning only those migrants to Turkey who do not qualify for asylum in Greece.

- *EU financial assistance to refugees in Turkey.* Our policy interviews suggest that Turkey would prefer EU financial assistance in the form of direct budget support while the interviews with German, Greek, and EU policy makers suggested a strong preference for continuing with the status quo of EU support for refugees in Turkey via international or nongovernmental organizations. Our study of public policy preferences found that the public in both Germany and Greece support financial assistance for refugees in Turkey, but only if it is channeled through humanitarian organizations rather than the Turkish government. By contrast, if EU financial assistance for refugees in Turkey were given directly to the Turkish government, this would *reduce* public support in Germany and Greece.

■ Message #6:

Future EU-Turkey migration cooperation: focus on what works while addressing emerging challenges (section 5.2).

Many elements in EU-Turkey bilateral relations will remain volatile, in spite of recent efforts to de-escalate conflicts such as over maritime boundaries. Sharp differences of opinion will persist about political developments in Turkey and there is consequently little chance of substantial progress on EU accession or visa liberalization for Turkish citizens travelling to the EU. Still, the policy makers whom we interviewed in Turkey, Greece, Germany, and Brussels were keenly aware that it would be in the interest of both sides to continue the core elements of migration cooperation under the 2016 EU-Turkey Statement. As EU funding for refugees in Turkey will run out during 2021, there is an opportunity to create a predictable timeline for future EU support for Turkey, on the condition that Turkey reliably prevents irregular migration across its border with Greece.

Future-proofing EU-Turkey migration cooperation involves adapting existing instruments of cooperation to the emerging challenges in refugee protection in Turkey. Turkey has become responsible for three populations with different protection and humanitarian needs. For Syrian refugees and non-Syrian asylum seekers in Turkey, the current protection strategies fall short of emerging needs and the EU and Turkey should work to adapt their approaches in line with international best practice in refugee protection. By contrast, Turkey's military role in northern Syria is determined

by its own security interests and the EU may want to explore how it can respond to humanitarian needs or promote post-war reconstruction while acting in line with its interests and values.

- In the case of Syrians under temporary protection, there is a growing realization in Turkey that the social and economic integration of most Syrian refugees into Turkish society is becoming inevitable because of the protracted nature of this refugee situation. At the same time, eliminating discrimination against refugees in the labor market and in access to social transfers (including support related to COVID-19) will involve significant labor market adjustment and fiscal outlays, which are especially challenging during the present health and economic crisis. Therefore, a commitment by Turkey to move toward full integration combined with a substantial increase in the EU's annual financial support over the level agreed in 2016 would represent a major step forward.
- Turkey would like a higher share of EU support to be paid directly to the Turkish government, rather than to nongovernmental or international organizations for services provided to refugees or to the government budget on a cost-recovery basis. However, such a shift in the mode of payments would not be supported by the EU public (message 5). One of our interlocutors also explained that Turkey currently does not meet the conditions for EU budget support (a different category of financial assistance from humanitarian support, with well-specified rules). Given the current volatility in EU-Turkey bilateral relations, sticking to existing rules and established procedures offers the best chance to reach agreement quickly on stable and predictable financial support from the EU.
- Because of the high share of non-Syrian asylum seekers in irregular arrivals on the Greek islands, the EU should seek to work with Turkey to improve living conditions for this group. At present, those who register for international protection are not allowed to work in Turkey, receive almost no social support and have to live in particular communities while they wait to be resettled in another country, which may take many years. Apart from adequate subsistence support, if asylum seekers live in Turkey for prolonged periods, good practice in refugee protection requires that they be allowed to work. In addition to providing humanitarian support, in part to discourage irregular onward migration to the Greek islands, the EU should also lead efforts to provide additional resettlement opportunities for this group.

1 Introduction

Since early 2020, the COVID-19 pandemic has claimed an overwhelming share of the attention of policy makers and the public. The pandemic has also particularly affected the lives of many migrants—while on the move, in frontline jobs in destination countries, or because would-be migrants have been stuck in their countries of origin. In this 2021 MEDAM Assessment Report, we look beyond the current COVID-19 pandemic and analyze several important challenges that EU asylum and migration policies are now faced with and need to address when the pandemic situation allows.

In September 2020, between the first and the second wave of the pandemic, the European Commission released its proposal for a New Pact on Migration and Asylum. The proposed Pact aims to create humane reception conditions at the EU’s external borders for irregular migrants; ensure access to international protection for persecuted individuals; facilitate the return of rejected asylum applicants to their countries of origin; and share responsibility for the EU asylum system equitably while limiting the overall burden borne by member states. In pursuit of these diverse objectives, the proposed Pact introduces policy instruments including an expedited asylum procedure for applicants from countries with low international protection rates in the EU (border procedure). There is a menu of tools for member states to choose from (within limits) to share responsibility for the asylum system among themselves, such as return sponsorship and relocation of asylum seekers who are not subject to the border procedure. In addition are returns-related conditionality and other incentives, both negative and positive, for countries of origin and transit to cooperate with the EU on returns and readmission.

In chapter 2, we set the scene and review the main trends in irregular migration to Europe during 2020 (section 2.1). We describe the core institutional features of the proposed New Pact (section 2.2) and then analyze the functionality of the proposed policy instruments and their inherent risks. We discuss the border procedure (section 2.3) and reflect on the Pact’s notion of “mandatory yet flexible solidarity” with its implications for equitable responsibility sharing among member states (section 2.4). We analyze the effectiveness of proposed measures to make countries of origin and transit cooperate more fully with the return

and readmission of their citizens (including rejected asylum applicants) who are not allowed to remain in Europe (section 2.5).

Turkey has long played a special role in the EU’s external migration cooperation. Its current institutions for migration governance were developed in close consultation with the EU from the mid-2000s in the wider context of negotiations for EU accession. The 2016 EU-Turkey Statement on EU support for refugees in Turkey and migration management has largely withstood the recent deterioration in bilateral relations generally. Funding under the Statement will run out in 2021 and the EU and Turkey will soon need to decide on their future migration cooperation. In chapter 3, we review the history of EU-Turkey migration cooperation (section 3.1) and summarize the economic impact of refugees in Turkey on the labor market and government finances (section 3.2). We discuss how far EU support goes in achieving equitable responsibility sharing for refugees in Turkey and identify emerging protection and humanitarian challenges for three distinct groups: Syrian refugees under temporary protection, non-Syrian asylum seekers, and Syrians in northern Syria under Turkish military control (section 3.3).

Future EU-Turkey migration cooperation will affect a wide variety of stakeholders in Turkey, Greece, and other EU member states and will require broad-based support to be politically feasible. To better understand voter preferences, we conducted representative online surveys in Turkey, Greece, and Germany where we asked individuals to choose between hypothetical policy packages for future EU-Turkey migration cooperation that were structured along the main dimensions of the 2016 EU-Turkey Statement (chapter 4). We also conducted qualitative interviews with 16 policy makers in Turkey, Greece, Germany, and at EU institutions to explore attitudes and preferences in more detail.

In chapter 5 we summarize the implications of our analysis for EU asylum and migration policies. We discuss prospects for negotiations on the proposed New Pact among EU member states, the European Commission and the Parliament and identify likely sticking points along with strategies to overcome them (section 5.1). We also highlight refugee protection and humanitarian challenges in Turkey and northern Syria and indicate how the EU and Turkey may cooperate to address them (section 5.2).

2 A fresh start for EU asylum and migration policy?

Lead authors: Olivia Sundberg Diez and Alberto-Horst Neidhardt¹

When the von der Leyen European Commission took office on December 1, 2019, it committed to delivering a “fresh start on migration” through a New Pact on Migration and Asylum. It aimed to forge a new consensus on the future of EU migration and asylum policies, after years of deadlock caused by stark divisions among states and across EU institutions.² After several postponements due to the sudden priorities resulting from the COVID-19 pandemic, the European Commission presented the New Pact on September 23, 2020.³

This chapter analyses the major changes proposed by the New Pact, as well as the progress achieved thus far in negotiations. Section 2.1 outlines the main developments of the past year that have set the context ahead of the Pact’s launch. Section 2.2 discusses the Commission’s priorities and the package of initiatives introduced by the New Pact. The next sections examine three central components of the Pact, namely, its proposals for compulsory procedures at the external border (2.3), its ‘mandatory yet flexible solidarity’ mechanism (2.4), and its vision for cooperation with non-EU countries (2.5).

2.1 A changed landscape ahead of the New Pact

The main developments of 2020 that set the scene for the launch of the New Pact also exposed the pressing need to strengthen the resilience of European asylum and migration management systems. Four key developments are highlighted below.

First and most significantly, the COVID-19 pandemic and related governmental responses have had profound impacts on migration and asylum in the EU since the World Health Organization declared Europe its epicenter on March 13, 2020. Border closures greatly restricted the ability of non-EU nationals, including asylum seekers, to enter the EU. Across EU countries, the entry of migrant workers was sharply curtailed, highlighting the reliance of various sectors on seasonal and other migrant labor. After being suspended for months, resettlement also fell to its lowest level in recent his-

tory, with 22,700 refugees resettled globally in 2020 compared with 63,696 in 2019.⁴ Additionally, 2020 recorded the lowest number of irregular border crossings into the EU since 2013 (124,000), a 13 percent drop compared with the previous year.⁵ The Greek-Turkish border saw the biggest fall, with 70 percent fewer crossings compared with 2019. By contrast, other regions, notably the Canary Islands, experienced a significant and rapid increase in arrivals (figure 1). Returns within and beyond Europe, too, were suspended for several months in light of travel restrictions.

The pandemic’s impact beyond Europe was likewise substantial. Migrants in non-EU countries found their journeys interrupted by border closures, becoming stranded in transit; they also suffered from reduced humanitarian assistance as well as losses of income

¹ Parts of sections 2.4 and 2.5 of this chapter build on an earlier analysis of the New Pact on Migration and Asylum published by the European Policy Centre (Brussels) in January 2021. That discussion paper, entitled “EU Return Sponsorships: High Stakes, Low Gains?” was authored by Olivia Sundberg Diez and Florian Trauner and focuses on the notion of return sponsorships under the Pact. See <https://www.epc.eu/en/Publications/EU-return-sponsorships-High-stakes-low-gains-3ac104>.

² U. von der Leyen, “A Union that Strives for More: My Agenda for Europe, Political Guidelines for the Next European Commission 2019–2024,” European Commission, Brussels (July 16, 2019) 15, <https://op.europa.eu/en/publication-detail/-/publication/43a17056-ebf1-11e9-9c4e-01aa75ed71a1>.

³ European Commission, “A Fresh Start on Migration: Building Confidence and Striking a New Balance between Responsibility and Solidarity,” Press release, IP/20/1706, Brussels (September 23, 2020), https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1706.

⁴ UNHCR, “With Refugee Resettlement at a Record Low in 2020, UNHCR Calls on States to Offer Places and Save Lives,” Geneva (January 25, 2021), <https://www.unhcr.org/news/press/2021/1/600e79ea4/refugee-resettlement-record-low-2020-unhcr-calls-states-offer-places-save.html>; UNHCR, “More Resettlement Needed as Only 4.5 per cent of Global Resettlement Needs Met in 2019,” Geneva (February 5, 2020), <https://www.unhcr.org/news/press/2020/2/5e3a81c04/resettlement-needed-only-45-cent-global-resettlement-needs-met-2019.html>.

⁵ Frontex, “Irregular Migration into the EU Last Year Lowest since 2013 Due to COVID-19,” Warsaw (January 8, 2021), <https://frontex.europa.eu/media-centre/news/news-release/irregular-migration-into-eu-last-year-lowest-since-2013-due-to-covid-19-j34zp2>.

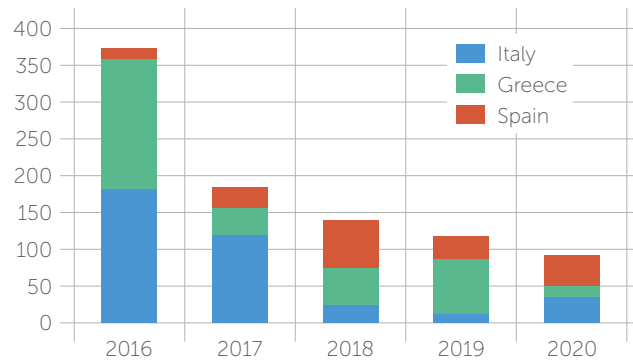
and livelihoods. Analysts, international organizations, and EU agencies alike have repeatedly warned that the vulnerabilities caused by COVID-19 globally may drive more migration in the long run, despite the short-term drop in arrivals.⁶

Second, poor reception conditions in EU border states have remained a chronic problem. Inadequate reception capacity and living standards were reported, among others, in Malta, Cyprus, Greece, Spain, Italy, and France. Across European countries, precarious conditions were exacerbated by the additional health-related difficulties posed by the pandemic. Two cases of particular concern were the Greek Aegean Islands and Spain’s Canary Islands.

Already before the start of the pandemic, over 40,000 people were residing in overcrowded reception facilities in the Aegean Islands, leading to repeated calls by the UN High Commissioner for Refugees (UNHCR) and Members of the European Parliament (MEPs) to transfer migrants to adequate accommodation on the mainland and to other member states.⁷ Although relocations of unaccompanied children gained traction throughout 2020, the pandemic markedly worsened conditions for those remaining at the islands’ camps. A fire at the Moria camp in Lesbos in September 2020, which left thousands homeless overnight, accelerated the launch of the New Pact and led Commissioners to vow that there would be “no more Morias” in Europe.⁸ Meanwhile, the European Commission and Greece also started to jointly work on the construction of five new reception facilities on Lesbos and other Aegean Islands.⁹ However, these initiatives were met with resistance by both local politicians and the islands’ resident populations (Makszimov 2021).

At the same time, Spain’s Canary Islands also came under strain as sea arrivals increased throughout 2020. Compared with 2,700 in all of 2019, 23,000 migrants reached the islands in 2020 (over half in October and November alone).¹⁰ Reception facilities quickly became overwhelmed. In Gran Canaria, as many as 2,600 migrants came to be hosted in a makeshift camp on the Arguineguín pier, which was designed for 400 people and lacked basic hygiene, space to move, or access to information and assistance (Human Rights Watch 2020; Martín 2020). The Spanish government was criticized

Figure 1 Mediterranean sea and land arrivals by year, 2016–20



Source: UNHCR, Operational Portal, Mediterranean Situation.

Note: The graph shows land and sea arrivals in Spain and Greece, as well as sea arrivals in Italy. It excludes sea arrivals in Malta and Cyprus.

for its reluctance to relocate migrants to the mainland, where more suitable accommodation was available. As of early 2021, protests, threats, and violent attacks by the islands’ residents against migrants were becoming increasingly common (Martín and Pérez 2021).

Third, EU countries saw increased pressure on their migration cooperation with several non-EU countries, most noticeably with Turkey. On February 27, 2020, Turkey’s President Recep Tayyip Erdoğan announced that the country would cease patrolling its border with Europe, in effect breaching the EU-Turkey Statement of March 2016. Several thousand people arrived at Turkey’s land border with Greece in the following days, although the vast majority were prevented from entering, sometimes involving violence by border guards. Turkey resumed border controls in March 2020. Nonetheless, EU-Turkey relations have remained volatile since then. Significantly, Turkey refused to accept returns from Greece under the 2016 Statement throughout the subsequent 12 months, citing the pandemic. A long-standing territorial dispute also flared up again in August 2020, following Turkey’s drilling activities in the Eastern Mediterranean. The new year was marked by a gradual de-escalation of the tensions, as leaders reaffirmed the strategic interest in developing a cooperative relationship spanning migration, the economy, and trade.¹¹ The EU also contracted

⁶ See UNHCR and IOM (2020); see also European Asylum Support Office (EASO), “EASO Special Report: Asylum Trends and COVID-19,” EASO/ACK/SAU/DARS/2020/148, Valletta (May 7, 2020), <https://www.easo.europa.eu/sites/default/files/easo-special-report-asylum-covid.pdf>; and also Bara (2020).

⁷ See European Parliament, “Refugees in Greece: MEPs Demand Solidarity, Warn about Impact of Health Crisis,” Press release (March 31, 2020), <https://www.europarl.europa.eu/news/en/press-room/20200330IPR76106/refugees-in-greece-meps-demand-solidarity-warn-about-impact-of-health-crisis>; see also UNHCR (2020a).

⁸ Y. Johansson, “Intervention in the European Parliament Plenary Session Debate on ‘The Need for an Immediate and Humanitarian EU Response to the Current Situation in the Refugee Camp in Moria,’” European Commission, Brussels (September 17, 2020), https://ec.europa.eu/commission/commissioners/2019-2024/johansson/announcements/intervention-european-parliament-plenary-session-debate-need-immediate-and-humanitarian-eu-response_en.

⁹ European Commission, Memorandum of Understanding between the European Commission, European Asylum Support Office, the European Border and Coast Guard Agency, Europol and the Fundamental Rights Agency, of the one part, and the Government of Hellenic Republic, of the other part, on a Joint Pilot for the Establishment of a new Multi-Purpose Reception and Identification Centre in Lesbos, C(2020) 8657 final, Brussels (December 2, 2020), https://ec.europa.eu/home-affairs/sites/homeaffairs/files/pdf/03122020_memorandum_of_understanding_en.pdf.

¹⁰ European Parliament, “Migration Situation on the Canary Islands: Committee Debate,” Press release (March 01, 2021), <https://www.europarl.europa.eu/news/en/press-room/20210226IPR98808/migration-situation-on-the-canary-islands-committee-debate>.

¹¹ European Council, Conclusions of the European Council of 10 and 11 December, EUCO 22/20, Brussels (December 11, 2020), <https://www.consilium.europa.eu/media/47296/1011-12-20-euco-conclusions-en.pdf>.

the last installment of funds due to Turkey under the 2016 Statement. Nevertheless, the past year's geopolitical frictions have highlighted the fragile nature of the partnership and raised questions about the future form of migration cooperation, as further explored in chapter 4. Discussions on the future partnership are still ongoing at the time of writing.

Fourth, pressure mounted on the European Commission to investigate and stop border violence and pushbacks along the EU's external borders. European governments and neighboring countries were accused of using the pandemic as an excuse to further restrict mobility and securitize borders (Border Violence Monitoring Network 2020; Valadares 2020).

Multiple testimonies were collected during 2020 of unlawful pushbacks by authorities along the Balkan route, and in particular near the Bosnia-Croatia border. Collective expulsions were also reported on the Greek-Turkish border, especially in the aftermath of the February–March incidents. Investigative accounts showed that migrants crossing the Aegean Sea were intercepted and pushed back to Turkey by the Hellenic Coast Guard, although the Greek government persis-

tently denied the allegations (Kingsley and Shoumali 2020). Frontex, whose mandate was expanded in 2019, was also accused of being involved in pushback operations on the Greek-Turkish maritime border (Waters, Freudenthal, and Williams 2020). Frontex rejected the accusations, but pressures continued to build on the agency. Several investigations are underway, in which the agency has been urged to improve its management as well as its reporting and oversight mechanism.¹²

These four developments had the effect of highlighting the weaknesses in EU asylum and migration systems and bolstering anticipation of the New Pact as well as broader calls for reforms. These include the need to strengthen Europe's crisis resilience; enhance reception conditions and support member states on the EU's external borders through solidarity measures; develop strengthened, sustainable, and mutually beneficial partnerships with non-EU countries; and ensure effective procedures at the external borders that guarantee access to asylum. Simultaneously, they demonstrate the difficulty of enforcing and implementing existing legislation—an issue that the Pact proposals will also need to contend with.

2.2 The New Pact on Migration and Asylum

In addition to improving the functioning of the EU's migration and asylum system and addressing structural weaknesses in its implementation, the Commission's New Pact on Migration and Asylum attempts to break the long-standing stalemate on reforms within the Council. Conflicting positions among member states and between EU institutions have prevented progress on crucial reforms to the Common European Asylum System (CEAS) since 2016. These divisions have primarily concerned questions over responsibility sharing for asylum seekers within Europe and the management of the external border (MEDAM 2020).

Against this background, the Commission set out to resolve the contrasting positions among member states and to find a compromise that could be acceptable to all (Neidhardt and Sundberg Diez 2020). A

clear 'realpolitik' vision has defined the Commission's approach to the New Pact (Thym 2020). Accordingly, even before the launch of the Pact, the responsible Commissioners predicted that nobody would be fully satisfied with its proposals, arguing that this attested to their balance (Zalan 2020).

The New Pact reflects both the Commission's ambition and its "realistic and pragmatic" approach.¹³ It consists of a complex package of reforms that, as per the accompanying Communication, seek to "rebuild trust" between member states, strengthen Europe's resilience to crises, and adopt a "human and humane approach" to migration and asylum.¹⁴ The Pact includes five legislative proposals, a series of recommendations, and an outline of further initiatives to follow in the coming months. Table 1 provides a concise overview.

¹² See European Ombudsman, "Ombudsman Opens Inquiry to Assess European Border and Coast Guard Agency (Frontex) 'Complaints Mechanism,'" Strasbourg (November 12, 2020) <https://www.ombudsman.europa.eu/en/news-document/en/134739>; see also European Parliament, "First Meeting of the Frontex Scrutiny Group with Leggeri and Johansson," Press release (March 3 2021), <https://www.europarl.europa.eu/news/en/press-room/20210303IPR99105/first-meeting-of-the-frontex-scrutiny-group-with-leggeri-and-johansson>.

¹³ European Commission, "Press Statement by President von der Leyen on the New Pact on Migration and Asylum," Brussels (September 23, 2020), https://ec.europa.eu/commission/presscorner/detail/en/statement_20_1727.

¹⁴ European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum, COM(2020) 609 final, Brussels (September 23, 2020), <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1601287338054&uri=COM:2020:609:FIN>.

The reforms set out by the proposals are manifold, broad-sweeping, and closely interlinked. Still, three of the Pact’s elements stand out as most central. These constitute what Commission Vice President Margaritis Schinas, one of the Commissioners responsible for the Pact, described as the “three floors” of the Pact’s “house”: the external dimension (the first floor), the management of the EU’s external borders (the second floor), and solidarity measures within Europe (the third floor).¹⁵

To address mixed migration movements, the Pact proposes a new standard procedure at the external border, including a new screening process, followed by accelerated asylum and return procedures. Among other objectives, this seeks to prevent the entry, and facilitate the swift return, of migrants who are unlikely to be granted protection. The Pact also introduces a new mechanism of mandatory yet flexible solidarity to replace the Dublin Regulation. These two proposals are already proving to be among the most controversial elements in negotiations.

The Pact furthermore intends to boost the external dimension of migration policy, with enhanced cooperation with non-EU countries placed at the center of the package. Initiatives in this area include a recommendation on resettlement and a new push to expand labor migration pathways. Yet generally, the Pact’s focus in relation to the external dimension remains on increasing the return and readmission of migrants without permission to remain in Europe, especially through a consolidation of the conditionality principle in partnerships with non-EU countries. These areas are discussed in detail in the next three sections.

Many aspects of the New Pact may still change significantly over the course of negotiations. Moreover, important practical details that could determine the proposals’ impact were purposely left undefined in the proposed text to allow room for maneuver and improvement.¹⁶ Whether the Pact will be more successful than the proposals advanced by the previous Commission in securing support from member states nevertheless remains to be seen.

Table 1 Key proposals introduced by the New Pact

Category	Proposals
New legislative proposals introduced by the New Pact	<ul style="list-style-type: none"> — Screening regulation (new) — Asylum procedures regulation (amended proposal) — Eurodac regulation (amended proposal) — Asylum and migration management regulation (new)* — Crisis and force majeure regulation (new)
Earlier legislative proposals carried over as part of the Pact	<ul style="list-style-type: none"> — EU asylum agency regulation — Recast Reception Conditions Directive — Qualification regulation (currently a directive) — Union resettlement and humanitarian admission framework regulation — Recast Return Directive
New non-legislative initiatives	<ul style="list-style-type: none"> — Recommendation on a migration preparedness and crisis blueprint — Recommendation on resettlement and complementary pathways — Recommendation on search and rescue operations by private vessels — Guidance on the Facilitation Directive — Action plan on integration and inclusion
Initiatives to follow from 2021 onwards	<ul style="list-style-type: none"> — Strategy on the future of Schengen — Strategy on voluntary returns and reintegration — Operational strategy on returns — EU action plan against migrant smuggling — Skills and talent package

Source: Own compilation, based on the European Commission’s Communication on a New Pact on Migration and Asylum, COM(2020) 609 final (2020).

* While this regulation is presented as a new proposal, it will replace the Dublin Regulation: several of the proposal’s contents mirror those of either the Dublin III Regulation or the Commission’s 2016 proposal for a Dublin IV regulation (which was withdrawn alongside the publication of the New Pact). See Maiani (2020).

¹⁵ M. Schinas, “Speech by Vice-President Schinas on the New Pact on Migration and Asylum,” European Commission, Brussels (September 23, 2020) https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_20_1736.

¹⁶ Comment by Ylva Johansson, European Commissioner for Home Affairs, during the online event “The New Pact on Migration and Asylum: A Fresh Start?” held as part of the MEDAM project on November 13, 2020 by the European Policy Centre, Brussels, <https://www.youtube.com/watch?v=blvkdyKkMQY&t=10s>.

Ongoing negotiations are already proving difficult. The German Presidency of the Council of the EU had sought to achieve a political agreement on some of the Pact's more general principles by the end of 2020. However, the pandemic slowed negotiations, and divisions along earlier fault lines made even a broad consensus impossible.¹⁷ Two position papers published toward the end of the German Presidency highlighted the extent of the divisions. Southern European member states (Spain, Italy, Greece, and Malta) on the one hand, and the 'Visegrád Four' (Poland, Hungary, Slovakia, and the Czech Republic) along with other Central and Eastern European states on the other, continue to hold strongly opposing views across key files.¹⁸ While there is wide agreement on the centrality of the external dimension, questions over the use of border procedures and the mandatory nature of soli-

darity contributions continue to divide the two blocs, as discussed further below.

As such, it is uncertain whether the proposals will clear the various negotiating hurdles, including securing unanimous support in the Council (or by a qualified majority, if the approach changes) and later agreement between the Council and the European Parliament. The latter, too, faces considerable divisions over the future of EU asylum and migration policies.

