

Pretext of the Adoption of the 2024 Common European Asylum System Reform and an Early Take on the Potential Effect

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Abstract: This article examines the reception and potential impact of the Common European Asylum System (CEAS) reform, adopted in April 2024, with a particular focus on Germany's response and broader implications for bordering countries such as Italy, Hungary, and Greece. The CEAS reform aims to harmonize asylum procedures, enhance solidarity among the EU member states, and expedite the processing times. However, it has faced significant criticism, especially from civil society organizations like the ECRE and Pro Asyl, which argue that the reform could disenfranchise asylum seekers and undermine fair procedures, particularly for families with children. Despite these concerns, the German federal government, led by Chancellor Olaf Scholz, defends the reform as a necessary compromise to address the dysfunctionality of the current system. The analysis also explores the challenges in implementing the CEAS reforms in countries with restrictive asylum practices, such as Italy. Persistent human rights concerns, political resistance, and structural issues in these countries raise doubts about the reform's effectiveness. The hypothesis presented is that the CEAS reform will not significantly improve the situation in these bordering countries and might exacerbate the existing challenges due to ongoing disparities in asylum procedures, human rights violations, and political resistance fuelled by populist movements. The study concludes that while the CEAS reform represents a step towards a more unified asylum system, it may fall short of addressing the deep-rooted issues in bordering countries, leading to continued scepticism and criticism from human rights organizations and civil society groups. This underscores the need for rigorous enforcement and further reforms to ensure equitable and humane treatment of asylum seekers across all EU member states.

Keywords: EU, irregular migration, CEAS, asylum, reform, Germany, Italy.

INTRODUCTION

Common European Asylum System (CEAS) represents a pivotal framework within the European Union (EU) designed to harmonize and streamline the asylum processes of the EU member states. Established in response to the growing need for a unified approach to address asylum and refugee issues, the CEAS has undergone significant reforms and

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developments over the years. This review seeks to provide a comprehensive analysis of the CEAS, examining its objectives, strengths, weaknesses, and its role in shaping the European response to the global refugee crisis.

The EU's effort to establish a unified asylum policy resulted in the CEAS and an ongoing Common Immigration Policy. Originally, asylum policies were the domain of individual nations, with minimal EU standards. The Stockholm Programme in 2009 and the Lisbon Treaty in 2009 laid the groundwork for a comprehensive EU asylum policy, emphasizing solidarity, shared responsibility among member states, and associated financial implications. Initially, actions in the EU asylum policy lacked a cohesive strategic framework, but there was growing recognition of the need for a unified approach to address this sensitive issue (Poptcheva, 2015: 7).

The hypothesis is that the CEAS reform, despite its intentions to create a uniform and fair asylum process across the EU, will not significantly improve the situation in bordering countries like Italy, Hungary, and Greece. Instead, it will exacerbate the existing challenges due to persistent disparities in asylum procedures and enforcement.

The text analysed the impact and reception of the CEAS reform, adopted in April 2024, with a particular focus on Germany's role. It assessed the reform's objectives, including harmonizing asylum procedures, enhancing solidarity among the EU member states, and expediting the processing times. Criticisms from civil society organizations, like ECRE (The European Council on Refugees and Exiles) and Pro Asyl, were highlighted, emphasizing concerns about the reform's potential to disenfranchise asylum seekers and hinder fair procedures, especially for families with children. Protests and symbolic acts, such as a funeral march by Pro Asyl, underscored widespread opposition. The text also explored the federal government's defence of the reform, with Chancellor Olaf Scholz framing it as a necessary compromise to address the dysfunctionality of the current asylum system. Additionally, it briefly analysed potential implementation challenges in countries with historically restrictive asylum practices, like Italy, Greece, Spain, and Hungary, noting the ongoing human rights concerns and resistance to processing migrants. Finally, the text covered political reactions, both supportive and critical, within Germany and the broader EU, and pointed out the areas needing further improvement to ensure the CEAS reform meets its humanitarian responsibilities and achieves equitable asylum procedures.

