

## Secondary movements of asylum-seekers in the EU asylum system

### SUMMARY

Secondary movements occur when refugees or asylum-seekers move from the country in which they first arrived to seek protection or for permanent resettlement elsewhere.

While most asylum-seekers seek protection in countries close to their countries of origin, some are compelled or choose to move (often in an irregular manner) onwards from or through countries in which they had, or could have sought, international protection, to other countries where they may request such protection. Many different factors may influence such movements and the decision to settle in a particular country.

The objective of the current instruments of the Common European Asylum System is to limit secondary movements of applicants for international protection between EU Member States. However, the mass inflow of asylum-seekers to Europe in recent years has shown that the system has been unable to discourage such movements.

For this purpose, among others, the European Commission proposed in 2016 a comprehensive harmonisation of asylum rules and a range of new measures on asylum policy.



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### Glossary

**Secondary movements:** The phenomenon of migrants, including refugees and asylum-seekers, who for various reasons move from the country in which they first arrived, to seek protection or permanent resettlement elsewhere.

**Asylum-seekers:** Persons who have applied for international protection (refugee status or subsidiary protection) in respect of whom a final decision has not yet been taken.

## Introduction

Migrants, whether they leave their country voluntarily or are forced to leave, may transit through several countries before reaching their intended final destination. There are different factors which influence such movements and the decision to settle in a particular country. These include the time and reasons for departure; entry, exit and transit requirements in the countries concerned; personal circumstances; material resources; historical or cultural ties to specific countries; family or other social networks; and rumours and chance.

These factors may change during an individual's journey. The final destination may also be influenced by human smugglers who facilitate travel. If possible, individuals will consider all factors known to them and choose their destination based on an evaluation of the particular circumstances, perceived risks, costs and benefits.<sup>1</sup>

## Secondary movements

While most asylum-seekers seek protection in countries close to their countries of origin, some are compelled or choose to move onwards from or through countries in which they had, or could have sought, international protection, to other countries where they may request such protection. Such secondary or onward movements are often done in an irregular manner, that is 'without the prior consent of the national authorities or without an entry visa, or with no or insufficient documentation normally required for travel purposes, or with false or fraudulent documentation'.<sup>2</sup>

There has been growing interest among academics and stakeholders in the reasons why asylum-seekers prefer to make an application for asylum in one country over another, both in Europe and beyond.

### Reasons

According to the United Nations Refugee Agency ([UNHCR](#)), asylum-seekers frequently move onward for justifiable reasons, including limits on availability and standards of protection; family separation; obstacles to the means of securing documentation; lack of comprehensive solutions; barriers to access to asylum procedures, which creates risk of *refoulement*; desire to join extended family and communities; lack of access to regular migration channels; and desire to find opportunities for a better future.

A [study](#) (2015) on secondary migration of asylum-seekers in Europe concludes that differences among living standards, labour-market conditions and access to government support in Member States motivate asylum-seekers to move on from the first country of asylum to other EU countries with better conditions.

According to some [experts](#) however, asylum-seekers' decisions are not dictated by economic factors (wealth per capita, unemployment rates, access to labour market) or by policies that restrict their economic rights. In particular other factors, such as the presence of other migrants from their country of origin, the reputation of the destination,

language and past colonial links play a much greater role in attracting asylum-seekers to a particular country.

Similarly, a [study](#) (2015) on onward movements in Europe concludes that decisions to migrate onward within Europe do not just depend on asylum procedures, outcomes and standards of reception and waiting conditions, but especially on future opportunities. The latter depend on the existing social networks, knowledge of and familiarity with different European languages and cultures, and on which European country is likely to recognise asylum-seekers' competences and to value their skills.