Most importantly, beyond securing political support for the new policy package, the implementation of the new instruments and initiatives will pose its own difficulties that may determine the success of the New Pact in practice. In what follows, the three most significant proposals of the Pact (border procedures, solidarity, and the external dimension of migration) are explored in turn.

2.3 Border procedures 2.0: In search of efficiency

Among the principal changes envisaged in the Pact, the Commission proposes a screening process to separate asylum applications based on plain and simple criteria. This screening process is connected to an expanded border procedure, which would become mandatory for certain categories of asylum applicants. Though not entirely new, these initiatives aim at developing a more efficient asylum process by reinforcing the "seamless" links between its various stages, from the pre-entry phase to the outcome of the application.¹⁹ Expanded border procedures would therefore help to manage mixed migration flows at the EU's external border and reduce backlogs of pending cases in the standard asylum procedure.

Despite these widely shared objectives, persistent political divisions among member states call into question whether the Commission's realpolitik ap-

proach and the New Pact proposal for an integrated border procedure can break the long-standing deadlock within the Council. The proposal might also meet the opposition of the European Parliament further down the negotiation process. Critical questions surround the feasibility and side effects of the Commission's proposal, partly reflecting legal concerns and practical challenges that have already emerged in the earlier application of border procedures.²⁰

The Commission's proposal: Screening and accelerated border procedures

In essence, the New Pact proposal for a screening process would constitute the first step of the integrated procedure taking place at the EU's external borders. Authorities would have to carry out swift health, iden-

¹⁷ A progress report by the German Presidency in December 2020 highlighted a range of pending questions and divisions. See the German Presidency of the Council of the European Union, "Presidency Progress Report on Key Elements of a European Migration and Asylum Policy and the Way Forward," Federal Ministry of the Interior, Berlin (December 14, 2020), <https://www.bmi.bund.de/SharedDocs/downloads/EN/eu-presidency/progress-report-key-elements.html>.

¹⁸ See Government of Spain, "New Pact on Migration and Asylum: Comments by Greece, Italy, Malta and Spain," Madrid (2020), <https://www.lamoncloa.gob.es/presidente/actividades/Documents/2020/251120-Non%20paper%20Pacto%20Migratorio.pdf>; see also Polish Presidency of the Visegrád Group, "New Pact on Migration and Asylum: A Common Position of V4 Countries, Estonia and Slovenia," Warsaw (December 18, 2020), <https://www.gov.pl/web/v4presidency/the-new-pact-on-migration-and-asylum--a-common-position-of-v4-countries-estonia-and-slovenia>.

¹⁹ See Recital 4 in European Commission, Amended Proposal for a Regulation of the European Parliament and of the Council Establishing a Common Procedure for International Protection in the Union and Repealing Directive 2013/32/EU, COM(2020) 611 final, Brussels (September 23, 2020) <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020PC0611&from=EN>; see also Recital 3, European Commission, Proposal for a Regulation of the European Parliament and of the Council Introducing a Screening of Third Country Nationals at the External Borders and Amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817, COM(2020) 612 final, Brussels (September 23, 2020) https://ec.europa.eu/info/sites/info/files/communication-screening-third-country-nationals_en.pdf.

²⁰ Border procedures are possible under Article 43(2) of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on Common Procedures for Granting and Withdrawing International Protection, OJ L 180/60 (29.6.2013), <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0032&from=en> (hereafter 'Asylum Procedures Directive'). Member states also carry out health checks following irregular arrivals of non-EU nationals in response to the COVID-19 pandemic. See Jakulevičienė (2020).

tity, and security checks that should normally last no more than five days.²¹ The screening would be required for all non-EU nationals arriving at the EU’s external borders without entry rights, including people disembarked after a search and rescue operation.²² At the end of this process, asylum seekers would be channeled into either the regular asylum procedure or the border procedure.²³

Non-EU nationals who have fewer prospects of being awarded protection on the basis of their nationality would be directed to the border procedure. This would constitute the second step of the integrated process envisaged by the Commission. The main novelty proposed is to make the accelerated examination compulsory for applicants from countries with an EU-wide average recognition rate of less than 20 percent.²⁴ Earlier proposals from 2016 limited accelerated procedures to manifestly unfounded or abusive applications. The Pact suggests setting the deadline for completing the examination of asylum claims in the border procedure to three months from their registration.²⁵

According to the New Pact proposal, asylum seekers from countries with recognition rates higher than 20 percent would be instead channeled into the regular asylum process. Those who are not subject to the border procedure would become eligible for relocations to other member states.²⁶

The Commission further proposes that in a “crisis situation”—as defined in the regulation addressing situations of crisis and force majeure—member states would have the option of applying the border procedure to all those coming from countries with an average recognition rate under 75 percent.²⁷ In such a crisis situation, applicants who are subject to the border procedure could also be relocated to other member states.²⁸

The screening process and expanded procedure at the border share three goals: raising efficiency, preventing secondary movements, and harmonizing practices. To begin with, they should lead to a more effective separation of people in need of asylum from those who are

not eligible for it. In the Commission’s view, this should make it possible to ensure that well-founded applications result in access to international protection and the swift return of those with no permission to stay.²⁹

In addition, the integrated procedure would function as the “gatekeeper” of the EU (Rasche 2020). During the screening process and throughout the examination of applications under the border procedure, applicants would be obliged to remain in designated facilities at the external border or in transit zones. Legally, this would entail that asylum seekers would not be considered to have entered EU territory. For the Commission, this should prevent irregular migrants³⁰ with no protection needs from absconding or forming family and other social links with the country, therefore making it easier to return them.³¹

Finally, the proposals strive to harmonize existing practices. The New Pact introduces greater and clearer obligations for member states compared with those set in the current framework and those advanced in the 2016 reform proposal. More specifically, under the current framework, European countries are not duty-bound to apply the border procedure. Where the procedure is applied at the present time, national authorities can set their own deadlines for its completion. This has led to divergent practices (see figure 2 in the next subsection).³² Loose obligations and ineffective monitoring have also led to significant shortcomings in implementation. In response, the new proposals would introduce harmonized time limits.³³

Integrated border procedure: Magic bullet or more problems ahead?

The proposal for an integrated procedure follows from the recent experience of increased mixed migration movements and reflects the need to set plain and easy-to-follow criteria for sorting out asylum applications. North-western states in particular have expressed a wish for a faster initial assessment of asylum claims at the EU’s external borders (Thym 2020). Germany

²¹ Article 4(1), European Commission, Proposal for a Screening Regulation, COM(2020) 612 final (2020).

²² Article 3, *ibid.*

²³ Article 14, *ibid.*

²⁴ Article 41(3), European Commission, Amended Proposal for an Asylum Procedures Regulation, COM(2020) 611 final (2020).

²⁵ Article 41(11), *ibid.*

²⁶ Article 45(1)(a), European Commission, Proposal for a Regulation of the European Parliament and of the Council on Asylum and Migration Management and Amending Council Directive (EC) 2003/109 and the Proposed Regulation (EU) XXX/XXX (Asylum and Migration Fund), COM(2020) 610 final, Brussels (September 23, 2020), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:610:FIN>.

²⁷ Article 4 in European Commission, Proposal for a Regulation of the European Parliament and of the Council Addressing Situations of Crisis and Force Majeure in the Field of Migration and Asylum, COM(2020) 613 final, Brussels (September 23, 2020), https://ec.europa.eu/info/sites/info/files/proposal_for_a_regulation_of_the_european_parliament_and_of_the_council_addressing_situations_of_crisis_and_force_majeure_in_the_field_of_migration_and_asylum.pdf.

²⁸ *Ibid.*

²⁹ European Commission, Amended Proposal for an Asylum Procedures Regulation, Explanatory Memorandum, COM(2020) 611 final (2020), 1–2.

³⁰ In the EU context, an “irregular migrant” is a non-EU national present on the territory of a Schengen state who does not fulfil, or no longer fulfils, the conditions of entry (as set out in Regulation (EU) 2016/399) or other conditions for entry, stay or residence in that EU member state.

³¹ Y. Johansson, “Speech by Commissioner Johansson on the New Pact on Migration and Asylum,” European Commission, Brussels (September 23, 2020), https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_20_1733.

³² European Parliament Research Service (EPRS), “Asylum Procedures at the Border: European Implementation Assessment,” PE 654.201, Brussels (November 2020) [https://www.europarl.europa.eu/RegData/etudes/STUD/2020/654201/EPRS_STU\(2020\)654201_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/654201/EPRS_STU(2020)654201_EN.pdf).

³³ European Commission, Amended Proposal for an Asylum Procedures Regulation, Explanatory Memorandum, COM(2020) 611 final (2020), 7–8.

specifically recommended that ineligible applicants should be denied asylum before entering the EU.³⁴

In line with its *realpolitik* approach, the Commission also sought to strike an acceptable compromise for member states that had already voiced substantive reservations over the proposed reform of border procedures from 2016. Although setting higher responsibilities overall, the proposal tries to ease the concerns of southern member states by limiting the required use of border procedures to applicants from countries with low recognition rates.

Nonetheless, as the recent ‘non-papers’ by southern and Eastern European countries respectively show, divisions have resurfaced within the Council, suggesting that negotiations will be complicated.³⁵ Visegrád states, together with Estonia and Slovenia, are in favor of a mandatory and generalized application of the border procedure.³⁶ By contrast, southern border states insist on its use remaining fully voluntary for member states.³⁷ They have also called into question the practical effects of extended use of the procedure, fearing that it will lead to the creation of “large closed centers.”³⁸

Aside from states’ concerns, questions have also been raised about the actual feasibility of implementing the new rules and whether the proposals could further undermine procedural safeguards.³⁹ Critics are especially concerned about the risk of *de facto* detention as part of the border procedure.

While clearly spelled-out rules supported by targeted measures could address existing problems and raise the overall efficiency of the asylum process, an ill-conceived integrated procedure at the border could have negative effects on the asylum and reception systems of border states and throughout the CEAS (Beirens 2020, 36–37). Rather than constituting a magic bullet, the proposals could exacerbate pre-existing problems (Refugee Rights Europe 2020).

Three key questions therefore need to be addressed. First, what resources would member states at the EU’s external borders need to fulfill their responsibilities under the new screening and border procedure framework? Second, what would be the red lines for speeding up decision-making and raising efficiency without compromising procedural standards and human rights guarantees? Third and lastly, how to avoid the risk of increased large-scale detention on the EU’s doorstep?

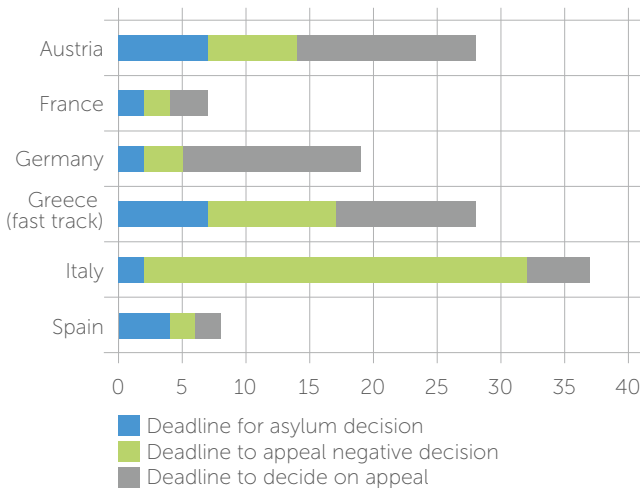
Addressing these questions could encourage a constructive approach to intra- and inter-institutional negotiations by building on shared goals while also identifying and addressing the proposals’ main shortcomings. In this subsection, these questions are examined in turn.

Are member states up to the task?

The question of member states’ capacity to fulfill their responsibilities can be approached from two perspectives: on the one hand, looking at delays and other practical problems faced by countries where the border procedure is currently in force and, on the other, considering the additional financial and administrative costs that would follow from the proposals.

On the face of it, by setting a period of three months for completing the border procedure, the Commission has sought to find a workable compromise. This time limit is actually longer than the deadlines applied by national authorities at the EU’s external borders and elsewhere under the current framework (figure 2),

Figure 2 Current national deadlines for completing the border procedure (in days)



Source: Own compilation, based on the Asylum Information Database, European Council on Refugees and Exiles, <https://asylumineurope.org/reports/country/italy/asylum-procedure/procedures/border-procedure-border-and-transit-zones/>

³⁴ See the leaked German non-paper: “Food For Thought: Outline for Reorienting the Common European Asylum System,” Statewatch, London (November 13, 2019), <https://www.statewatch.org/media/documents/news/2019/dec/eu-asylum-FoodForThought-GermanNoPaper.pdf>.

³⁵ These partly reflect the sticking points in the negotiations on the asylum procedures regulation proposed in 2016. See MEDAM (2020, 17).

³⁶ Polish Presidency of the Visegrád Group, “New Pact on Migration and Asylum” (2020).

³⁷ Government of Spain, “New Pact on Migration and Asylum” (2020).

³⁸ *Ibid.*, 2.

³⁹ See also Vedsted-Hansen (2020a) and ECRE (2020a). These questions evoke similar concerns expressed following the 2016 reform proposals—see UNHCR (2019).

which only sets a loose obligation for states to define “reasonable” time limits under national law for completing the border procedure.⁴⁰

Despite this flexibility, most national authorities struggle to meet the deadlines. Delays in processing asylum claims are frequent in Spain and France.⁴¹ In Germany, difficulties in sticking to the time limits have been observed in more than half of all border procedures since 2015. In Greece, a fast-track procedure was put in place in 2016 to speed up asylum applications subject to the EU-Turkey Statement. Notably, in 2019, the average time between the registration and the first-instance decision was over seven months, in contrast with the seven-day deadline set in Greek law.⁴²

It is not evident, though, whether extending deadlines will in itself suffice to resolve implementation issues. Current delays originate in a combination of legal and practical impediments, such as staff shortages, insufficient coordination between the authorities involved, and lack of adequate planning.⁴³ Authorities responsible for carrying out the expanded border procedure could face the same hindrances. An impact assessment would be instrumental to determining whether and under what conditions states would be able to meet their stricter obligations in a variety of scenarios, including crisis situations.

The assessment should also take into account the screening process taking place prior to the border procedure. In contrast with the extended deadlines for completing the border procedure, the tight deadline of five days set for completing the screening process has been criticized as too short and unrealistic (Jakulevičienė 2020). Implementation of the screening process could likewise be fraught with problems in relation to staff shortages and inadequately prepared authorities, and a sudden increase in arrivals could further add to the challenges.

Against this background, another element to take into account is how much operational and financial assistance will be required to run the integrated procedure at the EU’s external borders (Goldner Lang 2020).

The roll-out of the integrated procedure would require an upgrade of the current infrastructure, a significant boost to accommodation capacity, and additional medical and administrative staff, among others. The Commission has set the estimated costs for run-

ning the screening process at over €400 million.⁴⁴ The planned obligatory use of the accelerated border procedure for all nationals of countries with recognition rates below 20 percent could also put huge financial and administrative pressures on border states. For example, it has been estimated that the number of available places in Italian hotspots would have to increase by seven times to be able to process claims by asylum seekers who arrived irregularly at the border in 2020 (EuroMed Rights 2020). In a crisis situation, if Italy were to apply the 75 percent threshold, the required number of places would instead be fifty times greater than the current capacity (ibid.).

Given these prospects, financial assistance may be an indispensable prerequisite for national systems on the EU external borders to enable them to effectively process claims under the integrated border procedure, and a point of contention in the negotiation process. The Commission should therefore provide clear guidelines on how member states could make use of the resources allocated by the Asylum, Migration and Integration Fund (AMIF) and the new Asylum and Migration Fund in order to fulfill their obligations.⁴⁵

Still, financial support alone may not suffice to guarantee effective implementation. Italy and Greece have respectively received €1.04 billion and €3.12 billion under the AMIF, the Internal Security Fund, and the Emergency Support Instrument since 2015.⁴⁶ Yet, their asylum systems continue to struggle. With this in mind, the future EU asylum agency could play an important role in assisting border states and guaranteeing that asylum seekers are offered adequate protections. At the same time, there is a need to complement the New Pact proposals with a thorough impact assessment on the one hand and, on the other one, a strong and independent monitoring system to ensure that authorities fully comply with their responsibilities.

Enhanced procedural safeguards

The second question concerns the procedural protections needed to ensure that adequate safeguards are in place in the case of an expanded border procedure. Procedural protections may become especially important at the stage of triologue negotiations involving the European Parliament. To answer this question, both the legislative shortcomings and practical hurdles

⁴⁰ Article 43(2), Asylum Procedures Directive.

⁴¹ EPRS, “Asylum Procedures at the Border,” PE 654.201 (2020), 305.

⁴² Ibid.

⁴³ See Fundamental Rights Agency, “Update of the 2016 Opinion of the European Union Agency for Fundamental Rights on Fundamental Rights in the ‘Hotspots’ Set Up in Greece and Italy, FRA Opinion,” Vienna (February 2019), https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-opinion-hotspots-update-03-2019_en.pdf.

⁴⁴ European Commission, Proposal for a Screening Regulation, Explanatory Memorandum, COM(2020) 612 final (2020), 7.

⁴⁵ European Commission, Amended Proposal for an Asylum Procedures Regulation, Explanatory Memorandum, COM(2020) 611 final (2020), 12.

⁴⁶ See European Commission, Updates of the Factsheet on Financial Support, https://ec.europa.eu/home-affairs/what-we-do/policies/european-agenda-migration/background-information_en.

observed in the implementation of the current framework should be considered.

As to the legislative proposals, the two steps envisaged in the integrated procedure should be examined in turn, starting with the screening stage. The preliminary decision made by responsible authorities at this early stage would play a vital role in the determination of an applicant's status, and could lead to a non-entry decision and a return order. The final legislative text should therefore include clear procedural guarantees on due process and clarify what legal remedies are available to those subject to the screening (Jakulevičienė 2020; Strik 2020).

Coming to the accelerated border procedure, pivotal issues include, among others, the duration of the procedure, legal remedies, and financial aid (ECRE 2020a; Vedsted-Hansen 2020b). States would have three months to carry out the assessment of asylum claims made by nationals from countries with high rejection rates. Yet, these applicants may well be eligible for protection. Their cases will by definition be the most complex. Pressure on national authorities to adhere to the short deadlines may prevent a careful examination of their individual situations. The text resulting from the negotiation should ensure that the length of the assessment does not undermine its quality.

In this context, access to an effective remedy should also be guaranteed. By contrast, the Commission's proposal establishes that a return decision should be issued at the same time as a negative asylum decision, and the two decisions should be examined together on appeal.⁴⁷ While joining the two appeal procedures may help to reduce the administrative burden on member states, this should not be considered a *carte blanche* to expedite the judicial review. Responsible authorities should not only review the merits of the application, but also carry out a comprehensive and rigorous assessment of the risk of refoulement.⁴⁸ Providing free legal aid would be vital to ensuring the fairness of this process.

Effective monitoring of procedural protections should also be set in place, given the persistent limitations in national implementation of the border

procedure under the current framework.⁴⁹ In several states, applicants are not provided legal advice and the short time limits set in national law make it practically impossible to prepare and carry out an adequate assessment of asylum applications. The situation is particularly problematic in Italy and Greece, where considerable gaps in legal support continue to be observed.⁵⁰ As the European Asylum Support Office has also noted, sudden and unexpected rises in arrivals make it even harder for national authorities to fulfill their responsibilities.

In February 2021, the European Parliament adopted a resolution underlining the difficulties in obtaining procedural protections and called on member states to respect their fundamental rights obligations in full when applying the border procedure.⁵¹ In this context, if and when the Commission's reform proposals reach the trialogue stage, concerns over the lack of adequate safeguards may become a sticking point in negotiations with the Parliament. The Parliament could also solicit the establishment of a transparent and independent monitoring mechanism to ensure that border procedures are carried out in compliance with human rights provisions, including in preparation for 'crisis' scenarios.

Large-scale detention at the EU's external borders?

The third question to be addressed concerns the possibility that states may (have to) resort to large-scale detention in order to prevent applicants from gaining access to EU territory, thus resulting in heightened risks of fundamental rights violations. Notably, for the entire duration of the screening process and during the border procedure, asylum applicants would not be regarded as having entered the EU territory, thus creating a "legal fiction" of non-entry (Cornelisse 2020a). This has led some to argue that the integrated procedure would lead to a fundamental rights vacuum along the EU's external borders (Campesi 2020).

Although the New Pact stops short of advocat-

⁴⁷ See European Commission, Article 53(1), Amended Proposal for an Asylum Procedures Regulation, COM(2020) 611 final (2020); see also the Explanatory Memorandum, 4.

⁴⁸ In accordance with Article 4 of the EU Charter of Fundamental Rights and Article 3 of the European Convention on Human Rights.

⁴⁹ EPRS, "Asylum Procedures at the Border," PE 654.201 (2020).

⁵⁰ FRA, "Update on Fundamental Rights" (2019).

⁵¹ European Parliament, Resolution of 10 February 2021 on the Implementation of Article 43 of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on Common Procedures for Granting and Withdrawing International Protection (2020/2047(INI)), P9_TA-PROV(2021)0042, Brussels (2021), https://www.europarl.europa.eu/doceo/document/TA-9-2021-0042_EN.html.

ing for systematic confinement—and the fiction of non-entry would not entail an outright suspension of fundamental rights obligations (Thym 2020)—it is hard to see how an expanded use of border procedures coupled with diminished safeguards could take place without keeping asylum seekers in closed facilities during the asylum or return procedures (Cornelisse 2020b).

The track record of member states combined with loose guarantees in the proposals cause particular concerns in this regard. In countries where the border procedure is applied, asylum applicants are often kept in closed centers under what amounts to de facto detention, thus depriving them of adequate remedies to which they would otherwise be entitled.⁵² This problem has also been observed at the EU's internal borders, yet the prolonged unlawful detention of asylum seekers has been especially documented along the EU's external borders.⁵³ As the EU Fundamental Rights Agency underlined, in Italian and Greek hotspots the situation is further worsened by insufficient legal support and inadequate living conditions.⁵⁴

For these reasons, there should be an unequivocal and explicit provision in the legislative framework stating that detention should only be used as a measure of last resort and only if less coercive alternative measures are not available. This should ensure that national authorities do not freely resort to extensive and systematic detention to restrict onward movements into their territory (ECRE 2020a, 17–22). Similar measures should be set in place for the screening process (ECRE 2020b). In parallel, an appropriate mechanism should be established to monitor state compliance and ensure full adherence to this protective framework.

Revising the personal scope of the proposal could further mitigate the risks for vulnerable people. According to the New Pact proposal, unaccompanied minors and children younger than 12 would normally be excluded from the border procedure.⁵⁵ Older children could still be subjected to it, though. This discretionary threshold could lead to large-scale detention

of underage people, in violation of Article 24 of the EU Charter of Fundamental Rights protecting the rights of the child. It would also be at odds with recent rulings by the Court of Justice of the European Union preserving protections for all children up to the age of 18.⁵⁶ Hence, all minors should be excluded from the scope of border procedures.

Without these additional protections, adoption of the reforms advanced in the New Pact could lead to detention-like conditions and systematic risks of human rights violations (Wessels 2021). This danger could become a matter of contention in negotiations with the European Parliament, which also warned against the use of systematic detention under border procedures.⁵⁷

In conclusion, greater efficiency can be a worthwhile goal, especially in the light of mixed migration flows on the one hand and the persistent backlogs in processing asylum claims in the EU on the other one. Member states and the European Parliament could legitimately pursue this goal. In spite of that, the integrated procedure—as currently conceived—may end up exacerbating instead of solving problems at the EU's borders, especially in overstretched southern states. The Commission's proposal for a screening process and an expanded border procedure should be followed by targeted improvements to ensure consensus within the Council and support from the Parliament.

The chief measures to address the shortcomings include adequate support to member states. Still, financial and operational assistance may not be enough to offset the additional pressure on their asylum and reception systems. In this setting, the proposal for an integrated border procedure will likely intensify calls by southern European states for greater solidarity. This leads to the question of whether the Pact can provide sufficient support as well as predictable measures for responsibility sharing (examined in the next section). Meanwhile, the risks of implementation gaps and human rights violations on the EU's doorstep also call for an independent and transparent monitoring mechanism.

⁵² EPRS, "Asylum Procedures at the Border," PE 654.201 (2020).

⁵³ *Ibid.*, 201 and following; Case C-808/18, *Commission v. Hungary* (December 17, 2020).

⁵⁴ FRA, "Update on Fundamental Rights" (2019).

⁵⁵ European Commission, Article 41(5), Amended Proposal for an Asylum Procedures Regulation, COM(2020) 611 final (2020).

⁵⁶ Case C-441/19, *TQ v. Staatssecretaris van Justitie en Veiligheid* (January 14, 2021).

⁵⁷ European Parliament, Resolution on the Implementation of Article 43 of Directive 2013/32/EU, P9_TA-PROV(2021)0042 (2021).

2.4 A new approach: Mandatory yet flexible solidarity

Another important proposal advanced by the New Pact is a new intra-European solidarity mechanism. This would replace the controversial Dublin Regulation, which most states agree creates clear imbalances in their responsibilities for asylum seekers arriving in Europe. Nevertheless, there has been little agreement over what should replace it.

At its core, the Commission's proposal would establish a form of mandatory yet flexible solidarity among member states. This section analyses how this proposal may work in practice. It focuses on one of its most novel and contentious components, namely, the attempt to link returns with solidarity through the notion of 'return sponsorships.' Whereas various flexible solidarity models have been discussed in recent years, return sponsorships have not featured in any of them and would be new in EU law.

The proposed solidarity mechanism is contained in the asylum and migration management regulation (AMMR) of the Pact.⁵⁸ The core elements of the existing Dublin III Regulation, determining which state takes responsibility for asylum applications, remain in place. In practice, and as past experiences have borne out, this means responsibility largely falls on those states at the external border, which are often states of first arrival.⁵⁹ If the Commission deems that a member state is faced with migratory pressure or a crisis, other states would be required to contribute based on their GDP and population. Member states can, however, choose whether to contribute by (i) relocating asylum seekers, (ii) supporting the return of migrants without permission to remain through return sponsorships, (iii) providing financial or operational assistance (with some caveats), or a combination of these.