DISCUSSION – CEAS IN A NUTSHELL

The CEAS was established in 1999 with the aim of creating uniform standards for the treatment of asylum seekers across all member states. Its objectives include ensuring that asylum applications are processed consistently, regardless of where they are submitted, and promoting a fair distribution of the responsibilities associated with the increasing number of migrants among European countries. Before the implementation of the CEAS, most efforts to harmonize asylum policies among the EU countries were conducted under the auspices of intergovernmental organizations such as the United Nations High Commissioner for Refugees (Koser & Black, 1999: 529). Additionally, significant harmonization occurred at the secondary level through the extensive and ever-growing jurisprudence of the European Court of Human Rights (Novaković, 2011: 55) (Application no. 35424/97, *Deljijaj against Germany*; Application no. 22414/93, *Amuur v. France, Chahal against the United Kingdom*).



Shortly after its establishment, the first documents forming the core of the legal framework of the CEAS were introduced. These foundational documents continue to shape the system today:²

- EURODAC Regulation (Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013) – This regulation mandates the collection and comparison of fingerprints of asylum seekers and certain categories of illegal migrants, facilitating the implementation of the Dublin Regulation by helping to determine the responsible member state.
- the Reception Conditions Directive (Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection) – This directive establishes minimum standards for the reception of asylum seekers, ensuring they have access to housing, food, employment, health care, and education while their applications are processed.
- the Dublin Regulation (Regulation No. 604/2013) – This regulation (in its three iterations commonly referred to as Dublin I, Dublin II and Dublin III) was introduced to determine the member state responsible for examining an asylum application and it aims to prevent multiple applications by the same individual in different countries and typically assigns responsibility to the first country of entry.
- the Qualification Directive (Directive 2011/95/EU of the European parliament and of the Council of 13 December 2011) – This directive defines the criteria for qualifying for international protection and outlines the rights and benefits for those granted refugee status or subsidiary protection, including residence permits, access to employment, healthcare, and social welfare.
- the Asylum Procedures Directive (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) – As its name suggests, this directive sets out common procedures for granting and withdrawing international protection. It ensures that asylum decisions are made fairly and efficiently, with proper access to legal assistance and appeals.

Firstly, it aimed to ensure a fair and efficient asylum process across the EU member states, reducing the disparities in the treatment of asylum seekers. Secondly, it sought to establish common standards for asylum procedures and protection, guaranteeing the rights

² One should mention the Temporary Protection Directive (The Temporary Protection Directive (TPD) 2001/55/EC) that provides a framework for offering immediate and temporary protection to displaced persons who are unable to return to their home country due to a large-scale emergency, such as armed conflict or endemic violence. It is designed to manage sudden and massive influxes of refugees in a coordinated manner across the European Union (Beirens et al., 2016). It is an extraordinary measure to offer immediate and temporary protection in the case of a mass influx, or the imminent threat of such an influx, of displaced individuals from non-EU countries who are unable to return to their home country (https://home-affairs.ec.europa.eu/policies/migration-and-asylum/common-european-asylum-system/temporary-protection_en). The Temporary Protection Directive, which was adopted following the conflicts in former Yugoslavia, was triggered for the first time by the Council in response to the unprecedented Russian invasion of Ukraine on February 24, 2022 to offer quick and effective assistance to people fleeing the war in Ukraine and this activation did not come without critiques (Sanjeevani, 2024).



of asylum seekers and refugees. Finally, the CEAS aimed to promote solidarity among the EU countries by facilitating the equitable distribution of asylum seekers. Strengths of the CEAS that are often emphasized are numerous, but few of them are particularly important. One of the most significant strengths of the CEAS is its success in harmonizing asylum procedures across the EU. This has contributed to greater consistency and fairness in the handling of individuals seeking asylum, reducing the risk of “asylum shopping”, where individuals seek out countries with more favourable processes. Closely related to the harmonization and its precondition is solidarity. The CEAS has also made progress in fostering solidarity among the EU member states. The Dublin Regulation, although controversial, was designed to distribute the responsibility of processing asylum applications more evenly. It certainly did not live to the expectations, and new reform has an aim to improve this shortcoming (Tsourdi, 2017: 671). Furthermore, recent developments, such as the Temporary Solidarity Mechanism, aim to address imbalances and share the burden more equitably.

