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Robert Schuman Centre for Advanced Studies

External border control and asylum management as EU  
common goods. A budgetary perspective

Alessandro D'Alfonso



European University Institute

**Robert Schuman Centre for Advanced Studies**

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## **Abstract**

The removal of internal border controls across most of the European Union (EU) has increased interdependencies between the Member States, triggering the emergence of many different EU common goods. In the fields of external border controls, asylum and migration, Article 80 of the Treaty on the Functioning of the European Union (TFEU) implicitly recognizes the existence of such common goods and the challenges related to their effective provision, by establishing solidarity and fair sharing of responsibility between the Member States as the governing principle for relevant common policies. An analysis of negotiations on the EU's Multiannual Financial Frameworks since 1993 and of data on budgetary implementation since 2000 shows that pooling of financial resources at EU level and the establishment of common structures have advanced slowly, despite efforts from the European Parliament and the European Commission to increase momentum. Both specific features of the EU budgetary provisions and institutional characteristics of these sensitive policy areas have contributed to the slow progress. Against this backdrop, the 2015-2016 surge in arrivals of asylum-seekers has led to an emergency-driven increase in joint financial efforts, which nevertheless remain limited as compared to national expenditure in the policy areas. Scattered data suggest that the latter is unevenly distributed across the Union. These questions acquire renewed salience in the context of the negotiations on the post-2020 Multiannual Financial Framework. While pooling of financial resources at EU level cannot alone ensure fair sharing of responsibility, a series of possible developments in this domain have the potential to strengthen the contribution of the EU budget to the application of the principle that governs the common policies on external borders, asylum and migration according to the Treaty of Lisbon.

## **Keywords**

EU budget, asylum, external borders, principle of solidarity and fair sharing of responsibility, EU common goods.





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### **List of main acronyms used**

AMF:	Asylum and Migration Fund
AMIF:	Asylum, Migration and Integration Fund
CEAS:	Common European Asylum System
CJEU:	Court of Justice of the European Union
COFOG:	Classification of the Functions of Government
DCI:	Development Cooperation Instrument
EASO:	European Asylum Support Office
EBF:	External Borders Fund
ECA:	European Court of Auditors
EDF:	European Development Fund
EIF:	European Fund for the Integration of third-country nationals
ENI:	European Neighbourhood Instrument
ERF:	European Refugee Fund
ESIF:	European Structural and Investment Funds
ESF:	European Social Fund
eu-LISA:	European Agency for the Operational Management of large-scale IT Systems in the Area of Freedom, Security and Justice
EUROSTAT:	Statistical Office of the European Union
Frontex:	European Border and Coast Guard Agency
GDP:	Gross domestic product
GNI:	Gross national income
IBMF:	Integrated Border Management Fund
ISF:	Internal Security Fund
JHA:	Justice and Home Affairs
MFF:	Multiannual Financial Framework
OECD:	Organisation for Economic Co-operation and Development
RF:	European Return Fund
SGP:	Stability and Growth Pact
SIS II:	Schengen Information System
SOLID:	General Programme “Solidarity and Management of Migration Flows”
TFEU:	Treaty on the Functioning of the European Union
VIS:	Visa Information System

## 1. Introduction\*

Citizens regularly value free movement of people, goods and services within the European Union (EU) among the most positive and beneficial results of the EU.<sup>1</sup> The removal of internal border controls for persons across most of the EU, which has played a major role in shaping free movement as we know it today, has increased interdependencies between Member States, making the case for greater coherence and triggering strengthened cooperation in many different policy areas.

Among other domains, the gradual creation of an Area of Freedom, Security and Justice has involved the development of common policies on external border controls, asylum and migration. EU integration in these domains, which are closely related to core state powers, has mainly been regulatory, since it has relied on the development of common rules to be implemented by national authorities (Genschel and Jachtenfuchs 2018).<sup>2</sup>

While having each its specific features, all these policy areas have a significant operational dimension. The relevant regulatory frameworks determine the Member State in charge of implementation and establish specific obligations with operational implications for them. In particular, these characteristics apply to external border controls through the Schengen *acquis* and to asylum through the Common European Asylum System (CEAS), which includes the Dublin Regulation assigning the responsibility for processing an asylum request mainly to the first country of entry into the EU.<sup>3</sup>

The Schengen and Dublin systems, which are closely interrelated, were originally developed in the 1980s and the 1990s in a completely different geopolitical situation. Various events culminating in the surge in arrivals of asylum-seekers in 2015 have gradually exposed the original asymmetry of the systems, which are frequently deemed to assign a disproportionate responsibility to Member States neighbouring non-EU countries, notably those on the EU's southern and eastern borders (De Somer 2018).<sup>4</sup>

This paper looks at the contribution that pooling budgetary resources at EU level can give in addressing this asymmetry, with a view to ensuring an appropriate provision of the various common goods that the policy areas imply. The principle of solidarity and fair sharing of responsibility, which is to govern the EU policies on borders, asylum and migration according to the Treaty of Lisbon, is examined, including its relationship with the concept of common goods (Chapter 2). The analysis focuses on how the policy-specific allocations have developed in the EU budgetary system over time, presenting relevant outcomes in the negotiations for multiannual financial frameworks since 1993 and actual budgetary implementation during the 2000-2016 period (Chapter 3). After an overview of the role

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<sup>1</sup> European Commission, Public opinion in the European Union: Standard Eurobarometer 89 (Spring 2018), First results, June 2018.

<sup>2</sup> P. Genschel and M. Jachtenfuchs, From Market Integration to Core State Powers: The Eurozone Crisis, the Refugee Crisis and Integration Theory, *Journal of Common Market Studies*, 2018, Volume 56, Number 1, pp. 178–196.

<sup>3</sup> In the field of legal migration, the EU framework has a more limited role. For example, Member States autonomously determine volumes of admissions of third-country nationals.

<sup>4</sup> M. De Somer, Dublin and Schengen: A tale of two cities, European Policy Centre, Discussion Paper, 15 June 2018.

that other EU budgetary instruments, including those for external action, can play in the policy areas (Chapter 4), the analysis moves to relevant expenditure at Member State level, introducing the significant challenges that quantifying these allocations poses as well as some tentative estimates that have been produced in the wake of the 2015-2016 refugee crisis (Chapter 5). The final part examines possible developments in post-2020 EU budgets based on the European Commission's proposals for the next Multiannual Financial Framework (Chapter 6), considering options that could increase the contribution of EU budgetary resources to the principle of solidarity and fair sharing of responsibility in the fields of asylum and external border control (Chapter 7).

## **2. Solidarity and fair sharing of responsibility: provision of EU common goods**

This Chapter examines the rationale and the legal foundations behind the pooling of financial resources for asylum management and external border control at EU level, which is one of the possible forms of responsibility-sharing that EU Member States have in these domains. The first section looks at how, over time, these policy areas have seen the emergence of the principle of solidarity and fair sharing of responsibility, which was eventually enshrined in the Treaty of Lisbon. Putting the principle in the broader context of solidarity in the EU framework, the second section focuses on its practical implications and explores the links of the principle to the provision of common goods in economic theory.

### ***2.1 The origins of Article 80 TFEU and its use in EU budgetary instruments***

Concepts relating to solidarity and fair sharing of responsibilities have been debated and associated with the policy area of asylum management since early stages of cooperation at EU level. Their use has progressively been extended to the interrelated policy areas of border control and migration.

This approach appears to derive from and build on the 1951 Geneva Convention relating to the status of refugees, which established that addressing refugee issues requires international cooperation and burden sharing. Commentaries consider that international cooperation clearly includes not only the field of protection of refugees, but also that of assistance to States that are faced with significant challenges in the domain.<sup>5</sup>

Initial examples of references to the concept at EU level include the 1995 resolution on burden-sharing with regard to the admission and residence of displaced persons on a temporary basis that the Council adopted in the wake of the conflicts in the former Yugoslavia.<sup>6</sup> The 1997 Treaty of Amsterdam listed a number of measures that the Council had to adopt in the field of asylum and international protection within five years of the entry into force of the Treaty itself. Among others, these concerned “measures on refugees and displaced persons [...] promoting a balance of effort between Member States in receiving and bearing the consequences of receiving refugees and displaced persons”.<sup>7</sup> In October 1999, the European Council concluded that the European Commission should explore the opportunity of creating a financial reserve to be made available in the event of mass influx of refugees for temporary protection.<sup>8</sup>

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<sup>5</sup> The Refugee Convention, 1951: The travaux préparatoires analysed with a commentary by Dr Paul Weis, International Documents Series, Centre for International Law, University of Cambridge, 1990.

<sup>6</sup> Council Resolution of 25 September 1995 on burden-sharing with regard to the admission and residence of displaced persons on a temporary basis, OJ C 262, 7 October 1995, pp. 1-3.

<sup>7</sup> Article 63(2)(b) of the Treaty establishing the European Community (Amsterdam consolidated version). Official Journal C 340, 10 November 1997, pp. 173-306.

<sup>8</sup> See Tampere conclusions.

In 2002, the Working Group of the European Convention devoted to Freedom, Security and Justice recommended that the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States, be embedded in the Treaty and be applied as a general principle to the EU asylum policy and to the closely related fields of immigration and border control. In addition, the recommendation included the creation of a specific legal basis for the adoption of the measures necessary to implement the principle.<sup>9</sup>

Two years later, the European Council approved the Hague Programme on freedom, security and justice in the EU, concluding that the second phase of the common policy on asylum, migration and borders should be based on solidarity and fair sharing of responsibility. Financial implications were again expressly mentioned in this context alongside technical cooperation.<sup>10</sup>

In 2007, the Treaty of Lisbon eventually enshrined solidarity and fair sharing of responsibility as a general principle for the policy areas covered by Part Three, Title V, Chapter 2 of the Treaty on the Functioning of the European Union (TFEU). All the policy areas in question, namely border control, asylum and immigration, are interrelated and highly relevant to the principle of free movement of persons within the EU. Article 80 TFEU reads:

The policies of the Union set out in this Chapter and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this Chapter shall contain appropriate measures to give effect to this principle.

At the entry into force of the Lisbon Treaty in December 2009, the European Commission mentioned Article 80 TFEU for the first time as a joint legal basis (together with Article 78 TFEU) in a document outlining the impact of the new Treaty on ongoing legislative procedures.<sup>11</sup> The legislative procedure in question, a proposal for a Decision to modify the existing European Refugee Fund (ERF), had budgetary implications.

However, the Council of the European Union opposed the idea of Article 80 TFEU as a joint legal basis and proposed mentioning it in the recitals. The Commission accepted the solution, but at the request of the European Parliament issued a declaration that the compromise reached in 2012 was without prejudice to the possible use of Article 80 TFEU as a joint legal basis in the future.<sup>12</sup>

The differing views of EU institutions on the matter were again apparent during the negotiations on the following generation of EU budgetary instruments, which included the 2014-2020 Asylum, Migration and Integration Fund (AMIF). The Council of the European Union was against the use of Article 80 TFEU as a joint legal basis, while the European Parliament supported it. With a view to preventing the implementation of the Fund from being delayed, the European Parliament eventually decided to adopt the AMIF Regulation on the legal basis backed by the Council, but reiterated its view in a statement attached to the legislative resolution. The statement stressed the importance of the solidarity principle in Article 80 TFEU, and showed the intention to support the development of tools under this legal basis in the future. Along similar lines, the European Commission noted that the adoption of the Regulation was without prejudice to the possible use of Article 80 TFEU.<sup>13</sup>

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<sup>9</sup> Working Group X "Freedom, Security and Justice", European Convention, Final report, CONV 426/02, 2 December 2002.

<sup>10</sup> The Hague Programme : strengthening freedom, security and justice in the European Union (approved by the European Council on 5 November 2004), 16054/04, JAI 559, p. 8.

<sup>11</sup> European Commission, Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures, COM (2009) 665 final, 2 December 2009, Annex IV, p. 61.

<sup>12</sup> Communication from the Commission to the European Parliament concerning the position of the Council, COM (2012) 110 final, 9 March 2012; and Decision No 281/2012/EU of the European Parliament and of the Council of 29 March 2012.

<sup>13</sup> European Parliament, Legislative resolution on the proposal for a regulation establishing the Asylum and Migration Fund, P7\_TA(2014)0237, 13 March 2014.

The parallel negotiations on the Borders and Visa component of the 2014-2020 Internal Security Fund (ISF) had a similar result, since the principle is mentioned in the recitals and enhancing solidarity and responsibility-sharing between the Member States is one of the specific objectives of the instrument (as in the case of the AMIF Regulation). However, no statement on Article 80 TFEU as a joint legal basis is attached to the resolution, suggesting that the relevant discussion has been less prominent with regard to the policy area of external border management.

## ***2.2 Scope and implications of solidarity in the EU legal framework in general and in Article 80 TFEU in particular***

Being included in the Schuman Declaration of 9 May 1950, the value of solidarity has accompanied the process of European integration since its very beginning. The use of the term in the EU context has grown over time, and has multiple dimensions. Currently, the Treaty of Lisbon refers to solidarity at least once in eleven different articles,<sup>14</sup> some of which are general in scope, while others are specific to given policy areas such as the common foreign and security policy, energy, and the area of freedom security and justice. Solidarity may concern relations between citizens, states or generations.

In the absence of a definition of solidarity in the EU legal framework, differing views have emerged among scholars concerning its scope and enforceability. Positions showing scepticism towards the practical implications of the concept, notably when looking at the formulation of Article 80 TFEU, are exemplified by Noll (2016). It is argued that, while being to some extent part of a binding text, the term solidarity lacks sufficient legal precision to create concrete obligations for Member States.<sup>15</sup>

However, Vanheule et al. (2011) note that the role played by solidarity in the EU framework varies depending on the issue at stake and may involve different forms of cooperation.<sup>16</sup> Analysing the rationale behind the inclusion of solidarity in specific EU legal provisions as well as relevant EU case law, Küçük (2016) concludes that the concept of solidarity has normative consequences mainly when it is underpinned by self-interest and reciprocal return. In other words, solidarity implies strict legally binding obligations when it is instrumental in the provision of a common good.<sup>17</sup>

From a political theory perspective, Sangiovanni (2013) draws similar conclusions on the operationalisation of the concept of solidarity in the EU framework. Solidarity in the EU is mainly based on reciprocity: Member States enhance their capacity to respond to transnational challenges by means of EU integration, which produces common goods, but may imply costs that are unevenly distributed. In this sense, solidarity is to be seen as a way through which Member States insure each other for an uneven distribution of the costs associated with a given project: EU structural and cohesion funds are provided as an example of such an insurance-mechanism in the budgetary field to counterbalance the pressure of market integration.<sup>18</sup>

The specific formulation of solidarity enshrined in Article 80 TFEU appears to match these features. The principle underpinning the policy areas of border control, asylum management and migration is not

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<sup>14</sup> Articles 2, 3, 21, 24, 31 and 32 of The Treaty on European Union (TEU) and Articles 67, 80, 122, 194, 222 of the Treaty on the Functioning of the European Union (TFEU).

<sup>15</sup> G. Noll, Failure by Design? On the Constitution of EU Solidarity, in: Searching for Solidarity in EU Asylum and Border Policies, Odysseus Network's First Annual Policy Conference, Université Libre de Bruxelles, 26-27 February 2016, pp. 3-4.

<sup>16</sup> D. Vanheule, J. van Selm and C. Boswell, The Implementation of Article 80 TFEU on the Principle of Solidarity and Fair Sharing of Responsibility, including its Financial Implications, between the Member States in the Field of Border Checks, Asylum and Immigration, Directorate-General for Internal Policies, European Parliament, 2011, pp. 27-31.

<sup>17</sup> E. Küçük, Solidarity in EU Law: An Elusive Political Statement or a Legal Principle with Substance?, in: Maastricht Journal of European and Comparative Law Volume: 23, Issue 6, 2016.

<sup>18</sup> A. Sangiovanni, Solidarity in the European Union, Oxford Journal of Legal Studies, 33, 2013.

only of solidarity, but of solidarity *and* fair sharing of responsibility. Being the only recurrence in the Treaty of Lisbon where an explicit reference to fair sharing of responsibility accompanies solidarity, Article 80 TFEU suggests that the characteristics of the policy areas at stake, which often imply a significant operational dimension,<sup>19</sup> are such that responsibility may be unevenly distributed between Member States and thus require measures to address the imbalance. In this sense, the second part of Article 80 TFEU sets that: *'Whenever necessary, the Union acts adopted pursuant to this Chapter shall contain appropriate measures to give effect to this principle'*. Along similar lines, Tsourdi (2017) defines the principle enshrined in Article 80 TFEU as *'solidarity plus'*.<sup>20</sup>

From this perspective, Article 80 TFEU is linked to the concepts of transnational collective and public goods. The latter are goods or services that being completely or to some extent non-excludable and non-rival in consumption<sup>21</sup> require coordinated efforts of public authorities or a supranational mechanism to ensure their effective provision.