Some corrective actions are envisaged if responses fall short overall, notably if states disproportionately opt to contribute through financial or operational support. As the Commission has taken pains to stress,

there will “at no point be mandatory relocations,” as states will always retain the option of contributing through returns.⁶⁰ Yet, if returns cannot be carried out within eight months (or four, in crisis situations), returnees would be transferred to the sponsoring state's territory to continue the return process from there.⁶¹

The objective of the mandatory yet flexible solidarity mechanism is twofold. On the one hand, the proposal aims to secure a compromise between member states on the complex question of responsibility sharing within Europe. Whereas southern European states have long led calls for mandatory relocations of asylum seekers, others, particularly in Central and Eastern Europe, have consistently rejected obligations to contribute and called for greater flexibility. A broadened catalog of responsibility-sharing measures is intended to incentivize greater participation by member states in solidarity efforts. On the other hand, the linking of solidarity and returns is part of a broader European political objective to increase returns from Europe.⁶² The percentage of return decisions that are effectively carried out (the return rate) has been consistently low in recent years, between 35–40 percent, falling further to 29 percent in 2019.⁶³ For member states and the European Commission alike, increasing this number is a priority.

Return sponsorships: The missing piece of the CEAS?

Whether the proposal can successfully bridge the political divisions between member states is uncertain. As the main cleavages in negotiations surface, pre-existing conflicts appear to remain firmly in place.⁶⁴ The Visegrád Four and likeminded states (such as Austria, Denmark, Slovenia, and Estonia) have called for greater flexibility in the catalog of possible forms of solidarity, and branded the transfer requirement (after

⁵⁸ European Commission, Proposal on Asylum and Migration Management, COM(2020) 610 final (2020).

⁵⁹ European Asylum Support Office, “EASO Asylum Report 2020,” Valletta (2020), 84 <https://easo.europa.eu/sites/default/files/EASO-Asylum-Report-2020.pdf>.

⁶⁰ See European Commission, “Vice-President Schinas and Commissioner Johansson on the New Pact for Migration and Asylum,” YouTube (September 23, 2020), <https://www.youtube.com/watch?v=gZ7PDIUR3-U>; see also Schinas, “Speech by Vice-President Schinas on the New Pact on Migration and Asylum” (2020).

⁶¹ For a detailed overview of the proposal's functioning, see Sundberg Diez and Trauner (2021); see also Maiani (2020).

⁶² At the launch of the New Pact, Commissioners Margaritis Schinas and Ylva Johansson announced “a new European ecosystem geared towards effective returns” that would send “an important message” to people intending to come to Europe without a valid claim to international protection. See Schinas, “Speech by Vice-President Schinas on the New Pact on Migration and Asylum” (2020); see also Y. Johansson, “New Pact on Migration and Asylum,” Speech, European Commission, Brussels (September 23, 2020) https://ec.europa.eu/commission/commissioners/2019-2024/johansson/announcements/new-pact-migration-and-asylum_en. For an overview of the Pact's full measures relating to returns, see Moraru (2021).

⁶³ See Eurostat, “Third Country Nationals Returned Following an Order to Leave—Annual Data (rounded)[migr_eirtn]” (accessed January 20, 2021), https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_eirtn&lang=en; see also Eurostat, “Third Country Nationals Ordered to Leave—Annual Data (rounded)[migr_eiord]” (accessed January 20, 2021), https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_eiord&lang=en.

⁶⁴ For an overview of these divisions between member states over future EU asylum and migration policy, see MEDAM (2020).

eight or even four months) in the return sponsorship proposal as relocations “through the back door” or under a “different name.”⁶⁵ Softening this requirement is their priority in Council negotiations.

Southern European states, in turn, have rejected the “imbalances” between responsibility and solidarity in the proposals, arguing that mandatory relocations should remain “the main solidarity tool” within Europe.⁶⁶ They have also called for greater safeguards and firmer commitments as part of the concept of return sponsorship, including shortening the period before the transfer requirement. Although these positions only indicate the direction of negotiations to come, the work of resolving these tensions is set to be long and complicated.

Beyond political difficulties, making the new solidarity proposal work in practice is not without complications either. Three questions can already be identified that will determine its effective functioning and ability to fulfill its objectives. As the proposal continues to be defined in negotiations, addressing these questions will likely be a priority.

Tangible and predictable solidarity

First, will the proposed solidarity mechanism provide tangible support to EU border states? The costs and obligations for countries of first arrival under the New Pact would continue to be substantial. The key tenets of the Dublin Regulation would remain in place, allocating the responsibility for newly arriving asylum seekers primarily to the first country of entry. What is more, as the previous section has discussed, the new proposals (including screening and border procedures) would create new obligations for EU border states, which may demand further resources (Maiani 2020). Meanwhile, the solidarity mechanism introduces various forms of flexibility in how contributors could express solidarity. This flexibility may come at the expense of predictable and concrete support for states facing migratory pressure. This could render the Pact a weak insurance scheme for EU border states.

This high degree of flexibility carries a number of risks. Experience suggests that there tends to be limited political will among member states to contribute to relocations on the scale of actual needs.⁶⁷ It is unclear how the proposal can preserve the balance of solidarity measures overall if states disproportionately favor contributing through return sponsorships, even

when there is a greater need for relocations or they would offer greater relief.

Likewise, states retain significant choice in the form of their contributions, for example, not only of whether to sponsor returns, but also of which nationalities and through what measures. A complex matching exercise between what benefiting states need and what sponsoring states are willing and able to offer will likely be necessary. A new EU return coordinator—a position yet to be created—would be tasked with the ambitious job of mediating and resolving any tensions. This setup could nevertheless descend into time-consuming, politically sensitive, and ad hoc negotiations. Cooperation-reluctant member states may find many opportunities to undermine the solidarity mechanism and lower their contributions in practice.

Furthermore, the issue of when and how the solidarity mechanism is triggered may prove crucial. The current proposal grants considerable discretion to the Commission to determine when a member state is confronted with migratory pressure or a crisis. Its decisions will be based on a “holistic qualitative assessment” that considers a broad range of factors, which are purposely left vague to retain its flexibility.⁶⁷ Such discretion also applies when determining how different contributions relate to each other (for example, how many relocations equal the financing of a new detention center). This large coordinating role for the Commission makes it difficult to predict when and how the mechanism would be triggered. That in turn is an element of concern for several member states and MEPs. Simultaneously, and perhaps more concerning, if this strong coordinating role is not preserved in negotiations, the AMMR’s solidarity mechanism may come to resemble the ad hoc bargaining that has characterized relocation efforts over the past few years.

Lastly, the enforcement of the solidarity mechanism raises further questions. No targeted incentives, sanctions, or enforcement tools appear to be envisaged if a member state fails to comply with the solidarity mechanism, relying instead on infringement procedures. These tend to be lengthy and may not be enough to secure state compliance. The Commission, moreover, tends to be hesitant to trigger infringement procedures in politically sensitive areas, as they can damage states’ support and cooperation. There is no simple answer as to how to prevent the more politically sensitive proposals of the Pact from becoming a dead letter. Still, infringement procedures may be inadequate tools to achieve this.

⁶⁵ See Polish Presidency of the Visegrád Group, “New Pact on Migration and Asylum” (2020); see also *Euronews*, “Hungary, Poland and Czech Republic ‘Oppose EU’s New Migration Pact’” (September 24, 2020) <https://www.euronews.com/2020/09/24/hungary-poland-and-czech-republic-oppose-eu-s-new-migration-pact>; and also Barigazzi (2020).

⁶⁶ Government of Spain, “New Pact on Migration and Asylum” (2020).

⁶⁷ The two voluntary, ad hoc relocation mechanisms established in recent years (the Malta Declaration of September 2019, aimed at asylum seekers disembarked in Malta and Italy following rescue at sea, and the Commission’s scheme to relocate unaccompanied children from the Greek islands from March 2020 onwards) have both seen limited take-up. Only a handful of member states have committed to relocations, mostly in small numbers, and this after considerable pressure and delays.

⁶⁸ European Commission, Proposal on Asylum and Migration Management, COM(2020) 610 final (2020), 12, 20, and Article 53(3)–(4).

The effect on returns and migrants' vulnerabilities

Second, is the linking of returns and solidarity through the return sponsorship concept a useful addition to EU return policies? Whereas return sponsorships are intended to facilitate useful and efficient cooperation on returns, they also necessitate further complex coordination and bureaucracy. As a result, they may yield different added value in different contexts. Additionally, this new instrument must be capable of navigating the complexity and sensitivity of returns, without creating new human rights risks for migrants. These two challenges are explored in turn.

On the challenge of added value, the success of the novel concept of return sponsorship will depend on whether those countries most likely seeking to sponsor returns will have any substantive value to offer. Can they achieve sufficient returns, and do they have any meaningful diplomatic clout or close relations with key countries of origin? Some member states have far more extensive bilateral ties with non-EU countries than others: over 70 percent of total bilateral readmission agreements between EU and African countries are covered by France, Italy, and Spain (Cassarino 2020, 5–6). By contrast, Hungary and the Czech Republic—two countries that appear more likely to reject relocations and favor contributing through return sponsorships instead—both have rates of effective return well below the European average.

At the same time, countries with stronger diplomatic links will need to be willing to leverage them for a common European objective. Readmission issues tend to affect bilateral relations negatively, as they are not popular with non-EU countries. Member states may be reluctant to put their privileged partnerships under pressure to execute returns from another state's territory. In that vein, will non-EU countries accept negotiating with their historical partner on behalf of another EU member state or group of states?

A further challenge to the effectiveness of return sponsorships will be to overcome the mutual trust deficit among member states. Sponsoring states must trust a benefiting state's return decision to be willing to facilitate it; yet member states are far from a mutual recognition of return decisions or a common understanding of safe countries of return. They must also have confidence that benefiting states have made adequate efforts to execute a return. For the initial months, the hosting state will be responsible for the return decision and procedure, including deciding whether to

detain the person pending return or enable a period of voluntary departure; these decisions could impact the effectiveness of the return. Absent mutual trust, sponsoring states may argue that benefiting states have not made all due efforts to return a non-EU national or limit absconding, and reject a transfer of responsibilities after the prescribed period. The politicization of the return sponsorship and, in turn, its difficult implementation, is to be expected.

The consistency of the return sponsorship instrument with the Commission's ambitions for a "human and humane approach" also merits attention. The proposal entails a complex division of responsibilities between benefiting and sponsoring states, whose standards and practices may differ widely. The establishment of clear accountability and monitoring mechanisms for the various actors involved in return and readmission procedures will be paramount.⁶⁹

For instance, migrants' uncertain legal status after transfer may compromise their access to rights and basic services. Migrants whose return cannot be conducted within eight months (four in times of crisis) would typically be transferred to the sponsoring member state. Safeguards will need to be established for this group. For example, could they be detained a second time, if they had already been detained in the first host state? Moreover, the likelihood of an effective return diminishes over time,⁷⁰ so migrants may face a prolonged stay in the state they are being transferred to. There is little EU harmonization of minimum standards for safeguarding people who cannot be returned. A 2013 European Commission study found that a large number of member states do not provide consistent access to reception, basic health care, or the labor market for migrants whose return has been indefinitely postponed.⁷¹ In some states, this may lead to inadequate living conditions and situations of protracted irregularity.

High expectations on readmission

Third, and finally, the new solidarity mechanism, and particularly the return sponsorship proposal, assumes a significant increase in the number of migrants returned; what happens if this expectation cannot be met? To function coherently and fulfill its political rationale, the Commission's concept of return sponsorship relies on returns being conducted faster and in far larger numbers. If this is not achieved, the lion's share of returnees would be transferred to other mem-

⁶⁹ For further analysis on the fundamental rights and accountability implications of the return sponsorship mechanism and EU return policies, see Sundberg Diez and Trauner (2021) and Sundberg Diez (2019).

⁷⁰ EPRS, "The Proposed Return Directive (recast): Substitute Impact Assessment," PE 631.727, Brussels (2019), 115, [https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_STU\(2019\)631727](https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_STU(2019)631727).

⁷¹ European Commission, "Study on the Situation of Third-Country Nationals Pending Return/Removal in the EU Member States and the Schengen Associated Countries," HOME/2010/RFX/PR/1001, Brussels (March 11, 2013), 33–47, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/irregular-migration-return/readmission/docs/11032013_study_report_on_immigration_return-removal_en.pdf.

ber states in practice, rather than—as intended—such transfers being the exception. This would reignite sensitive discussions on responsibility sharing in Europe, lead to blame games among member states over failed returns and bottlenecks in EU return systems, and add pressure on countries of first arrival, which remain responsible for hosting returnees for the initial eight months. It would compound the protection and inclusion concerns of migrants with low return prospects.

Increasing returns beyond current levels is, therefore, a cornerstone of the New Pact proposals. But, as MEDAM (2020) has previously noted, this is not a simple exercise. The principle of non-refoulement should be duly accounted for (see section 2.2 above). Some non-EU countries' reluctance to readmit their own (and other) nationals must also be navigated carefully. In this regard, the external dimension of migration policy will play a critical role. The Commission's initiatives in this area are discussed in section 2.5.

A way forward for negotiations

The Commission set itself high ambitions with its proposal to link solidarity and returns through the return sponsorship concept. The effort to bridge political divides through an inherently complex proposal for mandatory yet flexible solidarity has landed in an administratively heavy mechanism, whose functioning requires careful consideration. If this new instrument is to be effective in practice, negotiators should ensure that the proposals can withstand breakdowns in trust, waning appetite for cooperation or a lack of political will to contribute to solidarity efforts among EU states.

More specifically, negotiators should, for a start, focus on enhancing the predictability and tangibility of support provided by the solidarity mechanism to EU border states. Bolstering the available tools and in-

centives to enforce solidarity contributions, including through the solidarity forum and correction mechanism, will be key to ensuring the instrument continues to function even if cooperation among states does not run smoothly.

Negotiators still face the complicated task of defining the types of solidarity contributions that should be possible in assorted situations. Whereas some states have pushed for an even broader catalog of possible mutual support measures, a distinction may need to be drawn for circumstances where relocations should be mandatory. This could avoid the new system descending into ad hoc, time-consuming negotiations before relief is systematically provided in times of crisis. Finally, the predictability of the mechanism—in terms of how it is triggered and implemented—should be reinforced. Among others, the Commission's coordinating role may need to be preserved, yet its transparency and clarity improved.

Similarly, negotiators should ensure that the solidarity mechanism can continue to work coherently even if the level of effective returns remains low. The return sponsorship instrument should be sensitive to the complexities inherent in EU return procedures and avoid creating new vulnerabilities for migrants who are issued return decisions. Developing minimum safeguards during and following a transfer among member states, coupled with effective monitoring, will be central. These should apply during the return process to ensure, for example, the proportionate use of detention. They should also address situations where return is significantly hampered or proves impossible, potentially placing people in situations of protracted irregularity. Explicitly excluding vulnerable groups and people with established links in the host country (for whom transfers thus may not be logical) from the proposal would be a further step forward.

2.5 The external dimension: All bark and no bite?

The Commission placed the external dimension of migration management front and center of its presentation of the New Pact. Among others, it declared that the Pact would constitute “a change of paradigm in cooperation with non-EU countries,” based on “comprehensive, balanced, mutually beneficial” and “tailor-made” partnerships.⁷² Despite this

rhetoric, the proposals to strengthen partnerships with countries of origin and transit within the New Pact offer few concrete innovations. The three most substantial initiatives concern labor migration, resettlement, and return and readmission. Notably, the Pact proposes to deepen the links between these policy areas through a growing use of conditionality.

⁷² See European Commission, “A Fresh Start on Migration,” IP/20/1706 (2020); see also Schinas, “Speech by Vice-President Schinas on the New Pact on Migration and Asylum” (2020).

Legal pathways and readmission: More of the same?

The Commission plans to promote “legal migration to the EU through a new Skills and Talent Package.”⁷³ Building on pilot projects, this will include the establishment of an EU talent pool and talent partnerships in the EU’s neighborhood, the Western Balkans, and Africa. The details will follow separately in late 2021. Member states and the European Parliament are also encouraged to adopt the revised Blue Card Directive to facilitate high-skilled labor mobility to Europe.

While these initiatives have been broadly welcomed, they remain vague (Sarolea 2021). Important pending questions include whether talent partnerships will—in practice—prove any more ambitious or impactful than previous modest efforts, such as EU Mobility Partnerships, and whether their design will enable development benefits in countries of origin and destination alike (IOM 2020a; Ruhs 2020; Dempster and Clemens 2020). The skill sets and levels targeted, the inclusion of skills-transfer, circular migration, or re-integration elements, and the connection to broader inclusion and worker protection agendas, will all be pertinent to this end.

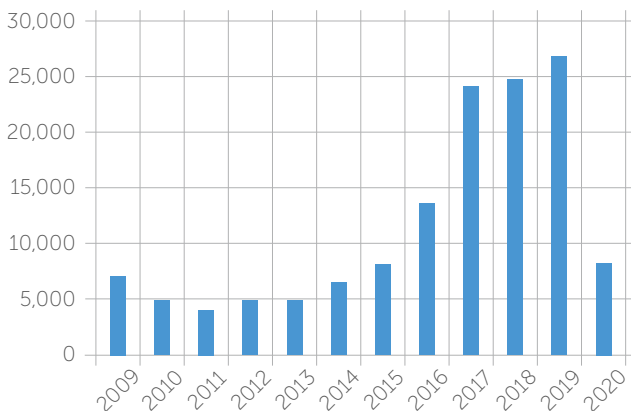
Resettlement and complementary pathways also feature in the proposals. The New Pact, most importantly, encourages member states to expand comple-

mentary pathways to protection and to pursue an “EU approach to community sponsorship” of refugees. It also urges member states to resume or scale up existing resettlement schemes (figure 3), following their suspension for most of the COVID-19 pandemic, while enabling them to carry over 2020 pledges into 2021. Lastly, it calls on the European Parliament and the Council to advance on negotiations on an EU resettlement framework.⁷⁴

Again, while positive, the impact of this non-binding recommendation is limited (Leboeuf 2020). Matters such as how to ensure that resettlement opportunities continue to prioritize the most vulnerable and how to define a European approach to complementary pathways while retaining the localized, grassroots quality of these initiatives, remain uncertain (Bamberg 2018). Of more concern is that by allowing member states to spread their pledges of 29,500 resettlement places over two years, the Commission is in effect scaling down European resettlement efforts at a time when global needs are greatest (UNHCR 2020b). The UNHCR has, by contrast, called on European states to admit an additional 35,000 refugees in 2021 on top of existing pledges (UNHCR 2021; 2020c).

A policy area that receives more attention in the New Pact at this stage is return and readmission, which is to become a “firmer priority” in the EU’s external partnerships.⁷⁵ To this end, the New Pact builds on existing leverage and conditionality mechanisms to increase the cooperation of non-EU countries on readmission. As outlined in the MEDAM (2020) Assessment Report, the EU has already extended its conditionalities over the past few years. Among others, the 2019 revision of the Visa Code introduced a mechanism for the Commission to assess a non-EU country’s level of cooperation annually. Based on these assessments, the Commission may propose visa restriction or facilitation measures to the Council, to incentivize readmission. The first annual factual assessment under this mechanism recently concluded. It found that cooperation needs improvement with more than a third of the non-EU countries assessed, whereas it is good or average for nearly two thirds.⁷⁶ Reportedly, the countries being targeted for strengthening cooperation include Iraq, Iran, Libya, Senegal, Somalia, Mali, Gambia, Cameroon, the Republic of Congo, Egypt, Eritrea, Ethiopia, and Guinea-Bissau.⁷⁷

Figure 3 Number of people resettled in EU member states annually, 2009–20



Source: Eurostat; figures are for the EU-28 up to 2019 (inclusive).
 Note: Figures for 2020 are from the UNHCR Resettlement Data Finder, updated as of 9 April 2021.

⁷³ European Commission, “New Pact on Migration and Asylum: Questions and Answers,” Brussels (September 23, 2020), https://ec.europa.eu/commission/press-corner/detail/en/qanda_20_1707.

⁷⁴ European Commission, Commission Recommendation of 23.9.2020 on Legal Pathways to Protection in the EU: Promoting Resettlement, Humanitarian Admission and other Complementary Pathways, C(2020) 6467 final, Brussels (September 23, 2020), https://ec.europa.eu/info/sites/info/files/commission_recommendation_on_legal_pathways_to_protection_in_the_eu_promoting_resettlement_humanitarian_admission_and_other_complementary_pathways.pdf.

⁷⁵ Tagesschau, “Wie soll #Europa mit Geflüchteten an seinen Grenzen umgehen?” Twitter (October 26, 2020), <https://twitter.com/tagesschau/status/1320746151470006274>.

⁷⁶ European Commission, Communication on Enhancing Cooperation on Return and Readmission as Part of a Fair, Effective and Comprehensive EU Migration Policy, COM(2021) 56 final, Brussels (February 10, 2021), https://ec.europa.eu/transparency/regdoc/rep/1/2021/EN/COM-2021-56-F1-EN-MAIN-PART-1_PDF.

⁷⁷ J. Silk, “EU Threatens ‘Some’ African States with Schengen Visa Restrictions,” *Deutsche Welle* (March 28, 2021), <https://www.dw.com/en/eu-threatens-some-african-states-with-schengen-visa-restrictions/a-57032659>.

Article 7 of the newly proposed AMMR extends this mechanism to other policy areas. It suggests that “any measures...could be taken to improve the cooperation of that third country as regards readmission.”⁷⁸ If accepted, this clause would allow the EU to use development aid, trade, legal pathways, and financial support more proactively, as the proverbial ‘stick’ for increasing cooperation on readmission. In terms of positive incentives, the Pact envisages a large role for migration in its external funding across the EU budget. For instance, 10 percent of the over €70 billion assigned to the Neighbourhood, Development, and International Cooperation Instrument will be allocated to migration-related issues.⁷⁹

Critically, EU talent partnerships and resettlement commitments are also expected to play a sizeable role as incentives for cooperation. The Commission is clear that these two initiatives will be contingent on non-EU countries’ cooperation on migration management. Aside from tackling skills and labor shortages in the EU, talent partnerships are specifically seen as “part of the EU’s toolbox for engaging partner countries strategically on migration.”⁸⁰ The Commission’s 2016 proposal for a Union resettlement framework, moreover, states that the effective cooperation of non-EU countries on migration, including stemming arrivals and readmitting migrants, “will be an important element on which the Commission will base its decision” to establish resettlement schemes.⁸¹

Consolidating the conditionality principle

This consolidation of the conditionality principle in the EU migration policy framework is significant. As noted above, the coherence of many of the Pact proposals hinges on its success in increasing the number of migrants returned to non-EU countries. Whether the EU can accomplish this boost in returns is far from certain. Two crucial questions will determine whether the Commission’s ambitions can be fulfilled: (i) Is conditionality an effective tool in securing the cooperation of non-EU countries on readmission? (ii) Will member states be willing to exercise this conditionality in practice?

First, as the MEDAM (2020) Assessment Report argued, the effectiveness of conditionality cannot be taken for granted. This is partly due to the limited available evidence⁸² and the mixed results where conditionalities have been employed in readmission negotiations (Kipp, Knapp, and Meier 2020). Non-EU countries may have strong reasons for being reluctant to work closely with the EU on readmission, as this can be economically and politically costly. Even if the EU changes its approach, it may struggle to overcome this calculation (MEDAM 2020).

Second, creating conditionality frameworks is easier than applying them in practice. Member states retain the authority to expand or restrict visa access and labor pathways into their territories. They will need to have the political will to actually use this leverage and accept the trade-offs of the conditionality approach, whether positive or negative. This willingness has been lacking in the past.

On the one hand, regarding positive incentives (more-for-more), member states may be reluctant to facilitate visa travel or open up access to their labor markets to sufficient degrees. Past efforts to establish labor and visa pathways with key countries of origin and transit have been highly limited, inaccessible, or targeted only at a narrow skillset or portion of the population (MEDAM 2020; Guild 2020). This hesitation has, for example, blocked progress in long-running negotiations with Morocco and Tunisia. In the coming years, member states will face an adverse economic context and higher unemployment rates due to the COVID-19 pandemic. Whether they will recognize the significant positive contributions of migrants to European economies and make a long-term investment in promoting labor mobility (Ruhs 2020), or become more reticent to expand non-EU nationals’ access to their labor markets, remains to be seen.

On the other hand, regarding negative conditionality (less-for-less), member states would need to act in unison and prioritize migration-related issues in Europe’s foreign policy making.⁸³ Here too, states may be reluctant to accept the impositions of visa or economic sanctions against a valued partner solely due to insufficient cooperation on returns (particularly returns from other mem-

⁷⁸ European Commission, Proposal on Asylum and Migration Management, COM(2020) 610 final (2020), Article 7(1).

⁷⁹ European Commission, “EU Budget for the Future: The Neighbourhood, Development and International Cooperation Instrument,” Brussels (June 2020), https://ec.europa.eu/international-partnerships/documents/eu-budget-future-neighbourhood-development-and-international-cooperation-instrument_en.

⁸⁰ European Commission, Communication on a New Pact on Migration and Asylum, COM(2020) 609 final (2020), 23.

⁸¹ European Commission, Proposal for a Regulation of the European Parliament and of the Council Establishing a Union Resettlement Framework and Amending Regulation (EU) No 516/2014 of the European Parliament and the Council, COM(2016) 468 final, Brussels (July 13, 2016), <https://ec.europa.eu/transparency/reg-doc/rep/1/2016/EN/1-2016-468-EN-F1-1.PDF>.

⁸² The Commission conducted an impact assessment in 2018 alongside the revised Visa Code, which codified a conditionality link between readmission cooperation and visa benefits. The Commission concluded that “there is no hard evidence on how visa leverage can translate into better cooperation of third countries on readmission,” besides limited “anecdotal experience.” See European Commission, Commission Staff Working Document, Impact Assessment Accompanying the Document Proposal for a Regulation of the European Parliament and of the Council Amending Regulation (EC) No 810/2009 Establishing a Community Code on Visas (Visa Code), SWD(2018) 77 final, Brussels (March 14, 2018), 31, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2018:077:FIN>.

