



# aida

Asylum Information  
Database

## Asylum Statistics in the European Union: A Need for Numbers

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## Introduction\*

Asylum statistics are indispensable to any reasoned, evidence-led policy or debate on refugee protection.<sup>1</sup> In Europe, against the backdrop of a common policy on asylum which brings together 28 Member States as well as 4 Schengen Associated States (Iceland, Norway, Liechtenstein and Switzerland), figures play a key part in illuminating the interactions between different countries vis-à-vis refugees and asylum seekers, and in informing common responses to shared protection challenges. The relevance of reliable statistics thus goes well beyond purely academic research purposes. Comprehensive and sophisticated asylum data are crucial to understanding the way in which the Common European Asylum System (CEAS) functions and the elaborate EU legislative framework is implemented across the different Member States. In the terms of Recital 6 of the Migration Statistics Regulation,<sup>2</sup>

“Harmonised and comparable Community statistics on migration and asylum are essential for the development and monitoring of Community legislation and policies relating to immigration and asylum.”

Another, more concrete function of statistics is the demonstration of Member States’ respective needs in the field of asylum, which informs the allocation of funding under the Asylum, Migration and Integration Fund (AMIF).<sup>3</sup>

At the same time, civil society organisations have equal stake in gathering accurate information and numbers, in order to better identify protection gaps and support their advocacy efforts. The provision and analysis of up-to-date statistics is therefore understandably an important objective of the Asylum Information Database (AIDA) project, as it forms part and parcel of the process of regularly documenting asylum systems in Europe.

A broad range of actors are active in the collection and analysis of statistical data in the field of asylum. This includes the United Nations High Commissioner for Refugees (UNHCR),<sup>4</sup> the European Commission’s statistical office, Eurostat, the European Asylum Support Office (EASO),<sup>5</sup> as well as the European Migration Network (EMN) and Frontex.<sup>6</sup> At the same time, national statistics are provided by the national authorities in charge of asylum and immigration. For the 18 countries covered by AIDA, the following sources collect and release asylum data:

Country	Statistical authority	Frequency	Web Link
<i>Austria</i>	Ministry of Interior	Monthly	< <a href="http://bit.ly/1lfugJL">http://bit.ly/1lfugJL</a> > (DE)
<i>Belgium</i>	Commissioner-General for Refugees and Stateless Persons; Aliens Office	Monthly	< <a href="http://bit.ly/1MKOrFn">http://bit.ly/1MKOrFn</a> > (FR)
		Monthly	< <a href="http://bit.ly/1SDO67v">http://bit.ly/1SDO67v</a> > (FR)
<i>Bulgaria</i>	State Agency for Refugees	Monthly	< <a href="http://bit.ly/1JzTvYn">http://bit.ly/1JzTvYn</a> > (EN)
<i>Cyprus</i>	Asylum Service	Annual	< <a href="http://bit.ly/1UkwccI">http://bit.ly/1UkwccI</a> > (GR)
<i>Germany</i>	Federal Office for Migration and Refugees	Monthly	< <a href="http://bit.ly/1KoTPK6">http://bit.ly/1KoTPK6</a> > (DE)

\* ECRE thanks Professor Elspeth Guild for her comments. The following analysis is based on the latest available Eurostat, EASO and national statistics as of 24 August 2015. All errors remain ECRE’s own.

<sup>1</sup> E Guild et al., *New approaches, alternative avenues and means of access to asylum procedures for persons seeking international protection*, European Parliament, PE509.989, October 2014, 24 et seq.

<sup>2</sup> Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection, OJ 2007 L199/23.

<sup>3</sup> European Commission, *Report on the implementation of Regulation (EC) No 862/2007 on Community statistics on migration and international protection* (hereafter “Migration Statistics Regulation Implementation Report”), COM(2015) 374, 30 July 2015, 5.

<sup>4</sup> UNHCR compiles statistics which bear specific focus on the EU. See e.g. UNHCR, *Asylum Trends 2014: Levels and Trends in Industrialized Countries*, available at: <http://bit.ly/1GYeFj4>.

<sup>5</sup> Alongside its publicly available statistics, EASO also compiles data in its Group for the Provisions of Statistics (GPS), access to which is however restricted. See the restricted area at: <https://easo.europa.eu/trends-and-statistics/welcome/>.

<sup>6</sup> For a more detailed overview of sources, see M Mouzourakis, “Wrong number?” The use and misuse of asylum data in the European Union’, CEPS Paper in Liberty and Security in Europe No 69, December 2014, 2-4.