In addition to the degree of rivalry and excludability of its benefits, a third dimension that has an impact on the most suitable way to address a given public good is the technology through which public supply is aggregated. For example, based on the nature of the public (or nearly public) good at stake, the level of its provision may correspond to the sum of the efforts of all the stakeholders (leading to possible phenomena of free riding) or to the lowest effort produced by an individual stakeholder (*'the weakest link'*), determining a suboptimal supply of the good in the absence of an effective cooperation mechanism.<sup>22</sup>

Many scholars agree that the provision of asylum is to be seen as an international public good<sup>23</sup> or a regional public good.<sup>24</sup> States complying with international obligations stemming from the Geneva Convention and taking care of refugees do contribute to stability, by reducing the pressure on the international community or at least on their neighbours. External border control as part of the wider realm of defence is a recurrent textbook example of public good at national or federal level:<sup>25</sup> ensuring security for the border regions automatically provides security to the inner regions as well.

Migration has clear links to both asylum and borders, as analysed by the 2017 MEDAM Report, which underlines that the design of effective policies requires a systemic approach. For example, while labour migration and refugee protection are different from a conceptual and an operational standpoint, the absence of pathways for legal migration may push some would-be labour migrants to see the asylum

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<sup>19</sup> J. Monar (ed.), *The institutional dimension of the European Union's area of freedom, security, and justice*, College of Europe studies no. 11, P.I.E. Peter Lang, 2010, pp. 31-32.

<sup>20</sup> E. Tsourdi, *Solidarity at work? The prevalence of emergency driven solidarity in the administrative governance of the Common European Asylum System*, *Maastricht Journal of European and Comparative Law*, 2017, Vol. 24(5), pp. 667–686.

<sup>21</sup> Resources, goods or services are non-excludable if it is not possible to prevent a non-paying consumer from enjoying or consuming them. They are non-rival if they can be enjoyed or consumed by many persons at the same time and, at any level of production, providing them to one additional consumer triggers no additional costs. Clean air is an example of a resource that is both non-excludable and non-rival. For an overview of the concepts, see: R. Cornes, T. Sandler, *The theory of externalities, public goods, and club goods*, Cambridge University Press, 1986.

<sup>22</sup> T. Sandler, *On financing global and international public goods*, World Bank, Economic Policy and Prospects Group, 2001. The paper identifies other two aggregation technologies: *'best shot'*, i.e. the largest individual contribution determines the amount of the public good; and *'weighted sum'*, i.e. the amount of a given public good is equal to the sum of individual contributions, which are however weighted on the basis of the interest that individual stakeholders have in that public good.

<sup>23</sup> For example, see: A. Suhrke, *Burden-sharing during Refugee Emergencies: The Logic of Collective versus National Action*, *Journal Of Refugee Studies*, 4, 1998.

<sup>24</sup> T. Sandler, *Regional public goods and international organizations*, *The Review of International Organizations*, March 2006, Volume 1, Issue 1, pp 5–25.

<sup>25</sup> See for example the voice *'Public good'* by Sean Ingham in the *Encyclopaedia Britannica*.

procedure as a possibility of entering a country, blurring the differences and posing a number of challenges.<sup>26</sup>

Looking at the EU context in particular, the integration process and the removal of internal border controls are deemed to have triggered the emergence of regional common goods connected to asylum and migration management, as well as external border control. Thielemann and Armstrong (2013) argue that the systems based on the Schengen *acquis* (border control and migration) and the Dublin Regulation (asylum and migration) produce a complex set of various collective goods, which are partly public and partly private.<sup>27</sup> Analysing the EU's southern border, Haake et al. (2013) qualify public spending on its enforcement as a public good.<sup>28</sup> In a study mapping the cost of non-Europe, van Ballegooij (2016) identifies a genuine area of freedom, security and justice as an EU-wide public good ensuring free movement of persons 'in conjunction with appropriate measures with respect to external border controls, asylum, immigration [...]'. This Cost of Non-Europe report concludes that the return to a fully-functioning Schengen Area would require enhanced EU action, including reforms to foster solidarity and fair sharing of responsibility between Member States.<sup>29</sup>

On this basis, Article 80 TFEU and its reference to fair sharing of responsibility can be seen as the Treaty provision designed to ensure an effective supply of the multiple EU common goods that have emerged further to the removal of internal border controls in the context of the Schengen *acquis* and the broader integration process.

Along these lines, Küçük (2016) considers that Article 80 TFEU can be an effective legal tool to strengthen solidarity if properly used in EU secondary legislation and/or through judicial review of the Court of Justice of the European Union (CJEU).<sup>30</sup> In 2017, the CJEU referred to Article 80 TFEU to interpret another Treaty provision on the common asylum policy: the opinion of the Advocate General read the two Articles in conjunction, considering them as a joint legal basis from which specific obligations concerning solidarity and fair sharing of responsibility stem for Member States.<sup>31</sup>

Therefore, the principle of solidarity and fair sharing of responsibilities enshrined in Article 80 TFEU refers to intra-state solidarity,<sup>32</sup> which concerns both Member States and EU institutions.<sup>33</sup> Sharing financial resources is the only practical example provided by Article 80 TFEU, in line with the challenges that financing collective goods usually presents.<sup>34</sup> However, it does not exhaust the means of sharing responsibility ('principle of solidarity and fair sharing of responsibility, *including* its financial implications, between the Member States').

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<sup>26</sup> MEDAM (Mercator Dialogue on Asylum and Migration). 2017. 2017 MEDAM Assessment Report on Asylum and Migration Policies in Europe, Kiel: IfW.

<sup>27</sup> E. Thielemann and C. Armstrong, Understanding European asylum cooperation under the Schengen/Dublin system: a public goods framework, *European Security*, 2013, 22:2, pp. 148-164.

<sup>28</sup> C.-J. Haake, T. Krieger and S. Minter, On the institutional design of burden sharing when financing external border enforcement in the EU, *International Economics and Economic Policy*, 2013, vol. 10, issue 4, pp. 583-612.

<sup>29</sup> W. van Ballegooij, The Cost of Non-Schengen: Civil Liberties, Justice and Home Affairs aspects. Cost of Non-Europe Report, EPRS, European Parliament, September 2016. At the time of writing, three additional Cost of Non-Europe reports are being drafted. They focus respectively on asylum policy, legal migration and the control of the EU's external borders.

<sup>30</sup> E. Küçük, *op.cit.*

<sup>31</sup> Joined Cases C-643/15 and C-647/15 Slovak Republic and Hungary v. Council of the European Union, EU: C:2017:631 (Judgement) and ECLI:EU:C:2017:618 (Opinion).

<sup>32</sup> Article 67(2) TFEU on the general provisions applicable to the Area of Freedom, Security and Justice refers not only to intra-state solidarity but also to fairness towards third-country nationals as a basis for the common policy on asylum, immigration and external border control.

<sup>33</sup> D. Vanheule, J. van Selm and C. Boswell, *op. cit.*, p. 8.

<sup>34</sup> See for example: T. Sandler, 2001, *op. cit.*



Focusing on the Common European Asylum System, Gray (2013) identifies ‘sharing people’ (i.e. asylum-seekers’ claims and/or refugees’ protection) and ‘sharing norms’ alongside ‘sharing money’, as possible forms of responsibility-sharing.<sup>35</sup> In the case of external border control (but also for asylum management, especially since the 2015-2016 refugee crisis), a fourth category of ‘sharing in-kind contributions’ could be added as shown, for example, by requests for pooling of non-financial resources (e.g. technical equipment and deployment of staff) that the European Border and Coast Guard Agency (Frontex) makes with a view to facilitating and carrying out joint operations. While Article 80 TFEU has not been used as a joint legal basis for relevant funding programmes to date, solidarity and fair sharing of responsibility is one of their specific objectives (see Section 2.1), and ‘sharing money’ is often provided as the main example of solidarity in asylum, migration and external border policies at EU level.<sup>36</sup>

In addition, it is a governing principle against which the broader design of the policy areas can be assessed. In this respect, the current systems based on the Schengen *acquis* and the Dublin Regulation are usually deemed to create a disproportionate burden on certain Member States (‘frontline Member States’) due to their geographic position and/or other factors.<sup>37</sup>

Therefore, when the focus is shifted on fair-sharing of responsibility, scholars and analysts generally consider that an effective implementation of the principle would require as preconditions a common agreement on the responsibility to be shared (since Article 80 TFEU does not provide a definition of it) and the relative capacity of Member States in a given policy area. The latter may differ depending on the variables that are chosen to determine it (e.g. gross national income (GNI), population, unemployment rate, etc.).<sup>38</sup>

In addition, a compulsory mechanism to give effect to the principle is often seen as more effective than voluntary schemes,<sup>39</sup> as the recurrent pledging gaps in in-kind contributions from Member States further to Frontex’s requests to support its operational activities appear to confirm.<sup>40</sup> Following the cleavages emerged between Member States on compulsory relocation schemes, some analysts have supported an intermediary approach of flexible solidarity, where an increased centralisation of tasks and resources at EU level would be coupled with the capacity for Member States to choose the form of their contribution. According to this approach, Member States that are less involved in direct asylum, migration and border management should contribute proportionally more to these activities otherwise, for example financially.<sup>41</sup>

### **3. Pooling of policy-specific resources for external border control and asylum management through the EU budget**

This Chapter focuses on the EU budget as the tool available to Member States to give effect to the financial dimension of the principle of solidarity and fair sharing of responsibility (‘sharing money’),

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<sup>35</sup> H. Gray, ‘Surveying the Foundations: Article 80 TFEU and the Common European Asylum System’, *Liverpool Law Review*, 2013, 34, pp. 175-193.

<sup>36</sup> See for example: K. Hailbronner and D. Thym (ed.), *EU Immigration and Asylum Law: A Commentary*, Second edition, C.H. Beck – Hart – Nomos, 2016, p. 1045; and H. Gray, *op. cit.*

<sup>37</sup> E. Thielemann and C. Armstrong, 2013, *op. cit.*

<sup>38</sup> See for example: E. Thielemann, R. Williams and C. Boswell, ‘What system of burden-sharing between Member States for the reception of asylum seekers?’, Directorate General For Internal Policies, European Parliament, 2010.

<sup>39</sup> H. Gray, *op. cit.*; and L. Tsourdi, *op. cit.*

<sup>40</sup> European Commission, ‘Progress report on the Implementation of the European Agenda on Migration’, COM(2018) 301 final, 16 May 2018.

<sup>41</sup> MEDAM (Mercator Dialogue on Asylum and Migration), ‘Flexible Solidarity: A comprehensive strategy for asylum and immigration in the EU’, 2018 MEDAM Assessment Report, Kiel: IfW.

by funding the common goods that arise from the existence of the Area of Freedom, Security and Justice (see Chapter 2). Looking at the EU's multiannual financial planning, the first section provides an overview of negotiations and outcomes relevant to the policy areas of asylum management and external border control. The main focus is on the period starting with the signature of the Treaty of Amsterdam, which introduced significant changes in the field of home affairs with potential budgetary implications. The second part analyses 17 annual EU budgets, presenting the implementation phase of relevant allocations and the resulting level of policy-specific expenditure for the internal dimension of the policy areas during the 2000-2016 period. The final Section examines the mobilisation of additional resources at EU level following the surge in asylum applications in 2015-2016.

### ***3.1 Multiannual planning: financial frameworks since the Treaty of Maastricht***

With a view to ensuring an orderly development of its expenditure, the EU sets the maximum level of resources ('ceiling') available for each major category of spending over a period of at least five years (usually seven). Known initially as financial perspectives and then as Multiannual Financial Framework (MFF), this planning tool translates political priorities into budgetary figures. At present, the MFF is formalised in a Council Regulation, which usually implies lengthy negotiations, since it requires unanimity of all EU Member States and the European Parliament's consent.<sup>42</sup>

The 1992 Treaty of Maastricht introduced a formal intergovernmental method of cooperation between EU governments in the policy areas of justice and home affairs, the bulk of which was grouped under the so-called 'third pillar'. In subsequent years, the Council adopted a number of Joint Actions, a specific instrument of the third pillar, to finance measures in the fields of external border management and asylum from the EU budget.<sup>43</sup> However, these instruments remained very limited and short-term.

The preceding negotiations on the 1993-1999 financial perspectives had focused on different policy areas. For example, one major political priority for the period was the further strengthening of cohesion policy, complementing the efforts to complete the EU's single market. Relevant allocations, which were designed to help less well-off Member States and regions to catch up in the single market, increased by 75 % in real terms from 1992 to 1999, reaching ECU 30 billion.<sup>44</sup> The share of the EU budget devoted to cohesion increased from slightly over 20 % in 1988-1992 to around one third in 1993-1999.<sup>45</sup>

The Treaty of Amsterdam, which was signed in 1997 and entered into force two years later, incorporated Schengen provisions into the EU framework. With a transitional period of five years for the decision-making rules, this Treaty gave competence to the EU in a number of related policy areas of justice and home affairs, including external border management, migration and asylum issues. The intergovernmental method of the third pillar was maintained for the remaining ones, mainly police and judicial cooperation in criminal matters.<sup>46</sup>

For these reasons, reflection on the possible implications for the EU budget of measures in these policy areas really started to enter the documents and the debate on the EU's multiannual financial planning only following the signature of the Treaty of Amsterdam.

In the 1998 communication accompanying the Commission proposal for the 2000-2006 programming period, one strong focus appeared to be on the preparations for the expected accession of

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<sup>42</sup> For an overview of the EU financing system, see: A. D'Alfonso, A. Delivorias and M. Szczepanski, *Economic and budgetary outlook for the European Union 2018*, EPRS, European Parliament, 2018.

<sup>43</sup> S. Peers, *EU Justice and Home Affairs Law*, Pearson Education Limited, 2000, pp. 16-21, 76 and 123-124.

<sup>44</sup> European Commission, *European Union Public Finance*, 5<sup>th</sup> edition, 2014, pp. 45-46.

<sup>45</sup> European Commission, *A new, modern Multiannual Financial Framework for a European Union that delivers efficiently on its priorities post-2020*, COM (2018) 98 final, 14 February 2018, p. 3.

<sup>46</sup> See: S. Peers, *EU Justice and Home Affairs Law*, Fourth edition, Oxford University Press, 2016, pp. 8-9.

many new Member States to the EU. Home affairs, which include policies relating to external borders, asylum and migration, were briefly mentioned when the European Commission noted that the changes introduced by the Treaty of Amsterdam in this field would require particular attention for the financing of operations coming under these policy areas.<sup>47</sup>

The stabilisation of EU expenditure was the main concern during the negotiations that brought to the adoption of the 2000-2006 framework. While the Commission figures for pre-accession assistance and the estimated costs of the first round of enlargement were confirmed, many other proposed ceilings were cut. Justice and home affairs operations were part of heading 3 of the framework, at the time called 'Internal policies', which concerned expenditure in many different policy areas, including various already well-established measures such as the framework programme for research and the Erasmus programme for student mobility. Member States eventually agreed a significant reduction in the resources for heading 3 from the level initially proposed by the European Commission, and the relevant negotiations did not include a real discussion on the future content of this broad category of expenditure.<sup>48</sup>

However, during the subsequent negotiations with candidate countries on the terms for the enlargement of the EU and the relevant adaptation of the financial framework, attention was devoted also to the financing of measures relating to external border control. The final agreement at the Copenhagen summit of December 2002 added a specific Schengen Facility to the package initially proposed by the EU.<sup>49</sup> This Facility was addressed to seven out of the ten Member States that joined the EU in May 2004: Estonia, Hungary, Latvia, Lithuania, Poland, the Slovak Republic and Slovenia.<sup>50</sup> The creation of this specific instrument reflected the awareness, already present during the pre-accession period, that external border control was one of the policy areas with specific challenges, including in institution building, and required investments and resources.<sup>51</sup>

The Schengen Facility has since become a recurrent feature of EU enlargements, with the most recent example being provided by Article 31 of the Act of accession of the Republic of Croatia.<sup>52</sup> The Facility is a temporary, one-off instrument that, on the accession of new Member States, provides them with financial support for actions relating to the implementation of the Schengen *acquis* and external borders control (e.g. investments in infrastructure and operating equipment, training of border guards and support for costs of logistics and operations).<sup>53</sup>

In July 2004, the European Commission put forward its proposals for the 2007-2013 Multiannual Financial Framework (MFF). Home affairs and justice measures remained under heading 3, which became more specific and was relabelled 'Citizen, freedom, security, justice', since the largest 2000-2006 funding programmes for internal policies were moved to a newly created subheading 1a 'Competitiveness for growth and employment'. A specific subheading 3a 'Freedom, security and justice' was created and included both external border control and asylum policies, reflecting the fact

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<sup>47</sup> European Commission, Communication to the Council and the European Parliament on the establishment of a new financial perspective for the period 2000-2006, COM (1998) 164 final, 18 March 1998, p. 10.

<sup>48</sup> For more details on the negotiations see: European Commission, European Union Public Finance, 5<sup>th</sup> edition, 2014, pp. 63-65.

<sup>49</sup> European Commission, European Union Public Finance, 5<sup>th</sup> edition, 2014, p. 70.

<sup>50</sup> As regards the other three new Member States: Cyprus could not yet start the accession process to the Schengen area; the Czech Republic had no external land and sea border with non-EU countries; and the Transition Facility tackled the same policy areas for Malta.