### **Implications**

Secondary movements of asylum-seekers can put pressure on host countries, including their reception capacities, asylum systems, economy and security. Multiple asylum applications lodged in different countries can lead to inefficiencies, administrative duplication, delays and additional costs. They may be perceived as a form of misuse of the asylum system and may thus reduce political and public support for refugee protection.<sup>3</sup>

Such movements also involve additional protection challenges, as asylum-seekers who are in an irregular situation can be exposed to violence and different forms of exploitation. Furthermore, if they are denied the possibility to stay in the country of destination and thereafter re-entry to a country they previously passed through, asylum-seekers risk being left in limbo or 'orbit', meaning that they are shifted from one country to another without having their asylum claim assessed.

Irregular secondary movements can also create security and law-enforcement concerns. While such movements feed human smuggling and trafficking networks, countries have more difficulties in managing their asylum systems. Some respond by restrictive or deterrent measures, such as building walls and other barriers, increased border controls, visa requirements, prolonged detention and deportation. They can also lead to tensions between countries who have diverging interests, as 'transit' and 'destination' countries.<sup>4</sup>

### **European context**

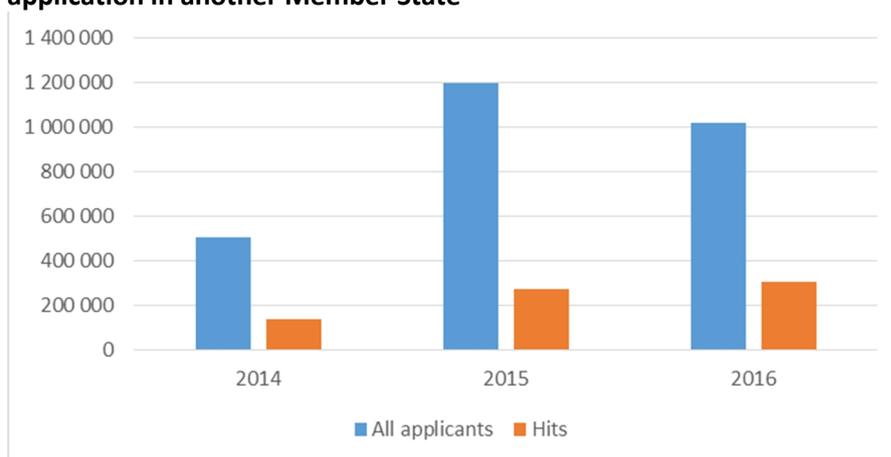
One measure which allows the tracing of the movements of asylum-seekers and migrants in the EU is to register their fingerprint data as soon as they enter EU territory. The European dactyloscopy database ([Eurodac](#)), an EU database that matches fingerprints to make it easier for EU states to determine responsibility for examining an asylum application by comparing fingerprint datasets, can give an indication of the secondary movements of international protection-seekers. It shows when a person who has applied in one Member State lodges a new application in another Member State, or whether persons found illegally present in the territory of a Member State had previously applied for international protection in another one.

For the purpose of monitoring those secondary movements in Europe, two different queries are possible in Eurodac:

- the number of hits for applicants for international protection who have lodged an application for international protection in another Member State,
- the number of hits related to data for persons found illegally staying in a Member State who had previously lodged an application for international protection in another Member State.

The [2016 Eurodac report](#) shows that out of 1 018 074 asylum applicants recorded in Eurodac in 2016, 30 % (307 421) had already made a previous application in another Member State. Compared with previous years, the ratio of multiple asylum applications increased from 27 % in [2014](#) (137 737) and 22 % in [2015](#) (273 701) (see Figure 1). The 2016 report also shows that 48 % of those hits were in Germany, followed by France (12 %) and Italy (8 %). In 2015, the highest number of hits were registered in Germany (43 %), followed by Sweden (8 %) and Hungary (8 %).