<i>France</i>	French Office for the Protection of Refugees and Stateless Persons; National Court of Asylum	Annual	< <a href="http://bit.ly/1LwlrSQ">http://bit.ly/1LwlrSQ</a> > (FR) < <a href="http://bit.ly/1Kmey3o">http://bit.ly/1Kmey3o</a> > (FR)
<i>Greece</i>	Asylum Service	Monthly	< <a href="http://bit.ly/1JgGwim">http://bit.ly/1JgGwim</a> > (GR)
<i>Croatia</i>	Ministry of Interior	Quarterly	< <a href="http://bit.ly/1Mpw0ap">http://bit.ly/1Mpw0ap</a> > (HR)
<i>Hungary</i>	Office of Immigration and Nationality	Biannual	< <a href="http://bit.ly/1RTbymd">http://bit.ly/1RTbymd</a> > (HU)
<i>Ireland</i>	Office of the Refugee Applications Commissioner	Monthly	< <a href="http://bit.ly/1KIRlvH">http://bit.ly/1KIRlvH</a> > (EN)
<i>Italy</i>	Ministry of Interior	Monthly	< <a href="http://bit.ly/16dLr2A">http://bit.ly/16dLr2A</a> > (IT)
<i>Malta</i>	UNHCR Malta	Monthly	< <a href="http://bit.ly/1KIRHbb">http://bit.ly/1KIRHbb</a> > (EN)
<i>Netherlands</i>	Immigration and Naturalisation Service	Monthly	< <a href="http://bit.ly/1q7Hnqz">http://bit.ly/1q7Hnqz</a> > (EN)
<i>Poland</i>	Office for Foreigners	Monthly	< <a href="http://bit.ly/1eiDkpF">http://bit.ly/1eiDkpF</a> > (PL)
<i>Sweden</i>	Swedish Migration Agency	Monthly	< <a href="http://bit.ly/1In3ANH">http://bit.ly/1In3ANH</a> > (SE)
<i>United Kingdom</i>	Home Office	Quarterly	< <a href="http://bit.ly/1JCHcy5">http://bit.ly/1JCHcy5</a> > (EN)
<i>Switzerland</i>	State Secretariat for Migration	Monthly	< <a href="http://bit.ly/1JzUnMK">http://bit.ly/1JzUnMK</a> > (FR)
<i>Turkey</i>	Directorate-General for Migration Management; UNHCR Turkey	Annual; Monthly	< <a href="http://bit.ly/1CRBEPX">http://bit.ly/1CRBEPX</a> > (EN) < <a href="http://bit.ly/1q7GY7A">http://bit.ly/1q7GY7A</a> > (EN)

The Migration Statistics Regulation requires Member States and Schengen Associated States to communicate statistics on asylum to Eurostat, which is responsible for providing harmonised and comparable data in the Union. The Regulation includes a number of implementing measures allowing the Commission to revise and update its non-essential elements such as the definitions used, the grouping of data and rules on accuracy and quality standards, with a view to improving statistical practice.<sup>7</sup> With the assistance of EASO, Eurostat has reviewed its guidelines in 2013 and 2014,<sup>8</sup> where it has clarified *inter alia* a number of methodological aspects in the calculation of Dublin statistics. According to the Commission's report on the evaluation of the Migration Statistics Regulation, published on 30 July 2015, these efforts have "resulted in the enhanced clarity of the statistical definitions and concepts".<sup>9</sup>

Nevertheless, in spite of the aforementioned improvements, significant shortcomings persist with regard to adequate and timely statistical data on Europe's asylum systems. Several areas of the European asylum process such as the complex Dublin system or the ever-opaque question of detention of asylum seekers seem to evade proper and transparent scrutiny to date. At the same time, even for more straightforwardly provided information on matters such as numbers of applicants or decisions, the data provided by national and EU sources still encounters problems of accuracy and timely availability. These issues have a direct impact on the evidence base of asylum debates and policies in Europe, at a time when the treatment of migrants and refugees has attracted unprecedented levels of attention among political leaders and public opinion. Accurate asylum statistics are needed now more than ever.

Through an examination of both EU and national sources of data, this briefing will explore key gaps in the provision of statistics relating to the main elements of the asylum process, namely applications and decisions, the Dublin system and detention. It will then discuss challenges in the timely and accessible provision of asylum statistics which, it is submitted, are due to lacunae both in the EU legal framework of asylum statistics and to Member States' compliance with reporting obligations.

## Content of asylum information

Statistical information on asylum in Europe revolves around three main elements: applications, including details on the sex, age and country of origin of asylum seekers; decisions, both at first

<sup>7</sup> Recital 16 Migration Statistics Regulation.