<sup>51</sup> European Commission, Agenda 2000 - Vol. I: For a stronger and wider Union, - Vol. II: The challenge of enlargement, COM (1997) 2000 final, 15 July 1997, pp. 58-59 of Vol. I and pp. 52-53 of Vol. II.

<sup>52</sup> OJ L 112, Volume 55, 24 April 2012, p. 21.

<sup>53</sup> For details on the 2004-2006 implementation of the Schengen Facility: European Commission, Report on implementation of the Schengen Facility (2004-2006), COM (2013) 115 final, 12 March 2013.

that financing measures in these policy areas were being developed as well as an intention to strengthen this trend.

In this context, the European Commission supported an increased pooling of resources for measures relating to external border control, asylum and migration, saying that national administrations were no longer able to tackle individually cross-cutting challenges in these policy areas. In addition, the Commission considered that the recent enlargement posed specific challenges to the security of the EU's external borders.<sup>54</sup>

The reasoning of the Commission included arguments that may easily be related to the concepts of EU public goods and fair sharing of responsibility. For example, the European Commission mentioned the management of external borders as one of the areas in which critical services were underprovided due to a number of drivers such as investments with cross-border benefits which were however financed only at national level, and uncoordinated efforts leading to inefficiency in spending. In addition, the Commission made reference to an uneven distribution of responsibilities in the policy areas of external border control, asylum and migration, calling for some degree of burden-sharing to reinforce solidarity between Member States.<sup>55</sup>

The name chosen for the framework programme encompassing the four funds<sup>56</sup> designed to implement relevant measures underlined an increased focus on fair sharing of responsibility: 'Solidarity and Management of Migration Flows' (SOLID). The accompanying communication made an explicit reference to the principle of solidarity and fair sharing of responsibility as an essential concept for the development and implementation of common policies in these domains. The document noted that implementing the same standards implied a disproportionate amount of responsibilities for some Member States.<sup>57</sup>

The European Parliament supported the increase in the resources for external border control, asylum and migration put forward by the European Commission, singling out the completion of the Area of Freedom, Security and Justice as one of its political priorities for the 2007-2013 period. Parliament proposed that the relevant allocation be further strengthened (+€121 million for subheading 3a 'Freedom, security and justice' on the Commission proposal) and a sufficient margin be left under the budgetary heading to tackle unforeseen needs and developments.<sup>58</sup>

However, the 2007-2013 MFF was negotiated against a backdrop that included the stabilisation or reduction of their net contributions to the EU budget among the main objectives for a number of Member States, and a focus on agricultural and cohesion expenditure for others. This mix resulted in the allocations proposed by the Commission for heading 3 being among the ones affected by the highest relative reduction in the European Council agreement of December 2005 (a 27 % cut as compared to 7 % for agriculture and 8 % for cohesion). The reduction in the proposed 2007-2013 commitment ceilings for subheading 3a (from €9.21 billion to €6.63 billion in constant 2004 prices, i.e. -28 %) was subsequently confirmed in the final agreement of May 2006.<sup>59</sup>

Under subheading 3a, the cut for the SOLID general programme was even stronger (-32 %), with relevant allocations set at slightly less than €4 billion for seven years down from the proposed

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<sup>54</sup> European Commission, *European Union Public Finance*, 5<sup>th</sup> edition, 2014, pp. 78-79.

<sup>55</sup> European Commission, *Financial Perspectives 2007 – 2013*, COM (2004) 487 final, 14 July 2004, p. 6 and pp. 9-10.

<sup>56</sup> The four instruments were: 1) European Refugee Fund (ERF); 2) European Fund for the Integration of third-country nationals (EIF); 3) European Return Fund (RF); 4) External Borders Fund (EBF).

<sup>57</sup> European Commission, *Communication establishing a framework programme on Solidarity and the Management of Migration Flows for the period 2007-2013*, COM (2005) 123 final, 6 April 2005, p. 4.

<sup>58</sup> European Parliament, *Resolution on Policy Challenges and Budgetary Means of the enlarged Union 2007-2013*, P6\_TA(2005)0224, 8 June 2005.

<sup>59</sup> European Commission, *European Union Public Finance*, 4<sup>th</sup> edition, 2008, pp. 109-111.

€5.87 billion (both in current prices).<sup>60</sup> This means that the 2007-2013 MFF saw an increase in the resources for external border control, asylum and migration compared to the very low level of the previous programming period, but for an amount lower than the one considered necessary by Commission and Parliament. In the final agreement, heading 3 was the smallest expenditure category, representing 1.2 % of the MFF (or 0.8 % when considering only subheading 3a).

The subsequent MFF was the first to be negotiated under the procedure formalised in the Treaty of Lisbon. Entered into force on 1 December 2009, the latter eliminated the previous 'pillar structure' of the Treaties and introduced a number of changes in the field of Justice and Home Affairs.<sup>61</sup>

In 2010, the preparations for the 2014-2020 MFF started in a difficult context marked by a persistent economic crisis in the EU that had been triggered by the global financial crisis three years earlier. In October 2010, the European Council stressed that the next MFF should reflect the consolidation efforts carried out by Member States at national level.<sup>62</sup>

In June 2011, the Commission proposals for the new MFF accordingly froze the overall level of resources, taking the 2013 ceiling of the framework then in force as the reference basis for the annual level of spending. However, when compared to the 2007-2013 period, the proposals contained shifts of resources between headings to make targeted reinforcements for specific programmes possible.<sup>63</sup>

Home affairs measures were among the ones for which the proposal included an increased allocation of resources. They were kept in a simplified heading 3 'Security and citizenship', which was no longer divided into subheadings. The Commission proposed that the seven-year funding for home affairs be increased from €6.45 billion to €10.91 billion in current prices, of which €3.87 billion would go to a fund dealing with asylum and migration and €3.52 billion to the border and visa component of an Internal Security Fund (ISF). The remainder of the home affairs allocation would be used for EU agencies and IT systems relevant to the policy area, as well as for the security cooperation component of the ISF.<sup>64</sup>

The European Commission underlined the growing importance of these policies in recent years, their role in the creation of an area without internal borders and the changes introduced to them by the Treaty of Lisbon, concluding that the mobilisation of the EU budget produced an obvious added value. The Commission pointed to the fact that pooling resources in these policy areas is meant to ensure synergies and economies of scale by facilitating cooperation and joint solutions to issues that Member States cannot tackle acting individually.<sup>65</sup>

Along similar lines, the European Parliament called for providing these policy areas with sufficient funding and with support tools to handle emergency situations, in its input to the preparation of the next MFF ahead of the Commission proposal. Parliament recalled the principle of solidarity and noted the relatively small share of resources available for migration, asylum and management of the EU's external

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<sup>60</sup> See: European Commission, Communication establishing a framework programme on Solidarity and the Management of Migration Flows for the period 2007-2013, COM (2005) 123 final, 6 April 2005, p. 11; and A. D'Alfonso, EU Funds for asylum, migration and borders, EPRS, European Parliament, 2014.

<sup>61</sup> General Secretariat of the Council of the EU, The Lisbon Treaty's impact on the Justice and Home Affairs (JHA) Council: More co-decision and new working structures, December 2009.

<sup>62</sup> Conclusions of the European Council of 29 October 2010, EUCO 25/10, p. 2.

<sup>63</sup> European Commission, European Union Public Finance, 5<sup>th</sup> edition, 2014, pp. 101-106.

<sup>64</sup> European Commission, Building an open and secure Europe: the home affairs budget for 2014-2020, COM (2011) 749 final, 15 November 2011; and European Commission, Proposal for a regulation of the European Parliament and the Council establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa, COM (2011) 750 final, 15 November 2011.

<sup>65</sup> European Commission, A Budget for Europe 2020, COM (2011) 500 final, 29 June 2011, Part I p. 7 and p. 17.

borders in the 2007-2013 programming period, underlining the need for an integrated approach for these policy areas.<sup>66</sup>

Previously, the European Parliament had also demanded the establishment of permanent resettlement mechanisms endowed with proper funding in the new programming period, while noting that certain Member States, especially in southern Europe, were confronted with special challenges due to their geographic location.<sup>67</sup>

In parallel, further to the entry into force of the Treaty of Lisbon in December 2009, the reflection on fair sharing of responsibility gained momentum, in particular in the field of asylum. Financial solidarity was one of the axes identified to reinforce intra-EU solidarity in the policy area.<sup>68</sup>

The MFF negotiations between Member States were lengthy, confirming the difficult backdrop and the major hurdle represented by the unanimity requirement. The European Council managed to agree the figures for the 2014-2020 MFF only in February 2013, i.e. 20 months after the Commission proposals. For the first time since the introduction of the financial perspectives at the end of the 1980s, the result was an MFF that had less resources than its predecessor in real terms (-3.4 % for commitment appropriations).<sup>69</sup>

The European Parliament criticised the agreement reached in the European Council from very early on, but modifications of the ceilings proved impossible. Focusing on a number of changes, which included the strengthening of the flexibility provisions of the framework and the introduction of a compulsory mid-term review/revision for it, the Parliament eventually gave its consent to the MFF Regulation on these conditions, but reiterated its concern that the 2014-2020 ceilings would not provide the EU with sufficient means to achieve its stated objectives.<sup>70</sup>

As regards heading 3, the outcome of the negotiations was similar to what had happened for the 2007-2013 MFF, since 'Security and citizenship' was one of the categories of expenditure where the Commission proposal was more significantly cut (-16.6 % as opposed to -4.1 % for cohesion and -4.3 % for agricultural expenditure). Ceilings for 'Security and citizenship' were nevertheless increased by more than one quarter on the previous programming period, but the heading remained by far the smallest of the MFF (just 1.6 % of the total) due to its low 2007-2013 level.<sup>71</sup>

The cut in the ceilings initially proposed for heading 3 triggered a knock-on reduction in the 2014-2020 allocations of the Asylum, Migration and Integration Fund (AMIF) by 18.9 % compared to the Commission proposal. However, geographically pre-allocated resources for Member States' national programmes, which already received the bulk of the funding in the proposal, went untouched, and were even slightly increased.<sup>72</sup>

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<sup>66</sup> European Parliament, Resolution on Investing in the future: a new Multiannual Financial Framework (MFF) for a competitive, sustainable and inclusive Europe, 8 June 2011, P7\_TA(2011)0266, Points 107-108.

<sup>67</sup> European Parliament, Resolution on the establishment of a joint EU resettlement programme, 18 May 2010, P7\_TA(2010)0163, Points 7 and 35.

<sup>68</sup> European Commission, Communication on enhanced intra-EU solidarity in the field of asylum. An EU agenda for better responsibility-sharing and more mutual trust, COM (2011) 835, 2 December 2011; European Parliament, Resolution on enhanced intra-EU solidarity in the field of asylum, P7\_TA(2012)0310, 11 September 2012.

<sup>69</sup> European Commission, European Union Public Finance, 5<sup>th</sup> edition, 2014, pp. 109-112.

<sup>70</sup> A. D'Alfonso, 2014-2020 Multiannual Financial Framework (MFF): Mid-term revision, EPRS, European Parliament, 6 July 2017, p. 3.

<sup>71</sup> European Commission, European Union Public Finance, 5<sup>th</sup> edition, 2014, p. 110.

<sup>72</sup> See: European Commission, Proposal for a regulation of the European Parliament and the Council establishing the Asylum and Migration Fund, COM (2011) 751 final, 15 November 2011; and Regulation (EU) No 516/2014 establishing the Asylum, Migration and Integration Fund, 16 April 2014.

Table 1 shows that the cuts were concentrated on the more limited funding earmarked for resettlement and relocation measures and specific actions (-48.6 %) or for Union actions and emergency measures managed directly by the European Commission or indirectly by international organisations (-39.6 %). Since these measures relate to projects with a clear transnational dimension (e.g. cooperation networks, sharing of good practices and development of monitoring and statistical tools) or to financial support to respond to specific and unforeseen needs (e.g. a sudden migratory pressure in one Member State), the negotiation strategy of Member States for the AMIF appears to have focused on securing limited resources for their national programmes based on a known distribution key rather than on funding measures with positive cross-border spillovers and on a backstop to channel resources where they are most needed in the event of a crisis. The idea of earmarking an additional amount for distribution to Member States based on an assessment of significant changes in migration flows emerging from a mid-term review was dropped altogether.

**Table 1 – Asylum, Migration and Integration Fund (AMIF): distribution of 2014-2020 resources (€ million)**

	<b>Commission proposal (A)</b>	<b>Final agreement (B)</b>	<b>Diff. (C=A-B)</b>	<b>Diff. % (D=C/A)</b>
National programmes	2 372	2 392	20	0.8%
Specific actions, Union Resettlement Programme and relocation measures	700	360	-340	-48.6%
National Programmes: additional allocations based on the mid-term review	160	0	-160	-100.0%
Union actions, emergency assistance, European Migration Network and technical assistance	637	385	-252	-39.6%
<b>Total</b>	<b>3 869</b>	<b>3 137</b>	<b>-732</b>	<b>-18.9%</b>

Source: Own calculations based on COM (2011) 751 final and Regulation (EU) No 516/2014.

Along similar lines, the allocations initially proposed for the ISF Borders and Visa were decreased by 21.6 %, but the reduction was unevenly distributed among the components of the instrument (see Table 2). Geographically pre-allocated resources were increased (+6.3 % for the pre-established financial envelopes of the national programmes and +2.7 % for the Special Transit Scheme for Lithuania).<sup>73</sup>

At first sight, it may look that resources for transnational measures and new developments were much less affected by cuts than in the case of the AMIF (only -2.2 % for Union actions and emergency assistance). However, for the ISF Borders and Visa, the European Commission had proposed a good share of funding for the two financial envelopes that were designed to play a similar role in the context of national programmes: 1) €450 million for specific actions, which would finance the purchase of means of transport and operating equipment necessary for the joint operations run by Frontex, as well as the establishment of consular cooperation mechanisms between at least two Member States to achieve economies of scale in the processing of visa applications; and 2) €350 million for a mid-term review, which would assign additional resources to Member States based on a distribution key taking into account both an analysis of security developments at the external borders in 2014-2016 and a risk assessment of relevant threat levels in 2017-2020. The combined allocation of these two components was reduced by almost two thirds, confirming that measures where Member States do not know in

<sup>73</sup> See: European Commission, Proposal for a regulation of the European Parliament and the Council establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa, COM (2011) 750 final, 15 November 2011; and Regulation (EU) No 515/2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa, 16 April 2014.

advance the exact level of resources that they will receive are most likely to be affected by cuts. In addition, resources for the development of common IT systems were significantly decreased (-28.1 %).

**Table 2 – Internal Security Fund (ISF) Borders and Visa: distribution of 2014-2020 resources (€ million)**

	<b>Commission proposal (A)</b>	<b>Final agreement (B)</b>	<b>Diff. (C=A-B)</b>	<b>Diff. % (D=C/A)</b>
National programmes	1 200	1 276	76	6.3%
Special Transit Scheme for Lithuania	150	154	4	2.7%
National Programmes: specific actions	450	147	-303	-67.3%
National Programmes: additional allocations based on the mid-term review	350	128	-222	-63.4%
IT systems	1 100	791	-309	-28.1%
Union actions, emergency assistance and technical assistance	270	264	-6	-2.2%
<b>Total</b>	<b>3 520</b>	<b>2 760</b>	<b>-760</b>	<b>-21.6%</b>

Source: Own calculations based on COM (2011) 750 final and Regulation (EU) No 515/2014.

However, soon after the start of the 2014-2020 MFF, the limited resources of heading 3 had to face pressure due to a number of challenges, including the significant increase in the number of arrivals of asylum-seekers to the EU, which has often been referred to as 'the refugee crisis'. From a budgetary perspective, EU institutions and Member States took a number of measures to tackle these challenges, which included resorting to, and practically exhausting, the special instruments available under the 2014-2020 MFF for unforeseen events already during the first years of the framework (see Sections 3.2 and 3.3).

These developments meant that the compulsory mid-term review/revision of the MFF, which the European Parliament had managed to have in the MFF Regulation (see above), focused among other elements on heading 3. While the mid-term revision adopted in June 2017 did not increase the overall ceilings of the MFF, it did reinforce the allocations for migration, border and security measures under heading 3 by €2.55 billion. In addition, the special instruments of the 2014-2020 MFF were replenished and/or strengthened. One decision in this sense was the extension of the scope of the global margin for commitments to include migration and security measures.<sup>74</sup>

Table 3 recapitulates the main MFF outcomes relevant to Justice and Home Affairs measures since the entry into force of the Treaty of Maastricht. The short overview of EU negotiations on multiannual budgetary plans provided in this Section shows that attention to common financial resources for external border control and asylum management, as part of the expenditure for the broader Justice and Home Affairs policy area, has entered the debate and gained some momentum over the years, reflecting developments in the relevant institutional framework and, more recently, responding to specific challenges and crises.

<sup>74</sup> A. D'Alfonso, 2014-2020 Multiannual Financial Framework (MFF): Mid-term revision, EPRS, European Parliament, 6 July 2017.