⁸³ For further analysis on the application of conditionality in practice, see Sundberg Diez and Trauner (2021, 13–15), Cassarino and Marin (2020), and MEDAM (2020, 28–32).

ber states). Many EU states hold privileged and historical relationships with non-EU countries, which often go far beyond migration to encompass economic, foreign, and security issues (as seen, for instance, in Spain-Morocco, Italy-Tunisia, and France-Mali relations).

International organizations, civil society, and representatives from several non-EU countries, in turn, have already reacted negatively to the Pact's increased use of conditionality to secure returns.⁸⁴ The Commission's Communication accompanying the New Pact proposals acknowledges that readmission cooperation can be "politically sensitive for partners."⁸⁵ This indicates that the costs of a conditionality approach may be considerable and need to be carefully weighed.

Finally, EU institutions and member states will need to factor the disruptions caused by the pandemic into their migration policy making. The health emergency is expected to have a significant negative impact on the main countries of origin and transit, involving the loss of livelihoods and rises in extreme poverty, food insecurity, malnourishment, and resource competition. Parallel concerns include constraints to peacekeeping operations, humanitarian aid, and other stabilization efforts (Lakner et al. 2020; Neat and Desmidt 2020). Against this backdrop, global responsibility sharing, the establishment of safe and legal migratory pathways

(including access to protection), and effectively allocated development aid may only grow in importance in order to limit global humanitarian crises and forced displacement. At a time when non-EU countries' capacity is coming under especially great pressure, tying these vital efforts to their migration management capabilities may be counterproductive.

EU institutions and member states should thus be wary of inflated expectations regarding the likely effect of conditionality on returns. Overall, the concrete proposals of the Pact are unlikely to be a gamechanger for partnerships with countries of origin and transit. To ensure their success—in both the internal and external dimensions—negotiators should ensure that these proposals retain their benefits and coherence, even if migration cooperation beyond Europe continues more or less as usual.

On the external dimension, the current focus of the proposals on return and readmission may prove to be one of the Pact's weaknesses. Promising initiatives, such as advancing an EU approach to complementary pathways to protection or expanding labor migration pathways, will need to be fully developed into visible, credible, and sustainable programs, whose merits are considered independent of their relevance for migration management objectives.

2.6 Outlook

The negotiations on the New Pact on Migration and Asylum are likely to remain difficult over the coming months, both within the Council and between the Council and the Parliament. The more politically sensitive proposals—notably those relating to border procedures and to solidarity—are bound to change substantially as discussions progress. The questions and complications outlined in this chapter provide an indication of the scale of the issues yet to be resolved and point to potential ways to address the main shortcomings of the proposals. Meanwhile, important legislative and non-legislative initiatives remain pending, such as the EU skills and talent package or the strategy on the future of Schengen, which may yet change the overall balance and 'flavor' of the Pact proposals.

In the meantime, work on the external dimension of migration policy can be expected to gain further traction, as there is wide consensus among member states on the need to further reduce irregular arrivals,

and negotiations with countries of origin and transit can continue without legislative changes to the CEAS. All in all, the EU's latest approach—as outlined in the New Pact—is unlikely to transform non-EU countries' interests and practices, particularly against the background of new needs and priorities resulting from COVID-19.

Along with seeking to enhance various partnerships with priority countries in Africa, cooperation with Turkey will be high on the agenda. Following the heightened frictions marking this relationship in 2020, and the contracting of the last funds under the 2016 EU-Turkey Statement at the end of last year, the future form of migration management cooperation between the EU and Turkey is an open question. At the same time, as the EU scales up its negotiations with other key countries of origin and transit, the lessons from this partnership over the past five years should be evaluated closely. The remainder of this assessment report is dedicated to that partnership.

⁸⁴ See e.g., the comment by Ambassador Teneng Mba Jaiteh, Head of Mission of The Gambia to the EU, during the online event "Return and Readmission after the New Pact" held as part of the MEDAM project on October 21, 2020 by the European Policy Centre, Brussels, <https://www.epc.eu/en/events/Return-and-readmission-after-the-New-Pact-37cb34>; see also IOM (2020b) and Tadesse Abebe and Mbiyozo (2020).

⁸⁵ European Commission, Communication on a New Pact on Migration and Asylum, COM(2020) 609 final (2020), 17.

3 Turkey's migration governance in the context of EU-Turkey relations

Lead authors: Matthias Lücke and Saime Özçürümez

Since 1960, Turkey has evolved from a country of emigration to hosting a number of diverse waves of immigrants. In the late 1980s, several hundred thousand Muslims were compelled to leave Bulgaria and found a new home in Turkey. During the 2000s, growing numbers of labor migrants came to Turkey, especially from the Turkic-language countries of the Caucasus and Central Asia. Following a large inflow of refugees mostly from Syria since 2011, Turkey is now, globally, the country that hosts the largest refugee population.

These migration movements all impact upon EU-Turkey relations. There is a large Turkish diaspora in several western EU member states, especially Germany, with strong transnational practices in many families along with important religious and political links to Turkish state institutions. Bulgaria is now an EU member state that shares a land border with Turkey. Immigrants from the Middle East and Central Asia reflect Turkey's growing geopolitical role as a regional power at a time when the EU is (still) conducting accession negotiations with Turkey.

With respect to international protection, Turkey is a signatory to the 1951 Geneva Convention Relating to the Status of Refugees but maintains the original geographical limitation to refugees from Europe and therefore does not process asylum applications from people arriving from non-European countries.⁸⁶ Currently, the vast majority of forcibly displaced persons in Turkey are from Syria. The Temporary Protection Regulation⁸⁷ determines the legal framework for policies and service delivery for the Syrian refugees.⁸⁸ Following the large onward migration movement to northern and Central Europe in the autumn of 2015, the spring 2016 EU-Turkey Statement⁸⁹ provides for EU support for refugees in Turkey while Turkey com-

mits to preventing onward migration by refugees to the EU.

In this chapter, we discuss how these migration movements have influenced migration policy debates and migration management in Turkey as well as EU-Turkey migration cooperation. We do so to better understand the options for future EU-Turkey cooperation in refugee protection and migration management, given that EU funding for refugees in Turkey under the 2016 Statement will run out during 2021 and negotiations on future migration relations are underway between the EU and Turkey.

We begin by summarizing the migration movements that have affected Turkey and EU-Turkey relations since the 1960s (section 3.1). Although migration matters have always been embedded in EU-Turkey relations, including Turkey's EU accession process, we limit our analysis to examining the EU-Turkey Statement on cooperation in managing migration. As of spring 2021, little progress has been made with the broader issues of visa liberalization, the modernization of the EU-Turkey customs union, or EU accession. At the same time, EU-Turkey cooperation in migration management and refugee protection will be essential going forward to promote refugee protection in the wider region.

In section 3.2, we assess the economic impact of the recent inflow of mostly Syrian refugees to Turkey, the temporary protection regime that has emerged, and the contribution of EU support to hosting refugees. We also consider the limits to economic and social integration imposed by the existing temporary protection regime.

In section 3.3, we shift our focus to the policy challenges facing Turkey with respect to each of the three large populations with humanitarian needs: (i) Syrian

⁸⁶ Since 2014, the Law on Foreigners and International Protection has defined international protection as "the status granted for refugee, conditional refugee, and subsidiary protection" (Turkey: Law No. 6458 of 2013), <https://www.refworld.org/docid/5a1d828f4.html>. Details on who may qualify for these statuses are in Articles 61–63. Asylum seekers are registered and may remain in Turkey until they can be resettled in a country of asylum (see section 3.3).

⁸⁷ See Turkey: Temporary Protection Regulation (October 22, 2014), <https://www.refworld.org/docid/56572fd74.html>.

⁸⁸ A note on terminology: throughout this report, we use the term 'refugees' for all those who have escaped the conflict in Syria and have been granted temporary protection in Turkey. Because of the geographical limitation Turkey applies to the 1951 Geneva Convention, they cannot go through an asylum application process and do not receive the status of a Geneva Convention refugee. Our usage of terminology is in line with the UNHCR's as well as the EU-Turkey Statement, which both refer to 'refugees.'

⁸⁹ European Council, "EU-Turkey Statement," Press release (March 18, 2016), <https://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/>.

refugees under temporary protection in Turkey; (ii) non-Syrian asylum seekers in Turkey (most of whom are from Iraq, Iran, and Afghanistan) who may register for international protection and possible resettlement but cannot receive asylum in Turkey because Turkey applies the 1951 Geneva Convention only to asylum seekers from Europe; and (iii) people in ar-

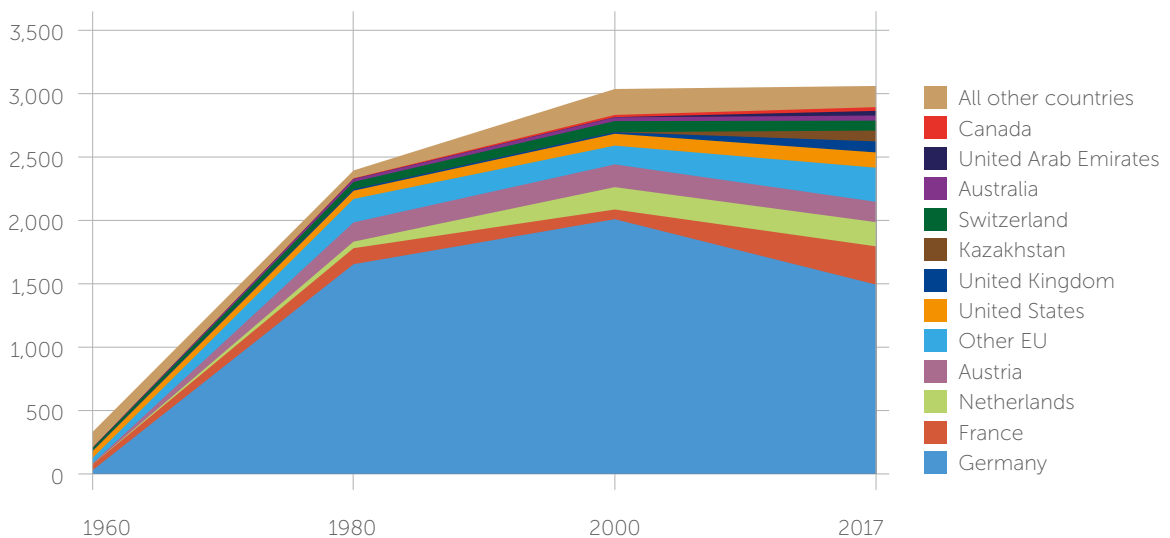
reas of northern Syria under Turkish military control where up to 3 million individuals have been internally displaced within Syria. We discuss what would be good policy practices in each case and reflect on how the EU can support Turkey in addressing these large humanitarian challenges in the context of EU-Turkey migration cooperation.

3.1. The evolution of migration governance in Turkey: Milestones in EU-Turkey migration cooperation

In Turkey, the EU-Turkey Statement of 2016 was viewed as part of ongoing close cooperation in many policy areas, including migration. Turkey applied for membership of the European Economic Community as early as in 1959. In 1964, the Ankara Agreement came into effect, creating the foundations for EU-Turkey cooperation.⁹⁰ However, Turkey’s can-

didacy status was only recognized by the EU in 1999 and accession negotiations began in 2005. Since the 1950s, there has been a continuous flow of people from Turkey to Europe for economic and political reasons, especially through the guestworker scheme in Germany, but also to France, the Netherlands, and Austria (figure 4).

Figure 4 Stock of emigrants by destination country, Turkey, 1960–2017 (thousand)



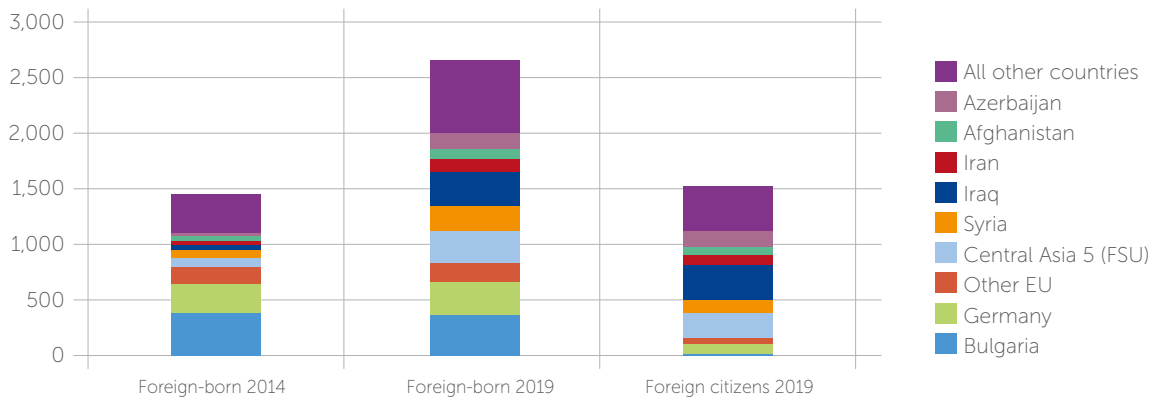
Source: World Bank bilateral migration data; own compilation.

⁹⁰ For details, see the Agreement establishing an Association between the European Economic Community and Turkey (September 12, 1963) OJ L 361/29 (31.12.77), https://eur-lex.europa.eu/resource.html?uri=cellar:f8e2f9f4-75c8-4f62-ae3f-b86ca5842eee_0008_02/DOC_2&format=PDF; and the Additional Protocol of 1970, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A21970A1123%2801%29>.

In the many decades from Turkey’s application for EU membership to the start of accession negotiations, the main theme of migration cooperation was emigration and the Turkish diaspora in Europe. Turkey set up the Presidency for Turks Abroad and Related Communities in 2010 to develop links between the Turkish state and Turks living abroad.⁹¹ From the 1990s onwards, Turkey saw inflows of students, professionals, and workers. They arrived mainly from Eastern Europe, the Central Asian republics of the former Soviet Union, and areas of conflict in the Middle East (figure 5).

Erder and Gençkaya 2014). Turkey’s EU accession process had accelerated after the 1999 Helsinki Conclusions of the European Council.⁹⁴ The Turkish government’s 2003 “Strategy Paper for the Protection of the External Borders in Turkey” addressed border management, migration management, and asylum (Kirişci 2007). The 2005 National Action Plan for Asylum and Migration introduced principles and objectives for establishing new institutions as well as transforming the legislative framework on asylum and migration, borders and visa regulations, human smuggling and trafficking, which all aimed at harmonization with

Figure 5 Foreign-born and foreign-citizenship population, Turkey, 2014–19
(thousand)



Source: Turkstat (<https://data.tuik.gov.tr>); own calculations.
Note: FSU = former Soviet Union.

Irregular migration, asylum policies, and border management practices remained the most contentious issues and, until the 1990s, Turkey regulated these movements through a fragmented administrative structure and legislation dating back to the 1930s. The ‘1994 Regulation’⁹² provided a new legal framework for refugee protection and established the Ministry of Interior as the key public agency in the status determination process. Under the 1994 Regulation, which was only amended in 2006, many cases concerning human rights violations were brought to the European Court of Human Rights. One frequent point of contention was deportation before asylum seekers could access a reasonable asylum procedure.⁹³

The current legal framework and institutions for migration governance in Turkey were established with EU support in line with international standards in the mid-2000s (Özçürümez and Şenses 2011; İçduygu,

the EU *acquis* in these fields. The 2007 Action Plan on Integrated Border Management put forward proposals for re-designing and improving border controls.

EU conditionality for harmonization with the EU *acquis* in migration and asylum governance came with EU financial and technical support. In 2008, the Migration and Asylum Bureau and the Bureau for Border Management were established within the Ministry of Interior. By 2013, Turkey had signed a Readmission Agreement with the EU, which covered nationals of EU member states and Turkey, non-EU nationals, and stateless persons. During this period, Turkey and the EU also began to negotiate a visa liberalization regime that would allow Turkish nationals visa-free travel to the EU.

In 2014, the Law on Foreigners and International Protection⁹⁵ (LFIP) came into force and today constitutes the main legal framework governing migration

⁹¹ See Ministry of Culture and Tourism, Presidency for Turks Abroad and Related Communities, <https://www.ytb.gov.tr/en>.

⁹² See Turkey: Regulation No. 1994/6169 on the Procedures and Principles related to Possible Population Movements and Aliens Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum either from Turkey or Requesting Residence Permission in order to Seek Asylum from Another Country (January 19, 1994; last amended 2006), <https://www.refworld.org/docid/49746cc62.html>.

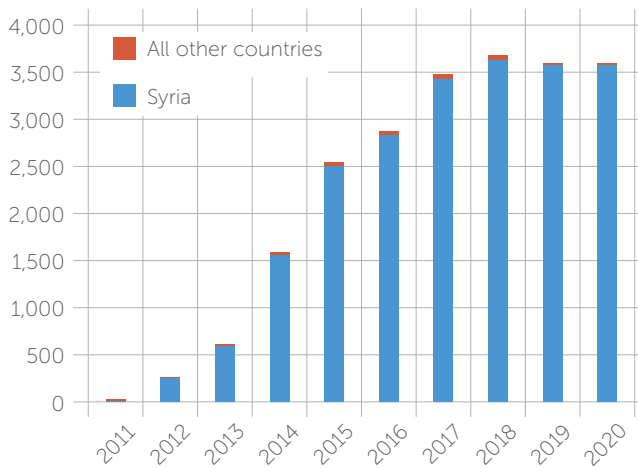
⁹³ For a detailed account of the changes in migration and asylum policy in Turkey since 1923, see İçduygu, Erder, and Gençkaya (2014).

⁹⁴ See the European Parliament’s website, Presidency Conclusions of the 10–11 December 1999 Helsinki European Council, especially point 12: https://www.europarl.europa.eu/summits/hel1_en.htm.

⁹⁵ Law No. 6458 of 2013 on Foreigners and International Protection, https://www.unhcr.org/tr/wp-content/uploads/sites/14/2017/04/LoFIP_ENG_DGMM_revised-2017.pdf.

and asylum in Turkey. This law established the Directorate General for Migration Management (DGMM) within the Ministry of Interior, which has since become the central public institution charged with coordinating migration affairs. The LFIP has had three major implications with respect to EU-Turkey coop-

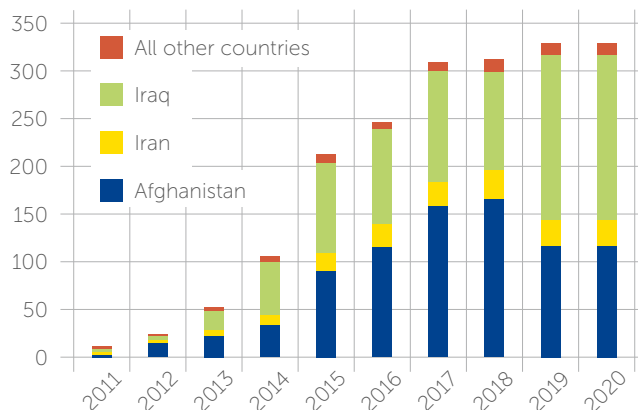
Figure 6 Turkey: Refugees under the UNHCR mandate, 2011–20 (end-year)
(thousand)



Source: UNHCR database, <https://www.unhcr.org/refugee-statistics/download/?url=QS4u0D>.

Note: The UNHCR defines refugees as “persons with determined protection status.” In Turkey, this category covers almost exclusively Syrian refugees under Turkey’s Temporary Protection Regulation. (UNHCR, Refugee data finder, methodology: <https://www.unhcr.org/refugee-statistics/methodology/>).

Figure 7 Turkey: Asylum seekers, 2011–20 (end-year)
(thousand)



Source: UNHCR database, <https://www.unhcr.org/refugee-statistics/download/?url=QS4u0D>.

eration in migration governance: First, the legal and institutional framework for migration governance in Turkey has become mostly aligned with that of the EU. Second, the LFIP clearly distinguishes among migrants with different legal status, such as asylum seekers, legal migrants, and unauthorized migrants. Third, the LFIP sets standards for apprehension, detention, and deportation, envisaging both increased capacity in border control and respect for the human rights of asylum seekers.

While the LFIP confirms the principle of non-refoulement, the geographical limitation to the Geneva Convention of 1951 remains. As such, asylum seekers who arrive from non-European countries can only become ‘conditional refugees’ and are expected to be resettled in other countries. In 2019, the LFIP was amended with provisions on cessation of refugee status, documentation, the international protection procedure, reception conditions, access to health care, and return.⁹⁶

In 2014, Turkey introduced the Temporary Protection Regulation and committed to applying the non-refoulement principle—without, however, explicitly offering long-term integration or refugee status in Turkey to those who cannot return home. This regulation details the rights of Syrian refugees in Turkey in terms of access to public services.⁹⁷ Until 2015, Turkey relied mostly on its own public resources to host Syrian refugees and deliver protection and education, health care, and access to livelihoods.

In 2015, the EU-Turkey Joint Action Plan was developed in response to the unprecedented crises in the region, especially the war in Syria and the arrival of (by end-2015) 2.5 million Syrian refugees in Turkey (figure 6). The primary rationale behind the action plan was to enhance cooperation among all actors, specifically (i) addressing the root causes of the massive influx of Syrians, (ii) supporting Syrian refugees and their host communities in Turkey, and (iii) strengthening cooperation to prevent irregular migration flows to the EU. Ultimately, the aim was to get the EU and Turkey to address this crisis together in a burden-sharing spirit.⁹⁸

In addition to Syrian refugees, Turkey also hosts up to 350,000 asylum seekers, mostly from Iraq, Iran, and Afghanistan (figure 7). As Turkey maintains its geographical reservation to the 1951 Geneva Convention, asylum seekers who are not from Europe may register for international protection and remain in Turkey pending resettlement in another country. More than 300,000 asylum seekers are now registered with UNHCR (figure 7); we discuss the inherent challenges in section 3.3.

⁹⁶ Law No. 7196 amending several acts (December 6, 2019), in Turkish at <http://bit.ly/2T5m0zU>.

⁹⁷ See Turkey: Temporary Projection Regulation (2014). Another amendment obliged Syrian refugees to comply with a notification duty and if they did not follow through on three consecutive occasions, they would be deported.

⁹⁸ See European Commission, “EU-Turkey Joint Action Plan,” Memo, Brussels (October 15, 2015), https://ec.europa.eu/commission/presscorner/detail/en/MEMO_15_5860.

The 2016 EU-Turkey Statement established EU funding to support refugees in Turkey through the Facility for Refugees in Turkey (FRiT),⁹⁹ making available €6 billion to be disbursed over the following four years. In return, Turkey committed to taking any necessary measures to prevent refugees from migrating onward to Greece (from where most would want to move on to Central Europe or further north). The Statement foresees several measures aimed at strengthening EU-Turkey integration more broadly, including a visa liberalization roadmap for Turkish citizens in the EU, modernization of the EU-Turkey customs union, and accelerated negotiations on Turkey's EU accession.

FRiT is coordinated by a steering committee, which is chaired by the European Commission with the participation of member state representatives and with Turkey attending in an advisory capacity. EU monitoring identifies results in the areas of education (such as the inclusion of Syrian children in public schools), health (improvements in infrastructure, such as migrant health centers, and in refugees' access to health care), socioeconomic support (including cash transfers, employment creation, and support for entrepreneurship), and migration management.¹⁰⁰

Since 2016, EU-Turkey relations have seen ebbs and flows. With respect to Syria, where both parties contribute heavily to humanitarian assistance, they disagree on strategies for peacebuilding and reconstruction, including in areas of northern Syria controlled by Turkey where combating terrorism is an important Turkish concern.¹⁰¹ Similarly, little progress has been made on visa liberalization and EU accession, in large part because of EU concerns over the human rights situation in Turkey. By contrast, EU support for refugees in Turkey went ahead as foreseen by the Statement, while the number of irregular migrant arrivals on the Greek islands remained low until 2018. Arrivals doubled year-on-year to about 60,000 in 2019, but this was still far below their 2015 level at nearly 900,000.¹⁰²

In February 2020, Turkey relaxed its border controls

and encouraged approximately 35,000 migrants to attempt to force their way across the fortified and closed land border into Greece. In response, Greek authorities suspended asylum applications and used extensive force to stop migrants from entering Greece¹⁰³ and to summarily return to Turkey (illegally under European law) some of those who had managed to reach Greek territory. Leading EU representatives publicly supported the Greek authorities by declaring Greece to be Europe's shield.¹⁰⁴ This course of events created the widespread impression in Turkey that the EU was ready to ignore the rights and dignity of migrants on its territory while placing high demands on Turkey regarding its treatment of migrants and the forcibly displaced.

The end of this crisis came through an emergency meeting between Turkey and the EU, which coincided with the start of the COVID-19 pandemic. Subsequently, Turkey facilitated the return of the migrants from the land border to their places of residence. With COVID-related restrictions in place, irregular migration to the Greek islands from Turkey was very low during the remainder of 2020 and the first quarter of 2021.

The June 2020 results report for the FRiT indicates that the pandemic affected the lives of vulnerable populations (including refugees) adversely in terms of livelihood opportunities, while the implementation of Facility actions was delayed and social cohesion efforts that require in-person interaction were interrupted.¹⁰⁴ In July 2020, the EU committed €485 million in top-up funds to the FRiT to extend two important cash-support programs through end-2021.¹⁰⁶ By the first quarter of 2021, talks were underway between the EU and Turkey as well as among European institutions and EU member states on renewing the 2016 Statement with a view to providing stable and predictable financial support for refugees in Turkey and restarting work on the bilateral integration agenda by discussing the modernization of the customs union.¹⁰⁷

⁹⁹ European Commission, "EU Facility for Refugees in Turkey," Factsheet, Brussels (March 2021), https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/frit_factsheet.pdf.

¹⁰⁰ European Commission, "The Facility for Refugees in Turkey, Facility Results Framework Monitoring Report as of 30 June 2020," Brussels (November 2020), https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/201022_fmr.pdf.

¹⁰¹ For discussions on both sides, see EPRS, "EU-Turkey Relations in Light of the Syrian Conflict and Refugee Crisis," Briefing, Brussels (March 9, 2020), [https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI\(2020\)649327](https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2020)649327); see also Daily Sabah, "How Europe Has Misunderstood Turkey" (October 8, 2020), <https://www.dailysabah.com/opinion/op-ed/how-europe-has-misunderstood-turkey>; and also Euractiv, "EU-Turkey Relations Deteriorate from Gentleman's Agreement to Sanctions Rhetoric" (April 14, 2017), <https://www.euractiv.com/section/europe-s-east/opinion/turkey-eu-relations-deteriorate-from-gentlemans-agreement-to-sanctions-rhetoric/>.