<sup>8</sup> Eurostat, *Technical Guidelines for the data collection under Art. 4 of Regulation 862/2007 – Statistics on asylum*, Version amended in December 2013, available at: <http://bit.ly/1MzeNvj>; Version amended in December 2014, available at: <http://bit.ly/1eXen3m>.

<sup>9</sup> European Commission, *Migration Statistics Regulation Implementation Report*, 30 July 2015, 5.

instance and second instance; and “Dublin statistics”, which should contain a wide array of information on the operation of the Dublin system, all of which are discussed in more detail below.

### *Asylum applications and decisions*

Eurostat is the main source of reference for information concerning the number of asylum applicants in EU Member States. However, there are discrepancies in the way asylum applications are presented by Eurostat and other actors such as UNHCR, which may run the risk of creating confusion. For the year 2014, for example, Eurostat reported a total 626,065 *applicants* for international protection in the 28 EU Member States,<sup>10</sup> whereas UNHCR referred to 570,820 *applications*.<sup>11</sup> The numbers are not necessarily inconsistent, given that an asylum application may concern more than one applicant.

Over the past years, Eurostat has improved its statistical collection practice and now provides fully complete data on applicants and pending applications,<sup>12</sup> disaggregated by sex, age and country of origin. Yet the same is not always true of statistics published by national asylum authorities. For example, monthly data on Malta, published by the Refugee Commissioner and UNHCR Malta, does not generally disaggregate applicants based on country of origin;<sup>13</sup> it only provides this information for so-called “boat arrivals”.<sup>14</sup>

The case of unaccompanied asylum-seeking children deserves closer attention. The Migration Statistics Regulation specifically requires Member States to provide Eurostat with the number of unaccompanied minors applying on their territory,<sup>15</sup> albeit less periodically than for other applicants, as seen below.<sup>16</sup> However, while all EU countries provide Eurostat with this information, not all countries include it in their respective national statistical reports. This is the case for Bulgaria, Germany, Ireland, Italy, Malta, Poland and Switzerland, for instance.

On the other hand, national data reports often present good statistical practices. A number of Member States provide useful information relating to the main locations on their territory where asylum applications are lodged. By way of example, Germany<sup>17</sup> and Switzerland<sup>18</sup> specify how many applications are registered in each federal state or canton, while Greece includes specific information on the number of claims lodged before each Regional Asylum Office.<sup>19</sup> These details help to understand how the distribution of asylum seekers occurs within individual countries.

As regards decisions on asylum applications, Eurostat publishes data on first instance decisions and final decisions, which are broken down by nationality and outcome of the decision, including refugee status, subsidiary protection status, authorisation to stay for humanitarian reasons under national law concerning international protection, temporary protection, other first instance decisions and rejection. Article 4(2)(a) of the Migration Statistics Regulation provides that rejection encompasses inadmissibility decisions.

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<sup>10</sup> Eurostat, *Asylum applicants and first instance decisions on asylum applications: 2014*, March 2015, 4.

<sup>11</sup> UNHCR, *Asylum Trends 2014*, 20.

<sup>12</sup> Eurostat, *Asylum and first time applicants by citizenship, age and sex Monthly data (rounded)*, migr\_asyappctzm; *Persons subject of asylum applications pending at the end of the month by citizenship, age and sex Monthly data (rounded)*, migr\_asyapenctzm.

<sup>13</sup> UNHCR Malta, *Malta Asylum Trends: Asylum claims and total number granted protection*, available at: <http://bit.ly/1SSp1eg>.

<sup>14</sup> UNHCR Malta, *Malta Asylum Trends: Boat Arrivals/Rescued*, available at: <http://bit.ly/1gcu0oC>.

<sup>15</sup> Article 4(3)(a) Migration Statistics Regulation.

<sup>16</sup> Note that the limited focus of the Regulation on unaccompanied minors seeking asylum has been criticised for leaving information gaps as to the full scale of the situation of unaccompanied children: European Commission, *Action Plan on Unaccompanied Minors (2010-2014)*, COM(2010) 213, 6 May 2010.

<sup>17</sup> German Federal Office for Migration and Refugees, *Asylum Statistics for June 2015*, available in German at: <http://bit.ly/1OHp6vA>, 5.

<sup>18</sup> Swiss State Secretariat for Migration, *Asylum Statistics: June 2015*, available in French at: <http://bit.ly/1KIVTYy>, Table T1C.

<sup>19</sup> Greek Asylum Service, *Statistics of the Asylum Service (1.1.2015 – 30.06.2015)*, available in Greek at: <http://bit.ly/1M24LRP>, 1.