**Table 3 – Justice and Home Affairs (JHA) measures in the Multiannual Financial Frameworks (MFFs) since the Treaty of Maastricht**

Programming period	1993-1999	2000-2006	2007-2013	2014-2020
Treaty in force at the start of the period	Maastricht	Amsterdam	Nice	Lisbon
Heading containing JHA measures and its share of the agreed MFF	3) Internal policies (6 % of the total)	3) Internal policies (6.8 % of the total)	3) Citizen, freedom, security, justice (1.2 % of the total)	3) Security and citizenship (1.6 % of the total)
Features of the heading in relation to JHA	JHA is a residual element (joint actions decided by the Council) of a broad heading.	JHA is a limited component of a much broader heading.	JHA is a significant part of a policy-specific heading. Two subheadings (border control and asylum under 3a).	JHA is a significant part of a policy-specific heading. Elimination of subheadings.
Cut to the initial Commission proposal for the heading	N/A	N/A	27 %	16.6 %
Cut to the overall MFF proposal	N/A	N/A	13 %	8.2 %
Main intermediary adaptations relevant to the JHA heading	-	Schengen Facility for new Member States introduced with enlargement.	-	Mid-term revision reinforces flexibility provisions and some JHA allocations.

Source: Own elaboration (MFF figures based on: European Union Public Finance, 5th edition, 2014)

Financial envelopes for Justice and Home affairs have been introduced and progressively developed in the budgetary framework, but they have grown at a relatively low pace. The policy areas related to the removal of controls at the EU's internal borders have remained a limited share of the EU budget contrary to what had happened for other major EU projects, such as the completion of the single market in the 1990s (coupled with a significant reinforcement of resources for cohesion policies) and enlargement in the years 2000s (first with pre-accession assistance and subsequently with resources for cohesion policies).

The drivers of this relatively slow progression of budgetary envelopes for Justice and Home affairs include many of the same institutional challenges that characterise their policy developments at EU level. In particular, Monar (2010) has highlighted: the particular sensitivity of the related policy fields that are often very close to the core functions of the state; the intergovernmental nature of the initial cooperation in these domains, which has had an impact on subsequent developments (including once the initial forms of cooperation have been integrated into the EU framework); and the significant operational dimension in many policy fields of Justice and Home Affairs, which brings Member States to retain maximum control of relevant means (for example, in the initial design of Frontex).<sup>75</sup>

In addition, specific features of the EU budgetary negotiations and cycles contribute to explaining the reasons why the pooling of financial resources at EU level for Justice and Home affairs has remained rather limited, though increasing over time.

<sup>75</sup> J. Monar (ed.), *The institutional dimension of the European Union's area of freedom, security, and justice*, College of Europe studies no. 11, P.I.E. Peter Lang, 2010, pp. 23-32.

The momentum for policy developments in the areas of Justice and Home Affairs has increased at times when budgetary negotiations, among other things, focused on the stabilisation and/or the reduction of the overall volume of the EU budget, thus creating a potential competition in the allocation of financial resources with traditional EU policy areas.

While the unanimity requirement for the MFF has not prevented the EU budget from evolving over time, it makes budgetary reform slower and more difficult to achieve. In MFF negotiations, Member States with similar objectives cooperate and three main groups have regularly been identified in relevant press reporting: 'friends of cohesion', 'friends of agriculture' and 'friends of correction mechanisms' (or better spending or budgetary cuts). Cuts to the financial envelopes proposed by the European Commission have been more significant in relative terms for the heading including Justice and Home Affairs measures than for the headings devoted to agriculture and cohesion or the overall MFF.

Up to the negotiations for the 2014-2020 MFF included, no group of 'friends of justice and home affairs' is reported to have emerged suggesting that frontline Member States, for which increasing EU investment in external border control and asylum management could reasonably be seen as an objective, represented a minority. Therefore, it is likely that such a minority was unable to broker a more ambitious agreement for the financial envelopes of these policy areas despite the push of the European Commission and of the European Parliament in this direction.

Finally, Member States in the Council appear to favour programmes and funds with geographically pre-allocated resources, which allow them to know in advance the exact level of funding that they will receive. This preference may contribute to explaining not only the relatively more limited cuts to the financial proposals for cohesion and agriculture, but also the fact that reductions in Home Affairs funds have concentrated in the components with a more prominent transnational dimension of common public goods (as shown by Table 1 and Table 2 for the 2014-2020 AMIF and ISF Borders and Visa).

### **3.2 Actual expenditure in the 2000-2016 EU budgets**

This section looks at budgetary execution, showing the actual level of EU policy-specific expenditure on external border control and asylum management into which the allocative decisions made in negotiations on multiannual planning have translated. The period examined starts with the first financial year following the entry into force of the Treaty of Amsterdam, given the very limited and ad-hoc nature of EU expenditure in the two policy areas prior to this date (see Section 3.1).

The trend of EU expenditure on external border control, asylum and migration management is expressed in terms of their share of the overall EU budget and as a percentage of EU's gross national income (GNI). Since GNI is often referred to, on the revenue side, as an indicator of Member States' capacity to contribute to the EU budget, using it to analyse the expenditure side may in turn help to have a proxy of the EU budget's capacity to finance common goods (see Chapter 2).

The analysis is built on the payment outturns<sup>76</sup> of policy-specific measures relevant to external border control, asylum and migration management in the EU budget over the 2000-2016 period. Four main categories of relevant expenditure are identified:

- EU funding programmes, which (co-)finance measures in Member States and finance a number of common activities such as emergency assistance: the ISF Borders and Visa and its predecessor the External Borders Fund (EBF) for external border control;<sup>77</sup> and the AMIF and its predecessors

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<sup>76</sup> The EU budget has two different figures for most categories of expenditure: commitment appropriations and payment appropriations. Being legal pledges to provide finance once given conditions are met, commitments do not necessarily lead to payments in the same financial year. Payment outturns are the actual level of payments carried out in a given year within the limits authorised by the EU budgetary authority.

<sup>77</sup> The ISF Police, which mainly deals with different aspects of Justice and Home Affairs policies, has not been taken into account.

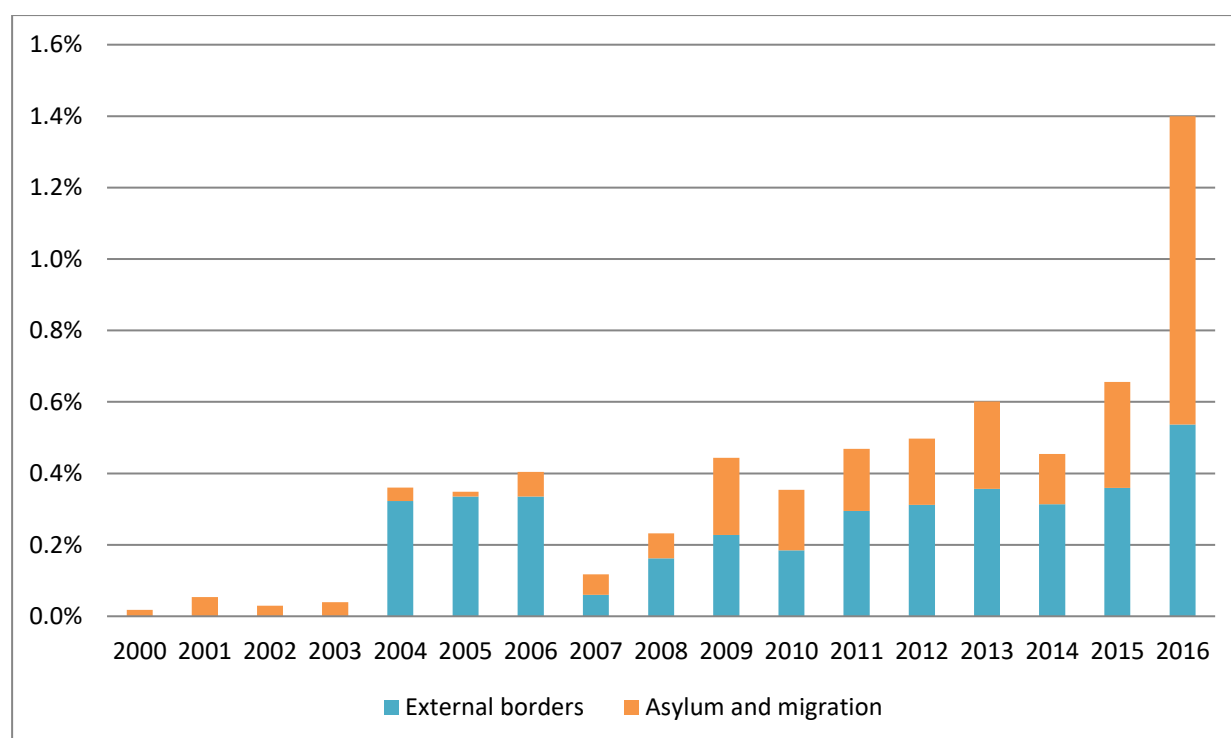
(the European Refugee Fund (ERF), the European Fund for the Integration of third-country nationals (EIF) and the European Return Fund (ERF)) for asylum and migration.

- Pilot projects and Preparatory Actions, which may result in the establishment of new funding programmes or in the integration of new categories of measures in the existing funds.
- Decentralised EU agencies, which receive transfers from the EU budget for their activities and operations: the European Border and Coast Guard Agency (Frontex), the European Asylum Support Office (EASO) and the European Agency for the Operational Management of large-scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA).
- IT systems designed to facilitate cooperation in the policy areas: the Schengen Information System (SIS II) and the Visa Information System (VIS) in the area of border controls; and the European Asylum Dactyloscopy Database (EURODAC) to record fingerprints of asylum-seekers, which are used to determine the Member State in charge of processing a given application on the basis of the Dublin Regulation (usually the first country of entry into the EU).

Figure 1 shows the share of the EU budget taken by the two policy areas together and their respective components. In 2000, expenditure started in the field of asylum and migration, mainly in relation to the creation of the first European Refugee Fund (ERF), and represented just some 0.2 % of EU budget in that financial year.

Over the first half of the 2000-2006 programming period, the share of the EU budget taken by the two policy areas together remained around similarly low percentages. Expenditure on external border control explains much of the increase registered as of 2004, which is mainly determined by the resources allocated to new Member States under the Schengen Facility and the Kaliningrad Facility (see Section 3.1), and to a much lower extent by the establishment of the Frontex Agency, which received its first resources (€4.66 million) from the EU in 2005. These developments brought the two policy areas to represent jointly 0.4 % of the EU budget in the final year of the 2000-2006 financial perspectives.

**Figure 1 – Internal dimension of EU policies on external border controls, asylum and migration: payments outturns as % of the EU budget (2000-2016)**



Source: Own calculations based on data from EU budgets 2002-2018

At the start of the 2007-2013 MFF, the share of the EU budget spent on external borders, asylum and migration dropped to less than 0.2 %. The decrease was partly triggered by the end of the payments under the Schengen Facility, but suggests as well that these relatively new policy areas may be affected more than others from the transition to a new programming period. Subsequently, their joint share started to increase again (although irregularly) in line with the gradual uptake of the four funding instruments (EBF, ERF, EIF and RF), that the EU regrouped under the General Programme SOLID (see Section 3.1).

In 2013, the share of the EU budget spent on policy-specific measures for external border control, asylum and migration eventually reached 0.6 %. In addition to the implementation of the instruments under SOLID, the development of Frontex, the creation of new EU agencies (grants to EASO as of 2010 and to eu-LISA as of 2012) and investments in IT systems such as SIS II, VIS and EURODAC contributed to this trend. Expenditure appears to be more evenly distributed between external border control on the one hand and asylum and migration on the other as compared to the previous programming period. However, allocations for the former are higher than for the latter in each financial year, and often significantly so (i.e. in 2008 and in 2011-2013).

The decline in the share of the EU budget (jointly from 0.6 % in 2013 to 0.45 % in 2014) again characterised the first year of the new MFF for the two policy areas, and especially so for asylum and migration management. This data confirms that the transition between programming periods may present a number of difficulties for relevant funding instruments.

In particular, the late agreement on the 2014-2020 MFF had a knock-on effect on the adoption of the AMIF and ISF Regulations<sup>78</sup> and on the subsequent finalisation of their national programmes,<sup>79</sup> delaying the start of their implementation and triggering the reprogramming of their 2014 allocations to the 2015-2017 budgets.<sup>80</sup>

In 2015 and 2016, the overall EU expenditure on the policy areas significantly increased, which reflects not only the gradual uptake of the new Funds but also the additional resources that EU Institutions and Member States decided to mobilise through the flexibility provisions of the MFF (see Section 3.3). These decisions were part of broader packages of measures that were taken to address the significant surge in the number of asylum-seekers and migrants arriving to the EU, against the backdrop of limited ceilings for the relevant MFF heading (see Section 3.1).<sup>81</sup>

The extensive resort to flexibility tools in the framework of the refugee crisis resulted in the total expenditure on asylum, migration and external border control exceeding 1 % of EU budget payments for the first time in 2016. The same year, EU expenditure on asylum and migration management exceeded that on external border control, which had not been the case since 2003.

Based on the same data on payment outturns, Figure 2 presents them in relation to EU GNI and shows similar patterns. During the 2000-2006 period, the resources pooled together by EU Member States for the internal dimension of the two policy areas remained limited. Their peak, which mainly depended on expenditure for external border control, was at 0.0036 % of EU GNI in the final year of the framework.

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<sup>78</sup> Regulation (EU) No 516/2014 and Regulation (EU) No 515/2014.

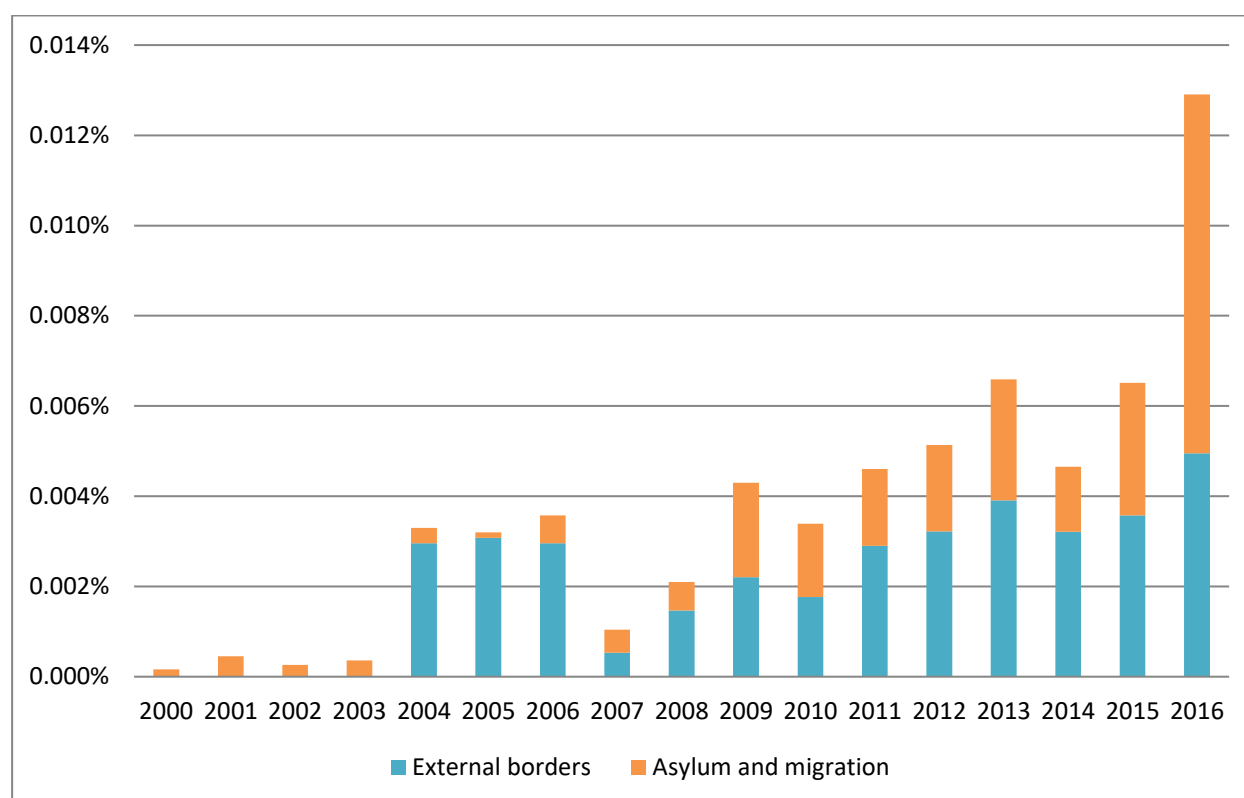
<sup>79</sup> This was the case for many EU funding instruments implemented under shared management (Member States with the European Commission).

<sup>80</sup> A. D'Alfonso, Asylum, Migration and Integration Fund (AMIF), EPRS, European Parliament, 2015; A. D'Alfonso, Internal Security Fund (ISF), EPRS, European Parliament 2016.

<sup>81</sup> In 2014, Jean-Claude Juncker included migration among the ten political priorities of its Commission. The following year, the European Commission adopted two strategic documents setting priorities relevant to the policy areas of asylum, migration and external border control: European Agenda on Migration, COM(2015) 240 final, 13 May 2015; and European Agenda on Security, COM(2015) 185 final, 28 April 2015.