Despite the harmonization efforts, disparities still exist in the way member states implement the CEAS. Some countries have been criticized for failing to provide adequate conditions for asylum seekers, leading to concerns about unequal treatment. That is why the concept of burden-sharing is of particular importance. However, the burden-sharing mechanisms within the CEAS, such as the Dublin Regulation, have faced criticism for placing disproportionate responsibility on countries with external borders. This has led to tensions among the member states, particularly during times of crisis. This is one of the reasons why the CEAS has become a battleground for political divisions within the EU. Disagreements on asylum policies have strained relations between the member states and hindered progress towards a more cohesive approach.

The CEAS has struggled to address the issue of backlogs and processing delays. Prolonged waiting periods for asylum decisions can lead to frustration and uncertainty for applicants, affecting their mental and physical well-being. Apart from these internal issues, the CEAS faces challenges posed by external factors, including the rise of anti-immigrant sentiments in some member states and the influence of populist political movements. For example, Simonovits (2020: 12) states that “Hungary, with a higher percentage of its population supporting additional measures to combat illegal migration than the EU average, and a lower percentage in favour of a Common European Asylum Policy exemplifies the diverse attitudes within the EU”. These factors can hinder the development and implementation of a unified asylum policy.

RECENT DEVELOPMENTS AND FUTURE PROSPECTS

In the last five years, the CEAS has undergone major changes in response to evolving migration patterns and political dynamics. Notable developments include the New Pact on Migration and Asylum (the New Pact) proposed in 2020 and adopted on April 10 2024 package of normative acts that seeks to overcome limitations in the existing CEAS by establishing a more resilient and adaptable system. The primary objective is to bolster solidarity mechanisms through a more equitable distribution of responsibilities among member states. This involves introducing a concept of “flexible solidarity”, enabling countries



to contribute in diverse ways, such as relocating refugees, providing support at external borders, or assisting with returns. One of the central focuses of The New Pact is expediting processing times and addressing backlogs. The proposal outlines a streamlined screening process and a faster asylum procedure to ensure swift decisions for asylum applicants. Acknowledging the importance of addressing the underlying reasons for migration, The New Pact emphasizes the necessity for increased collaboration with third countries. This collaboration aims to manage migration more effectively and responsibly by addressing the underlying factors driving migration. The New Pact also places a strong emphasis on reinforcing external border management to enhance the security of the EU's borders while upholding human rights. The overall objective is to strike a balance between security measures and respecting the rights of individuals involved in migration processes.