In that light, one main challenge in the collection of accurate statistics on decisions has been the classification of decisions not to examine an application due to the responsibility of another country under the Dublin Regulation.<sup>20</sup> The unclear status of Dublin decisions is principally due to the ambiguity left by the reference to inadmissible applications for international protection in Article 33 of the recast Asylum Procedures Directive.<sup>21</sup> That provision holds that “[i]n addition to cases in which an application is not examined in accordance with [the Dublin Regulation]”, Member States may refuse to examine an application “where an application is considered inadmissible”. The EU *acquis* therefore fails to squarely address whether Dublin decisions are inadmissibility decisions or belong to a different category. From the viewpoint of principle, the two should be distinct, as it is only the “responsible Member State” under the Dublin Regulation that may pronounce itself on an asylum application, both in terms of admissibility and merits.

Yet this confusion transcends into a number of national asylum procedures. For example, the applicability of the Dublin Regulation is considered a ground for declaring an application inadmissible in Austria,<sup>22</sup> Germany,<sup>23</sup> Croatia,<sup>24</sup> Malta<sup>25</sup> and the United Kingdom.<sup>26</sup> This procedural arrangement has obvious impact on statistical practice, given that at least these countries deem Dublin as a ground for rejecting an application at the admissibility stage.

To remedy this problem, Eurostat revised its Technical Guidelines in December 2013 with a view to clarifying that Dublin decisions are not to be counted as rejections,<sup>27</sup> thus enhancing methodological clarity in the collection of data.<sup>28</sup> Nevertheless, while EU statistics now draw a clear distinction between Dublin cases and rejection decisions, this divide is not necessarily taken up in national statistical reports.<sup>29</sup> This creates the risk of discrepancies between figures published at national level and figures fed to Eurostat, not least with regards to Member States’ recognition rates.

A noteworthy approach is followed in this regard in Sweden. The Swedish Migration Agency provides a detailed breakdown of decisions, distinguishing between rejections, Dublin decisions, and “others” – meaning withdrawn asylum applications. It also clarifies that the recognition rate differs if Dublin and “other” decisions are counted or not. For instance, during the first half of 2015, Sweden had a recognition rate of 62% if all decisions delivered during that reporting period were to be counted. However, excluding Dublin and other decisions, the rate went up to 80%.<sup>30</sup> More specifically as regards Eritreans and Syrians, Sweden had a recognition rate of 100%; however, if Dublin and other decisions were taken into account, these rates would be 86% and 90% respectively.<sup>31</sup>

Furthermore, the calculation of precise recognition rates in national sources of data is rendered difficult where asylum authorities do not distinguish refugee status from subsidiary protection status when publishing protection rates.<sup>32</sup> On the other hand, other countries may only include positive decisions and omit rejection decisions in their statistical reports.<sup>33</sup> These gaps in the information

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<sup>20</sup> Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or stateless person (recast), *OJ* 2013 L180/31.

<sup>21</sup> 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 (recast), *OJ* 2013 L180/60.

<sup>22</sup> AIDA Country Report Austria: Third Update, December 2014, available at: <http://bit.ly/1HPdOm8>, 36.

<sup>23</sup> Article 27a German Asylum Procedures Act. See AIDA Country Report Germany: Third Update, January 2015, available at: <http://bit.ly/1TLQeMV>, 32.

<sup>24</sup> Article 43(1) Croatian Law on International and Temporary Protection.

<sup>25</sup> Article 24(a) Maltese Refugees Act.

<sup>26</sup> AIDA Country Report United Kingdom: Third Update, January 2015, available at: <http://bit.ly/1J5MFyP>, 29.

<sup>27</sup> Eurostat, *Technical Guidelines for the data collection under Art. 4 of Regulation 862/2007 – Statistics on asylum*, Version amended in December 2013, available at: <http://bit.ly/1MzeNvj>.

<sup>28</sup> European Commission, *Migration Statistics Regulation Implementation Report*, 30 July 2015, 5.

<sup>29</sup> See e.g. the latest statistical reports for Austria: <http://bit.ly/1eUM2uv>; Germany: <http://bit.ly/1OHp6vA>; Malta: <http://bit.ly/1KIRHbb>; United Kingdom: <http://bit.ly/1HsLnXQ>. There, inadmissibility decisions are not distinguished from Dublin decisions.

<sup>30</sup> Swedish Migration Agency, *Asylum Decisions: July 2015*, available at: <http://bit.ly/1IrHPqM>, 1.

<sup>31</sup> *Ibid*, 3-4.

<sup>32</sup> See e.g. Swedish Migration Agency, *Asylum Decisions: July 2015*; Greek Asylum Service, *Statistics of the Asylum Service (1.1.2015 – 30.06.2015)*.