Following an initial decline in the share of EU GNI devoted to external border control, asylum and migration at EU level, the 2007-2013 period continued with a rather gradual (but sometimes irregular) increase of the indicator as of the second year of the MFF. The peak was again reached at the end of the programming period (0.0066 % of EU GNI in 2013). Expenditure was more evenly distributed between the two policy areas, to which the streamlining and strengthening of previous instruments, pilot projects and preparatory actions into the four funds of the SOLID programme may have contributed.

**Figure 2 – Internal dimension of EU policies on external border controls, asylum and migration: payments outturns as % of the EU GNI (2000-2016)**



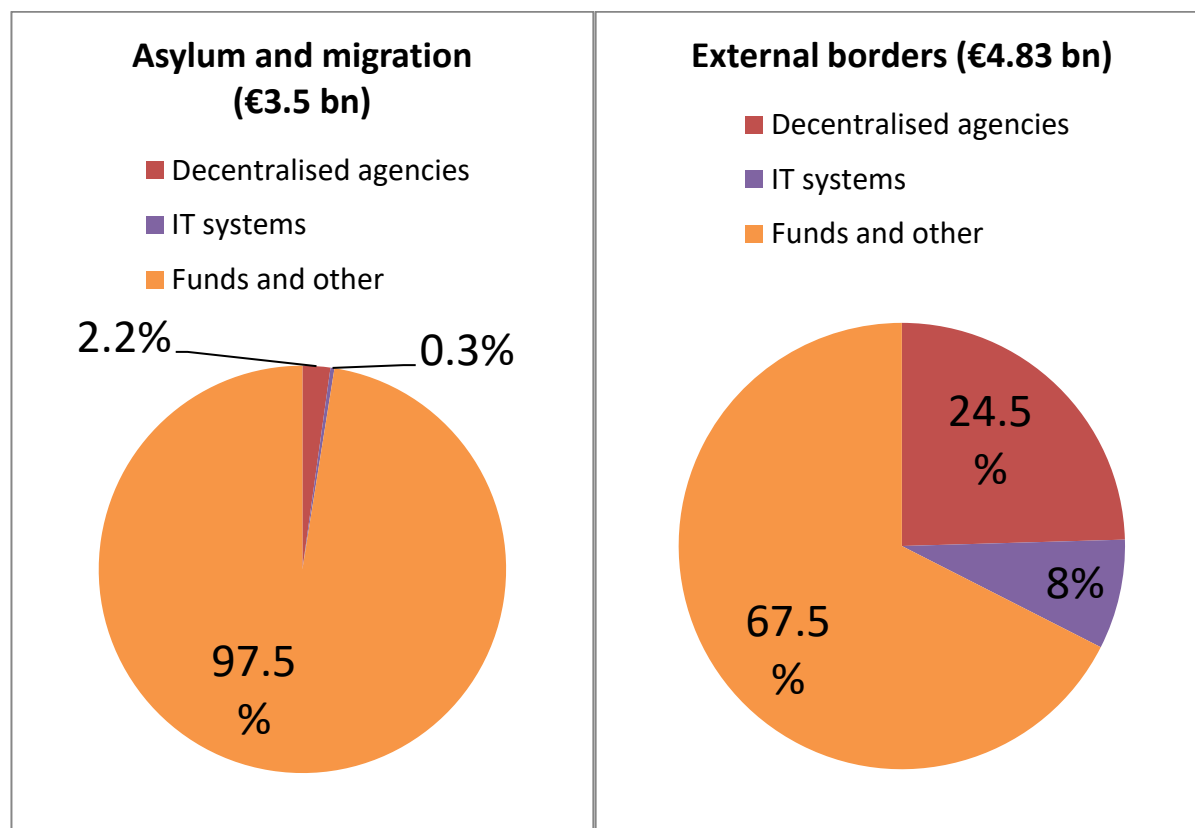
Source: Own calculations based on data from EU budgets 2002-2018 and GNI data from the European Commission

In 2014, the new MFF again started with a decrease in the share of EU GNI channelled through the EU budget to address the internal dimension of the policy areas. The following year, the indicator almost recovered its 2013 level (0.0065 %). Read in conjunction with the data from Figure 1, the figure indicates that the 2015 EU budget was smaller than the 2013 EU budget as a percentage of EU GNI, which is in line with the consolidation efforts that had permeated the negotiations on the 2014-2020 MFF (see Section 3.1). In 2016, the uptake of the new funds (AMIF and ISF Borders and Visa) and the additional resources mobilised by EU Institutions in the wake of the refugee crisis led to the highest level of the indicator in the time series: 0.013 % of EU GNI. In other words, as share of the Union's GNI, EU budget payments on external border control, asylum and migration management doubled in one year, which confirms the financial efforts undertaken to respond to the refugee crisis in an MFF characterised by tight ceilings for heading 3.

Looking at absolute figures over the 2000-2016 period, the total payment outturns amount to €3.5 billion for asylum and migration, and to €4.83 billion for external border control (in current prices). The additional resources mobilised in the wake of the refugee crisis marked a significant change of pace in the financing of measures for the former: EU budgetary payments for asylum and migration policies in one financial year alone (2016) represent one third of total payments in the entire reference period of 17 years. In addition, the time lag between commitments and payments in EU budgetary execution

implies that part of the commitments undertaken in the context of the European Agenda on Migration will result in actual payments in the years following 2016 (see Section 3.3).

**Figure 3 – Internal dimension of EU policies on external border controls, asylum and migration: payments outturns by broad categories of expenditure (2000-2016)**



Source: Own calculations based on data from EU budgets 2002-2018

The classification of payment outturns by broad categories of expenditure (Figure 3) shows a difference between the two policy areas. The bulk of the payments (97.5 %) for asylum and migration management concerns EU funding instruments such as the AMIF and its predecessors. In the case of external border control, the share of the payments allocated to decentralised agencies (24.5 %) and IT systems (8 %) is higher, suggesting that the development of common resources and tools may be more advanced in this policy area. In turn, this feature may contribute to explaining why the decrease in payment outturns at the beginning of the current programming period has been less significant for external border control than for asylum and migration (see above).

The analysis of payments outturns resorts to two simplifications. The first concerns the attribution of expenditure items to the policy areas in question. The distribution of items between external border control and asylum/migration that the European Commission currently uses in its budgetary documents is applied to the entire 2000-2016 period. The objective is to avoid having the same item of expenditure move from one policy area to the other, depending on the financial year (as it happened for a few items in EU budgetary reporting over the reference period). In any case, it should be noted that the distinction is sometimes blurred and some items of expenditure may be at the crossroads of the two policy areas, but are then attributed to the predominant component in the calculations.

The second simplification relates to the variable geometry of participation in the policy areas of external border control, asylum and migration. As Monar (2010) points out, EU cooperation on the Area of Freedom, Security and Justice is characterised by a high degree of differentiation, which varies

depending on the issue at stake.<sup>82</sup> Denmark, Ireland and the United Kingdom have different kinds of opt-outs, while four non-EU Member States (Iceland, Liechtenstein, Norway and Switzerland) are Schengen Associated Countries.

This complexity is reflected in the budgetary arrangements in place for the related policy areas, including external border control and asylum and migration management. For example, at present Ireland and the United Kingdom neither take part in nor finance the ISF Borders and Visa and the same applies to Denmark in the case of the AMIF.

Conversely, Schengen Associated Countries participate in and contribute to measures with budgetary implications relevant to their Association Agreement such as the ISF Borders and Visa and the financing of Frontex. The four EU Member States (Bulgaria, Croatia, Cyprus and Romania) that are Schengen candidate countries but not yet part of the Area do take part in relevant measures.

In addition, in some cases, EU Member States with an opt-out may opt into specific measures on an ad-hoc basis. For example, the United Kingdom did contribute to Frontex operational activities,<sup>83</sup> and currently participates in the law enforcement aspects of the SIS II database<sup>84</sup> (but not in the SIS II elements related to border control).

The indicator expressing expenditure in terms of GNI uses the EU GNI for the sake of simplicity and comparability with EU budgetary data. This simplification should not alter the overall representativeness of the indicator, since most Member States participate in both policy areas, while the remaining ones take part at least in one and usually to some extent in the other.

The GNI-based indicator makes it possible to compare roughly the pooling of financial resources through the EU budget with Federal expenditure in the United States (US), where the policy areas of external border control, migration and asylum are much more centralised.<sup>85</sup>

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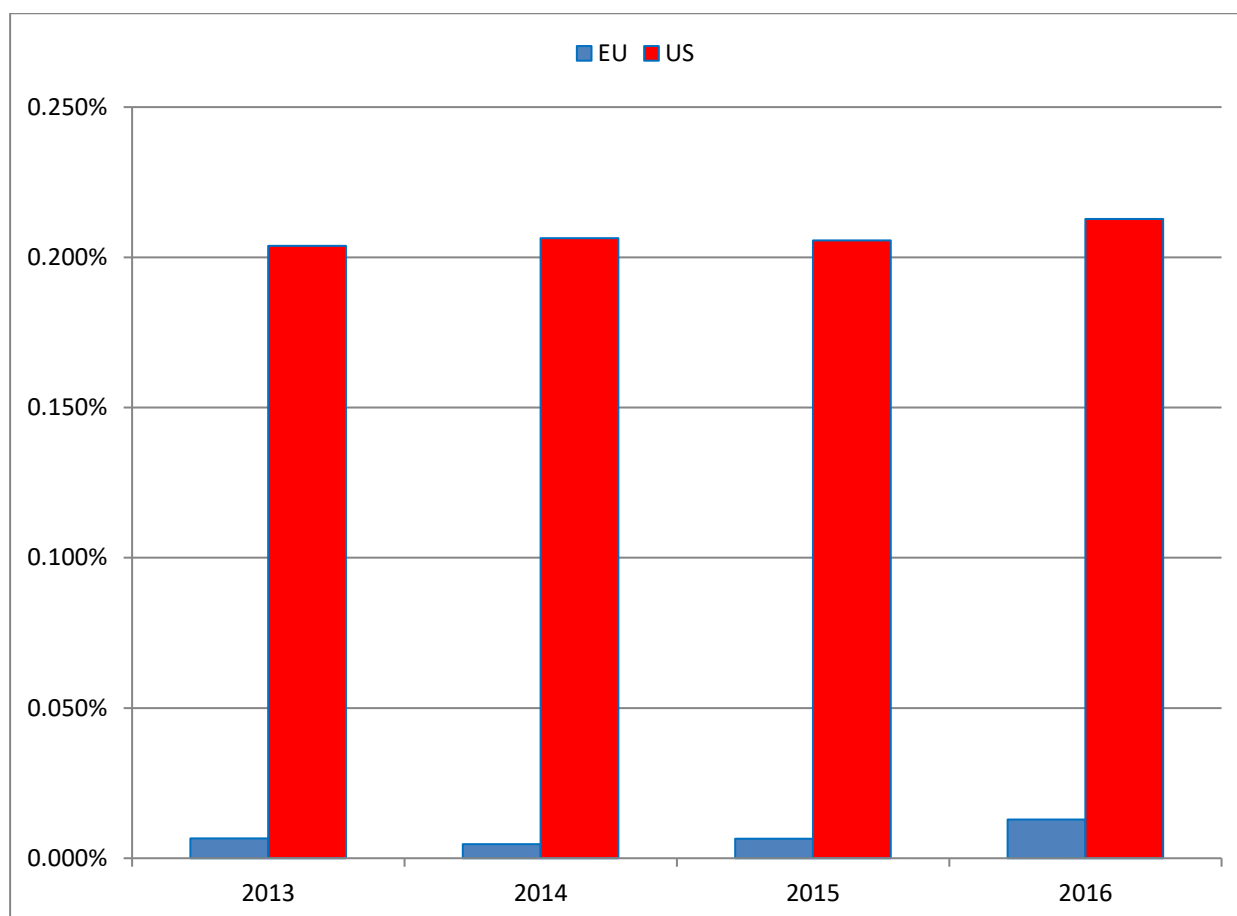
<sup>82</sup> J. Monar (ed.), op. cit, pp. 32-33.

<sup>83</sup> UK Home Office, United Kingdom contribution to Frontex operation from 2012 to 2014, FOI release 31769, 18 July 2014.

<sup>84</sup> L. Dearden, EU-wide information system threatened by Brexit used by UK 539 million times every year, police say, Independent, 2 May 2018.

<sup>85</sup> As regards the US, the calculation takes into account the annual resources of relevant organisations and programmes within the following Departments: Homeland Security (US Customs & Border Protection, US Coast Guard, US Immigration & Customs Enforcement, US Citizenship & Immigration Services); Justice (Executive Office for Immigration Review); State (Refugee Admissions, Consular and Border Security Programme); Health & Human Services (Refugee programmes); and Labor (Office of Foreign Labor Certification).

**Figure 4 – Expenditure on external border control, migration and asylum at federal level in the United States of America and through the EU budget in the European Union as % of their respective GNIs (2013-2016)**



Source: Own calculations (based on: EU budgets 2015-2018; EU GNI data from the European Commission; US Federal budgets; and US GNI data from OECD).

While the significant differences that characterise the two systems have to be kept in mind,<sup>86</sup> Figure 4 shows that the pooling of resources for the policy areas in question in the US is much higher than in the EU, representing yearly between 0.2 % and 0.21 % of the US GNI over the 2013-2016 period. In 2016, when EU budget expenditure on the internal dimension of the policy areas reached its peak, its share represented 0.013 % of the EU GNI. On average, during the 2013-2016 period, the share of their respective GNI centrally invested in the policy areas was around 31 times higher in the US than in the EU.

From a different perspective and assuming an EU budget stable in size at 1 % of the Union's GNI, around 20 % of the EU budget would be needed for external border control, asylum and migration to have a level of investment in the policy areas equivalent to that of the US.

To summarise, the funds channelled for external border control, asylum and migration by Member States through the EU budget have started from a very low level. Over time, the pooling of resources has gradually increased before a significant change of pace took place in the context of the numerous measures taken to respond to the 2015-2016 crisis. However, its level remains distant from that observed in the US where such policies are much more centralised.

<sup>86</sup> For example, in the field of borders, some of the US federal organisations have also tasks related to customs and environmental protection, while the EU's Frontex may play a role in these domains but to a lesser extent.



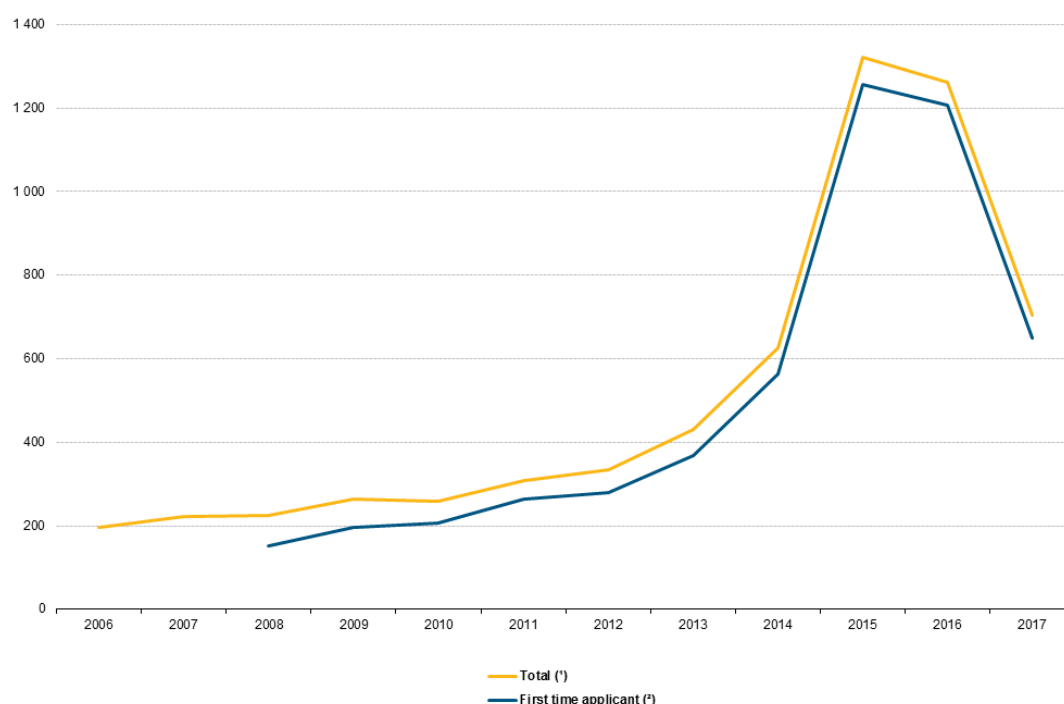
### 3.3 Resources mobilised in the wake of the 2015-2016 refugee crisis

Recent years have seen a surge in the number of asylum applications lodged in the EU (see Figure 5), which was concentrated in some Member States. Between 2006 and 2010, the annual number of applications across the EU oscillated between 197 000 and 263 000. After annual increases as of 2011, it soared in 2015 and 2016 (some 2.6 million applications in two years) and went down to 705 000 in 2017. The peak in inflows and applications reached in 2015 and 2016 has been often identified as the migration and refugee crisis. The EU and its Member States have taken multiple measures, including with implications for the EU budget, to respond to it.