CRITIQUE OF THE CEAS REFORM BEFORE ADOPTION THE CASE OF GERMANY

Before the adoption of the CEAS reform in April 2024, Germany, one of the leading EU nations and a primary destination for asylum seekers (Eurostat, 2024), was sharply divided. Germany became a focal point of intense debate. Catherine Woollard, Director of ECRE, criticized Germany for not fully upholding minor improvements outlined in the government coalition agreement. She pointed out that exemptions within the border procedure only applied to unaccompanied minor asylum seekers, excluding families with children (The European Council on Refugees and Exiles, 2023). Despite such criticism, the federal government defended its stance, highlighting the agreement as a significant step forward with unified standards for registration and jurisdiction and a workable solidarity mechanism. Chancellor Olaf Scholz acknowledged the controversial nature of the agreement but emphasized the necessity of compromise for European unity and efficacy, stressing the dysfunctionality of the current asylum system and the urgent need for reform. In contrast, civil society organizations, including Pro Asyl, vehemently opposed the government's rationale, arguing that the reform would disenfranchise and hinder fair asylum procedures, increasing refugees' suffering (The European Council on Refugees and Exiles, 2023). On World Refugee Day 2023, Pro Asyl and the Berlin Refugee Council symbolically marked the "death" of the right to asylum through a funeral march. Over 60 organizations issued a joint statement expressing disappointment with the German government, urging it to adhere to its humanitarian responsibilities and the coalition agreement by ensuring humane and equitable asylum procedures (Pro Asyl, 2023). Protests against Germany's stance on the CEAS continued, with lawyers and activists demonstrating against perceived erosions of protection seekers' rights. On June 26, lawyers protested against the statements by the German interior minister, who defended the government's position by suggesting that the alternative to negotiations would be equally unfavourable for protection seekers (InfoMigrants, 2024). Earlier, on June 19, Pro Asyl and the Refugee Council Hessen staged a protest urging the Green Party to take a definitive stance on the CEAS reforms. Additionally, a ruling by the Federal Administrative Court in Leipzig on June 15, concerning privacy in refugee accommodations, was met with disappointment (The European Council on Refugees and Exiles, 2023). The court ruled that police entry into asylum seekers' rooms in reception centres for deportation purposes did not constitute a search. This ruling, and



the increase in far-right motivated attacks on asylum seeker accommodations in early 2023, underscored the precarious status of refugee rights in Germany. However, amidst these controversies, the German parliament passed legislation to create new avenues for job seekers from outside the EU and refugees within Germany, aiming to streamline the application process for care workers. Interior Minister Nancy Faeser emphasized the potential of this legislation to bolster prosperity in Germany and attract top talent. Overall, sentiments regarding the CEAS reform in Germany were polarized, with the federal government advocating for the reform as a necessary compromise for European unity, while civil society organizations and activists strongly contested it, fearing negative repercussions for refugees and asylum seekers.

Moreover, the Federal Administrative Court in Leipzig's ruling on June 15, concerning the protection of spaces in collective accommodations for refugees, was deemed "disappointing" (The European Council on Refugees and Exiles, 2023). The ruling was a result of two cases, one concerning privacy complaints of six asylum seekers in reception facilities, and the other involving a 2018 police operation where officers forcibly entered the room of an asylum seeker named Alassa Mfouapon, without a court search warrant, for deportation under the Dublin regulation ideologies (Friends of Refugee Solidarity in Solidarity International, 2023). The court, in its combined judgment, declared that the mere entry by the police into a room in an initial reception centre for the purpose of transferring a foreigner obligated to leave the country does not constitute a search. In response, Alassa Mfouapon, the plaintiff in the latter case, underscored the precarious status of refugee rights, highlighting the inequality in protection afforded to refugees. Disturbingly, the number of attacks on asylum seeker accommodations in the first quarter of 2023 exceeded the previous year's figures, with the majority of these attacks being motivated by far-right ideologies (Friends of Refugee Solidarity in Solidarity International, 2023). On a positive note, the German parliament has passed legislation intended to create new avenues for job seekers from countries outside the EU and for refugees already residing within Germany. Interior Minister Nancy Faeser emphasized the legislation's potential to bolster prosperity in Germany and facilitate the attraction of top talent from abroad. She decried the burdensome application process for bringing care workers into the country, indicating that the new legislation seeks to streamline and simplify this process. This development offers a promising aspect amidst the broader concerns and controversies surrounding Germany's approach to refugee rights and the CEAS reform. Later on, after the adoption of the new package of the CEAS reform, Faeser reported that new policy gave results already, and that reinforcement of border and other measures already implemented will have effect through new CEAS regime as well (InfoMigrants, 2024).