<sup>33</sup> See e.g. Croatian Ministry of Interior, *Statistics for the second quarter of 2015*, available in Croatian at: <http://bit.ly/1eULYLm>.

provided by Member States seem all the more problematic given that figures on the specific forms of protection granted must be provided to Eurostat under the Migration Statistics Regulation.

#### *The 'incomplete data': Dublin statistics*

The Dublin system lays out so technically complex a mechanism of allocation of responsibility between Member States that it merits a statistical collection process of its own. As per Article 4(4) of the Migration Statistics Regulation, the relevant information relating to the application of the Dublin Regulation Member States are required to supply concerns:

- (a) The number of requests for taking back or taking charge of an asylum seeker;
- (b) The provisions on which the requests referred to in point (a) are based;
- (c) The decisions taken in response to the requests referred to in point (a);
- (d) The numbers of transfers to which the decisions referred to in point (c) lead; and
- (e) The number of requests for information.

The information listed in Article (4)(4)(b) in particular only reveals part of the Dublin practice and should be unpacked further. The provisions on which a Dublin request is based invite a twofold inquiry relating to the type of request ("take charge" or "take back") on one hand, and the applicable criterion for responsibility on the other. Statistics should identify both elements. Firstly, as provided in Article 18(1) of the Dublin III Regulation, there is a procedural distinction between "take charge" and "take back" requests. A Member State "takes charge" of an applicant who has applied in a different Member State without engaging in its asylum process.<sup>34</sup> Conversely, a Member State "takes back" an applicant who has applied on its territory and his or her application is under examination, withdrawn or rejected, and then applies in a different Member State or resides there without authorisation.<sup>35</sup>

The type of Dublin request therefore depends on whether a person has lodged an application in the responsible Member State before applying or moving elsewhere, and on the potential stage of that application. The assessment of the criteria based on which the responsibility of a Member State is established is an entirely separate enquiry. Under Chapter III of the Regulation, and following a hierarchical order,<sup>36</sup> the criteria for responsibility are:

- (a) Family reasons;<sup>37</sup>
- (b) Issuance of residence documents or visas;<sup>38</sup>
- (c) Irregular entry or stay;<sup>39</sup>
- (d) Visa-waived entry;<sup>40</sup>
- (e) First asylum application.<sup>41</sup>

In order to have an accurate statistical picture of the application of the Dublin system, Member States would therefore have to provide Eurostat with statistics indicating both the type of Dublin requests issued and the criteria on which the requests were based.

However, the methodology employed by EU institutions for collecting and compiling Dublin statistics seems to leave considerable knowledge gaps. Eurostat, as well as EASO, draws an uneasy distinction as to the level of information provided for "take charge" and "take back" requests.<sup>42</sup> It categorises "take charge" requests based on the applicable criterion (family reasons; documentation and legal entry; irregular entry or stay; humanitarian reasons; dependent persons) on one hand, but categorises "take back" requests based on the type of "take back" request (under examination; rejection; withdrawal).<sup>43</sup>

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<sup>34</sup> Article 18(1)(a) Dublin III Regulation.

<sup>35</sup> Article 18(1)(b), (c) and (d) Dublin III Regulation.

<sup>36</sup> Article 7(1) Dublin III Regulation.

<sup>37</sup> Articles 8-11 Dublin III Regulation.

<sup>38</sup> Article 12 Dublin III Regulation.

<sup>39</sup> Article 13 Dublin III Regulation.

<sup>40</sup> Article 14 Dublin III Regulation.

<sup>41</sup> Articles 15 and 3(2) Dublin III Regulation.

<sup>42</sup> Eurostat, *'Dublin statistics'*, migr\_dub, available at: <http://bit.ly/1CaDQfc>.

<sup>43</sup> See e.g. EASO, *Annual report on the situation of asylum in the EU 2014*, July 2015, 32.

Accordingly, these Dublin statistics do not reveal the criteria on the basis of which Member States issue “take back” requests. As EASO mentions, albeit with incomplete data, “take back” requests are far more than “take charge” requests in the EU.<sup>44</sup> Therefore for the majority of requests made under the Dublin Regulation, statistical sources yield no information as to the relevant responsibility criteria triggering Dublin procedures.

At the same time, challenges to obtaining precise figures on the application of the Dublin Regulation equally exist at the national level. Out of the 17 AIDA countries operating the Dublin system, detailed and up-to-date national statistics on Dublin are provided only by Switzerland.<sup>45</sup> Even there, the State Secretariat for Migration does not spell out the criteria for different requests or transfers; it only mentions the receiving or sending country of a request. While countries such as Belgium, Germany, Greece, Ireland and Sweden include some reference to Dublin statistics, they only mention the number of requests or decisions taken, without disaggregating the grounds for such requests or the Member States concerned.