The analysis of 2000-2016 payment execution for the internal dimension of asylum, migration and external border policies gives an idea of the initial budgetary impact of relevant measures, shown in particular by the significant 2016 increase in payment outturns for these policy areas (see Figures 1 and 2 in Section 3.2).

However, for several reasons, payment outturns do not capture the overall budgetary efforts deployed for the internal dimension of the policies at EU level in the wake of the refugee crisis. The distinction between commitments and payments in EU budgetary provisions means that part of the commitments subscribed to in 2015-2016 should lead to payments only in subsequent years. In addition, in some cases, implementation has been slower than initially planned.<sup>87</sup> Finally, agreed measures have implied reinforcements of relevant appropriations not only in 2015 and 2016, but also in subsequent years.

**Figure 5 – Asylum applications in the EU (thousands, 2006-2017)**



(\*) 2006 and 2007: EU-27 and extra-EU-27.

(\*) 2006 and 2007: not available.

Source: Eurostat (online data codes: migr\_asycz and migr\_asyappctza)

<sup>87</sup> For example, in 2017 payment appropriations for the AMIF and the ISF were decreased by €275 million due to the late adoption of legal bases and delay in programming. See: Definitive adoption (EU, Euratom) 2017/30 of amending budget No 5 of the European Union for the financial year 2017, OJ L 9, 12 January 2018.

In the 2015-2018 EU budgets, commitment appropriations allocated to the internal dimension of the policy areas amount to €9.5 billion according to European Commission documents of May 2018.<sup>88</sup> Given the tight expenditure ceilings available for heading 3 in the 2014-2020 MFF (see Section 3.1), redeployments from other budgetary lines were largely insufficient to ensure the financing of agreed measures, which thus required the utilisation of the flexibility provisions and tools of the MFF.

Table 4 recapitulates the flexibility tools that have been mobilised to ensure the reinforcements of allocations under heading 3 of the EU budget over the 2015-2018 period. The Flexibility Instrument and the Contingency margin were respectively used four times and twice to this effect, jointly covering almost half (46 %) of the financing for asylum, migration and borders measures. This percentage and the fact that the Contingency margin is a last resort tool demonstrate the significant pressure to which heading 3 has been exposed over the reference period, due to its initial level of financing decided in the MFF negotiations.

**Table 4 – Flexibility tools mobilised to reinforce allocations for asylum, migration and borders under heading 3 of the EU budget (2015-2018)**

Date	Decision	Tool	Relevant budget	Amount (€ million)
04/12/2015	Decision (EU) 2015/2248	Flexibility Instrument	Amending Budget 7/2015	66
25/11/2015	Decision (EU) 2016/253	Flexibility Instrument	EU budget 2016	1 506
14/12/2016	Decision (EU) 2017/339	Contingency margin	Amending Budget 4/2016	240
14/12/2016	Decision (EU) 2017/342	Flexibility Instrument	EU budget 2017	530
14/12/2016	Decision (EU) 2017/344	Contingency margin	EU budget 2017	1 176
12/12/2017	Decision (EU) 2018/8	Flexibility Instrument	EU budget 2018	837
<b>Total amount financed by flexibility tools</b>				<b>4 355</b>
<b>Heading 3 : Share of 2015-2018 measures for migration and borders financed by flexibility tools</b>				<b>46 %</b>

Source: Own elaboration (based on EU budgets 2015-2018 and European Commission data).

The additional resources have been used to strengthen the AMIF and the ISF, especially their emergency assistance measures, as well as decentralised agencies active in the policy areas such as Frontex and EASO. Reinforcements have gone beyond the cuts operated to the heading by the European Council in the context of MFF negotiations (see Section 3.1).

In addition to enhancing existing tools, the extra allocations have funded a new instrument for the provision of humanitarian aid within the EU,<sup>89</sup> which has been used to provide assistance to asylum seekers and migrants in need in Greece through partner organisations such as UN agencies, Red Cross societies and non-governmental organisations (more than €600 million by April 2018).<sup>90</sup>

<sup>88</sup> European Commission, Statement of estimates for the financial year 2019, SEC(2018) 250, May 2018, p. 9. In reporting on budgetary measures relevant to migration and refugees, the Commission usually include the entire ISF and not only the ISF Borders and Visa, which has some 73 % of the total allocations of the Fund.

<sup>89</sup> Council Regulation (EU) 2016/369 of 15 March 2016 on the provision of emergency support within the Union. This is not to be confused with emergency assistance available under the AMIF.

<sup>90</sup> ECHO Factsheet, Emergency Support Instrument, May 2018.

**Table 5 – Initial and March 2018 commitment allocations of certain migration-related spending of the 2014-2020 Multiannual Financial Framework (€ million)**

Fund/instrument	Initial 2014-2020 allocation	2014-2020 allocation as of March 2018	Increase (%)
AMIF	3 137	6 654	112 %
ISF	3 764	3 882	3 %
Emergency support within the EU	0	647	New
SIS	69	91	32 %
VIS	69	81	17 %
EURODAC	1	1	0 %
FRONTEX	628	1 638	161 %
EASO	109	456	318 %

Data source: Z. Darvas, G. Wolff, F. Chiacchio, K. Efstathiou and I. Gonçalves Raposo, EU funds for migration, asylum and integration policies, Directorate General for Internal Policies of the Union, European Parliament, March 2018, p. 15 (with the additional calculation of relative increases).

A study for the European Parliament's Committee on Budgets estimates how much the 2014-2020 allocations of individual funds and instruments under heading 3 have been strengthened as compared to the initial financial programming.<sup>91</sup> Using these data, Table 5 calculates their relative increases, showing that these are especially high for the AMIF, EASO and Frontex.

All these elements suggest that the increased solidarity registered in terms of payment outturns for the policy areas in 2016 (see Section 3.2) should be confirmed in the remaining years of the 2014-2020 MFF as a result of the reinforcements that EU Institutions and Member States have agreed for relevant instruments and funds.

#### **4. Other relevant financial resources in the EU budget**

Article 80 TFEU specifies that the principle of solidarity and fair sharing of responsibility governs the policies of border control, asylum and migration set out in Articles 77-79 TFEU, as part of the broader provisions on the Area of Freedom, Security and Justice. Chapter 3 has analysed relevant resources in the EU budget. However, EU programmes and funds from other policy areas may finance measures that are to some extent related to border control, asylum and migration. This Chapter provides an overview of such instruments and expenditure, which are not directly linked to Article 80 TFEU, identifying those that finance measures within the European Union and those that address the external dimension of the policy areas.

##### **4.1 Other resources allocated within the European Union**

In addition to the policy-specific resources under heading 3 'Security and citizenship', the other headings of the EU budget, which deal with internal policies but focus on different policy areas, may contribute to measures relating to refugees and more broadly to migrants.

Subheading 1b 'Economic, social and territorial cohesion' provides one such example, in particular through its European Social Fund (ESF), which among other objectives seeks to promote social inclusion. Already in its proposals for the 2007-2013 MFF, the European Commission called for an increased participation of third-country nationals in ESF-supported measures with a view to promoting

<sup>91</sup> Z. Darvas, G. Wolff, F. Chiacchio, K. Efstathiou and I. Gonçalves Raposo, EU funds for migration, asylum and integration policies, Directorate General for Internal Policies of the Union, European Parliament, March 2018.

their integration.<sup>92</sup> A recent financial contribution in this spirit is the €0.89 million ESF-funding to a Refugee employment pilot scheme developed by German authorities, which helped asylum-seekers take initial steps towards integration into the labour market.<sup>93</sup> In 2016, in the context of the mid-term technical revision of the 2014-2020 financial envelopes assigned to Member States under cohesion policy, the European Commission encouraged those who benefitted from an upward revision to use the additional allocations on the basis of their specific needs in a number of policy areas, which included projects relating to refugees and migrants.<sup>94</sup>

The ESF is usually seen as the European fund with the highest potential for complementarity with the AMIF, in particular in the field of integration of third-country nationals. Though with varying degrees, experiences from many Member States show efforts to ensure complementarity between the two funds, which may include coordination mechanisms between the managing authorities in charge of the two funds that are usually located in different ministries (often the Ministry of Interior for the AMIF and the Ministries of Welfare or Employment for the ESF). Responsible authorities quote the limited resources available under the AMIF (Germany) as well as administrative and legal difficulties posed by different sets of rules (Sweden) among the obstacles to further promoting complementarity between the AMIF and the ESF.<sup>95</sup>

The European Regional Development Fund (ERDF), which is likewise part of the cohesion heading of the budget, may also finance projects aimed at the integration of migrant and refugees in local communities. Its Urban Innovative Actions (URBACT) initiative has included such measures among its priorities, financing projects to revive towns with a declining and ageing population.<sup>96</sup>

Under subheading 1a 'Competitiveness for growth and jobs', an example comes from the EU programme for the Competitiveness of Enterprises and Small and Medium-sized Enterprises (COSME) which allocates part of its resources to financing projects that promote the creation, the improvement and the wider distribution of support schemes for migrant entrepreneurs. The European Commission launched a €2.22 million call for proposals covering such schemes in February 2018.<sup>97</sup> In addition, in the wake of the refugee crisis, the 2017 Work Programme of Horizon 2020 (research and development) was revised to include five new research topics on migration and asylum.

In the policy area of education, training and youth, which is under the same budgetary subheading, the Erasmus+ programme can also finance projects with some relevance to refugee and migrants, such as the €0.22 million grant for the International Youth Volunteering programme in the United Kingdom. The initiative has enabled 26 young volunteers to contribute to the inclusion at local level of vulnerable groups ranging from the elderly to refugee and migrant communities.<sup>98</sup>

Support may arrive also from heading 2 of the EU budget, 'Sustainable growth: natural resources' as shown by the contribution of the European Agricultural Fund for Rural Development (EAFRD) to the Immigrant Villages project in Finland. Under this scheme, the rural municipality of Punkalaidun

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<sup>92</sup> European Commission, Financial Perspectives 2007 – 2013, Communication to the Council and the European Parliament, COM (2004) 487 final, 14 July 2004, p. 20.

<sup>93</sup> European Commission, European Social Fund projects website, Building a better future for refugees, 9 September 2016.

<sup>94</sup> European Commission, COM(2016) 311 final, 30 June 2016, p. 5.

<sup>95</sup> European Migration Network, 21 responses to ad-Hoc Query on implementation of the AMIF requested by the French Ministry of Interior on 28 December 2016.

<sup>96</sup> S. D'Antonio, In Italy, a struggling town looks to refugees for revival, URBACT website, 23 November 2015.

<sup>97</sup> European Commission, Entrepreneurial capacity building for young migrants, Call Number: 278-G-GRO-PPA-17-9861, 16 February 2018.

<sup>98</sup> European Commission, Erasmus+ projects results website, International Youth Volunteering programme.

supported the integration of asylum-seekers, refugees and migrants arriving in the area, facilitating their access to training and work opportunities.<sup>99</sup>

In case of need, for example in emergency situations such as a strong migratory pressure, other EU budgetary instruments that may be mobilised include the Fund for European Aid to the Most Deprived (FEAD) under subheading 1b or the EU Civil Protection Mechanism under heading 3.

Likewise, measures relating to external border control and protection may be among the objectives covered by other EU programmes and funds. A case in point under subheading 1a is the Horizon 2020 framework programme for research and development. Its Secure Societies component, which is endowed with around €1.7 billion for the 2014-2020 period,<sup>100</sup> includes the improvement of border management and security among a number of other objectives.<sup>101</sup> Financing can go to research projects covering different aspects of border management ranging from technological solutions for maritime border surveillance to optimization of border control processes and planning at crossing points.<sup>102</sup>

Copernicus, the European Union's Earth Observation Programme, offers an additional example for border management under subheading 1a, since its Security Service provides real time data on what is happening around the EU's land and sea borders. Frontex manages the border surveillance component of this service, with a view to supporting the EU's external border surveillance information exchange framework (EUROSUR).<sup>103</sup> Likewise, the other space project under subheading 1a, the EU's satellite navigation programme Galileo, is expected to provide new security-related applications for border-control authorities.<sup>104</sup>

Table 6 recapitulates the main examples per heading. However, the European Commission does not produce reports on the financial resources spent on projects relating to the internal dimension of border and asylum management under EU programmes and funds other than those specifically devoted to these policy areas. Neither allow published budgetary data identifying and disentangling such payments outside heading 3 or providing a complete overview of them.

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<sup>99</sup> European Commission, EU results website, Immigrant Villages Project in Finland.

<sup>100</sup> Regulation (EU) 1291/2013 of the European Parliament and the Council of 11 December 2013 establishing Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC, OJ L 347, 20 December 2013, p. 104–173.

<sup>101</sup> European Commission, Horizon 2020, Work Programme 2018-2020, 14. Secure societies - Protecting freedom and security of Europe and its citizens, Decision C(2017)7124 of 27 October 2017.

<sup>102</sup> European Commission, Border security and external security, Call identifier: H2020-BES-2014-2015, OJ C361 of 11 December 2013.

<sup>103</sup> Copernicus website, Copernicus Security Service.

<sup>104</sup> M. Horten, Galileo satellites illuminate EU-UK divorce tensions. British industry is likely to end up in a weaker position, #LSEThinks, The London School of Economics and Political Science, 25 April 2018.

**Table 6 – Examples of other 2014-2020 EU instruments for internal policies with some relevance to asylum, migration and external border control**

Heading/subheading	Programme/Fund	Some projects may concern
1a) Competitiveness for growth and jobs	Copernicus (Earth Observation Programme)	External border control
	COSME (Competitiveness of Enterprises and Small and Medium-sized Enterprises)	Asylum/migration
	Erasmus +	Asylum/migration
	Galileo (Satellite navigation programme)	External border control
	Horizon 2020 framework programme for research and development	Asylum/migration
		External border control
1b) Economic, social and territorial cohesion	European Regional Development Fund (ERDF)	Asylum/migration
	European Social Fund (ESF)	Asylum/migration
	Fund for European Aid to the Most Deprived (FEAD)	Asylum/migration
2) Sustainable growth: natural resources	European Agricultural Fund for Rural Development (EAFRD)	Asylum/migration
3) Security and citizenship	EU Civil Protection Mechanism	Asylum/migration

Source: Own elaboration.

The related financial resources do not fall under the direct remit of Article 80 TFEU. In addition, they are not likely to modify significantly the overall level of policy-specific expenditure analysed in Section 3.2, since border, asylum and migration related projects tend to be a minority component of programmes and funds with different and much broader objectives. In the case of measures for the integration of refugees and migrants, this assumption may be reinforced by the fact that the EU budget represents an extremely limited share of public social expenditure in the EU, estimated at 0.3 % of the total.<sup>105</sup>

From a partially different perspective focusing on the resources mobilised by the EU to tackle the migration and refugee crisis, which also included funding from external policy instruments (see Section 4.2), the European Court of Auditors (ECA) recommended that the European Commission should provide comprehensive reporting on such financial resources, noting that this was not yet the case.<sup>106</sup>

The European Commission accepted the Court's recommendation that the European Parliament supported, calling for an increase in budgetary transparency by means of a single heading that would regroup all the budget lines financing migration policy. In addition, Parliament asked for the Commission to produce estimates of the relevant costs involved per migrant or asylum-seeker in individual Member States.<sup>107</sup>

#### **4.2 Resources allocated outside the European Union**

Under its heading 4, 'Global Europe', the EU budget finances the external dimension of asylum, migration and border policies through geographic and thematic instruments of EU external relation

<sup>105</sup> L. Andor and R. Huguenot-Noël, *Balancing Openness and Protection: How can the EU budget help?*, European Policy Centre, 14 March 2018.

<sup>106</sup> European Court of Auditors, *Annual report on the implementation of the budget concerning the financial year 2016, together with the institutions' replies*, OJ C322, 28 September 2017, pp. 54 and 63-64.

<sup>107</sup> European Parliament, *Resolution with observations forming an integral part of the decisions on discharge in respect of the implementation of the general budget of the European Union for the financial year 2016, Section III – Commission and executive agencies*, P8\_TA(2018)0121, 18 April 2018.

policies. Examples are provided by the Development Cooperation Instrument (DCI), which includes a specific Global Public Goods and Challenges (GPGC) thematic programme, the European Neighbourhood Instrument (ENI) and the Instrument for Pre-Accession Assistance (IPA II). In the event of man-made or natural disasters, the EU budget provides needs-based humanitarian assistance.

In addition, resources from the European Development Fund (EDF), an intergovernmental Fund outside the EU budget,<sup>108</sup> can be allocated to measures relevant to the policy areas of asylum, migration and borders in the African, Caribbean and Pacific Group of States (ACP) that it targets. The Global Approach to Migration and Mobility is the EU strategic framework for cooperation with third countries in the areas of migration and asylum.<sup>109</sup>

Funding outside the EU supports a variety of measures, for example in third countries facing high refugee inflows due to a crisis in a neighbouring country. Relevant activities include humanitarian aid and support to refugees and their host communities, by means of projects focusing on food security, livelihoods and education. Other examples are activities that seek to address the root causes of irregular migration and displaced persons, by improving stability, security, economic development and the provision of basic services in countries of origin.