¹⁰² On sea arrivals from the Eastern Mediterranean route, see Frontex, "Risk Analysis for 2020," Warsaw (March 2020), https://frontex.europa.eu/assets/Publications/Risk_Analysis/Risk_Analysis/Annual_Risk_Analysis_2020.pdf.

¹⁰³ See NBC News, "On Turkish-Greek Border, Desperate Migrants Find Confusion and Chaos" (March 5, 2020), <https://www.nbcnews.com/news/world/turkish-greek-border-desperate-migrants-find-confusion-chaos-n1150501>.

¹⁰⁴ See BBC, "EU Chief Says Greece is Europe's Shield in Migrant Crisis" (March 3, 2020) <https://www.bbc.com/news/world-europe-51721356>.

¹⁰⁵ European Commission, "Facility Results Framework Monitoring Report as of 30 June 2020" (2020).

¹⁰⁶ European Commission, "Turkey: Extension of EU Humanitarian Programmes Supporting 1.7 Million Refugees Receives Green Light," Press release, IP/20/1324, Brussels (July 10, 2020), https://ec.europa.eu/commission/presscorner/detail/en/IP_20_1324.

¹⁰⁷ See section III of European Council, "Statement of the Members of the European Council," SN 18/21, Brussels (March 25, 2021), <https://www.consilium.europa.eu/media/48976/250321-vc-ecoc-statement-en.pdf>.

3.2 Economic impact of refugees in Turkey and EU financial support

○wing to the refugee influx since 2011 (figures 6 and 7 above), Turkey now hosts more refugees than any other country in the world. Within Turkey, refugees are supposed to remain in the provinces where they first registered. Hence, the provinces of Gaziantep, Hatay, Şanlıurfa, and Adana, which are in southeastern Turkey near Syria, are among those with the highest ratios of Syrian refugees relative to the resident population.¹⁰⁸ Although some refugees received social support in kind from the municipalities, there was no formal income support before the EU's Emergency Social Safety Net was implemented under the FRiT in 2016. Many refugees had to find work in the informal economy to survive and moved onward to regions with more dynamic economies and better employment opportunities, especially Istanbul.

While Syrian refugees may receive work permits under restrictive conditions, most still have to find work in the informal economy where they compete with certain vulnerable groups of Turkish citizens, particularly women and low-skilled men (see box 1 for a detailed discussion of labor market effects). While these groups have experienced higher unemployment due to the refugee inflow, Turkish workers with access to formal employment have benefited from higher labor demand and rising employment. Overall, the aggregate labor market impact of the inflow of refugees in Turkey has been remarkably small—which reflects the broader insight that refugees (or any immigrants) who work for their living expand both the labor supply and demand for goods and services, and consequently have little impact on the wages or employment of the resident population.

Turkey has borne most of the fiscal cost of humanitarian assistance for Syrian refugees in Turkey since 2011 (see box 2 for a detailed discussion of what we can know about the fiscal cost of hosting refugees in Turkey). Although the available information is difficult to verify, it seems plausible that annual government ex-

penditures for refugees may have been up to 1 percent of GDP since 2017. With total government spending in Turkey, excluding redistribution, at 15 percent of GDP and military expenditures just under 3 percent of GDP,¹⁰⁹ the fiscal burden due to hosting refugees is large but also well within the range of fiscal shocks that many countries experience with some frequency. In principle, a full assessment of the fiscal impact of the presence of refugees should include estimates of any direct taxes and social security contributions paid by refugees. In the case of Turkey, however, not only are such data not available, but also the amounts involved are likely to be small because refugees work mostly in the informal economy.

As the numbers of Syrian and other refugees in Turkey have grown (figures 6 and 7 above), the scale and scope of their needs has increased and diversified. Several international organizations, including the UNHCR and International Organization for Migration, have assumed critical roles in service provision for basic needs as well as funding. The EU has been a significant contributor of technical and financial assistance for refugees and migration management since the 2016 EU-Turkey Statement. The FRiT funding of €6 billion in total was planned to be spent over four years; as disbursements have been slower than planned, the last remaining funds may now be spent in 2021. Most prominently, the Emergency Social Safety Net was scheduled to provide €1.23 billion in cash assistance to more than 1.8 million vulnerable individuals.¹¹⁰ The Conditional Cash Transfers for Education provide additional cash assistance to vulnerable refugee families to facilitate school attendance.

In addition, the project “Promoting integration of Syrian children into the Turkish education system” (PIKTES) enables Syrian refugee children to take up education opportunities and fosters social cohesion. Through PIKTES, Syrian students’ enrollment rates have increased. Around 600,000 Syrian children have benefited from Turkish language courses, and catch-up

¹⁰⁷ See the website of the DGMM, “Temporary Protection” statistics, <https://en.goc.gov.tr/temporary-protection2/>.

¹⁰⁸ On government spending, see the Global Economy, “Compare countries,” <https://www.theglobaleconomy.com/compare-countries/>; on military expenditures, see Statista, “Turkey: Ratio of Military Spending to Gross Domestic Product (GDP) from 2009 to 2019,” <https://www.statista.com/statistics/810830/ratio-of-military-expenditure-to-gross-domestic-product-gdp-turkey/>.

¹⁰⁹ European Commission, “EU Facility for Refugees in Turkey” (2021).

Box 1 Labor market impact of refugees in Turkey

During 2012–17, nearly 4 million refugees and asylum seekers came to live in Turkey (figures 6 and 7). While many vulnerable refugees have received some form of cash transfer since 2016, most still work informally for their subsistence. So how has the sudden increase in the labor supply affected resident workers?

This inflow of refugees was large relative to the resident population; from 2011 until 2017, the number of refugees and asylum seekers increased by 5.0 percent of the end-2011 resident population of 75 million.^a By way of comparison with another recent migrant movement, the net inflow of foreign citizens in Germany (all categories of immigrants, including refugees) during 2012–17 was 3.7 million or 4.6 percent of Germany’s 2011 resident population.

Thus, it may appear that the inflow of refugees into the Turkish labor market was large, but not singularly large, relative to other immigration movements. However, newly arrived refugees pose special labor market challenges compared with other categories of immigrants. In contrast to refugees, labor migrants often come with a job offer, which may even be a precondition for their work permit. Immigrants joining family members usually require a sponsor who ensures that they do not become a burden on the public purse. By contrast, refugees are often forced to migrate at a time that they cannot choose, to a country whose language they may not speak, and without a strategy for finding work and supporting themselves financially.

Therefore, the labor market integration of refugees is often difficult even when it is actively encouraged, as was the case in Germany after 2015 (Boockmann et al. 2017). In Turkey, very few refugees have received a work permit; in addition, refugees are technically required to remain in the location where they first registered.^b Hence, a large number of refugees who mostly did not speak Turkish and whose professional qualifications (if any) were frequently not recognized ended up seeking informal employment where they would compete with, and put pressure on, already marginalized groups in the resident labor force.

In recent years, several quantitative studies have been undertaken on the labor market impact of refugee immigration in Turkey. Tumen (2016) summarizes labor market and other outcomes for residents in an area of southeast Turkey with a significant refugee inflow relative to unaffected, but otherwise similar regions in eastern Turkey. As early as 2012 and 2013, the informal employment of Turkish citizens relative to the population had reduced by more than 2 percentage points in the affected region, with men tending to become unemployed and women tending to become economically inactive. Formal employment had

risen slightly, reflecting more job opportunities for those Turkish citizens able to access them.^c Consumer prices for informal sector-intensive goods and services had declined by almost 4 percent. Rents had gone up by nearly 2 percent for low-quality housing and more than 10 percent for high-quality housing. The latter finding reflects a move by residents away from neighborhoods with large refugee populations.

Other studies support the main conclusion that the impact of refugees on Turkish workers has been very heterogeneous: the formal employment of Turkish workers has increased, mostly benefiting men who have completed at least high-school education, but this employment growth may be too small to fully compensate for the decline in informal employment of Turkish workers, which has hurt mostly women and low-skilled men (Ceritoğlu et al. 2017; Del Carpio and Wagner 2015). Most of the impact has been through changes in employment rather than wages.

A recent detailed study (Aksu, Erzan, and Kırdar 2018) uses data through 2015 and takes great care to disaggregate the impact of refugees on Turkish workers by gender, informal vs. formal sectors, wage-based vs. other types of employment, and sectors of the economy. While the effects are heterogeneous along the lines identified by the earlier studies, Aksu, Erzan, and Kırdar conclude that the aggregate impact on Turkish workers has been rather small. This is broadly in line with the literature on the labor market effects of other surges in immigration (Aydemir and Kırdar 2013, provide a brief summary) and reflects the fact that immigration increases demand for goods and services as well as potential supply.

One policy change that would reduce the negative impact of refugees on vulnerable populations would be to permit the full labor market integration of refugees. If refugees had full access to the formal sector, they would compete less intensely with vulnerable groups in the informal sector; they would be more likely to be employed in line with their qualifications and help to expand output across a wider range of sectors. While more work permits have been granted to refugees in Turkey in recent years, the number is still small (31,000 in March 2019; see Demirgüç-Kunt, Lokshin, and Ravallion 2019) and permits remain unavailable particularly to those refugees who no longer live in the municipality where they first registered (for example, because they moved on in search of work). Pinedo Caro (2020) discusses in detail the nature of restrictions refugees still face and the potential benefits of regularizing their employment for refugees, the social security system, and government finances.

^a See the Turkstat website, Table: Population ... 1927 to 2020, <https://data.tuik.gov.tr/Kategori/GetKategori?p=nufus-ve-demografi-109&dil=2>.

^b İçduygu and Diker (2017) describe the evolution of the policy environment during the early years. As of March 2019, the number of work permits for Syrian refugees corresponded to only 1.5 percent of working-age Syrians (Demirgüç-Kunt, Lokshin, and Ravallion 2019).

^c Based on a similar methodology, Suzuki et al. (2019) found that these labor market effects became more pronounced in subsequent years.

Box 2 Estimating the fiscal cost of hosting refugees in Turkey

Of the approximately 4 million refugees in Turkey today, nearly all Syrians live in the community (Makovsky 2019), while many asylum seekers live in reception centers. Since 2016, the EU has provided cash support for vulnerable households and helped to expand infrastructure and access to health care and education. Even so, refugees in the community use a variety of public services and infrastructure together (and possibly in competition) with other residents.

As a result, one point of debate in EU-Turkey relations has been the cost to the Turkish state of hosting refugees (many of whom would still move to the EU if they could: Düvell et al. 2021; Erdogan 2020, 184), along with the cost share borne by the EU under the 2016 EU-Turkey Statement as well as other international donors. EU payments under the FRiT agreed in 2016 amount to €6 billion in total and were meant to be disbursed over four years from 2016. But a large share of these funds is in the form of humanitarian aid that must be applied for and accounted for by international and nongovernmental organizations (NGOs) supporting refugees in Turkey. Because of procedural delays, annual payments through 2020 were less than the €1.5 billion per year originally foreseen. In addition, Turkey has received bilateral humanitarian aid, particularly from the US and Germany.^a The EU has estimated humanitarian support for refugees in Turkey outside the FRiT at €532 million in 2020.^b Hence, overall, international support for refugees in Turkey probably stands at somewhat less than €2 billion per year.

Over the years, the Turkish government has occasionally released estimates of its expenditures on refugees. Unfortunately, the reported figures do not include a breakdown by year, type of expenditure vs. in kind, level of government, any refunds received, etc., which renders the estimates difficult to verify. Furthermore, these estimates probably refer only to refugee-related expenditures and do not account for possible positive effects like taxes paid by refugees. One estimate—€11.4 billion from the beginning of the crisis through end-2016—found its way into a factsheet published by the European Commission’s Directorate-General for European Civil Protection and Humanitarian Aid Operations (DG ECHO) in January 2017.^c A January 2019 factsheet by the US Congressional Research Service quotes unnamed Turkish officials as saying that the total cost (pre-

sumably, from the beginning of the crisis in 2012 through end-2018) amounted to US\$30 billion (Zanotti and Thomas 2019).

Expenditures must have increased along with the number of refugees and only reached their present level, corresponding to approximately 4 million refugees, in 2018 (see figures 6 and 7). On the somewhat heroic assumption that US\$30 billion represents four years’ worth of present-day expenditures (based on the approximate number of refugees hosted in each year; see figure 6), annual spending by Turkey would be US\$7.5 billion. On similarly heroic assumptions, €11.4 billion spent through end-2016 would correspond to about two years of present-day expenditures or just under €6 billion annually. While some government expenditures for refugees’ health care are refunded by the FRiT, both estimates suggest that Turkey bears most of the cost of hosting the refugees, given that the international community including the EU contributes somewhat less than €2 billion annually (see above).

It is difficult to assess how plausible these estimates of Turkish refugee-related government expenditures are. At US\$7.5 billion per year, estimated expenditures would amount to 1 percent of 2019 GDP or just under US\$1,900 per refugee and year, equivalent to 20.5 percent of Turkish annual per capita GDP. Unfortunately, there are few estimates of refugee-related expenditures in other host countries to compare. One exception is Ruist (2019) for Sweden, who estimates the average annual fiscal impact of refugees from Syria (as part of a larger country group) at 22 percent of Swedish annual per capita GDP over the refugees’ lifetime. The numerical similarity between these conceptually different estimates suggests that the estimate for Turkey may at least be within a plausible order of magnitude. However, refugees in Sweden are full contributors to and (net) beneficiaries of the welfare state; accordingly, Ruist estimates the total fiscal impact of their presence in Sweden, not only refugee-related expenditures. By contrast, in Turkey, refugees have access to some public services (paid for in part by the EU), but receive no income transfers from the Turkish state (while vulnerable refugees and those with schoolchildren may be eligible for cash transfers funded by the EU). Overall, then, we view the Turkish government’s estimate of refugee-related government expenditures at 1 percent of annual GDP as an upper bound of plausible fiscal costs.

^a UN Office for the Coordination of Humanitarian Affairs, Financial Tracking Service, database: “Turkey 2020,” <https://fts.unocha.org/countries/229/flows/2020>.

^b European Commission, DG ECHO, “Turkey,” Brussels, https://ec.europa.eu/echo/where/europe/turkey_en.

^c European Commission, DG ECHO, “Turkey: Refugee Crisis,” Brussels (January 2017), https://reliefweb.int/sites/reliefweb.int/files/resources/turkey_syrian_crisis_en_1.pdf.

and back-up training activities have been organized for more than 120,000 students.¹¹¹ The EU is seeking to facilitate social cohesion processes by enhancing access to the public education system in Turkey.

In health care, the EU-funded project “Improving the health status of the Syrian population under temporary protection and related services provided by Turkish authorities” (SIHHAT), started in 2016 to improve health care services for Syrian refugees and was recently extended through 2021.¹¹² The project covers 29 provinces with a high population share of Syrian refugees and aims at expanding the scope, service delivery capacity, and quality of health services, along with access to them.

In sum, the EU has contributed substantially to meeting the basic needs of Syrian refugees in Turkey and supporting their socioeconomic integration. Nevertheless, with the important caveat that the available information is fragmented and difficult to verify, Tur-

key’s government is still bearing most of the fiscal cost of hosting refugees (box 2).

Given the protracted nature of the situation of Syrian refugees in particular, EU and other international support continues to be required beyond the funding that has currently been agreed. This is not only a matter of fair responsibility sharing between Turkey and the international community, but also of plain self-interest on the part of the EU because in the absence of EU support, Turkey would have less reason to prevent onward migration to the EU; at the same time, refugees whose living conditions are deteriorating would have an additional incentive to try to move on to Europe. Existing challenges are exacerbated by the weak performance of the Turkish economy and labor market over many years as well as the pandemic: refugees have been hit hard by COVID-19 because the pandemic has hurt sectors of the economy (including tourism) where informal work is widespread.¹¹³

3.3 How can EU-Turkey cooperation help meet humanitarian needs and protect refugees in Turkey and northern Syria?

Because of the Syrian conflict and conditions in other neighboring countries, Turkey has now become responsible for protecting three distinct populations: (i) Syrian refugees in Turkey under temporary protection; (ii) non-Syrian asylum seekers (mainly from Iraq, Iran, and Afghanistan) who register their applications for international protection in Turkey and wait to be resettled in a country of asylum;¹¹⁴ and (iii) people in those areas of northern Syria that are under

Turkish control, many of whom are displaced within Syria while all have been affected by the conflict.

The future situation of all three groups in Turkey and in northern Syria directly affects potential irregular migration to the EU. Onward migration by Syrian refugees from Turkey led to what was perceived by many as the 2015 migration crisis in Greece, the Western Balkans, and northern and Central Europe. Onward migration only came to a halt in early 2016 when

¹¹¹ See the PIKTES website, <https://piktes.gov.tr/Home/ProjeninAmaciENG>; see also European Commission, “Facility Results Framework Monitoring Report as of 30 June 2020” (2020).

¹¹² See the Statement of the EU Delegation to Turkey (December 17, 2020), <https://www.statewatch.org/news/2020/december/final-contracts-arranged-for-6-billion-eu-turkey-deal/>.

¹¹³ For details, see IFRC (2021), <https://reliefweb.int/report/turkey/impact-covid-19-daily-life-refugees-turkey>; see also European Commission, “Turkey 2020 Report,” SWD (2020) 355 final, Brussels (October 6, 2020), https://ec.europa.eu/neighbourhood-enlargement/sites/nea/files/turkey_report_2020.pdf.

¹¹⁴ Since Turkey applies a geographical limitation to the Geneva Convention, those arriving from non-European countries cannot be granted asylum in Turkey. They register with the Provincial Directorates of Migration Management and wait in their assigned city of residence, aka ‘satellite cities.’ Since the December 24, 2019 amendment to the LFIP, those who are granted refugee status (having fled persecution in European countries), conditional refugee status (having fled persecution in non-European countries), or subsidiary protection are issued a numbered foreign identity document; the Ministry of Interior determines the duration of validity, rules concerning format, and content (see Article 83 of the LFIP as amended by Law No. 857196, December 24, 2019).

the living conditions of Syrian refugees in Turkey were stabilized with EU support through the EU-Turkey Statement and borders across Europe were closed to irregular migrants.

Similarly, a large share of irregular migrants arriving on the Greek islands from Turkey in 2019 and 2020 were asylum seekers from countries other than Syria (see figure 8 for all sea arrivals in Greece). At present, Turkey allows this group to register for international protection with Turkish authorities and remain in Turkey while the UNHCR attempts to resettle them in other countries. During the time individuals wait for resettlement, often for many years, they receive no formal subsistence support nor are they allowed to work. For this group, irregular onward migration to Greece and Europe remains attractive in spite of the situation on the Greek islands because once they manage to reach EU territory, a large proportion of asylum seekers from Afghanistan, Iran, and Iraq receive international protection.¹¹⁵

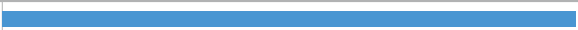
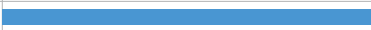








international support for a reconstruction effort that is now beginning under Turkish military occupation.

In this section, we explore how protection for these groups with their diverse needs can be developed further in line with international best practices and how the EU can support Turkey in the process.

Syrian refugees in Turkey

The main challenge for Turkish authorities and society with respect to the Syrian refugees is to recognize that 10 years after the Syrian conflict started, their presence in Turkey can no longer be considered temporary. Because of the protracted situation in Syria, most Syrian refugees will not be able to return safely in the foreseeable future. A strategy for their social and economic integration in Turkey is therefore needed to allow them to live with dignity in Turkey, in line with the good policy practices established by the Global Compact on Refugees and other international policy

Figure 8 Most common nationalities of sea arrivals to Greece, 2020

Country of origin	Population		
Afghanistan		35.2%	3,417
Syrian Arab Republic		22.7%	2,207
Dem. Rep. of the Congo		10.3%	1,004
Others		9.9%	959
Somalia		9.5%	923
Iraq		4.3%	422
State of Palestine		3.2%	312
Iran		2.0%	193
Cameroon		1.7%	166
Pakistan		1.1%	111

Source: UNHCR, Operational Portal, Mediterranean Situation, <https://data2.unhcr.org/en/situations/mediterranean/location/5179>.

The areas of northwestern and northern Syria under Turkish military control differ according to their security situation and legal status but combined host up to 3 million displaced Syrians.¹¹⁶ Both the displaced and residents are affected by extensive war damage to housing and infrastructure along with economic disruption. The areas around Idlib are the last stronghold of the Syrian opposition, supported by a Turkish military presence. Here the EU's focus is likely to be on helping to meet humanitarian needs so that people can survive, with reconstruction at best a distant prospect. In other areas of northern Syria, Turkey has requested

documents (MEDAM, 2018, section 3.3).

Already, the policy framework for the protection of Syrian refugees in Turkey has come a long way. In 2011, Turkey began with a strategy of emergency response and disaster management when refugees began to arrive from Syria. By 2013, policies in Turkey reflected a “life support-oriented approach” (Özçürümez and İçduygu 2020), focusing on humanitarian aid; there was still no solid legislative or institutional framework and Syrians were expected to return home soon. Since then, the situation of Syrian refugees in Turkey has become protracted and it is now clear that most Syrian

¹¹⁵ In the fourth quarter of 2020, first-instance asylum decisions in the EU had the following recognition rates by citizenship: Afghanistan, 62 percent; Iraq, 44 percent; Iran, 38 percent. Furthermore, final decisions on appeal or review were positive in one third to one half of cases in 2018 and 2019 (Eurostat, “Asylum Quarterly Report,” Table 5: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Asylum_quarterly_report; Eurostat database: migr_asydcfina).

¹¹⁶ European Commission, DG ECHO, “Syria,” Factsheet, Brussels (January 15, 2021), <https://reliefweb.int/report/world/echo-factsheet-syria-last-updated-15012021>.

refugees will remain in Turkey. Only a few have been resettled in other host countries, including 28,000 in the EU under the 2016 Statement.¹¹⁷ So how is the Turkish debate on the economic and social integration of refugees evolving and how can the international community, including the EU, support Turkey in line with fair responsibility sharing?

Between 2013 and 2016, forced migration governance in Turkey began to emphasize social integration alongside protection. EU programs such as the Emergency Social Safety Net and Conditional Cash Transfers for Education promote social cohesion between refugees and residents (called ‘harmonization’ in the LFIP) as well as providing humanitarian support. The promotion of refugees’ self-reliance combines with practices for community engagement and resilience, which has been characterized as the “interactive social cohesion governance model” (Özçürümez and İçduygu 2020).

Beyond Turkey, the EU’s response to dealing with the Syrian conflict also shifted after 2015 toward partnership agreements with Syria’s neighbors that address livelihood concerns as well as basic needs. In this sense, the 2016 EU-Turkey Statement is a child of its times, with a focus on containing irregular migration while supporting refugees’ social inclusion through technical and financial assistance. The Temporary Protection Regulation, which came into force in 2014, laid down principles and mechanisms for access to public services that also effectively supported refugees’ social and economic integration. In the education area, vocational and technical courses have begun to enhance migrants’ labor market skills alongside Turkish language courses.

Since 2016, social cohesion has effectively become the main theme of Turkey’s migration governance. It has become abundantly clear that even if the conflict in Syria ends, there will be a lengthy period of reconstruction and refugees are unlikely to return swiftly. Since 2018, Turkish authorities have embarked on designing and implementing policies to boost social integration: legislation on labor force participation has been improved; temporary accommodation centers have gradually closed and all Syrian refugees now live in the cities; the integration of Syrian students into the Turkish education system has been encouraged while temporary education centers have closed; and health centers have been established to provide health care to refugees (Özçürümez and İçduygu 2020).

The sense of temporariness is also waning among Syrian refugees themselves. According to the Syrians Barometer waves of 2017 to 2019, the share of Syrians who said they would not return under any circum-

stances increased from 17 percent to 52 percent; correspondingly, the share of those who said they would return after the war if there was an administration that they wanted halved from 60 percent to 30 percent (Erdoğan 2020, 176). At the same time, Turkish citizens expressed strong and growing concerns about the economic, social, and political impacts of Syrians in Turkey (ibid., 82).

Going forward, for Syrians to live in Turkey with dignity, the process of social and economic integration, including access to the formal labor market, needs to continue. In parallel, government interventions and donor support need to address the sense of rivalry and competition for scarce public resources that seems to drive residents’ concerns about the presence of Syrian refugees.

Non-Syrian asylum seekers in Turkey

The LFIP identifies three types of international protection status in line with the geographical limitation to the 1951 Refugee Convention that Turkey continues to maintain: refugee status (for those who fled persecution in European countries), conditional refugee status (for those who fled persecution in non-European countries), and subsidiary protection.¹¹⁸ The DGMM is the main public authority for processing applications for international protection, and Provincial Directorates for Migration Management receive and register applications according to the LFIP (AIDA 2020a, 31). While applications for international protection are processed, applicants may remain in the territory of Turkey (cf. figure 7 above) but there are derogations covering “public safety,” “public health,” and “membership of a terrorist organization.”

Turkey maintains a wall along its border with Iran to prevent irregular entries from its eastern neighbors.¹¹⁹ Most of the apprehended irregular migrants are of Afghan origin, many of whom lived in Iran as refugees and left because of difficult and deteriorating living conditions.¹²⁰ Many irregular migrants who enter Turkey from Iran try to move on to Greece. While returns from the Greek islands under the EU-Turkey Statement were being implemented (April 4, 2016 to January 31, 2020), readmissions from Greece numbered 2,054 people in total, including 738 from Pakistan, 373 from Syria, 204 from Algeria, 140 from Afghanistan, 127 from Iraq, and 104 from Bangladesh (UNHCR 2020d). Turkey does not maintain a list of safe third countries (AIDA 2020a, 59) and carries out returns to Afghanistan, among other countries.¹²¹

Since 2015, Turkey has received over 70,000 inter-

¹¹⁷ Data through March 2021. See the European Stability Initiative, “EU-Turkey Statement 2.0,” <https://www.esiweb.org/proposals/eu-turkey-statement-20>.