Despite continuing efforts on the part of the institutions to improve statistical practice, the EU remains unable to provide accurate and comprehensive data on the operation of the Dublin system. This is due, on one hand, to shortcomings in the collection and analysis of information, which leads *inter alia* to inconsistencies between numbers of incoming and outgoing requests, as conceded by the Commission’s July 2015 implementation report.<sup>46</sup> However, the omission of crucial data such as the applicable responsibility criteria for all Dublin requests – and not only “take charge” requests – is a flaw in the statistical framework as a whole.

#### *The ‘inexistent data’: Detention of asylum seekers*

Worryingly, the need for accurate information around the detention of asylum seekers has escaped statistical collection efforts in the EU. It need be recalled that, following the adoption of asylum-specific rules on detention in the recast Reception Conditions Directive,<sup>47</sup> understanding the scale of detention practices across Member States is an integral part of the monitoring of the implementation of EU *acquis*.

The absence of statistical provision by Member States relating to the use of asylum detention as part of their reporting obligations under the recast Reception Conditions Directive is therefore highly problematic. In essence, it means that EU countries’ ongoing recourse to coercive practices against asylum seekers, which entail evident human but also financial and administrative costs, do not appear in publicly available EU statistical material, thereby blurring the evidence base of policy discussions.<sup>48</sup>

On that point, EASO has taken steps to incorporate detention figures in the statistical information collected under its Early Warning and Preparedness (EPS) system. EASO has received data from Member States on the number of persons found in detention at the end of specific reporting periods, for instance. Such data, however, has not been made public to date.

The collection and release of detention statistics seems to encounter difficulties in the Union, not least given concerns that national authorities may find it extremely onerous, if not impossible, to ascertain exactly how many asylum seekers are deprived of their liberty at any given time. Another factor invoked in that regard is the interplay between different asylum decision-makers and immigration enforcement or police authorities in detention, which may render the provision of accurate figures more difficult. Yet the statistical dark cloud surrounding detention should be demystified to some extent. Some national authorities have been able to collect and publish data shedding at least some light on the use of detention. For example, in Greece, the Asylum Service publishes monthly statistics on the number of asylum claims lodged by persons in detention; during the first half of 2015, 1,511

<sup>44</sup> *Ibid.* EASO refers to 6,705 “take back” and 3,650 “take charge” requests in 2014.

<sup>45</sup> Swiss State Secretariat for Migration, *Asylum Statistics: June 2015*, Table T10M-C et seq.

<sup>46</sup> European Commission, *Migration Statistics Regulation Implementation Report*, July 2015, 7.

<sup>47</sup> 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 (recast), OJ 2013 L180/96, Articles 8-11.

<sup>48</sup> ECRE, *Information Note on 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 (recast)*, July 2015, available at: <http://bit.ly/1McmV54>, 37-38.

applications out of a total 6,236 (almost 25%) were registered in detention centres,<sup>49</sup> while 372 were lodged in the Amygdaleza detention centre alone.<sup>50</sup> Although this number does not necessarily disclose how many applicants find themselves in detention overall, as it does not cover persons who may be detained after having lodged a claim, it still helps somewhat to illuminate the reality of detention in Greece in an evidence-based manner.

On the other hand, Hungary publishes in its annual statistics the total number of detentions ordered during a year, and discerns the top five nationalities subject to detention.<sup>51</sup> Even though that number does not distinguish between immigration and asylum detention, it gives a useful indication of the scale of detention practice in the country.

At the same time, statistical information on the length of detention of asylum seekers, the specific grounds on which their liberty is deprived, as well as the use of less coercive alternatives, is equally crucial towards an evidence-led understanding of how Member States comply with their obligations in relation to detention in practice.

### Timely provision of statistics

Beyond gaps in the scope and accuracy of asylum statistics, difficulties in ensuring timely availability of information also pose significant constraints to evidence-led policy debates in practice and in particular at the EU level. This is due to the design of the statistical collection framework, on the one hand. Under the terms of the Migration Statistics Regulation, Eurostat is not provided with all forms of asylum data from Member States with equal periodicity:

- (a) Statistics on applications are submitted on a monthly basis, within 2 months of the end of the reference month;<sup>52</sup>
- (b) Statistics on first instance decisions are submitted on a quarterly basis, within 2 months of the end of the reference quarter;<sup>53</sup> and
- (c) Data on unaccompanied children, final decisions and Dublin are submitted on an annual basis, within 3 months of the end of the reference year.<sup>54</sup>