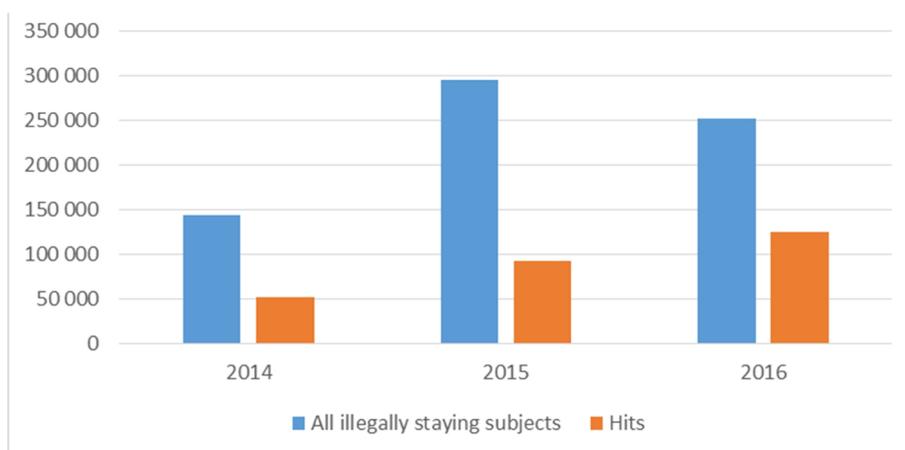
**Figure 1 – Hits related to applicants for international protection who have previously lodged an application in another Member State**



Data source: 2016 Eurodac report, eu-LISA.

The Eurodac report also shows that, from a total of 252 559 persons found illegally present in Member States in 2016, 49 % (124 558) had lodged an application in another Member State. This share increased, by comparison to 36 % in 2014 (52 607) and 31 % in 2015 (92 611) (see Figure 2). Furthermore, Germany (31 %), Belgium (15 %), Italy (13 %) and Austria (12.5 %) were the Member States where most persons who were found illegally present in 2016 had already applied for asylum in another Member State. In 2015, those countries were Germany (58 %), Belgium (6 %) and the Czech Republic (6 %).

**Figure 2 – Hits related to persons found illegally staying in a Member State who had previously lodged an application in another Member State**



Data source: 2016 Eurodac report, eu-LISA.

The Eurodac reports demonstrate that the unprecedented influx of asylum-seekers in Europe puts a huge strain on the national asylum systems of certain Member States, and on the Common European Asylum System which deals with determining responsibility for processing asylum applications in the EU.

## Common European Asylum System

The Common European Asylum System ([CEAS](#)) consists of a legal framework covering all aspects of the asylum process. Although the responsibility for examining asylum applications lies with Member States, the system provides common minimum standards for the treatment of asylum-seekers and is based on rules determining the Member State responsible for examining an application for international protection ([Dublin Regulation](#)), common standards for asylum procedures ([Asylum Procedures Directive](#)), recognition and protection of beneficiaries of international protection ([Qualification Directive](#)) and standards for the reception of applicants for international protection ([Reception Conditions Directive](#)).

### Current situation

Whereas the main objective of CEAS instruments is to provide a common level of protection, their preambles also state that harmonisation 'should help to limit the secondary movements of applicants for international protection between Member States'.

For this purpose, some of the instruments provide for:

- the possibility to withdraw reception conditions from asylum-seekers (Article 20, Reception Conditions Directive),
- the detention of applicants (Article 8, Reception Conditions Directive), and
- the reduction of procedural guarantees under certain circumstances (Articles 31, 32, 33 and 43, Asylum Procedures Directive).<sup>5</sup>

Furthermore, the objectives of the Dublin Regulation are to:

- prevent multiple asylum applications, by making one country responsible for an asylum application, and
- prevent asylum-shopping by providing clear indications of which country is responsible, irrespective of the asylum-seeker's preference.

However, the unprecedented inflow of asylum-seekers to Europe in recent years has exposed weaknesses in the design and implementation of the system, including its inability to discourage secondary movements of asylum-seekers between Member States.

On 6 April 2016, the European Commission set out its priorities for a structural reform of the European asylum and migration framework, in a [communication](#) 'Towards a reform of the Common European Asylum System and enhancing legal avenues to Europe', outlining the different steps to be taken towards a more humane, fair and efficient European asylum policy as well as a better managed legal migration policy. According to this communication, the CEAS is characterised by differing treatment of asylum-seekers, including in terms of the length of asylum procedures and reception conditions across Member States. Such divergences, which can encourage secondary movements, result in part from the often discretionary provisions contained in the current Asylum Procedures Directive and Reception Conditions Directive.