¹¹⁸ See Law No. 6458 of 2013 on Foreigners and International Protection; see also the DGMM website, <https://en.goc.gov.tr/refugee>.

¹¹⁹ TRT World, “Wall Set to Improve Security along Turkey-Iranian Border” (November 8, 2018), <https://bit.ly/2C0ppDB>.

¹²⁰ See the DGMM website, “Irregular Migration,” <https://en.goc.gov.tr/irregular-migration>, accessed 27 March 2021.

¹²¹ Euronews, “Afghanistan’dan yürüyerek geliyolar: Türkiye’nin göz ardı edilen Afgan göçmen gerçeği” (June 26, 2018), <https://tr.euronews.com/2018/06/25/afgana-dan-yuruyerek-geliyorlar-turkiye-nin-goz-ardi-edilen-afgan-gocmen-gercegi>.

national protection applications from non-Syrians per year.¹²² Concurrently, the stock of asylum seekers living in Turkey identified by the UNHCR has risen to just below 350,000 (figure 7 above). If asylum seekers are found outside their registered places of residence in a ‘satellite city’ near their Provincial Directorate or are unregistered, they are placed in detention at removal centers (AIDA 2020a, 16). Reportedly, it may take up to a year and a half for international protection applicants to even receive a date for their initial interviews.¹²³ Migration to and through Turkey has dramatically decreased in the COVID-19 era when compared with previous years, and resettlement from Turkey has been suspended since early 2020 (AIDA 2020b).

Many of these asylum seekers have a reasonable chance of receiving international protection under EU rules if they can reach EU territory.¹²⁴ Because of their difficult living conditions and prospects in Turkey, most irregular migrants who have arrived on the Greek islands in recent years belong to this group. For humanitarian reasons as well as to reduce people smuggling and irregular migration, it would be in the interest of the EU to work with Turkey to provide livelihood support to asylum seekers in Turkey and contribute to resettlement solutions for those who receive international protection. The number of asylum seekers has now grown so large and their presence in irregular migration from Turkey to the EU has become so prominent that EU-Turkey migration cooperation should actively address their needs.

Northern Syria

Through its military occupation of parts of northern Syria and its military involvement in providing security in the area around Idlib, Turkey has become responsible for the humanitarian needs of up to 3 million internally displaced Syrians, in addition to the resident population in these areas.¹²⁵

While governing its eastern and southern borders, Turkey’s main aim is to establish border security effectively by preventing smuggling and illegal border crossings and by combating terrorist activities. With this motivation, Turkey constructed a wall on its border with Syria in 2018.¹²⁶ Turkey has also improved its capacity for border management more broadly, especially concerning the maritime borders, in the process of harmonization with the EU *acquis*.¹²⁷

Turkey actively implements a return and resettlement plan, which is based on the rationale that by building stability in northern Syria, Syrian refugees now in Turkey will be able to return there (al-Hilu 2021).¹²⁸ Around 46,750 people had returned by July 2017 after Turkey occupied areas in northern Syria in the course of Operation Euphrates in August 2016;¹²⁹ there were more returns after the Peace Spring military operation in 2019.¹³⁰ Clearly, this is still only a very small share of the 3.6 million Syrian refugees in Turkey in 2016 (figure 6 above).

While humanitarian needs around Idlib are huge and channels exist for basic international humanitarian assistance (Alhaji and Al-Lama’ 2020), the situation may be too unsettled to even develop a strategy for reconstruction at this point. By contrast, in other areas of northern Syria, there is a clearly defined regime of Turkish military occupation that has begun to address reconstruction needs while Turkey has asked for international and EU support. Yet, Turkey’s demographic policy in some areas has included the large-scale displacement of Kurdish individuals. Furthermore, the occupation of areas in northern Syria is linked with controversial Turkish government policies toward the Kurdish community within Turkey. Therefore, international donors including the EU will want to tread carefully in identifying locations and development projects—beyond basic humanitarian aid—where they can get involved in line with their policy preferences and values (Aydıntaşbaş 2020).

¹²² Calculated by the authors from the statistics provided on the number of international protection applications on the DGMM website, ‘International Protection,’ <https://en.goc.gov.tr/international-protection17>.

¹²³ See the AIDA website, ‘Registration of the Asylum Application: Turkey’ (November 30, 2020), <https://asylumineurope.org/reports/country/turkey/asylum-procedure/access-procedure-and-registration/registration-asylum-application/>.

¹²⁴ During the fourth quarter of 2020, first-instance asylum decisions in the EU had the following recognition rates by citizenship: Afghanistan, 62 percent; Iraq, 44 percent; Iran, 38 percent. In addition, final decisions on appeal or review were positive in one third to one half of cases in 2018 and 2019 (Eurostat, ‘Asylum Quarterly Report,’ Table 5: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Asylum_quarterly_report; Eurostat database: migr_asydcfina).

¹²⁵ European Commission, DG ECHO, ‘Syria’ (2021).

¹²⁶ *Daily Sabah*, ‘Turkey Finishes Construction of 764-km Security Wall on Syria Border’ (June 9, 2018), <https://www.dailysabah.com/war-on-terror/2018/06/09/turkey-finishes-construction-of-764-km-security-wall-on-syria-border>.

¹²⁷ See European Commission, ‘Turkey 2020 Report,’ SWD (2020) 355 final (2020).

¹²⁸ See DGMM Circular 2019/1 on ‘Cessation of Status of Syrians due to Voluntary Return’ (January 7, 2019).

¹²⁹ See Yeşiltaş, Seren, and Özçelik (2017).

¹³⁰ See *TRT World*, ‘Operation Peace Spring in a Nutshell’ (October 23, 2019), <https://www.trtworld.com/turkey/operation-peace-spring-in-a-nutshell-30779>; see also *Daily Sabah*, ‘A Year on, Syrians in Areas Liberated by Turkey’s Operation Peace Spring Celebrate Improvements’ (October 8, 2020), <https://www.dailysabah.com/politics/war-on-terror/a-year-on-syrians-in-areas-liberated-by-turkeys-operation-peace-spring-celebrate-improvements>; and also AA.com, ‘Thousands of Syrians Flock Back to Town Freed by Turkey’ (October 13, 2020), <https://www.aa.com.tr/en/operation-peace-spring/thousands-of-syrians-flock-back-to-town-freed-by-turkey/2005304>.

4 EU-Turkey cooperation on migration: Understanding policy preferences

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This chapter provides new data and research to inform ongoing policy debates about whether and how to reform EU-Turkey cooperation on irregular migration and refugee protection. Building on the analysis of past trends and experiences in chapter 3 of this report, we now discuss current challenges and opportunities for future cooperation. Our analysis focuses on the EU-Turkey Statement, which was agreed between the EU and Turkey in 2016 and remains the basis for policy cooperation on migration. As we discuss below, this Statement has been highly politicized and is controversial on all sides, but in practice crucial aspects of the cooperation—including Turkey curbing irregular migration to Greece and the EU supporting the hosting of refugees in Turkey¹³¹—have continued.

With the outbreak of the COVID-19 pandemic, the number of migrants crossing irregularly from Turkey to Greece declined sharply in 2020. When, as we all hope, today's global health crisis subsides and the mobility restrictions (domestic and international) are gradually lifted—possibly in late 2021 and 2022—the numbers of migrants attempting to cross from Turkey to Greece can be expected to increase again. As a consequence, EU-Turkey cooperation on migration and refugee protection is highly likely to re-emerge soon as one of the most salient and contested policy issues facing the European Union. As discussed in chapter 2 of this report, after the heightened frictions marking the EU-Turkey relationship in 2020, and the contracting of the last funds under the 2016 EU-Turkey Statement at the end of last year, the future form of migration cooperation between the EU and Turkey remains an open question. Hence, there is an urgent need to assess the present migration cooperation between the EU and Turkey, and to discuss whether and how it needs to be reformed to be more effective in meeting its two paramount goals—reducing irregular migration and providing sustainable refugee protection—in the future.

To help inform policy debates about EU-Turkey cooperation on migration, we provide new research on policy preferences vis-à-vis the cooperation in Turkey,

Greece, Germany, and at the level of EU policy makers (i.e., officials at key EU institutions). By 'policy preferences' we mean both the preferences and perceptions of national and EU policy makers as well as public policy preferences, more specifically, the public's views and attitudes toward EU-Turkey cooperation on migration and refugee protection. We analyze 'what the people think' because any effective and sustainable policy requires public support, or at least an understanding of how citizens think about its core policy provisions and what drives people's evaluations and policy preferences. Despite the high salience of the issue in politics and public debates in Turkey, Greece, and other European countries, there has been a lack of systematic research on public attitudes and policy preferences regarding the EU-Turkey agreement, and the underlying larger issues and principles of cooperation between Turkey, Greece, and the EU. Our research aims to fill this gap.

In addition to studying policy preferences in Turkey, our analysis includes Greece and Germany. Greece is the main country of first arrival of irregular migrants from Turkey and plays a central role in the implementation of the 2016 Statement. As a significant destination of migrants transiting through Turkey and Greece, Germany was among the EU countries that took the lead in negotiating the agreement with Turkey in 2016 and it remains at the forefront of discussions about future EU-Turkey cooperation on migration and refugee protection. As the European Commission has played an important role in the negotiations and implementation of the EU's agreement with Turkey, we also explore policy preferences at the EU level.

The specific aims of our analysis are to explore the (mis)alignment of policy preferences of policy makers and the public across the three countries, and to study how the design of the policy cooperation influences public support and opposition. Our study is complementary to our ongoing MEDAM research on public preferences concerning EU-Africa cooperation on migration, which will be the subject of our next Annual Assessment Report in 2022.

¹³¹ As explained in chapter 3, we use the term 'refugees' for all those who have escaped the conflict in Syria and have been granted temporary protection in Turkey. This terminology is in line with that of the UNHCR and the EU-Turkey Statement.

4.1 The EU-Turkey Statement: An unstable policy cooperation?

The EU-Turkey Statement was a central part of the EU's response to the large inflows of asylum seekers and other migrants in 2015–16.¹³² Under the Statement agreed between Turkey and European states in March 2016, migrants who move irregularly from Turkey to the Greek islands and who do not qualify for refugee protection in Greece may be returned to Turkey. Turkey also commits to taking “any necessary measures to prevent new sea or land routes for illegal migration opening from Turkey to the EU.” In return, the EU agreed to support refugees in Turkey with €6 billion;¹³³ resettle refugees directly from Turkey under a 1:1 scheme envisaging that, for each Syrian migrant returned from the Greek islands to Turkey, one Syrian refugee from Turkey will be resettled in the EU; accelerate plans for lifting visa requirements for Turkish citizens; work on upgrading the customs union; and “re-energize” the process of Turkey's accession to the EU.

Following the 2016 Statement, the numbers of migrants crossing from Turkey to Greece declined significantly: sea arrivals fell from 860,000 in 2015 to 170,000 in 2016 and about 30,000 in each of 2017 and 2018, before increasing again to 60,000 in 2019 and, after the outbreak of COVID-19, dropping to fewer than 16,000 in 2020.¹³⁴ The agreement helped the EU to achieve its core political objective of reducing drastically the number of asylum seekers and other migrants arriving in Greece and then moving on to other EU countries. Yet, it has become abundantly clear over the past few years that—in addition to its contested conformity with international and European human rights and asylum laws (Lehner 2018)—the EU-Turkey Statement has also been associated with economic, social, and political challenges for Greece, along with severe adverse consequences for some migrants (including those on the Greek islands). Meanwhile, frustrations have increased among the government in Tur-

key about lack of progress in certain areas.

Reception centers and conditions in Greece, especially on the Greek islands where most asylum seekers and other migrants arrive from Turkey, suffer from considerable overcrowding and do not meet basic minimum standards, with grave ramifications for the migrants (including many children) stranded there (see, e.g., GCR and Oxfam 2020). Research shows that the large flows of migrants to certain Greek islands have increased opposition to migrants among the Greek residents on those islands (Hangartner et al. 2019). While the aggregate scale of migration flows to Greece was reduced by EU-Turkey cooperation, the worsening of overcrowding and reception conditions on some Greek islands suggests not only a humanitarian emergency (Gogou 2017) but also a highly unstable situation (Norwegian Refugee Council 2020).

In addition to the humanitarian emergency and volatile situation in Greece, the adequate implementation of the arrangement has come under increasing threat from the Turkish government. The latter has been frustrated with what it sees as the EU's failure to implement vital aspects of the Statement, such as significant resettlement of Syrian refugees from Turkey in the EU, visa liberalization, and re-energizing the process of Turkey's application for EU accession.¹³⁵ Turkey has also complained about the pace and modalities of the disbursement of EU funds in Turkey, an issue we discuss in more detail later in this chapter.

At the same time, in EU countries critics of the agreement have long pointed out that it makes the core objective of the EU, i.e., limiting irregular migration to Europe, overdependent on the policies and actions of the Turkish government and state institutions. Events in early 2020 illustrated this concern in practice: after many months of threatening to ‘open the gates’ for Syrian and other migrants to Europe, the Turkish government allowed migrants to move to Greece's land

¹³² The EU-Turkey Statement can be found in the European Council press release of March 18, 2016: <https://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/>.

¹³³ See European Commission, “EU Facility for Refugees in Turkey: €6 Billion to Support Refugees and Local Communities in Need Fully Mobilised,” Press release, IP/19/6694, Brussels (December 10, 2019), https://ec.europa.eu/commission/presscorner/detail/en/ip_19_6694.

¹³⁴ During the same period, land arrivals increased from about 4,900 in 2015 to 15,000 in 2019. See UNHCR, Operational Portal, Mediterranean Situations, Greece, <https://data2.unhcr.org/en/situations/mediterranean/location/5179>.

¹³⁵ See T24, “Dördüncü yılında 18 Mart AB-Türkiye Mutabakatı: Geri Kabul Anlaşması güncellenmeli” (March 18, 2020), <https://t24.com.tr/haber/dorduncu-yilinda-18-mart-ab-turkiye-mutabakati-geri-kabul-anlasmasi-guncellenmeli.867317>; see also Tokyay (2020).

border and encouraged them to cross into Greece. Greece in turn moved quickly to ‘close’ its border with Turkey and temporarily suspended the right to asylum, with Greek and EU leaders denouncing the actions of Turkey’s President Erdoğan as unacceptable “blackmail” (Baczynska and Chalmers 2020). The EU fully supported Greece’s increased border controls, with Commission President Ursula von der Leyen describing Greece as the EU’s “shield” (Jamieson, Ripper, and Sandford 2020). After a meeting between von der Leyen and Erdoğan in early March 2020, both sides confirmed their continued commitment to the cooperation and their mutual interest in improving it. On the EU side, the need for ‘reciprocity’ was mentioned as an important condition for moving forward on resolving the tensions and disagreements about certain aspects of it.¹³⁶

Following the outbreak of COVID-19 in early 2020, Turkey suspended the readmission of rejected asylum seekers from Greece and this policy continues (as of

May 2021). Greece recently tried to return 1,500 rejected asylum seekers to Turkey, as foreseen in the EU-Turkey Statement of 2016, but Turkey continues to refuse readmission based on public health grounds (Nielsen 2021). While the pandemic has affected all people, asylum seekers and refugees have been among the worst affected, also in Turkey and Greece.

Discussions between European and Turkish policy makers are currently ongoing, having resumed in early 2021.¹³⁷ There appears to be strong political interest on both the EU and Turkish sides to continue working together on migration and refugee protection, possibly with some modifications of the current EU-Turkey Statement and implementation practices. Notwithstanding the criticisms and threats to the stability of the arrangement, the fact that it has continued despite multiple crises and heated political rhetoric on all sides suggests that any new or revised form of cooperation will most likely build quite closely on some of the core features of the current agreement.

4.2 Why study policy preferences?

EU member states, all of which are signatories of the 1951 Geneva Convention on the Protection of Refugees, have an important moral duty to help protect refugees. In this context, a primary goal of the MEDAM project is to identify opportunities for, and obstacles to, more effective and sustainable common EU policy making on asylum and refugee protection. This includes EU cooperation on migration and refugee protection with non-EU countries such as Turkey.

How to protect asylum seekers and refugees is not only a moral and legal issue but also a highly (and inevitably) political question. We argue that effective and sustainable cooperation between the EU and non-EU countries on migration and refugee protection requires an understanding of the national policy preferences and perceived constraints across the countries involved in such cooperation. This includes

where, how, and why policy preferences and interests diverge and where there is common ground. Critically, the analysis of policy preferences should not be limited to the views and perceptions of national policy makers but likewise needs to consider what and how ‘the people’ in different countries think about international cooperation on migration and refugee protection, such as the EU-Turkey Statement.¹³⁸

We know from existing research that migration and other public policies are not only determined by ‘interests’ (such as the economic interests of employers) and ‘institutions’ (such as national parliamentary systems and welfare states), but also by ‘ideas,’ including people’s fundamental normative beliefs, values, and public attitudes (e.g., Weir 1992). Migration and refugee policies, including cross-country cooperation such as that between the EU and Turkey, are unlikely to be sustainable if they go against the grain of people’s

¹³⁶ See European Commission, “Statement by President von der Leyen at the Joint Press Conference with President Michel, following their Meeting with the President of Turkey, Recep Tayyip Erdoğan,” Statement/20/429, Brussels (March 9, 2020), https://ec.europa.eu/commission/presscorner/detail/en/statement_20_429.

¹³⁷ See *Hürriyet Daily News*, “Turkey, EU Launch Talks to Renew Migrant Deal” (January 21, 2021), <https://www.hurriyetaidailynews.com/turkey-eu-need-concrete-steps-for-positive-atmosphere-fm-cavusoglu-161820>; see also *Daily Sabah*, “EU to Seek Renewal of 2016 Migration Pact with Turkey, Borrell Says” (March 15, 2021), <https://www.dailysabah.com/politics/eu-affairs/eu-to-look-renewal-of-2016-migration-pact-with-turkey-borrell-says>; and see European Commission, “State of Play of EU-Turkey Economic, Political and Trade Relations,” Joint Communication to the European Council, JOIN(2021) 8 final/2, Brussels (March 22, 2021), <https://ec.europa.eu/transparency/regdoc/rep/10101/2021/EN/JOIN-2021-8-F2-EN-MAIN-PART-1.PDF>.

¹³⁸ Our arguments in this section build on the discussion in last year’s MEDAM (2020) Assessment Report.

fundamental values and beliefs about the regulation of migration and refugee protection. Knowledge about the structure and determinants of public preferences can provide an important warning signal and “ground for caution” (compare Swift 1999) about potential disconnects between particular policy approaches to regulating migration and protecting refugees on the one hand, and fundamental public values and preferences on the other.

As the regulation of migration and refugee protection has become one of the most highly politicized policy issues in Europe in recent years, new policies are frequently proposed and justified based on the argument that they respond to ‘what the public wants’ and that they are necessary to ‘win back public trust and confidence’ in national governments and supranational organizations such as the EU. It is an important task for research to scrutinize these arguments commonly made by politicians, and to provide greater clarity on

what the available data on public preferences do and do not say about public concerns related to migrants and refugees. Misrepresenting or misunderstanding the characteristics and causes of the public’s support or opposition to different types of migration and migration policies, including their (alleged or real) changes over time, can contribute to policy responses that do not actually deal with the real issues driving public views and which, therefore, may ultimately prove unsustainable.

Finally, understanding public policy preferences, including how and where they converge or diverge across countries, is particularly important in the context of *international* cooperation agreements on migration and refugee protection. In the specific context of EU-Turkey cooperation, it is critical to understand better how people in Turkey, Greece, and Germany (as an example of a major EU destination country for migrants transiting through Turkey and Greece) think about different types of EU-Turkey cooperation in this policy area.

4.3 Policy makers’ preferences and perceived challenges for future cooperation

MEDAM researchers conducted 16 interviews with senior policy makers, including 4 interviews in each of Germany, Greece, and Turkey and another 4 interviews with EU officials working in selected EU institutions and agencies that deal with (aspects of) EU-Turkey cooperation on migration. Most of our interviewees were in senior policy positions and many had direct experience with negotiating or implementing the EU-Turkey Statement (or both). The interviews were conducted remotely, via video-conference software, in the period November 2020–January 2021 and based on the understanding that the names of our respondents would remain anonymous.

The principal aim of the interviews was to get a sense of senior policy makers’ assessments of experiences with the EU-Turkey Statement; their views on their countries’ (or, in the case of EU policy makers, the EU’s) broad policy preferences vis-à-vis EU-Turkey cooperation on migration; and perceived constraints and opportunities for future cooperation. The interviews we conducted provide insights into a range of views held by senior policy makers. However, as we only spoke to a limited number of officials in each of the three countries and at the level of the EU, it is important to em-

phasize that we did not seek to provide a ‘representative’ country (or EU institutional) view of policy assessment and preferences. We consider the information obtained in the interviews, and briefly summarized below, as indicative of potential (mis)alignment of assessments and policy preferences. The interviews also informed our analysis of public policy preferences discussed in subsection 4.4 of this chapter.

Each of the brief summaries below follows a common structure that includes discussion of interviewees’ views on the main features of the relevant ‘context’ of policy debates and cooperation; their perceptions of past experience with the EU-Turkey Statement; and opportunities and preferences for future cooperation. Some interviewees also discussed the role of public debates and attitudes in shaping policy making.

Greece

Our Greek interviewees highlighted three important background factors that frame recent discussions and policy approaches to EU-Turkey cooperation on migration. First, before 2015, migration issues were crowded out by the primacy and salience of the deep financial

and economic crisis in Greece. As a consequence, Greeks considered the so-called refugee crisis of 2015–16 to be a “crisis within a crisis.” Second, Greece had never before been confronted with an influx of refugees on such a large scale. Third, the broader political conflict and dispute between Greece and Turkey, which has intensified in recent years, naturally influences public and policy debates about the role of Greece in EU-Turkey cooperation on migration.

According to the Greek policy makers and experts we interviewed, the EU-Turkey Statement agreed in 2016 was initially well received in Greece, largely because it had the immediate impact of drastically reducing migration flows from Turkey to Greece. Still, as one of our respondents put it, this was both a “good and bad sign” as it showed that Turkey was able to manage the flows and could use migration as a way of pressurizing Greece and the rest of the EU.

One important point emphasized by almost all Greek policy makers we spoke to is that, from the perspective of Greece, the EU-Turkey Statement was viewed as an initial step forward toward developing a comprehensive and stable cooperation agreement. The EU-Turkey Statement was thus seen as a temporary rather than a permanent solution. It was seen as a measure that could buy some time for preparing a more comprehensive and long-term solution. One specific problem that some of our interviewees mentioned was that, under the terms of the agreement in 2016, Turkey committed to accepting returns of irregular migrants only from the Greek islands but not from the Greek mainland.

With regard to the ongoing problems of providing refugees with acceptable shelter and living conditions on the Greek islands, Greek interviewees mentioned a range of factors including the slow Greek asylum system (partly due to “administrative failures” although, as one policy maker pointed out, it is important to respect “due process, if you want to respect human rights you cannot move faster”); the low numbers of returns to Turkey; and the inadequate relocation of refugees from Greece to other EU member states. The fact that the “EU did not do all it promised to Turkey,” especially on resettlement and customs union, was also mentioned as an important factor. As one of our Greek interviewees suggested, “we must give people hope (through resettlement) and not just stop them at the shore.”

An important message emerging from most of our interviews with Greek policy makers and experts is that Greece feels “left alone” by the EU, not in terms of financial assistance (which has been significant) but in terms of solidarity in relocating and accepting asylum seekers and refugees. As one of our interviewees put it, the EU’s “policy is to leave Greece to deal with the problem, they give us money but no relocation.”

Another respondent noted that there is an impression that the EU is paying Greece to be “the camp of human souls.” Another still expressed that there is a sense of ‘humiliation’ in the narrative that Greece was left alone and “paid to manage Europe’s refugee problem.”

Greece’s weak welfare and social protection system was also mentioned as a relevant factor in this respect. Respondents put forward that most irregular migrants in Greece would like to move to other countries, partly due to language but also because of Greece’s economic situation. There is concern that many migrants cannot or do not want to integrate in Greece because they do not want to be in Greece in the first place. More generally, the interviews suggested a sense that Greece is a country of transit and not of destination for most of the refugees who have arrived over the past few years.

When asked about their reflections on the future, including any necessary changes in EU-Turkey cooperation on migration, the increased relocation of refugees from Greece to other EU member states was mentioned as an important but not sufficient element. A number of Greek respondents expressed concern that, on its own, the increased relocation may act as a “pull factor” that creates incentives for more irregular migration from Turkey to Greece. “On its own, relocation will not solve the problem.”

Turkey continuing to restrict irregular outflows and more effective and more numerous returns of irregular migrants from Greece to Turkey were mentioned as critical factors. As the policy challenge affects all of the EU and not only Greece, one of our respondents advocated for establishing a European asylum system and a European returns system.

The general view on the EU-Turkey Statement was that its implementation needed to be ‘modernized’ but that the Statement should not be renegotiated, partly because Turkey would have “the upper hand” in any major renegotiation. The interviews with Greek policy makers suggested a perceived need to continue the cooperation and that the priority should now be to re-establish trust with Turkey.

Finally, we also asked respondents to reflect on public debates and perceptions in Greece. Keeping in mind that the answers we obtained are individuals’ personal impressions and assessments, a number of respondents commented on the apparent change in attitudes of the Greek population. These have shifted from an initial humanitarian response in 2015–16 to much more hardened attitudes based on some communities’ feeling of being “overwhelmed” and a far-right rhetoric about “floods” of migrants that, according to one of our respondents, has gradually entered mainstream discourse and politics in Greece. Another interviewee commented that the presence of refugees is not widely viewed as a human rights issue in Greece and that “we have not yet discussed the integration issue; it is con-

sidered secondary.” It was also suggested that Greek people “can understand the agreement because of its results.”