The consensus is that migrants seeking international protection should be able to apply for asylum, with claims evaluated individually. In theory, this requires thorough investigation into their countries of origin and circumstances, timely and fair assessment of applications, and provision of shelter and support for asylum seekers, including irregular migrants. Bearing in mind all those requirements, additional funding for asylum and forced displacement, recognizing it as a development challenge, is crucial (European Commission, 2021). Irregular migration, often seen as a threat to state sovereignty, emphasizes the need for effective border management. Countries have invested heavily in border security through immigration officers, barriers, interceptions, and removals (Vietti & Scribner,



2013: 23). The new regulations aim to balance solidarity and responsibility. The President of the European Parliament, Roberta Metsola, praised the framework, stating it made legislative history by striking this balance (O'Carroll, 2024). Following the adoption of the CEAS reform, political leaders like Metsola and European Home Affairs Commissioner Ylva Johansson expressed a sense of achievement. MEP Tomas Tobé from the centre-right European People's Party noted that the new Migration Pact would help the EU regain control over its borders and reduce migration pressures (O'Carroll, 2024). From the Socialists and Democrats group, Iratxe García emphasized the reform's importance in providing a consistent procedure for governments, moving away from ad-hoc crisis responses (Iratxe García on the Migration and Asylum Pact, 2024). However, the reform has its critics. Jordan Bardella from the French National Rally called it "terrible" and predicted its failure in future European Parliament elections (O'Carroll, 2024). Amnesty International's Eve Geddie condemned the agreement for potentially increasing human suffering (Amnesty International, 2024). Concerns about the CEAS implementation are that there are doubts about whether the CEAS will improve the situation for asylum seekers or increase the number of processed immigrants.

IS THERE A WILL TO DEAL WITH MIGRANTS? THE EXAMPLE OF ITALY

The main issue lies with the practical implementation by countries like Italy, Greece, Spain, and Hungary, which have historically resisted processing all migrants entering the EU. These countries often employ push-back methods, bypassing formal asylum procedures. In its report for Italy, Amnesty International reported that Italy has restricted access to proper asylum procedures, worsened by updates to its list of "safe countries" and abolishing special protection permits (Amnesty International, 2024).

Italy also introduced accelerated border procedures, compromising international standards, and made agreements with Albania for offshore detention facilities, raising concerns about arbitrary detention and refoulement (Amnesty International, 2024). Human Rights Watch found that Italy obstructed NGO rescue operations, cooperated with abusive countries, and implemented regressive asylum practices. The government also hindered NGO rescues, increased detention periods, and cooperated with Tunisia and Libya on migration control (Human Rights Watch, 2024). The EU took action against Hungary for inadequate asylum procedures. The Council of Europe urged Hungary to stop collective expulsions to Serbia, and the CJEU ruled that Hungary violated the EU rules by restricting asylum seekers' access to protection. Despite these rulings, Hungary maintained a restrictive system requiring asylum seekers to file "letters of intention" at embassies in Belgrade or Kyiv before claiming asylum, which granted access to only 16 cases in 2023 (Amnesty International, 2024). Hungary also erected a 175-km-long fence along the Serbian-Hungarian border, completing it by the end of August 2015, despite criticism from the European Parliament and the UNHCR (Daher, 2020: 42).

The Italian asylum and immigration policy landscape has faced significant challenges, mainly due to the country's weak political-institutional capacity and governmental instability. These factors have created obstacles to the consolidation of new policies and