According to European Commission data of May 2018, measures relevant to the policy areas of asylum, migration and borders outside the European Union were overall allocated some €12.5 billion in the 2015-2018 period. This amount represents 57 % of the total EU funding planned (but not necessarily spent) over those four years in response to the 2015-2016 refugee crisis, while the remaining 43 % has been allocated to the internal dimension of the policy areas under the remit of Article 80 TFEU.<sup>110</sup> As it was the case for heading 3 (see Section 3.3), the 2015-2016 refugee crisis put a significant pressure on the MFF heading devoted to external action, which led EU Institutions and Member States to resort to the flexibility provisions of the MFF in order to mobilise resources on top of those available under heading 4 in the 2014-2020 framework.<sup>111</sup>

In addition, new instruments at least partially outside the EU budget were established: the EU Emergency Trust Fund for Africa, the EU Trust Fund for Syria (MADAD Fund) and the Facility for Refugees in Turkey. The EU Trust Funds present different features from the Facility, which has been created following the EU-Turkey statement. However, they share a number of objectives. These instruments are meant to be faster and more agile in the response to emergency situations than traditional EU funds and programmes. Furthermore, while being financed with transfers from traditional instruments (e.g. the EDF, the DCI and the ENI), they aim to attract additional contributions from other donors, mainly EU Member States, again with a view to tackling the limitations of the 2014-2020 MFF.<sup>112</sup>

Table 7 shows the distribution of the planned EU funding outside the European Union over the 2015-2018 period, as of December 2017. The new instruments created at least partially outside the EU budget, which appear in italics in the table, play a significant role in the management of the external dimension of migration and borders, since the two EU Trust Funds relevant to the policy areas and the Facility for Refugees in Turkey are planned to channel one third of the total resources.

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<sup>108</sup> A. D'Alfonso, European Development Fund. Joint development cooperation and the EU budget: out or in?, EPRS, European Parliament, 2014.

<sup>109</sup> European Commission, The Global Approach to Migration and Mobility, COM (2011)743, 18 November 2011.

<sup>110</sup> European Commission, Statement of estimates for the financial year 2019, SEC(2018) 250, May 2018, p. 9.

<sup>111</sup> A. D'Alfonso, 2014-2020 Multiannual Financial Framework (MFF): Mid-term revision, EPRS, European Parliament, 6 July 2017.

<sup>112</sup> See for example: A. D'Alfonso and B. Immenkamp, EU Trust Funds for external action: First uses of a new tool, EPRS, European Parliament, 2015; and European Commission, EU-Turkey Cooperation: A €3 billion Refugee Facility for Turkey, IP/15/6162, 24 November 2015.

**Table 7 – Planned EU funding for the refugee crisis and migration management outside the European Union over the 2015-2018 period (€ billion, as of December 2017)**

<b>Expenditure category/instrument</b>	<b>Resources</b>
Humanitarian aid	3.5
<i>EU Emergency Trust Fund for Africa</i>	2.6
Development Cooperation Instrument (DCI): Return of refugees and displaced persons, aid and support to migrants, fight against root causes of migration	1.6
Pledges from London Conference (February 2016) and Brussels Conference (April 2017) supporting the future of Syria and the region	1.6
<i>Facility for Refugees in Turkey</i>	1.0
Support to livelihood opportunities, health, education for refugees and mobility policy	0.8
<i>EU Trust Fund for Syria (excluding its contribution to the Facility for Refugees in Turkey)</i>	0.6
Support to stabilisation and peace, security and border management of third countries	0.4
Support to border and migration management in Turkey and the Western Balkans	0.3
<b>Total</b>	<b>12.4</b>

Data source: European Commission factsheet (December 2017).

The table does not include contributions from EU Member States that appear to have been more substantial for the Facility for Refugees in Turkey (representing two thirds of its first € 3 billion tranche) than for the Trust Funds. While a compulsory distribution key for national contributions was agreed for the Facility, the Trust Funds resort to voluntary pledges from national authorities against the backdrop of an overall financing target set by the European Commission.

In June 2018, the European Council confirmed its support to these instruments, by agreeing on the launch of the extension of the Facility for Refugees in Turkey (an additional €3 billion for the 2018-2019 period) as well as on the transfer of a further €500 million from EDF reserves to the EU Emergency Trust Fund for Africa.<sup>113</sup>

When approving the first payment from the EU budget for the extension of the Facility for Refugees in Turkey, the European Parliament expressed its criticism on the method used to establish and extend this instrument, which did not involve the EU democratically elected assembly.<sup>114</sup> This statement reiterates Parliament's concern that the limitations of the 2014-2020 MFF have led to a multiplication of instruments partially outside the EU budget to respond to the refugee crisis, which could have a negative impact on accountability and democratic control that needs to be addressed.<sup>115</sup> To this effect, already in 2015, the Parliament called for the provision of extra funding to the two EU Trust Funds, but supported at the same time the identification of a structural solution to make standard EU support for humanitarian assistance and development more effective and more readily available.<sup>116</sup>

New instruments created as a response to the 2015-2016 crisis, especially the Facility for Refugees in Turkey, have been able to leverage additional funding for relevant measures against a backdrop of limited resources in the 2014-2020 MFF. According to den Hertog (2016), points to watch in this development include the risk of overdependence on third countries in the management of the policy areas, changes in the nexus between migration and development in EU external funding, and the need

<sup>113</sup> European Council, Conclusions, EUCO 9/18, 28 June 2018.

<sup>114</sup> European Parliament, Resolution on the Council position on Draft amending budget No 3/2018 of the European Union for the financial year 2018, P8\_TA-PROV(2018)0291, 4 July 2018.

<sup>115</sup> European Parliament, Resolution on the preparation of the post-electoral revision of the MFF 2014-2020: Parliament's input ahead of the Commission's proposal, P8\_TA(2016)0309, 6 July 2016.

<sup>116</sup> European Parliament, Resolution on the Council position on the draft general budget of the European Union for the financial year 2016, P8\_TA(2015)0376, 28 October 2015.



to ensure appropriate auditing and democratic scrutiny of the reconfigured funding landscape.<sup>117</sup> Temprano Arroyo (2018) analyses the achievements and the drawbacks of the new instruments, presenting possible improvements for their operations.<sup>118</sup>

The budgetary data published by the European Commission do not make it possible to identify the actual payment outturns in which planned measures related to the external dimension of asylum, migration and borders have resulted. As mentioned in Section 4.1, the European Court of Auditors recommended that the European Commission should make available comprehensive reporting on the financial resources mobilised in the wake of the migration crisis.<sup>119</sup>

However, the information provided by the European Commission on planned funding for the 2015-2018 period suggests that EU Institutions and Member States paid significant attention to the external dimension of asylum, migration and borders. Measures outside the EU have been allocated more resources (almost three fifths of the total) than the policy-specific instruments for asylum, migration and borders under heading 3 of the EU budget,<sup>120</sup> for which Article 80 TFEU explicitly sets the guiding principle of solidarity and fair sharing of responsibility between EU Member States.

The principle enshrined in Article 80 TFEU is predominantly seen as concerning policy-specific intra-EU solidarity (see Chapter 2). However, Vanheule et al. (2011) make a distinction between the explicit legal relationship between Article 80 TFEU and issues covered by Articles 77-79 TFEU on the one hand, and a possible policy or political relationship on the other. Noting the significance of external action for the policy areas, they consider that the extent to which the scope of Article 80 TFEU could be broadened to asylum, migration and borders issues outside Articles 77-79 TFEU should be investigated.<sup>121</sup>

In one such analysis, while acknowledging that the letter of Article 80 TFEU concerns intra-EU solidarity, Moreno-Lax (2017) builds on a cosmopolitan vision to argue that the solidarity principle should be understood as underpinning also the external dimension of the Common European Asylum System and relations with third countries, based on the principles of uniformity and coherence of EU law.<sup>122</sup> Conversely, Farcy et al. (2016) deem the existence of an external dimension of solidarity with third countries in Article 80 TFEU difficult to maintain.<sup>123</sup>

Looking at the resources deployed by the EU for migration governance outside the Union, Feller (2017) considers that, despite the latest initiatives, they remain limited when compared to the contribution of remittances to the economies of partner countries, concluding that financial incentives to promote third countries' cooperation on migration management should be further strengthened.<sup>124</sup>

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<sup>117</sup> L. den Hertog, EU Budgetary Responses to the 'Refugee Crisis': Reconfiguring the Funding Landscape, CEPS Paper in Liberty and Security in Europe No. 93, May 2016.

<sup>118</sup> H. Temprano Arroyo, Making the EU's external financial assistance more relevant for migration and refugee policy, European University Institute, EUI Working Paper, 2018 (forthcoming).

<sup>119</sup> European Court of Auditors, Annual report on the implementation of the budget concerning the financial year 2016, together with the institutions' replies, OJ C322, 28 September 2017, pp. 54 and 63-64.

<sup>120</sup> It should be noted that instruments under heading 3 may cover measures with an external dimension as well. For example, Article 78(2) TFEU provides for the adoption of measures relating to partnership and cooperation with third countries for the management of inflows of asylum-seekers and the AMIF can support schemes for resettlement from third countries.

<sup>121</sup> D. Vanheule, J. van Selm and C. Boswell, op. cit., 2011, p. 101.

<sup>122</sup> V. Moreno-Lax, Solidarity's reach: Meaning, dimensions and implications for EU (external) asylum policy, Maastricht Journal of European and Comparative Law, 2017, Vol. 24(5), pp. 740-762.

<sup>123</sup> J.-B. Farcy, E. O'Neill and D. Watt, Desperately searching for solidarity: the EU asylum saga continues, EU Immigration and Asylum Law Policy Blog, Odysseus Academic Network 1 August 2016.

<sup>124</sup> N. Feller, Turning the tide in the Mediterranean: Smart tools for effective EU migration management, Jacques Delors Institut Berlin, Policy Paper 213, 13 December 2017.

## **5. National expenditure on asylum management and external border control by EU Member States**

An understanding of the total public resources devoted to asylum, migration and borders across the EU can help to have an idea of how much the financial implications stemming from the common policies are currently shared between the Member States. To this end, the EU policy-specific resources analysed in Chapter 3 should be seen in conjunction with relevant expenditure channelled through the budgets of national and local authorities. This Chapter looks at the significant challenges that an attempt to identify the latter poses, presenting recent developments in the monitoring of these expenditures at national level as well as a few tentative estimates from different sources. The focus is on asylum, external border controls and visas, i.e. the fields where the EU framework sets more specific obligations for Member States as compared to policies concerning legal migration.

### ***5.1 Challenges and recent developments in the monitoring of relevant expenditure at national level***

While the EU budget provides a good overview of the financial resources pooled together at Union level to finance measures relating to the internal dimension of asylum and external border management, a picture of the resources devoted to these policy areas at national and local level by Member States is much more difficult to obtain. In the case of the management of the EU's external borders, for example, the European Court of Auditors says that most expenditure is incurred by Member States, but adds that complete and reliable data on relevant national expenditure are not available.<sup>125</sup> The same appears to apply to expenditure for asylum management.

At international level, the Organisation for Economic Co-operation and Development (OECD) has developed the Classification of the Functions of Government (COFOG), which organises government expenditure data from the System of National Accounts on the basis of the use to which the resources are put. COFOG provides three levels of detail. At EU level, Member States have a legal obligation to report government expenditure data on the basis of the two first COFOG levels.<sup>126</sup>

Under COFOG data, which provide comparability based on a common classification, resources allocated to external border and asylum management are likely to be included at least into three main categories of expenditure: executive and legislative organs, financial and fiscal affairs, external affairs (code 01.1); police services (code 03.1); and social exclusion not elsewhere classified (code 10.7). In its 2011 manual on compilation of COFOG statistics, the statistical office of the European Union includes expenditure for the EU's external border and Schengen in a non-exhaustive list of difficult cases where classification is not obvious.<sup>127</sup> In practice, COFOG data do not provide a sufficient level of detail to disentangle expenditure for external border and asylum management from the broader categories of government expenditure under which they should be reported.

The complexity of the policy areas at stake contributes to explaining the difficulty of obtaining a reliable and comprehensive overview of their financial allocations. Both asylum management and external border control (including visa management) have their own specific features, and implementing activities may involve various departments and/or agencies within the same Member State. In the case of border control, the Ministry of Interior, Border and Coast Guards, and Police forces are usually part of the picture, but other authorities that can play a role include the Ministry of Defence, the Ministry of Foreign Affairs, Immigration Services, and the Ministry of Justice. Likewise, asylum management may imply specific competences and tasks for various public authorities such as the Ministry of Interior,

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<sup>125</sup> European Court of Auditors, The External Borders Fund has fostered financial solidarity but requires better measurement of results and needs to provide further EU added value, Special Report No 15/2014, p. 13.

<sup>126</sup> Regulation (EU) No 549/2013 of the European Parliament and of the Council of 21 May 2013 on the European system of national and regional accounts in the European Union.

<sup>127</sup> Eurostat, Manual on sources and methods for the compilation of COFOG Statistics, 2011 edition, p. 45.

Police forces, Immigration Services, the Ministry of Welfare, the Ministry of Labour, the Ministry of Justice, and the Ministry of Education. Most of these authorities are active also in policy areas other than asylum or external border control, but their budgetary reporting is not necessarily policy-specific. The design of competences may significantly differ from one Member State to the other.<sup>128</sup>

In addition, the central level of government may share tasks and related expenditures with other levels of government, which creates an additional layer of complexity. In Germany, for example, financial statements from the Federal Ministry of Finance present a table that recapitulates federal expenditure in the field of asylum. While relevant figures include transfers for immediate needs from the federal level on the one hand to the Laender and the municipalities on the other, they do not take into account expenditure directly incurred by the latter without the intervention of the Federal budget.<sup>129</sup>

Being problematic to determine how much a single Member State invests in asylum management and in the control of the EU's external border, it is a fortiori even more difficult to estimate the total investment of the EU and its Member States. Both policy areas are close to core functions of the state and their allocations are part of broader categories of government expenditure. Despite the establishment of a common EU external border and the development of a Common European Asylum System, their implementation has mainly remained at Member State level. In general, it can be argued that the financial implications of EU integration through norms in external border control and asylum have not been subject to specific monitoring in national budgets.

However, each time that the interdependent Dublin and Schengen systems have come under pressure, the recurrent criticism has resurfaced that their design is intrinsically asymmetric, putting a disproportionate burden on some Member States, especially those at the southern and eastern borders of the EU.<sup>130</sup> The 2015-2016 refugee crisis, when flows of asylum-seekers were significantly higher than usual (see Section 3.3) and the pressure was especially concentrated in some entry and destination EU Member States,<sup>131</sup> has eventually led to an increased monitoring and reporting of relevant expenditure at national level.

This development has mainly taken place in the Member States most affected by the 2015-2016 surge in asylum requests from a budgetary perspective, interplaying with a different EU policy area: economic governance. In the framework of the Stability and Growth Pact (SGP) provisions, national authorities of the Member States affected by the refugee crisis started to communicate to the European Commission the additional budgetary costs triggered by the event, by means of their Stability and Convergence Programmes and Draft Budgetary Plans.

Six Member States (Austria, Belgium, Finland, Hungary, Italy and Slovenia) were eventually allowed a temporary deviation from the SGP budgetary requirements, on the basis of the clause for unusual events under the preventive arm of the SGP. The budgetary costs taken into account for the temporary deviation are the additional ones directly relating to the inflows of asylum-seekers, which should not include expenditure items stemming from the broader domain of migration policy.

A 2016 paper published by the Commission's Directorate-General for Economic and Financial Affairs presents an assessment of the net fiscal costs of the 2015-2016 refugee crisis at national level,

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<sup>128</sup> Based on replies from National Parliaments' research services to a questionnaire submitted through the European Centre for Parliamentary Research and Documentation (ECPRD) Network.

<sup>129</sup> Bundesministerium der Finanzen, Finanzbericht 2018, 11 August 2017, pp. 44-45.

<sup>130</sup> L. Langford, The other Euro crisis: rights violations under the Common European Asylum System and the unravelling of EU solidarity, *Harvard Human Rights Journal*, Vol. 26(1), 2013, pp. 217-264; M. De Somer, Dublin and Schengen: A tale of two cities, *European Policy Centre*, Discussion Paper, 15 June 2018.

<sup>131</sup> F. Pastore and Giulia Henry, Explaining the Crisis of the European Migration and Asylum Regime, *The International Spectator*, Vol. 51(1), 2016, pp. 44-57.

based on the information provided by twelve Member States.<sup>132</sup> Underlining the uncertainties accompanying any macroeconomic assessment of the impact of migration, the document noted that the short-term additional fiscal costs affected several Member States, but not all of them, and tended to be moderate and unevenly distributed across the EU (between 0.1 % and 0.9 % of gross domestic product, GDP). The composition of relevant costs differs between transit and destination countries. The fiscal impact may turn positive in the long term, mainly depending on the success of integration policies of refugees and migrants into the labour market.<sup>133</sup> On this last point, in a recent analysis based on data from several EU Member States, Fasani et al. (2018) conclude that the integration into the labour market is substantially worse for refugees than for migrants with comparable characteristics, noting that potentially counterproductive asylum policies focused on minimising immediate costs can contribute to this gap.<sup>134</sup>

In conclusion, the information provided in the context of EU economic and fiscal policy coordination has to some extent improved the availability of data, giving a snapshot of a subset of the costs relating to asylum policies in some Member States. The focus is on the additional costs linked to an unusual event rather than on the baseline situation, but confirms that such events can affect Member States asymmetrically from a budgetary standpoint. The use of the unusual events clause allowing a temporary deviation from SGP budgetary requirements could be seen as an indirect form of solidarity in addition to the more direct form of support represented by the mobilisation of additional EU financial resources through the flexibility provisions of the MFF (see Section 3.3). Both forms of solidarity share the feature that they have been triggered by a situation assessed as exceptional.