In practice, this suggests that it is impossible at any given time to draw a comprehensive picture of the situation of asylum in Europe by relying on Eurostat statistics; which are also those used by EASO. For instance, EASO publishes monthly Asylum Trends reports, but these do not provide specific information on the number of applicants or decisions in individual Member States, while no reference is made to Dublin.<sup>55</sup>

On the other hand, Member States often fail to promptly provide Eurostat with the necessary data as required under the Migration Statistics Regulation. In its July 2015 implementation report, the Commission found “a considerable improvement of the punctuality of data provisions”.<sup>56</sup> Yet practice seems to suggest that the level of compliance with deadlines remains unsatisfactory. For instance, as recalled above, statistics on asylum applications need be provided within 2 months of the end of the reference period; therefore, data for May 2015 should have been submitted at the latest by the end of July 2015. Yet, as of late August 2015, no data on applications had been made available for Croatia, Cyprus, Portugal and the United Kingdom.<sup>57</sup> Moreover, data for June was missing for 16 Member

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<sup>49</sup> Greek Asylum Service, *Statistics of the Asylum Service (1.1.2015 – 30.06.2015)*, 5.

<sup>50</sup> *Ibid*, 1.

<sup>51</sup> Hungarian Office for Immigration and Nationality, *Statistics: Issue 2013-2014*, available at: <http://bit.ly/1BYSshT>, Table 10.

<sup>52</sup> Article 4(1) Migration Statistics Regulation.

<sup>53</sup> Article 4(2) Migration Statistics Regulation.

<sup>54</sup> Article 4(3)-(4) Migration Statistics Regulation.

<sup>55</sup> For the latest available report, see EASO, *Latest asylum trends and main countries of origin (June 2015)*, available at: <http://bit.ly/1Ne8YAN>.

<sup>56</sup> European Commission, *Migration Statistics Regulation Implementation Report*, 30 July 2015, 7.

<sup>57</sup> Eurostat, *Asylum and first time asylum applicants by citizenship, age and sex Monthly data (rounded)*, migr\_asyappctzm, accessed 24 August 2015.



States, including 5 AIDA countries which have already published this information as part of their national statistics: Austria,<sup>58</sup> Greece,<sup>59</sup> Croatia,<sup>60</sup> Ireland<sup>61</sup> and Malta.<sup>62</sup>

The availability of Dublin statistics is even more problematic. EASO's 2014 annual report, published in July 2015, provides information on Dublin for only 21 out of the 30 Member States and Schengen Associated States covered by the report.<sup>63</sup> In its 2013 report, published in July 2014, EASO had included "only incomplete data" from 16 Member States.<sup>64</sup>

The delay in gathering Dublin figures for the 2014 report was attributed to the revision of Eurostat's Technical Guidelines at the end of 2014, as a result of which the deadline for submission of Dublin statistics by Member States was exceptionally extended to 15 May 2015.<sup>65</sup> Nevertheless, as of late August 2015, Dublin statistics in the Eurostat database were still severely incomplete, as data on incoming transfers was missing for 11 countries (Czech Republic, Spain, Italy, Cyprus, the Netherlands, Austria, Poland, Portugal, Finland, Iceland and Norway).<sup>66</sup> For outgoing transfers, 11 countries, albeit not necessarily the same, were missing data (Bulgaria, Czech Republic, Spain, Italy, Cyprus, Lithuania, Netherlands, Poland, Portugal, Finland and Iceland).<sup>67</sup>

Against that backdrop, it appears that there are significant gaps in the collection and provision of statistical data on asylum in the EU and Schengen Associated States, whereas much of the EU asylum debate and policy is driven by statistical analysis. The case of the Dublin Regulation is particularly illustrative. 15 years following its inception, available data on the Dublin system do not allow for clear conclusions at any given time on how efficiently the Dublin Regulation operates in terms of actual transfers of asylum seekers against the number of requests or Dublin procedures initiated by Member States. That the costs and actual efficiency of the system have not been ascertainable, after thorough evaluation and research efforts,<sup>68</sup> should be a cause for considerable concern. One can only be hopeful that the evaluation of the Dublin III Regulation by the Commission,<sup>69</sup> launched in July 2015 and aimed to be completed by 2016, will gather adequate information from Member States, including a thorough statistical analysis of the operation of the Regulation, in order to conduct a proper assessment of the efficiency and costs of the Dublin system.