Germany

The German policy makers we interviewed emphasized that Turkey and Germany have been partners on a range of issues for a long time, and that the “refugee crisis” of 2015 has increased the focus on migration in this long-standing relationship between the two countries. There have been more than seven bilateral (Germany-Turkey) dialogues on migration since 2015. German interviewees suggested that there is widespread recognition in the EU member states that Turkey is a leading partner for the EU on migration issues. German officials also told us that, of all EU countries, Germany has the strongest relationship with Turkey. As a consequence, Germany plays a special and leading role in the development EU-Turkey cooperation on migration issues. Germany has bilateral dialogues with Greece too, focused on financial and logistical help, also to improve conditions in hotspots on the Greek islands.

The German officials we interviewed indicated that in bilateral dialogues with Turkey, decision makers spent a lot of time discussing the EU Refugee Facility in Turkey (FRIT). As the return of Syrian refugees to Syria is not realistic at the moment, increases in financial assistance for refugees in Turkey are always an important topic. For the German government, the return of irregular migrants from Greece to Turkey is a critical issue although there is recognition that Turkey is not interested in a dialogue focused primarily on return.

There was broad consensus among the German officials we interviewed that the fundamentals of the EU-Turkey Statement are appropriate and functional and that, despite the politicization of the issue on both sides, EU-Turkey cooperation on migration has continued. As one respondent put it, the cooperation has been “remarkably resilient” and “there is no big contradiction between heated rhetoric and constructive technical cooperation.” There was a sense that the agreement has survived despite all the difficulties because it is fundamentally in the interest of Turkey and Europe. Another respondent observed that “everybody knows that if Turkey opens the gate, large numbers will come.” Some of the German officials we spoke to described the tensions in February–March 2020 as a targeted and limited provocation by Turkey to show that Turkey has the power to control migration flows to the EU. Turkey’s “opening of the borders” in early 2020 involved only a land border with Greece and not the sea border where the number of crossings could potentially have been much higher.

The German policy makers we interviewed suggested that, as Turkey will remain a major host coun-

try for refugees for the foreseeable future, there was broad agreement among EU member states that continued cooperation with Turkey on migration was needed. They also made clear that there is a strong basis for continuing cooperation in the form of the existing EU-Turkey Statement, and that the chief question is how to improve the current framework rather than re-negotiate a new one. One of the German interviewees noted that the key elements of the cooperation are well known and already in the EU-Turkey Statement, and another added that there was no new lever for the EU to improve cooperation. There was also a clear sense that, compared with other areas of cooperation between the EU and Turkey, the joint action on migration actually works quite well. In response to criticism that EU-Turkey cooperation on migration violates “European values,” one German policy maker we interviewed suggested that the EU needs to work with countries “as they are” because there is a need to be pragmatic. He added that Syrian refugees are much better off in Turkey than in Jordan, Lebanon, or north Syria.

When asked about how specific aspects of the cooperation and its implementation need to be improved, German officials underlined the importance of thinking about how German and EU financial assistance is spent in Turkey. Education and the integration of refugees in Turkey were mentioned as top priorities. Another area that needs to be emphasized more, according to the German officials we interviewed, was support for the broader Turkish population including Turkish children. Interviewees suggested that greater help for Turkish citizens could help improve the acceptance of refugees among the local Turkish population. One of the German respondents highlighted the need for the EU to think more about how to help at the level of local communities (especially those hosting large numbers of refugees) in Turkey. One of our German interviewees conveyed that Turks’ attitudes toward Syrian refugees have evolved from an initial humanitarian response to concerns about labor market competition and bottlenecks in the health system.

With regard to potential future increases in resettlement of Syrian refugees from Turkey in Germany, the interviews did not indicate that this was on the cards in the immediate future. Some of the German officials we interviewed held that while there may be a case for greater resettlement, Germany does not see itself “first in line within the EU,” as it is already resettling considerable numbers of refugees from Syria.

Finally, there was broad agreement that a central strategic question for Germany and the EU was whether and how to separate EU-Turkey cooperation on migration from other difficult issues in EU-Turkey relations. How can we maintain joint efforts in a positive and pragmatic way, despite the broader difficulties? Some German officials we interviewed suggested that it would be better to keep migration cooperation

separate from wider EU-Turkey issues although others expressed skepticism about the feasibility of doing this in practice.

EU policy makers

The EU policy makers we interviewed painted a broadly positive picture of EU-Turkey cooperation on migration since 2016 although they pointed to the need for improvement in the implementation of the agreement. The interviews reflected that the EU-Turkey Statement of 2016 is ‘the’ framework for cooperation, and that little EU-Turkey cooperation on migration has happened outside this framework. From an EU perspective, the perceived overarching EU objectives of the EU-Turkey Statement were to reduce irregular migration, prevent deaths in the Aegean Sea, and support refugees in Turkey. Although the Statement was prepared and agreed under pressure “as Turkey was in crisis and felt left alone by the EU,” it is considered “a good arrangement made at a difficult moment.” EU policy makers also strongly echoed a message emerging from our interviews with German policy makers, namely, that migration cooperation with Turkey has continued despite the political difficulties.

The evaluations of the EU policy makers we interviewed were clearly based on a pragmatic and outcome-focused approach. The EU-Turkey Statement has contributed to a significant reduction in irregular arrivals in Greece and the EU’s evaluations of the impacts of its financial assistance for refugees in Turkey have been positive. As one of our respondents put it, “the Statement stands, delivers results, and is beneficial for both sides.” A number of our interviewees suggested that, compared with other aspects of EU-Turkey relations, “migration has been an area of good cooperation with Turkey” based on mutual interests. The EU-Turkey Statement was also described as a potential model for improved EU cooperation on migration with African countries.

When asked to reflect on specific aspects of the cooperation since the EU-Turkey Statement was agreed in 2016, some EU policy makers mentioned the continuing debates about EU financial assistance to Turkey. These debates concern not only the magnitude of EU financial support and the pace of disbursement—as is well known, the Turkish government has expressed frustration about the slow pace of disbursement of the committed EU funds—but also how the EU money is spent in Turkey. The Turkish government would much prefer direct budget support to the EU’s current prac-

tice of disbursing support funds through humanitarian partner organizations such as the UNHCR and the Red Cross. The lack of direct budget support is perceived to be at the core of Turkish grievances about the current cooperation based on the 2016 Statement. Even so, according to a number of our EU interviewees, direct budget support for Turkey “has not been on the cards.” From the standpoint of the EU officials we interviewed, EU support for refugees in Turkey has been provided strictly in line with humanitarian principles, based on needs assessments, and delivered primarily through humanitarian partner organizations and, in some cases, through Turkish government ministries.

With regard to resettlement, the EU interviewees drew attention to Turkey being the largest country of origin for EU resettlement. They also commented that the resettlement that has happened since 2016 went beyond the 1:1 mechanism in the EU-Turkey Statement (which was never really implemented as intended originally).¹³⁹ Nevertheless, there was acknowledgment that more could be done and that efforts to increase resettlement were hampered by a lack of political will in some member states. Similarly, the officials also acknowledged member states’ failure to activate the Voluntary Humanitarian Admissions Scheme.

The EU officials we interviewed agreed with our German and Greek respondents that returns from the Greek islands to Turkey have not worked well, even before Turkey suspended readmission of irregular migrants due to the pandemic in early 2020. EU officials identified “problems on both sides.”

When asked about aspects of the EU-Turkey cooperation that need to be changed and improved in the future, our EU interviewees highlighted the importance of continuing with the fundamental framework of the current EU-Turkey Statement. There appears to be no appetite in the Commission for a new EU-Turkey Statement. As one official put it, “we need to implement the migration-related elements in full, but nobody wants a new statement with new elements.” The interview also conveyed a strong consensus that cooperation with Turkey must continue, based on the fundamental idea that “Turkey clearly can manage migration flows, and financial support is important to them.”

In terms of future priorities for targeting financial assistance in Turkey, EU policy makers echoed some of the suggestions by the German officials we interviewed, especially with regard to the need to invest more in the integration of refugees in Turkey and the need to consider the broader Turkish community. “We need to be careful that one group is not played against

¹³⁹ About 2,100 migrants, including 404 Syrians, were returned from Greece to Turkey between April 2016 and March 2020 (UNHCR 2020e). In contrast, since April 2016, over 28,300 Syrian refugees from Turkey were resettled in the EU (see European Commission, “State of Play,” JOIN(2021) 8 final/2 (2021), <https://ec.europa.eu/transparency/regdoc/rep/10101/2021/EN/JOIN-2021-8-F2-EN-MAIN-PART-1.PDF>; see also <https://reliefweb.int/report/turkey/returns-greece-turkey-31-march-2020>).

another.” There was clear recognition that Turkey needs economic support for the integration of refugees.

On the strategic question of whether and how it might be possible to ‘decouple’ cooperation on migration from broader political disagreements and disputes between the EU and Turkey, the EU officials we interviewed were skeptical that such decoupling would be possible. They pointed out that most member states, and indeed the EU’s New Pact on Migration, promoted the greater linking (and not de-linking) of migration and wider, related policy areas.

Turkey

Interviews with Turkish policy makers suggested that the EU-Turkey Statement is regarded as the culmination of cooperation efforts between the EU and Turkey to regulate migration. The Statement is perceived as part of a long-term institutionalized approach to a common policy issue in the EU that naturally would include Turkey as a candidate country. Therefore, the aims of the Statement, the conditions under which it has been drafted and signed, and how it needs to be revised are viewed from the standpoint of a long-term candidacy relationship. This view may partially explain why the Statement comprises action points beyond international protection and migration, such as visa liberalization, progress on the customs union, and the acceleration of EU accession negotiations (action point 8 of the EU-Turkey Statement).

Another key insight from the interviews is that action point 9 of the EU-Turkey Statement, about joint efforts to improve conditions in Syria, will need to be followed through effectively. This action point includes both a security and a humanitarian approach prevalent in Turkey’s migration governance. On the one hand, the EU-Turkey Statement is thought to support the efforts to meet the needs of Syrians and local communities in Turkey. After the large inflows, these needs have grown and diversified, straining public resources particularly in cities bordering Syria. On the other hand, the safe return of Syrians to their country in a dignified and voluntary manner is seen as an integral part of the temporary protection extended to Syrians in Turkey.

On perceptions of the experience with the EU-Turkey Statement since 2016, the primary objectives of the Statement in the context of migration governance are understood by Turkish interviewees as being twofold: (i) to stop irregular mobility toward Europe via the Aegean Sea from Turkey; and (ii) to support Turkey’s ongoing humanitarian efforts to meet the increasing needs of Syrian refugees whose stay in Turkey is prolonged amid the protracted conflict on the border.

The interviews indicated that the EU-Turkey Statement is viewed as compelling evidence of the substantial value of cooperation between Turkey and the EU on matters pertaining to migration, and that Turkey

is a critical actor in the migration crisis that has unfolded with the Syrian conflict. EU-Turkey cooperation on migration based on the Statement is generally judged a success due to the dramatic decrease in the numbers of irregular migrants crossing from Turkey to the Greek islands after the Statement came into effect. When asked about the most important benefits of the EU-Turkey Statement for Turkey, the Turkish respondents suggested that the humanitarian support provided by the EU for the Syrian refugees and host communities in Turkey helped improve access to basic protection needs (cash assistance, education, health, and livelihoods). There was an emphasis on the “temporary stay” of the Syrian refugees in Turkey, but also mention that such support eases the pressures on service delivery, which possibly improves prospects for social integration during their stay.

Concerning particular questions inherent in the formulation and the implementation of the EU-Turkey Statement, the interviews revealed three main challenges. To begin with, there is a consensus that the ‘needs assessment’ has to be conducted with the participation of many more actors (public authorities, NGOs, and local actors) from Turkey. In addition, the conditions under which the Statement was drafted have changed drastically over the past few years; thus, there is interest in crafting a mechanism/process that can effectively account for the transformation of contexts over time. Lastly, there are concerns that the implementation strategy of the EU-Turkey Statement involves the selection of implementing partners from international organizations and a few NGOs, and that there is a need to implement programs primarily with public agencies. Despite these setbacks, a common view that emerges from the interviews is that the Statement needs to be renewed, and it should include more actors from Turkey throughout the needs assessment, re-drafting, and implementation processes, along with an expanding budget and longer time horizon.

Respondents’ perceptions of past experience with the Statement reveals several sources of contention, which may lead to suggestions for the design and content of a new (or renewed) Statement.

First, there is a general sense that Turkey has fulfilled all of its commitments as specified in the EU-Turkey Statement. However, with unfulfilled EU commitments in the Statement on modernization of the customs union, visa liberalization, and accession negotiations, there is a common impression in Turkey that the EU has neglected these action points. Referencing the incidents of “pushbacks” in the Aegean, the EU is viewed as remaining “silent” and not taking action against human rights violations committed by a member state, Greece.

Second, the FRiT budget of €6 billion is deemed insufficient to meet the cost of the diverse and rising needs of the forcibly displaced population, and the methods of allocation as well as use of the funds

in need of improvement. The fact that the FRiT had a short time horizon seems to have impeded planning for the long term, especially concerning actions around social integration.

Third, based on the experience gathered from implementing the Statement since 2016, there is greater emphasis on designing, drafting, and implementing a revised Statement that accounts for changes in northern Syria, and on facilitating “voluntary, dignified, and sustainable returns.” The respondents underscored the perceived significance of “creating a solution within Syria”¹⁴⁰ and easing cooperation between Turkey and the EU on this front as well.

Fourth, while it is widely known that the 2016 Statement envisaged the inclusion of NGOs and municipalities in the implementation phase, there is a strong view that the implementation of any new or renewed statement should involve Turkish public authorities, municipalities, and NGOs further. The rationale behind this is that Turkey has accumulated unique knowledge on the management of large inflows of Syrian refugees in the past decade, and that it is only by involving more Turkish partners in implementation that this experience can be used in developing sustainable local solutions. Some of our interviewees also called for designing a ‘joint management’ scheme that administers the funds with the involvement of host communities.

Fifth, a discussion arising in the interviews with Turkish policy makers highlighted that the 2016 Statement is viewed as only addressing the needs of the Syrian refugees. Based on the fact that Turkey hosts close to half a million forcibly displaced people from countries other than Syria, it is thought that a new

or renewed statement would need to account for the needs of these groups as well.

In a nutshell, assessment of past experience with the EU-Turkey Statement from a migration governance standpoint suggests that any new or revised Statement has to incorporate a comprehensive understanding of

- policy perceptions across the various contexts of migration trajectories (origin, transit/receiving/host, and destination countries);
- views on international cooperation for responding to the mixed nature of human mobility (irregular, forced migration, returns, readmission, and circular);
- the consequences for all stakeholders as contributors to and participants in decision-making; and
- implementation at multiple governance levels with a long time horizon.

Suggestions for the future from our interviews with policy makers in Turkey can be summarized as follows: a new or renewed statement is to be considered within the context of EU-Turkey relations and the protracted conflict in Syria as well as in other parts of the world. There is the expectation that any new or renewed statement would be based on a comprehensive dialogue between the EU and Turkey, and thinking through matters of managing (irregular) migration and international protection concerning all forcibly displaced people in Turkey, including but not limited to Syrian refugees. Both the financial and technical components will need to be updated and adapted regularly with a more flexible design of the institutions that are charged with implementing the action plan.

4.4 Public policy preferences: Which types of EU-Turkey cooperation do people prefer?

Having discussed how senior EU officials and policy makers in Germany, Greece, and Turkey think about EU-Turkey cooperation on migration based on the 2016 EU-Turkey Statement, we now turn to our analysis of public preferences in the three countries. What types of cooperation on migration does the public prefer, which policy features of the overall cooperation generate public

support and opposition, and how do the answers to these questions vary across the three countries? As explained earlier in this chapter, we believe that understanding public preferences and how they vary across countries is of critical importance to ensuring the effectiveness and long-term sustainability of EU-Turkey cooperation on migration and refugee protection.

¹⁴⁰ *Daily Sabah*, “Turkey to Build Model Safe Zone in Northern Syria’s Liberated Areas” (January 3, 2020), <https://www.dailysabah.com/politics/2020/01/03/turkey-to-build-model-safe-zone-in-northern-syrias-liberated-areas>.

To analyze these questions, MEDAM researchers conducted a new study (Vrănceanu et al. 2021) that involved ‘conjoint survey experiments’ with over 3,900 people in Turkey, Greece, and Germany. In each of these countries we conducted—with the help of the survey company Respondi—online surveys with 1,250–1,350 people. The national samples were selected to be representative of these countries’ voting-age population in terms of age, gender, and region. Similar to other online surveys, individuals with low levels of education are under-represented in our sample. All surveys were carried out in January–February 2021.

Conjoint experiments are particularly useful for studying public attitudes toward multidimensional (policy) issues such as EU-Turkey cooperation on irregular migration and refugee protection. Rather than asking people to assess and rate certain policies independent of one another, conjoint experiments require respondents to make a series of constrained choices between pairs of ‘policy options’ (in our case, ‘cooperation agreements’) that differ across several dimensions making up the overall policy. The methodology facilitates analysis of how specific policy features affect support for the overall policy cooperation.

Based on the 2016 EU-Turkey Statement and related action plan, the new MEDAM study identified and defined the policy cooperation in terms of five important dimensions:

- EU financial assistance for refugees in Turkey;
- Turkish border control measures to reduce irregular migration to the EU;
- the return of irregular migrants from Greece to Turkey;
- the resettlement of already-recognized refugees from Turkey to the EU; and
- EU assistance to Greece for dealing with migrants and refugees.

The first four of these dimensions constitute the core migration-related aspects of the 2016 EU-Turkey Statement. The fifth dimension captures the potential dynamics between Greece and other EU member states (especially Germany). We included this dimension in the analysis because ‘internal EU cooperation’ between Greece (as a first country of arrival for irregular migrants crossing from Turkey) and the EU (especially those EU member states like Germany that have been major destination countries for migrants transiting through Turkey and Greece) has played an important

role in policy debates about EU-Turkey cooperation in practice.

The EU-Turkey Statement also has a few other dimensions of cooperation that were not included in our study. These additional dimensions relate to questions about broader aspects of EU-Turkey relations like the liberalization of visa requirements for Turkish citizens travelling to Europe, enhanced economic cooperation between the EU and Turkey through an upgrading of the existing customs union, and the acceleration of negotiations about Turkish membership of the EU. We excluded these dimensions from our analysis primarily for methodological reasons, in the sense that having more than five policy dimensions would have made our survey experiments overcomplex and cognitively demanding for survey participants (which was confirmed during pre-tests of our surveys). Our analysis thus focused on the core migration-related dimensions of the EU-Turkey Statement which, in practice, have been at the center of its implementation since 2016.

In the survey experiment conducted by MEDAM researchers (for details, see Vrănceanu et al. 2021) each of the five policy dimensions took on two or three possible values (i.e., policy features), which are all listed in table 2. Respondents were shown and asked to evaluate hypothetical EU-Turkey cooperation agreements (e.g., ‘Option A’ vs. ‘Option B’) that were generated by randomly selecting one policy feature within each of the five dimensions.

Looking at table 2, the policy feature listed first within each dimension constitutes the status quo reference category,¹⁴¹ i.e., how this aspect of EU-Turkey cooperation on migration is regulated in the 2016 EU-Turkey Statement (in some cases the specific wording in the EU-Turkey Statement was adjusted to make it more suitable for a survey of the public). The other possible policy features constituted potential changes to the current cooperation. We identified these policy features based on the dominant aspects of public and policy debates about EU-Turkey cooperation on migration in recent years as well as pertinent insights obtained from conversations with Greek, Turkish, and German researchers, and policy experts (including some of the in-depth interviews with EU and national policy makers discussed in the previous subsection of this chapter). As mentioned before, this approach and methodology allowed us to establish what types of policy changes and reforms of the current EU-Turkey cooperation would generate most public support, and how this varies across Turkey, Greece, and Germany.

¹⁴¹ For the dimension ‘EU financial assistance to Turkey’, we designated ‘financial support to international and nongovernmental organizations to help refugees in Turkey’ as the status quo. Although some of the EU’s financial assistance for refugees in Turkey is provided via specific Turkish government ministries, this constitutes a small share of the EU’s overall assistance.

Table 2 Possible values (or ‘policy features’) of the five policy dimensions that make up the overall (hypothetical) cooperation agreements between the EU and Turkey shown to survey respondents

Policy dimensions	Randomly allocated values (policy features) in the experiment
Return of migrants from Greece to Turkey	<ul style="list-style-type: none"> – Greece sends back only those migrants crossing irregularly from Turkey who do not qualify for asylum.* – Greece sends back all migrants crossing irregularly from Turkey, even those who may qualify for asylum.
EU financial support to help refugees in Turkey	<ul style="list-style-type: none"> – Financial support to international and non-governmental organizations to help refugees in Turkey.* – Financial support to the Turkish government to help refugees. – No financial support to the Turkish government or other organizations helping refugees.
Resettlement from Turkey to EU	<ul style="list-style-type: none"> – EU takes in one Syrian refugee for each irregular Syrian migrant sent back by Greece to Turkey.* – EU takes in no Syrian refugees from Turkey. – EU takes in 1% of the population of Syrian refugees in Turkey each year (that is, 36,000 in 2020).
EU support to Greece to deal with migration	<ul style="list-style-type: none"> – Financial and operational support.* – Transfer of asylum seekers from Greece to other EU countries. – No support to Greece for dealing with migration.
Turkish controls of border with Greece	<ul style="list-style-type: none"> – Stepped up border controls (e.g. increased interception and surveillance activities) to prevent irregular migration to the EU.* – Standard border controls (e.g. document checks at ports) to prevent irregular migration to the EU.

Source: Vrănceanu et al. 2021.

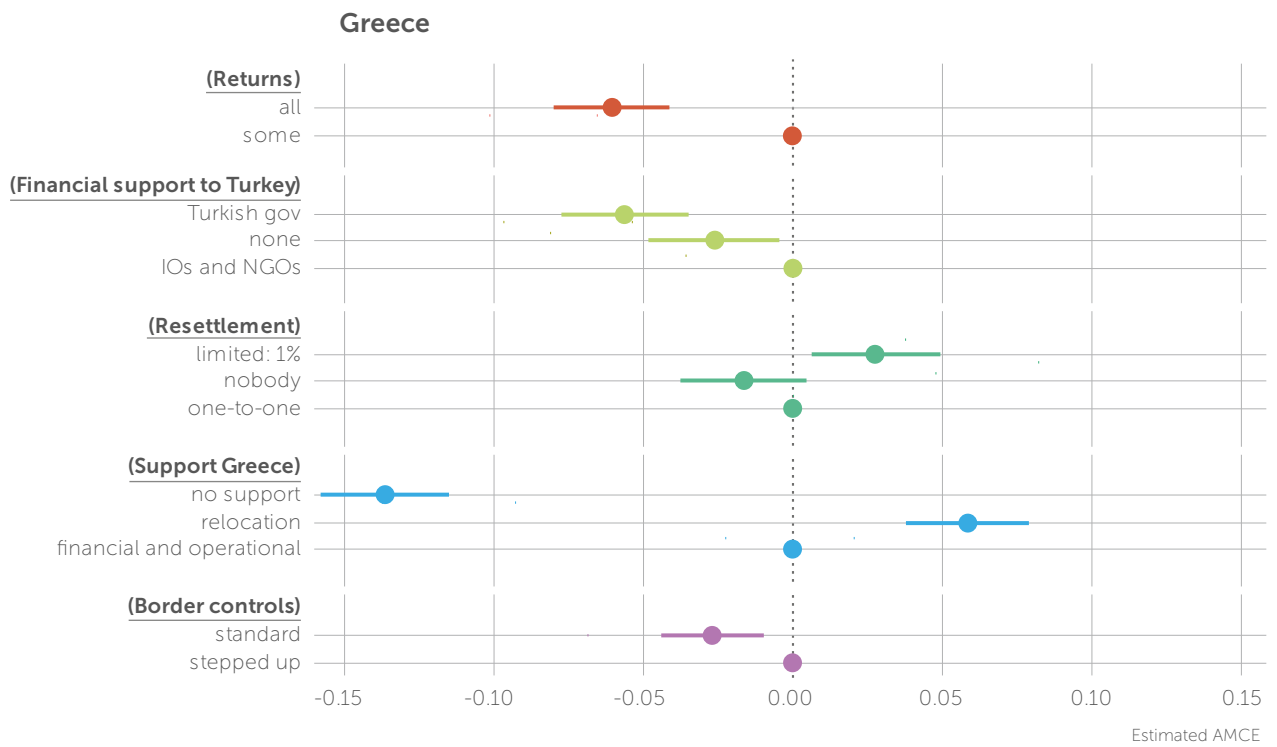
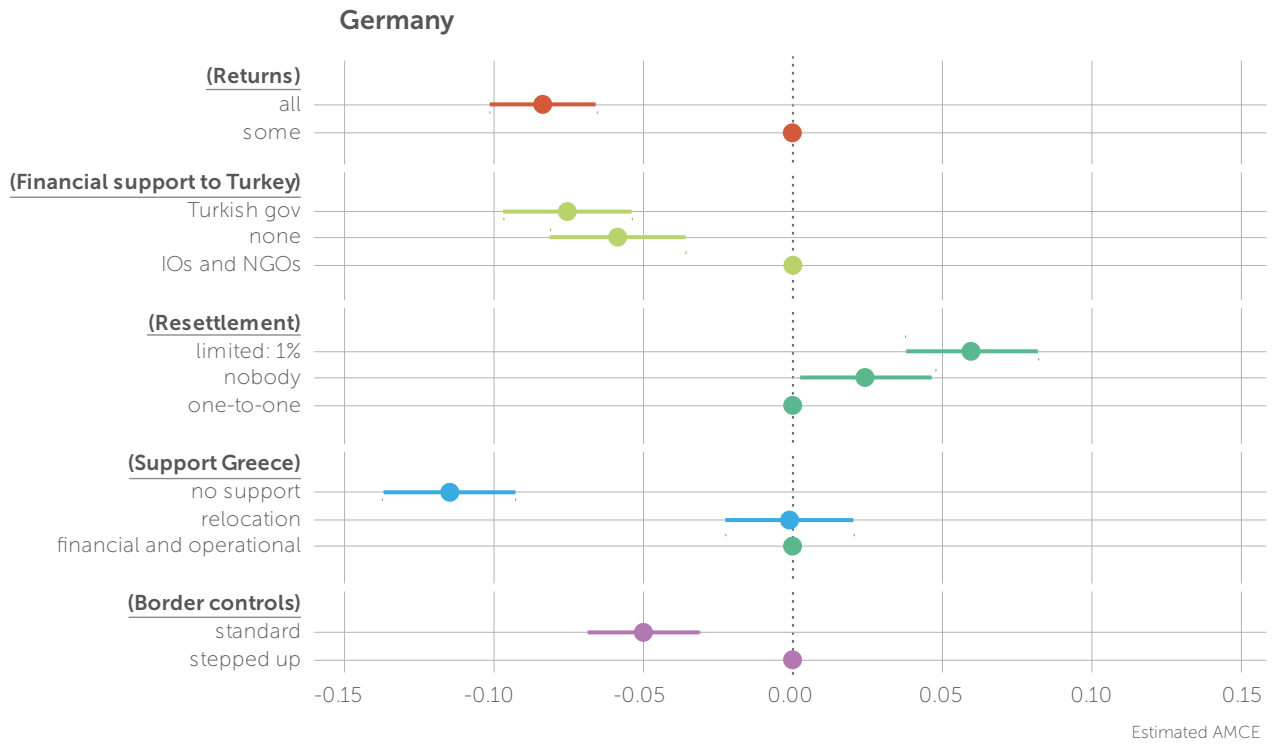
* Indicates the reference category in each policy dimension.