practices. As Ponzo correctly noticed, key issue is the frequent changes in government, which has led to inconsistent reforms in migration policies, especially concerning asylum. Since the mid-2010s, legislation has been overhauled almost every two to three years, with each new government dismantling parts of the previous framework. Notable examples include Legislative Decree 113/2018 introduced by Matteo Salvini and Decree 130/2020 by Luciana Lamorgese, both of which revised earlier asylum policies. Despite these frequent reforms, the assumption that Italy is a destination country for migrants remains constant across political agendas. Italy's weak state capacity has significantly hindered the effective implementation of its asylum policies (Ponzo, 2023: 299), making it difficult to believe that the outcome would be any different under the CEAS. According to Theda Skocpol, state capacity refers to a government's ability to implement its official goals, which depends heavily on having a professional, well-trained, and well-resourced bureaucracy. In Italy, however, the state's administrative apparatus is characterized by low transparency, poor accountability, and an insufficiently professional civil service (Ponzo, 2023: 301). This lack of administrative efficiency, coupled with weak coordination among bureaucratic agencies, has been a major impediment to implementing labour migration and asylum policies. However, improvements in certain areas, particularly in the management of sea arrivals, show that state capacity can evolve over time. Since 2013, the process of fingerprinting migrants and harmonizing procedures post-disembarkation has become more systematic, with significant input from international agencies like the UNHCR, IOM, and EU bodies. Nonetheless, the state still relies heavily on these external actors for essential tasks such as identifying vulnerable people and assisting new arrivals, signalling an ongoing dependency on non-governmental organizations (NGOs). In terms of asylum procedures, state capacity has improved with the creation of specialized court sections and the recruitment of ministerial officials to man the Territorial Commissions on the Recognition of International Protection, beginning in 2017 (Ponzo, 2023: 301). These changes have allowed the Italian government to gradually phase out the UNHCR from these processes. Despite this, significant challenges remain, particularly the substantial backlog of cases. In early 2021, there were nearly 34,000 pending asylum claims before the Territorial Commissions and over 95,000 appeals awaiting court decisions, with delays ranging from 15 months to three years. Reception services for asylum seekers have also expanded, offering accommodation to those without means. However, unlike other major EU countries, Italy lacks a central migration agency to oversee these facilities. Instead, they are managed by local Prefectures, which have not been adequately trained or expanded to meet these responsibilities. Consequently, government decisions on reception facilities are often poorly implemented, with significant regional disparities. The monitoring of these facilities is largely outsourced to NGOs, which are funded in part by the EU, reflecting the state's continued reliance on external actors for critical services (Ponzo, 2023: 301).

CONCLUSION

The reform of the CEAS, adopted in April 2024, represents a significant attempt to address long-standing challenges within the EU's asylum framework. Aimed at harmonizing asylum procedures, enhancing solidarity among member states, and expediting processing times, the reform has sparked both support and criticism. Germany, as a key player in



the EU, reflects this divide; the federal government supports the reform as a necessary compromise, while civil society organizations fear it may undermine the rights of asylum seekers. Despite the reform's intentions, its implementation in countries with restrictive asylum practices such as Italy, Hungary, and Greece, remains contentious. These countries have faced persistent human rights concerns, political resistance, and structural issues, raising doubts about the reform's effectiveness in improving the situation for asylum seekers. Critics argue that the disparities in asylum procedures and ongoing political resistance could exacerbate the existing challenges rather than resolve them. The hypothesis presented in this analysis suggests that the CEAS reform may not significantly improve conditions in these bordering countries and might worsen them due to these disparities and resistances. The study concludes that while the CEAS reform is a step towards a more unified system, it may fall short of addressing deep-rooted issues. Continued scepticism and criticism from human rights organizations and civil society groups underscore the need for rigorous enforcement and further reforms to ensure equitable and humane treatment of asylum seekers across all EU member states. Effective implementation, political will, and ongoing evaluation will be crucial to achieving the reform's objectives and truly harmonizing the EU's approach to asylum. It is crucial to avoid prioritizing short-term goals over long-term strategies (Novaković, 2023: 629) and not only to adhere strictly to the planned reforms but also to adapt them in response to situations and shortcomings revealed in practice, by systematically recording experiences, challenges, and successful solutions to create an easily applicable repository for future contingencies (Novaković, 2021: 33). Finally, the adoption of the New Pact is very likely to boost the popularity of right-wing parties in forthcoming elections throughout the EU, especially in destination countries for asylum seekers such as Germany.

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