### Suspension of Dublin transfers

Based on judgments of the European Court of Human Rights ([ECtHR](#)) and the Court of Justice of the European Union ([CJEU](#)), which identified systemic deficiencies in the Greek asylum system, in 2011 the Member States suspended the transfer of applicants to Greece under the Dublin Regulation. According to the [Commission](#), this created an incentive for asylum-seekers arriving irregularly in Greece to move on to other Member States. Consequently some Member States decided to reintroduce [internal border controls](#) in the Schengen area.

Moreover, while the Qualification Directive sets out the standards for recognition and protection to be offered at EU level, in practice recognition rates vary between Member States. There is also a lack of adequate convergence as regards the decision to grant either refugee status (to be accorded to persons fleeing persecution) or subsidiary protection status (to be accorded to persons fleeing the risk of serious harm, including armed conflict) for applicants from a given country of origin. This divergence can encourage secondary movements, as can variations in the duration of [residence permits](#), access to social assistance and [family reunification](#).

A [study](#) (2016) done on behalf of the European Parliament has also shown that large divergences between Member States regarding the use and content of national [safe country lists](#) may result in differences in recognition rates and consequently in secondary movements of asylum-seekers. In order to harmonise the use of 'safe country of origin' procedure, the Commission proposed in September 2015 a regulation establishing an [EU common list of safe countries of origin](#) for the purposes of Asylum Procedures Directive. The negotiations on the file are currently blocked.

As regards the Dublin Regulation, a [report](#) on its evaluation, published by the Commission in 2015, concludes that the hierarchical criteria used for determining the responsible Member State do not sufficiently take into account the interests/needs of applicants, which partly causes secondary movements and the lodging of multiple applications. Other factors influencing secondary movements include the fact that:

- applicants are not always adequately informed about the application of the Dublin Regulation and the consequences of lodging multiple applications;
- Member States often deviate from the criteria and procedures to be followed when determining the responsible Member State, which weakens the Dublin Regulation's ability to deter applicants from pursuing multiple applications;
- applicants are often highly motivated to apply in a second Member State because of family, friends or existing networks in a different Member State or because of the availability of more generous conditions elsewhere.

### Reform of the CEAS

In 2016, the European Commission proposed a comprehensive harmonisation of asylum rules and a range of measures on asylum policy to discourage secondary movements of asylum-seekers in the EU.

On 4 May, it presented a **first set of proposals** to reform the CEAS delivering on three priorities identified in its April 2016 communication:

- a [proposal](#) for a regulation establishing a sustainable and fair [Dublin system](#) for determining the Member State responsible for examining asylum applications,
- a [proposal](#) for a regulation reinforcing the [Eurodac system](#) to better monitor secondary movements and facilitate the fight against irregular migration, and
- a [proposal](#) for a regulation establishing a genuine [European Agency for Asylum](#) to ensure a well-functioning European asylum system.

On 13 July, the Commission adopted a **second set of proposals**, completing the reform of the CEAS through four additional proposals:

- a [proposal](#) replacing the Asylum Procedures Directive with a [Regulation](#), harmonising the current disparate procedural arrangements in all Member States and creating a genuine common asylum procedure in the EU;

- a [proposal](#) replacing the Qualification Directive with a [Regulation](#), setting uniform standards for the recognition of persons in need of protection and the rights granted to beneficiaries of international protection;
- a [proposal](#) revising the [Reception Conditions Directive](#) in order to harmonise the treatment of asylum-seekers across the EU, increase applicants' integration prospects and decrease secondary movements; and
- a [proposal](#) for a regulation establishing a structured Union [resettlement framework](#), moving towards a more managed approach to international protection within the EU, ensuring orderly and safe pathways to the EU for persons in need of international protection, with the aim of progressively reducing the incentives for irregular arrivals.