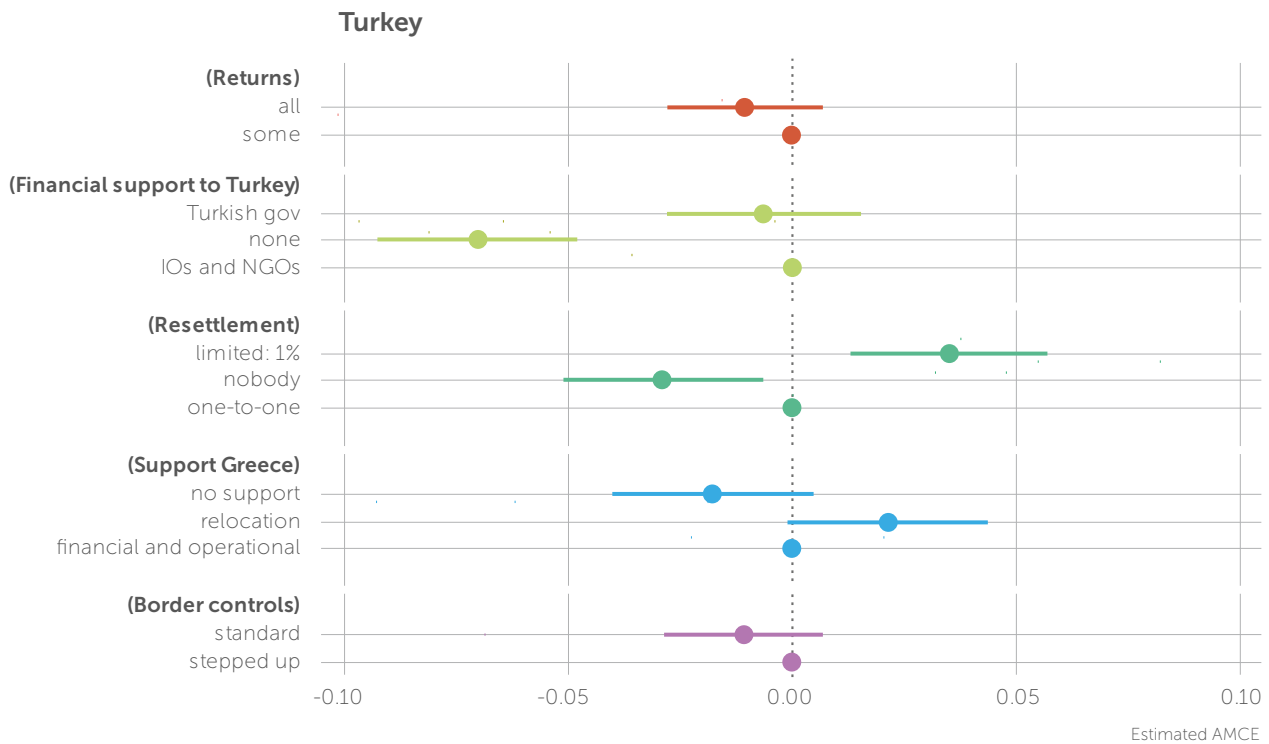
The main results of the study are shown in figure 9. The figure shows the expected change in the probability of accepting the overall ‘cooperation agreement’ when a given policy feature is compared with the reference category. The dots report point estimates and the bars indicate the 95 percent confidence intervals¹⁴² around those points. The dots that are exactly on the zero line and do not have confidence intervals show the reference categories for each policy dimension. If a specific policy feature has a dot to the right (left) of the zero line, and if the confidence interval does not cut across the zero line, it means that,

compared with the baseline feature, introducing this policy feature would raise (lower) public support for the overall policy cooperation. For example, looking at the German sample and the ‘border control’ dimension at the bottom of the figure, the results show that, compared with the status quo (reference category) of ‘stepped-up border controls’ by Turkey (the dot on the zero line), implementing only ‘standard border controls’ (the dot with a confidence interval to the left of the zero line) would reduce public support for the overall EU-Turkey cooperation agreement by about five percentage points.

¹⁴² Confidence intervals are measures of uncertainty around the point estimates. A 95 percent confidence interval means that, if we were to draw repeated samples of the population and calculate the confidence intervals for each sample, 95 percent of them would contain the true effect.

Figure 9 Effects of changes in policy features on the probability of accepting the overall cooperation agreement
(percentage points)





Source: Vrănceanu et al. 2021.

Notes: Average marginal components effects (AMCE) of policy attributes on policy choices. Dots with horizontal lines indicate point estimates with a cluster-robust 95% confidence interval.

IOs = international organizations.

Returns. Our results suggest that German and Greek voters oppose ‘pushbacks,’ i.e., the practice of returning (‘pushing back’) all irregular migrants to their countries of origin (or transit) irrespective of their intentions to apply for asylum. Compared with the current agreement, to return only those irregular migrants to Turkey who do not qualify for asylum in Greece (as specified in the 2016 EU-Turkey Statement), returning all irregular migrants reduces public support for the overall cooperation in both Germany (by about 8 percent) and Greece (by about 6 percent). In the context of our survey experiment, these can be considered relatively large effects. In Turkey, a policy of returning all irregular migrants from Greece to Turkey does not change public support for the overall cooperation compared with the status quo.

EU financial support to help refugees in Turkey. German and Greek respondents have a strong preference for channeling EU financial support for refugees via international organizations working with refugees in Turkey rather than via the Turkish government. As shown in figure 9, compared with the ‘status

quo’ of support via humanitarian organizations, providing EU financial assistance directly to the Turkish government has a strong negative impact on German and Greek public support for the EU-Turkey cooperation on migration. This means that the strong policy preferences on this issue expressed by the EU policy makers we interviewed is also reflected in public preferences. Figure 9 also suggests that, in Germany and Greece, a policy of ‘no EU support’ for refugees in Turkey would *reduce* public support compared with EU support via international and nongovernmental organizations. Unsurprisingly, people in Turkey are strongly opposed to ‘no support for Turkey’ (a hypothetical policy feature with a large negative effect on Turkish citizens’ support for the cooperation) and, in contrast to Greek and German survey respondents, direct financial support for the Turkish government does not make a difference to their support.

Resettlement. When it comes to resettlement, the results suggest that citizens in all three countries prefer a policy that bases the number of people to be resettled each year on a percentage of the refugee population in Turkey (in our survey experiment, we

specified 1 percent) over the 1:1 mechanism specified in the EU-Turkey Statement (which, according to our interviews with key policy makers, was never implemented in practice—see the discussion earlier in this chapter). A policy of ‘no resettlement’ reduces public support for the cooperation in Turkey.

EU support to Greece. Both Germans and Greeks are strongly opposed to a hypothetical policy of ‘no EU support’ for Greece to deal with refugees and other migrants. Our data suggest that while Greeks would prefer relocation of refugees from Greece to other EU countries to the status quo of financial and operational support, Germans are indifferent between relocation and the status quo of merely providing financial and operational support. Our results suggest that Turks do not have a policy preference on this issue either.

Turkish border control measures. Our survey respondents in Germany and Greece prefer policies that include stepped-up rather than just regular border controls by Turkey to prevent irregular migration to the EU. Compared with the status quo of stepped-up controls, the effect of regular controls is to reduce public support for cooperation by 5 percent

in Germany and 3 percent in Greece. In Turkey, by contrast, citizens do not have a strong preference on the severity of border controls.

Overall, our findings on public policy preferences for EU-Turkey cooperation in Germany, Greece, and Turkey suggest that, when considering different types of cooperation, there is considerable public support for the status quo in most of the dimensions of the EU-Turkey Statement that we analyzed. The majority of potential policy changes that we explored would reduce rather than increase public support for the overall cooperation. The exceptions include resettlement, where there is a preference for changing from the 1:1 mechanism to annual resettlement based on a certain share of the refugee population in Turkey, and the relocation of refugees from Greece to other EU countries that Greek citizens (but not German or Turkish citizens) prefer to EU financial and operational support.

The following chapter discusses what our findings on the preferences of the public and policy makers vis-à-vis EU-Turkey cooperation on migration and refugee protection might mean for current debates and future policy making in practice.

5 Policy implications

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5.1 Proposed New Pact on Migration and Asylum

In our analysis of the proposed New Pact (chapter 2), we explain how the Pact may be viewed as a set of mutually dependent policy instruments to govern the different elements of the European asylum system, based on common standards for reception conditions and asylum procedures in the member states. Policy instruments include the border procedure for expedited asylum processing for applicants from countries with low international protection rates; solidarity instruments like the relocation of asylum seekers among member states and return sponsorship; and cooperation with countries of origin to facilitate the timely return and readmission of rejected asylum applicants. By carefully calibrating these instruments, the Commission hopes to uphold humanitarian standards and maintain access to asylum at the EU's external border. Meanwhile, most rejected asylum applicants, who now often remain in Europe, would return to their countries of origin and the European asylum system overall would not be overstretched because incentives to apply for asylum without a valid reason would be reduced. The new solidarity instruments, especially the relocation of asylum seekers from countries of origin with high protection rates, would ensure equitable responsibility sharing among EU member states.

In past MEDAM Assessment Reports, we have emphasized the need for a whole-of-system approach to managing migration to Europe, including asylum. Hence, the comprehensive approach underlying the proposed New Pact is highly appropriate and a major step toward a functional European asylum system.

In chapter 2, we also identify shortcomings in some of the proposed instruments that could render the architecture of the Pact ineffective. We summarize these shortcomings below. Then we reflect on the broader implications of the Pact's emphasis on setting the rules for the asylum system at the EU level while leaving responsibility for implementation and funding with individual member states. This approach raises the question of whether member states will comply with the (costly) rules that some may feel are being imposed on

them, and if they do not, whether the EU has effective enforcement mechanisms.

The **border procedure** involves an expedited asylum procedure for applicants from countries of origin for which international protection rates in the EU are very low. At the same time, the procedure must conform to the relevant European and international norms because a given individual may qualify for protection even if few other applicants from that individual's country of origin do. Member states conducting border procedures may be tempted to prioritize speed over fairness in the asylum procedure at the border. Member states of first arrival have also expressed concern that they may be left with large numbers of rejected asylum applicants who, in spite of what the Commission hopes for, cannot actually be returned to their countries of origin.

Return sponsorship would involve EU member states assuming responsibility for returning a particular rejected asylum seeker to the individual's country of origin, maybe because the member state maintains especially close political relations with that country. If the individual does not return within a few months, the sponsoring member state becomes responsible for accommodating the rejected asylum seeker until the individual's eventual return. While return sponsorship is only one item on the menu of solidarity instruments through which the Commission hopes to achieve equitable responsibility sharing among member states, there are few circumstances when return sponsorship is likely to work well. Mandatory return is nearly always controversial in the country of origin and few member states may want to spoil their good relations with a country of origin by attempting to facilitate 'extra' returns. In sum, it may not hurt to have return sponsorship on the menu of solidarity instruments, but it is likely to be little used.

The main solidarity instrument would be the **relocation** of asylum applicants who are not subject to the border procedure to another member state for asylum processing. This would occur if the Commis-

sion, upon request from a member state of first arrival, declares an emergency that threatens to overburden the member state of first arrival. Relocations would initially be voluntary, but the New Pact proposal would give the Commission discretionary powers to direct member states to receive a certain number of asylum applicants or, equivalently, sponsor returns (see above). An equitable distribution of applicants would be defined by member states' shares in EU population and GDP, equally weighted.

While many important details linked to relocation are yet to be negotiated, there are several concerns. First, member states that prefer a more restrictive approach to irregular immigration and asylum may not object as such to other member states pursuing a more welcoming approach but may be unwilling to participate in the welcome by receiving asylum applicants through relocation, with no firm upper limit. Second, it is not yet clear how exactly an emergency would be defined and what efforts would be expected from the respective member state before it can ask others for help. Third, a rules-bound system for calling an emergency and implementing solidarity measures could increase transparency and predictability. By contrast, granting the Commission wide discretion would allow a more flexible response to unforeseen circumstances and allow member states to choose between solidarity instruments more freely, but it would also require a high level of trust among member states and toward the Commission. Fourth, relocation for burden sharing among member states assumes that recognized refugees will stay where they are relocated, even if incomes and social support for recognized refugees are much higher in another member state. This may be difficult to enforce, as the onward migration to Germany by Afghan refugees recognized by Greece in early 2021 demonstrates: these recognized refugees may travel freely in the Schengen area, cannot be returned to Greece because they would be destitute there, and therefore have the right to receive full income support in Germany.

Finally, the Commission hopes to return a much higher share of rejected asylum applicants to their countries of origin through better cooperation with governments of countries of origin (**external dimension**). The difficulty is that countries of origin may have an obligation under international law to readmit their own citizens, but mandatory returns are often deeply unpopular and may also reduce migrant remittances. Consequently, many countries of origin drag their feet when it comes to readmission, without opposing it openly.

The proposed New Pact contains several measures to shift the incentives of countries of origin toward active cooperation with the EU on return and readmission.

Proposed measures comprise 'negative' incentives—such as strengthening return-related conditionality on visa policies and introducing it to other areas like development cooperation, trade, and education—as well as positive incentives. The latter involve more opportunities for travel, study, and work in the EU, including through skill partnerships for vocational and language training and work visas. In practice, however, the focus has so far been on negative incentives, for example, visa restrictions if cooperation on returns is found wanting. In part, this may be because certain positive elements, such as work visas, are member state competencies and putting together a joint offer by member states would require a major concerted effort in the middle of the deep recession caused by COVID-19.

Furthermore, low return rates are not only due to the lack of return and readmission cooperation from countries of origin. They are also caused by manifold bureaucratic inefficiencies in many EU member states. It is far from clear whether return rates can be increased by as much as the European Commission expects in the short to medium run.

In sum, there are numerous shortcomings in the main instruments for migration governance in the proposed New Pact. On the one hand, this is not surprising because the New Pact is a proposal that has yet to go through extensive negotiations involving member states, the Commission, and the European Parliament. Optimistically, one might hope that, one by one, the shortcomings will be ironed out and a more effective governance structure for asylum and migration will emerge in the course of negotiations.

On the other hand, the combination of several shortcomings calls the functionality of the proposed institutional infrastructure of the Pact into question. For example, if it cannot be assumed (as we argue in this report) that the return ratios of rejected asylum applicants will increase as planned through a combination of return sponsorship and external cooperation, this raises the question of whether other instruments, especially relocation, can compensate if necessary. If more asylum applicants remain in the EU, whether or not they are recognized as refugees, will member states be willing to receive more asylum applicants through relocation? The answer seems far from clear, given the uncertainty about the functioning of the relocation mechanism.

In addition to the shortcomings in the proposed institutional architecture of the Pact, one fundamental challenge will be that, while the Pact proposes a complex set of common rules for the asylum system, it leaves it mostly up to member states to implement and finance the system. Yet, we know from experience that some member states have found ways to give short

shift to their obligations and shift some of their logistic or financial burdens onto other member states or onto asylum seekers (for example, by not registering irregular migrants and allowing them to move to other member states to apply for asylum; or, conversely, by sealing their borders and making it more difficult to access asylum or by allowing reception conditions to fall short of basic humanitarian standards).

To address this challenge and achieve the objectives of the Pact (including access to asylum and respect for humanitarian standards at the external EU borders), two alternative approaches are conceivable. First, one could work toward a centralized monitoring, command and control architecture that allows the Commission to enforce the common rules. A strong Commission role is already apparent in the proposed governance of some New Pact instruments. For example, after consultations with member states, the Commission has considerable discretionary power to declare an emergency that will trigger solidarity instruments in support of a member state. Ongoing debates also highlight the importance of human rights monitoring within Frontex and at the external border generally. All the same, many member states insist (and the Commission proposes in its draft screening regulation) that they should be responsible for monitoring their own border practices, which may defeat the purpose of implementing common standards. Against this background, it seems far from clear whether a comprehensive Commission-controlled monitoring and enforcement structure for member state asylum practices would be politically feasible or effective.

A second, alternative approach to implementing common standards for the reception, processing, and integration of asylum seekers is to centralize operational and financial responsibility for the asylum system at the EU level. Accordingly, the cost of the common asylum policy would be borne by the common budget. Member state authorities would still be required to run the asylum system locally, but they would act on behalf of the Union and their expenses would be refunded from the Union budget.

Centralization along these lines is suggested by the theory of fiscal federalism to produce a public good (refugee protection) at the Union level when regional units (member states) have incentives to free-ride while enjoying the benefits of the public good being produced by others. Refugee protection is a public good at the EU level: while the public across many member states broadly support the right to asylum

(MEDAM 2019), people in each member state may be happy to see individuals protected in another member state that bears the cost of receiving, processing, and hosting the asylum seeker. Hence, every member state acting individually has an incentive to encourage (or oblige) asylum seekers to apply for asylum elsewhere. In the end, the quality of refugee protection in the Union will be worse than what public preferences call for.

For many reasons, an EU asylum system with adequate protection standards and centralized operational and financial responsibility is not a short-term prospect. The cost would be high, compared with the current EU budget, and require additional revenue for the EU budget. To give merely an indication of possible magnitudes, Ruist (2019) uses estimates of the lifetime fiscal cost of refugees in Sweden to estimate the annual recurring cost of hosting 13 million refugees at 0.6 percent of EU GDP, assuming that refugees are distributed across all EU member states like the resident population. As of 2020, EU member states hosted rather fewer refugees: approximately 3.5 million refugees and asylum seekers as defined by the UNHCR, with larger than proportionate shares in higher-income member states where the assumed cost of hosting refugees is also higher. During 2021-27, the total EU budget (Multiannual Financial Framework plus NextGenerationEU) will be a little below 2 percent of EU GDP.¹⁴³ Thus, while refugee protection would constitute a major expenditure category in the EU budget that would most likely require additional revenue, it would be of a somewhat similar order of magnitude as other large items such as cohesion or agriculture.

In addition to its impact on EU finances, a fully centralized asylum system would also require far-reaching institutional reforms for which there may be little support among member states in the near future. At the same time, there are meaningful steps short of full centralization in many policy areas under the Pact proposal. Examples include the growing role of Frontex in external border management and return, the new return coordinator, the enhanced role of the proposed European Union asylum agency, and logistic support for member states on the external border through the planned EU-funded reception centers for asylum seekers. As negotiations on the New Pact continue among the member states, Commission, and European Parliament, the strong theoretical arguments in favor of centralization may be useful to keep in mind, particularly as they are borne out by the frustrating history of unsuccessful attempts to reform the European asylum system.

¹⁴³ European Commission website, "Fact Check on EU Budget," https://ec.europa.eu/info/strategy/eu-budget/protection-eu-budget/fact-check_en#howbigis-theeubudget.

5.2 Future EU-Turkey migration cooperation

The current legal framework and institutions for migration governance in Turkey were established with EU support in line with international standards beginning in the mid-2000s. In many ways, the 2016 EU-Turkey Statement was the culmination of a successful history of bilateral migration cooperation. The core elements of the Statement have been implemented since 2016, with some lapses: the EU has provided substantial humanitarian support for refugees in Turkey and their host communities, while Turkey has mostly stopped irregular migration to Greece (the March 2020 events at the land border notwithstanding). Fewer Syrian refugees than Turkey had expected were resettled directly in the EU, although the number was still substantial at 28,000 during the five years up to March 2021 (Terry 2021). Visa liberalization for Turkish citizens visiting the EU did not go ahead because of disagreements regarding the Turkish anti-terrorism law; little or no progress was made with the modernization of the EU-Turkey customs union or Turkish EU accession.

Available financing under the 2016 Statement for refugees in Turkey will probably be spent by end-2021 and negotiations are ongoing between the EU and Turkey on future migration cooperation. Overall, bilateral relations between the EU and Turkey are now tense because of conflicts over marine boundaries, the continuing Turkish occupation of Northern Cyprus, and the role of Turkey in Libya and Azerbaijan, among other contentious issues. In contrast to 2016, when the EU and Turkey sought to promote migration cooperation by embedding it in a broader political agenda, the emphasis in 2021 may have to be on preserving what has worked well under the 2016 Statement while preventing the general poor state of bilateral relations from spilling over into migration cooperation.

Even if the two sides stick to a narrow agenda in the ongoing negotiations, Turkey now faces larger and more complex humanitarian and refugee protection challenges with implications for the EU. For that reason, equitable responsibility sharing calls for a larger contribution from the EU:

- There are now more Syrian refugees in Turkey (3.6 million vs approximately 2.6 million in March 2016). Also, it is now clear that most Syrian refugees will not be able to return to Syria safely in the foreseeable future; full economic and social integration will be required to allow them to live with dignity in Turkey. While this process will be gradual and some legal and institutional preconditions are already in place (section 3.3), effective access to the formal labor market will require public investment in language and vocational training for Syrian refugees as well as adjustment assistance in host communities. This is particularly true in the middle of the COVID-19 pandemic, which has hit the Turkish economy badly, and because the presence of Syrian refugees is increasingly contested in social and political discourse. Given the experience of several EU member states with the social and economic integration of Syrian refugees since 2015, the EU should offer to support the process in Turkey through policy dialogue as well as financial assistance, in addition to the ongoing humanitarian assistance through the FRiT that continues to be needed.
- Although the legal and institutional framework for non-Syrian asylum seekers in Turkey has been clarified since 2014 through the Law on Foreigners and International Protection, their situation on the ground is largely unresolved. They may register for international protection and are then allocated to a municipality where they have to wait to be re-

settled to another country through the UNHCR—often for many years. Unsurprisingly, non-Syrian asylum seekers, most of whom are from Afghanistan, Iran, and Iraq, constitute a large proportion of irregular arrivals on the Greek Aegean Islands. While the securitization of Turkey’s borders with Iran and Iraq serves to contain the number of non-Syrians in Turkey, the situation in the border areas remains volatile. It would be in the interest of the EU to work with Turkey to stabilize and improve the situation of this group—from subsistence (be it through work permits or social assistance) to the resettlement of vulnerable individuals in the EU or other host countries.

- Through its military presence in northern Syria, Turkey has become involved in providing security to several million Syrian citizens internally displaced by the conflict as well as in post-war reconstruction in those areas where there is an official Turkish military occupation. Turkish officials have repeatedly asked for international and EU support for Turkey’s reconstruction effort in northern Syria. Still, Turkey’s approach to the area is driven by its own strategic and security priorities, which may not be shared by the EU. At the same time, the population in these areas is facing considerable humanitarian and reconstruction challenges. The EU may want to explore how it can help to address them without compromising its own values or priorities.

In addition to these emerging difficulties, we have identified obstacles as well as opportunities for politically feasible migration and humanitarian cooperation between the EU and Turkey through our online surveys and qualitative interviews with policy makers in Turkey, Greece, and Germany:

- Current EU humanitarian assistance for refugees in Turkey enjoys broad support among the public and policy makers. In the EU, there is an emphasis on ensuring that support benefits refugees directly, rather than being provided as budget financing to the Turkish state (which general EU rules may cur-

rently not allow in any case). Hence, while Turkish officials have demanded a greater role for the Turkish state in the allocation of funds, moving in this direction would likely undermine public support in the EU.

- Turkish officials have called for an overall increase in support from the EU, pointing to the refugee-related expenditures of the Turkish state. However, these cost estimates are unfortunately nontransparent (section 3.2) and do not constitute a reliable basis for discussing what equitable responsibility sharing would involve. More transparency on Turkish government expenditures for refugees would be an appropriate starting point for this necessary debate. In the meantime, it remains true (see above) that refugee protection and humanitarian challenges in Turkey have increased over the last five years.
- Preventing irregular migration to the EU remains an important concern among the EU public and policy makers and constitutes a quid pro quo for financial support for refugees in Turkey. If events like those in March 2020 on the land border with Greece were repeated, this would probably undermine public support for EU-Turkey migration cooperation.
- There is support among the EU public for resettlement of refugees from Turkey to the EU, in addition to financial support for refugees in Turkey. This may become one element in a new approach by the EU and Turkey to the situation of non-Syrian asylum seekers. Living conditions for this group are deeply unsatisfactory not only from a humanitarian point of view, but also because they create incentives for this group to attempt irregular migration to Greece.

Clearly, Turkey is faced with a set of long-term refugee protection and humanitarian challenges with far-reaching implications for the EU. The EU’s ability to work with Turkey for constructive outcomes would likely be enhanced if the EU makes a similarly long-term political commitment to equitable responsibility sharing with Turkey. In this way, migration cooperation could become a stable (and possibly stabilizing) element amid otherwise volatile EU-Turkey relations.

Abbreviations

AMIF	Asylum, Migration and Integration Fund
AMMR	Asylum and Migration Management Regulation
CEAS	Common European Asylum System
DG ECHO	Directorate-General for European Civil Protection and Humanitarian Aid Operations, European Commission
DGMM	Directorate General for Migration Management, Ministry of Interior
FRiT	EU Refugee Facility in Turkey
LFIP	Law on Foreigners and International Protection
NGO	Nongovernmental organization
PIKTES	“Promoting integration of Syrian children into the Turkish education system” (project)
UNHCR	UN High Commissioner for Refugees

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