Many of the abovementioned concerns, in particular those around the timely provision of statistics, relate to implementation and monitoring of Member States' compliance with their reporting duties to Eurostat. To that end, the Commission and EASO should enhance monitoring efforts in order for national authorities to submit statistics within the requisite deadlines. However, remedying other gaps in the EU's statistical practice on asylum may require reform of the legal and technical framework. The Migration Statistics Regulation should be reviewed and possibly amended to require Member States and Schengen Associated States to provide statistics on immigration and asylum detention, while the need to specify all elements relevant to the Dublin Regulation, such as the applicable responsibility criteria for issuing "take back" as well as "take charge" requests, should be further clarified in Eurostat's Technical Guidelines. To that effect, it should be recalled that the "development and application by Member States of common statistical tools, methods and indicators for measuring policy developments in the field of asylum" is expressly stated as one of the "Union actions" funded by

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<sup>58</sup> Austrian Ministry of Interior, *Asylum statistics June 2015*, available at: <http://bit.ly/1eUM2uv>.

<sup>59</sup> Greek Asylum Service, *Statistics of the Asylum Service (1.1.2015 – 30.06.2015)*.

<sup>60</sup> Croatian Ministry of Interior, *Statistics for the second quarter of 2015*.

<sup>61</sup> Office of the Refugee Applications Commissioner, *Monthly statistical report June 2015*, available at: <http://bit.ly/1hkW3D8>.

<sup>62</sup> UNHCR Malta, *Malta Asylum Trends: Asylum claims and total number granted protection*.

<sup>63</sup> EASO, *Annual report on the situation of asylum in the EU 2014*, July 2015, 32.

<sup>64</sup> EASO, *Annual report on the situation of asylum in the EU 2013*, July 2014, 30.

<sup>65</sup> EASO, *Annual report on the situation of asylum in the EU 2014*, July 2015, 32, fn. 29.

<sup>66</sup> Eurostat, *Incoming 'Dublin' transfers by submitting country, legal provision and duration of transfer*, migr\_dubti, accessed 24 August 2015.

<sup>67</sup> Eurostat, *Outgoing 'Dublin' transfers by receiving country, legal provision and duration of transfer*, migr\_dubto, accessed 24 August 2015.

<sup>68</sup> See European Commission, *Report on the evaluation of the Dublin system*, COM(2007) 299, 6 June 2007, 13; ECRE, *Dublin II Regulation: Lives on Hold*, February 2013, 23-24; Migration Policy Institute Europe, *Not Adding Up: The Fading Promise of Europe's Dublin System*, March 2015, 15.

<sup>69</sup> Article 46 Dublin III Regulation. See also European Commission, *European Agenda on Migration*, COM(2015) 240, 13 May 2015, 13.

the AMIF under the AMIF Regulation.<sup>70</sup> Measures to improve statistical practice could therefore be allocated from the minimum of €115.5 million earmarked for Union actions and the EMN under the Fund.<sup>71</sup>

### **Concluding remarks**

The relevance of reliable asylum statistics as a basis for reasoned debates on the Common European Asylum System cannot be overstated. EU institutions invest considerable efforts and financial and administrative resources into collecting and producing accurate and up-to-date data to monitor the operation of asylum systems in Europe, as well as the implementation of common protection standards.<sup>72</sup> The consolidation of existing data collection activities initiatives such as EASO's Early Warning and Preparedness System (EPS), as well as new initiatives such as the Commission's evaluation of the Dublin system, echo the value of enhanced statistical knowledge in the EU.

However, valuable asylum information is lacking from the Union's knowledge base in a number of important areas. Notwithstanding methodological improvements in data collection, our understanding of the exact operation, efficiency and impact of the Dublin Regulation is still far from satisfactory. Detention of asylum seekers is even more concerning, given the quasi-absolute absence of information on the numbers of applicants that Member States detain, and on the legal basis for such actions. These two elements of the CEAS, both at the heart of heated debates and both far from understudied, remain regrettably under-documented from a statistical perspective.

At the same time, timely provision of statistics persists as a challenge. To date, different aspects of asylum in Europe are documented at different speeds. Coupled with persevering delays in the submission of data by Member States to Eurostat, this prevents the possibility of a comprehensive understanding of the state of play of the CEAS at any given point. For all the attention it attracts in political, legal and media circles in Europe, the asylum debate remains based on fragmented, opaque and even at times misrepresented data.

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<sup>70</sup> Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 May 2014 establishing the Asylum, Migration and Integration Fund, *OJ* 2014 L150/168, Article 20(2)(d).

<sup>71</sup> Article 14(6)(b) AMIF Regulation.

<sup>72</sup> For example, EASO has allocated €300,000 for its early warning and data analysis system (EPS) for 2015: EASO, *Work Programme 2015*, September 2014, 26. In 2014, €250,000 were allocated thereto: EASO, *Work Programme 2014*, 13.