All this is intended to reduce undue pull factors and incentives to move to Europe, and thereafter to other Member States within Europe. As regards concrete measures within the CEAS reform to **prevent secondary movements within the EU**, the Commission envisages sanctions for applicants who do not remain in the Member State responsible for examining their asylum application.

Member States would have an obligation to send applicants who have absconded back to the Member State responsible, where they would be subject to accelerated examination procedure without an automatic right to remain pending the appeal. An applicant who has absconded, or is likely to abscond, would have residence restrictions in the Member State imposed, or be detained, and would not be entitled to material reception conditions (save for emergency health care) when present irregularly in a Member State other than the one in which they are required to be present.

In addition, the fact that a person had irregularly left the Member State responsible would be taken into account in the evaluation of the asylum application.

The Commission also proposes that provision of any right attached to the asylum procedure, including material reception conditions, is made conditional upon registration, fingerprinting, presence and stay in the Member State responsible.

In addition, the proposals for new CEAS instruments contain reinforced provisions on informing applicants of their obligation to apply for asylum as soon as possible when arriving in the EU, and to remain in the Member State responsible. Rules on the obligation for applicants to cooperate with and report to authorities will also be strengthened.

Furthermore, the Commission proposes common EU rules on the documents to be issued to asylum-seekers to certify their identity, and to indicate clearly that they do not, in principle, have the right to move to another Member State.

### European Parliament

The European Parliament has on many occasions expressed its view on secondary movements of asylum-seekers in the EU, especially linked to the [relocation](#) of applicants from Italy and Greece.

In its [resolution](#) of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration, the Parliament stated that recognising the preferences of the applicants as much as practically possible when deciding on their relocation is one way of discouraging secondary movements. Furthermore, in its [resolution](#) of September 2015 on the proposal for a Council decision establishing provisional measures in the area of international protection for the benefit of Italy and

Greece, the Parliament stated that in order to further avoid secondary movements, applicants should be informed of the consequences of onward movement within the Member States as provided for in the Dublin Regulation, and of the fact that, if the Member State of relocation grants them international protection, in principle, they are only entitled to the rights attached to international protection in that Member State.

In another [resolution](#) of September 2015 the Parliament suggested that a system under which asylum-seekers could apply for asylum in a Member State where they already have family ties, community links or better employment prospects would significantly reduce irregular secondary movements within the EU and the need for coercive measures such as the detention of asylum-seekers for the purpose of transferring them back to the Member State responsible.

As regards the current proposals for the reform of the CEAS, the European Parliament's Civil Liberties, Justice and Home Affairs (LIBE) Committee in its two 2017 reports, namely on the [Qualification Directive](#) and the [Reception Conditions Directive](#), disagrees with the punitive approach proposed by the Commission towards applicants who try and move illegally to another Member State. Instead, it stresses that offering incentives to remain in the state that granted protection as well as providing high quality reception conditions at the same level throughout the EU will be more important factors in preventing secondary movements.

### Further reading

Visit the European Parliament homepage on [migration in Europe](#).

### Endnotes

- <sup>1</sup> UNHCR, [Addressing onward movements, 10 point action plan](#), 2016.
- <sup>2</sup> Executive Committee of the High Commissioner's Programme, [Problem of Refugees and Asylum-Seekers Who Move in an Irregular Manner from a Country in Which They Had Already Found Protection](#), October 1989.
- <sup>3</sup> UNHCR, [Onward movement of asylum-seekers and refugees: Discussion paper prepared for the Expert Roundtable on Onward Movement](#), September 2015.
- <sup>4</sup> UNHCR, [Addressing onward movements, 10 point action plan](#), 2016.
- <sup>5</sup> V. Moreno Lax, 'Life after Lisbon: EU Asylum Policy as a Factor of Migration Control', in *EU Security and Justice Law*, D. Acosta Arcarazo, C.C. Murphy (eds.), Vol. 42, Hart Publishing, 2014, pp. 146-167.

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