## 5.2 *Some tentative estimates in the field of asylum*

In addition to the exchange of information in the context of the SGP, the attention attracted by the 2015-2016 refugee crisis in the EU has generated other attempts to estimate its fiscal impact. In early 2016, the International Monetary Fund (IMF) published the outcome of one such exercise, recapitulating the estimated short-term fiscal impact in 18 EU Member States.<sup>135</sup>

Table 8 reproduces these results,<sup>136</sup> expressing them in terms of GNI rather than of GDP to make comparability with the EU budget expenditure analysed in Section 3.2 easier. IMF staff, who produced the estimates on the basis of information from national authorities and/or other sources, stressed that the results were highly tentative. The authors concluded that the EU budget covered only a small part of the immediate fiscal cost, which could be sizeable in some Member States. In the case of the ten Member States not covered by the estimates, either relevant costs were negligible or information was not available.

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<sup>132</sup> In addition to the six Member States that were allowed the temporary deviation, Denmark, Germany, Greece, Luxembourg, the Netherlands and Sweden also provided relevant information.

<sup>133</sup> European Commission, *An Economic Take on the Refugee Crisis: A Macroeconomic Assessment for the EU*, European Economy Institutional Paper 033, July 2016, pp. 17-18.

<sup>134</sup> F. Fasani, T. Frattini and L. Minale, (The Struggle for) Refugee Integration into the Labour Market: Evidence from Europe, IZA Institute of Labor Economics, IZA DP No. 11333, February 2018.

<sup>135</sup> S. Aiyar et al., *The Refugee Surge in Europe: Economic Challenges*, International Monetary Fund, IMF Staff Discussion Note (SDN) 16/02, January 2016.

<sup>136</sup> In this table, EU Member States are listed according to the order used in EU official budgetary documents, which is based on the name of the Member States in their official language(s).

**Table 8 – Estimated fiscal cost of asylum-seekers in 18 EU Member States as % of gross national income (GNI)**

EU Member State	2014	2015	2016
Belgium (BE)	0.070%	0.089%	<b>0.110%</b>
Czech Republic (CZ)	0.000%	0.000%	0.022%
Denmark (DK)	<b>0.241%</b>	<b>0.468%</b>	<b>0.556%</b>
Germany (D)	0.079%	<b>0.197%</b>	<b>0.344%</b>
Ireland (IE)	0.037%	0.058%	0.063%
Greece (EL)	N/A	<b>0.170%</b>	N/A
Spain (ES)	0.006%	0.006%	0.030%
France (F)	0.049%	0.049%	0.059%
Croatia (HR)	0.002%	0.092%	<b>0.116%</b>
Italy (I)	<b>0.171%</b>	<b>0.202%</b>	<b>0.241%</b>
Cyprus (CY)	0.003%	0.012%	0.012%
Luxembourg (LU)	0.085%	<b>0.137%</b>	<b>0.136%</b>
Hungary (HU)	0.000%	<b>0.105%</b>	0.000%
Netherlands (NL)	<b>0.100%</b>	<b>0.181%</b>	<b>0.235%</b>
Austria (AT)	0.081%	<b>0.164%</b>	<b>0.315%</b>
Finland (FI)	0.091%	<b>0.130%</b>	<b>0.369%</b>
Sweden (SE)	<b>0.292%</b>	<b>0.494%</b>	<b>0.990%</b>
United Kingdom (UK)	0.016%	0.017%	N/A

Data source: IMF Staff Discussion Note 16/02 (with conversion from GDP into GNI based on Eurostat data), January 2016.

The IMF estimates suggest that the share of GNI devoted to the policy area varies significantly across the EU. In 2014, just before the peak of the refugee crisis, only four Member States (Sweden, Denmark, Italy and the Netherlands) were estimated to allocate 0.1 % or more of their GNI to the asylum system.<sup>137</sup> That same year, the payment outturns for the policy-specific resources pooled through the EU budget for asylum and migration represented just 0.0014 % of EU GNI (see Figure 2 in Chapter 3). In the two subsequent years, the share of GNI allocated to asylum was deemed to increase and exceed 0.1 % in various Member States due to the refugee crisis. However, the short-term fiscal impact was unevenly distributed across the EU, which is broadly in line with what emerges from the information exchanged between Member States and the European Commission in the context of the SGP provisions (see Section 5.1).

During the peak of the refugee crisis, the Organisation for Economic Co-operation and Development (OECD) produced an assessment of the possible impact of large inflows of asylum-seekers and refugees on the European economy. The document analysed short-term costs and possible long-term benefits in the case of successful integration into the labour market, highlighting the many uncertainties implied in such an exercise. Among other points, the OECD estimated that the costs of processing an asylum claim and accommodating an asylum-seeker were typically between €8 000 and €12 000 per application in the first year, but figures could be significantly lower for fast-track processing.<sup>138</sup>

In 2017, a new analysis by the OECD estimated the average cost per application for the first year at €10 000, a figure not including possible integration costs that may be sizeable.<sup>139</sup> As a matter of

<sup>137</sup> Percentages above this threshold are highlighted in bold in Table 8.

<sup>138</sup> OECD, How will the refugee surge affect the European economy?, Migration Policy Debate n° 8, November 2015.

<sup>139</sup> OECD, Who bears the cost of integrating refugees?, Migration Policy Debate n° 13, January 2017.

comparison, relocation schemes agreed in the current EU programming period allocate a €6 000 lump sum contribution per asylum-seeker relocated to the Member States receiving them.<sup>140</sup>

Keeping in mind the many caveats that accompany the OECD estimate,<sup>141</sup> combining its cost range per asylum application (€8 000-€12 000) with EU budgetary information and Eurostat data on asylum requests in the Member States can give a highly tentative idea of the estimated budgetary needs for asylum requests in the EU and the theoretical contribution of the policy-specific EU funds (the AMIF and its predecessors) to their coverage.

**Table 9 – Asylum, Migration and Integration Fund (AMIF) and its predecessors: 2014-2016 theoretical coverage of the estimated budgetary needs for asylum requests in the EU (excluding Denmark)**

	2014	2015	2016
Estimated budgetary needs (€ billion)	4.90 – 7.35	10.42 – 15.62	10.04 – 15.06
AMIF payment outturns from EU budget (€ billion)	0.18	0.40	0.93
Estimated AMIF coverage (%)	2.4% – 3.6%	2.6% – 3.9%	6.1% – 9.2%

Source: Own calculations (based on OECD, Eurostat and European Commission data).

Table 9 presents such a calculation for the 2014-2016 period, i.e. the peak of the refugee crisis and the year immediately preceding it. All data concerning Denmark are excluded, since this Member State does not participate in the AMIF and its predecessors. As compared to the initial allocation of €3.1 billion for the AMIF over the entire 2014-2020 period, the annual estimated budgetary needs for asylum requests across the EU ranged between €4.9-7.35 billion in 2014, and more than doubled in the two subsequent years as a consequence of the surge in the number of requests.

In 2014, the relevant payments from the EU budget to Member States were rather limited and mainly came from the AMIF predecessors, due to the transition to the new MFF and the delayed start of the AMIF (see Sections 3.2 and 3.3): their theoretical coverage of the estimated budgetary needs for asylum requests was between 2.4 % and 3.6 %. In 2015, the theoretical coverage could only slightly increase, because the initial uptake of the new AMIF was slow and took place against the backdrop of the refugee crisis. The following year, the increase was more significant thanks to the mobilisation of the flexibility provisions of the MFF (see Section 3.3), which contributed to bringing the theoretical coverage to 6.1-9.2 %.

If the calculation is repeated at Member State level, significant variations are to be observed. Ranging from 1 % to more than 100 % depending on the Member State and the year, the theoretical coverage of the estimated budgetary needs tends to be higher in Member States with less asylum requests, but can improve in some (not all) of the Member States most affected by the refugee crisis, presumably thanks to the mobilisation of emergency funding.

As mentioned, the exercise is highly theoretical and many factors can have an impact on its results, starting with the fact that the AMIF and its predecessors do not address only asylum policy, but have also broader objectives in the field of migration.

In addition, the allocations for AMIF national programmes are based on pre-2014 data, in line with Member States' preference for assigning national resources on the basis of a distribution key already

<sup>140</sup> See for example: Council Decision (EU) 2015/1601 establishing provisional measures in the area of international protection for the benefit of Italy and Greece, 22 September 2015.

<sup>141</sup> In a number of occasions (and recently in the context of the discharge procedure for financial year 2016 mentioned in Section 4.1), the European Parliament has asked the European Commission to produce estimates of costs per asylum application in each EU Member State. However, the European Commission has so far refrained from doing it, pointing to the complexity of the exercise, for example in the assessment of relevant overheads.

known at the time of the negotiations for the MFF and its implementing regulations (see Section 3.1). Therefore, the distribution key is not reactive to evolving trends, which the European Commission can seek to address to some extent through emergency funding. In this sense, a study carried out for the European Parliament by Darvas et al. (2018) points out that the relationships between the AMIF basic allocation and current migration data is not proportionate, providing a number of examples including the case of the United Kingdom, which receives the largest share of the basic allocation of the 2014-2020 AMIF (16.3 %), while its share of asylum requests is significantly lower (3.5 %).<sup>142</sup>

The time lag between commitments and payments in the EU budgetary system and possible delays in implementation (see Section 3.3) are other elements that might loosen the link between the responsibility for the processing of asylum applications and the AMIF theoretical coverage of the related budgetary needs. Non-governmental organisations (NGOs) were of the opinion that the AMIF is administratively more burdensome than other EU funds in a survey conducted for the same 2018 study.<sup>143</sup> The European Court of Auditors has identified some weaknesses that can contribute to delays in the implementation of migration-related funding instruments.<sup>144</sup>

### ***5.3 A complex landscape in the field of external borders***

In the field of public spending on the management of the EU's external border, there has been little improvement in the availability of national data in the wake of the 2015-2016 refugee crisis. The European Court of Auditors' consideration that most expenditure is incurred at national level, but complete, reliable and comparable information is missing remains valid. The Court notes that EU funding programmes for borders are one element of a complex and much broader landscape.<sup>145</sup>

In some cases, the increased monitoring and reporting of expenditure relating to asylum and migration policies has included some information provided by Member States on activities relating to border management. For example, Italy has provided estimates of the costs of search and rescue operations at sea in its budgetary plans.<sup>146</sup> In addition, the final report of the Italian Chamber's Inquiry Committee on the country's asylum system includes considerations concerning return operations of illegal migrants. After pointing to the absence of agreements on returns with a number of countries of origin, the Committee concluded that the significant costs of return operations, also in terms of human resources, are another major obstacle to their implementation, which is only partially mitigated by the joint return operations coordinated by Frontex.<sup>147</sup>

In its 2017–2021 Convergence Programme of April 2017, Hungary indicated that most of its expenditure relating to the refugee crisis went to border control.<sup>148</sup> In August 2017, the Member State asked for the EU to contribute around €400 million (50 % of the costs) for building fences at the borders with EU Member State Croatia and with Serbia, while refusing to implement the relocation scheme of asylum-seekers from Greece and Italy that had been adopted to promote fair sharing of responsibility in the field of asylum. The Hungarian request, which the European Commission rejected, was announced

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<sup>142</sup> Z. Darvas, G. Wolff, F. Chiacchio, K. Efstathiou and I. Gonçalves Raposo, EU funds for migration, asylum and integration policies, Directorate General For Internal Policies, European Parliament, March 2018, p. 16.

<sup>143</sup> Z. Darvas et al., op. cit, pp. 26-29.

<sup>144</sup> European Court of Auditors, Annual report on the implementation of the budget concerning the financial year 2016, together with the institutions' replies, OJ C322, 28 September 2017, pp. 245-248.

<sup>145</sup> European Court of Auditors, The External Borders Fund has fostered financial solidarity but requires better measurement of results and needs to provide further EU added value, Special Report No 15/2014, p. 13.

<sup>146</sup> Ministero dell'Economia e delle Finanze, Economic and Financial Document 2017, Section I, p. 45.

<sup>147</sup> Camera dei deputati, Relazione sul sistema di protezione e di accoglienza dei richiedenti asilo, Doc. XXII-bis N. 21, 20 December 2017, p. 86.

<sup>148</sup> Government of Hungary, Convergence Programme 2017–2021, April 2017, p. 81.

just a few days before the ruling of the Court of Justice of the European Union (CJEU) that dismissed the Hungarian complaint against the relocation scheme.<sup>149</sup> A case against Hungary for failure to comply with its legal obligations under the relocation scheme is pending before the CJEU.<sup>150</sup>

As in the case of asylum management, the bulk of financing for external border management occurs at national level. The scattered data available suggests an uneven distribution between EU Member States, in which their geographic position may play a role. The external sea and land borders that Member States are in charge of managing may significantly differ in terms of length and level of complexity. As an indirect acknowledgement of these differences, for example, the Czech Republic was not granted an allocation under the Schengen Facility when joining the European Union in 2004, since it has no external land and sea borders with non-EU countries.

The financing of external border management activities taking place mainly at national level reflects the original design of the integration process in this domain, which is regulatory (Genschel and Jachtenfuchs 2018):<sup>151</sup> participating Member States develop and comply with relevant common rules, remaining responsible for managing their section of the EU's external border accordingly.

In 2013, Haake et al. assessed that, since the introduction of the integrated border management concept by the European Commission in 2002, progress in establishing financial burden-sharing mechanisms had been limited. Characterising external border enforcement as a public good problem, they argued that Member States distant from the southern borders of the EU may strategically underestimate their real interest in border enforcement, with a view to minimising their contributions to enforcement efforts.<sup>152</sup>

An increasing attention to sharing of financial responsibility has been observed since then, including in the design of relevant EU funding instruments. While the 2007-2013 External Borders Fund (EBF) was mainly focused on capacity building,<sup>153</sup> the 2014-2020 ISF Borders and Visa introduces specific provisions that authorise Member States to use the instrument to finance operating support to the public authorities in charge of tasks and services that are recognised as a public service for the EU. The operating support is conditional on compliance with the EU *acquis* on borders and visas.<sup>154</sup>

This trend appears to have gained momentum in the wake of the refugee crisis, especially in the reinforcement of common tools (see Sections 3.2 and 3.3). In 2016, additional financial resources were pooled to accompany the strengthened mandate of Frontex that was transformed into the European Border and Coast Guard.<sup>155</sup>

## 6. Possible developments in the post-2020 EU budget

Analysts agree that migration is already playing a major role in Western politics, which is expected to continue in the coming decades.<sup>156</sup> According to the Spring 2018 Eurobarometer, immigration is

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<sup>149</sup> G. Baczynska, EU and Hungary spar over migration ahead of court ruling, Reuters, 1 September 2017; ; and J. Rankin, EU court dismisses complaints by Hungary and Slovakia over refugee quotas, The Guardian, 6 September 2017.

<sup>150</sup> Case C-718/17, European Commission v Hungary.

<sup>151</sup> P. Genschel and Markus Jachtenfuchs, From Market Integration to Core State Powers: The Eurozone Crisis, the Refugee Crisis and Integration Theory, *Journal of Common Market Studies*, 2018, Volume 56, Number 1, pp. 178–196.

<sup>152</sup> C.-J. Haake, T. Krieger and S. Minter, On the institutional design of burden sharing when financing external border enforcement in the EU, *International Economics and Economic Policy*, 2013, vol. 10, issue 4, pp. 583–612.

<sup>153</sup> European Court of Auditors, Annual report on the implementation of the budget concerning the financial year 2016, together with the institutions' replies, OJ C322, 28 September 2017, pp. 245–248.

<sup>154</sup> Regulation (EU) No 515/2014 of 16 April 2014.

<sup>155</sup> Regulation (EU) 2016/1624 of 14 September 2016. The Agency continues being commonly referred to as Frontex.

<sup>156</sup> G. Rachman, Migration will drive western politics for decades to come, Financial Times, 7 May 2018.



perceived as the leading concern facing the EU and two thirds of respondents are in favour of a common European policy on migration.<sup>157</sup> The awareness of the transnational dimension of migration and asylum phenomena is confirmed by the intergovernmental negotiations on the Global Compact for Migration and the Global Compact on Refugees carried out under the auspices of United Nations' organisations. The need to ensure appropriate resources for measures related to asylum, migration and external borders at EU level will not subside, since these policies are essential elements of the broader migration framework. This Chapter shows how the debate on the financing of relevant measures has developed in the run-up to the proposals for the post-2020 Multiannual Financial Framework (MFF). An overview of the actual proposals that the European Commission put forward in May 2018 is followed by an analysis of the first reactions that these proposals have triggered.

### ***6.1 Asylum, migration and borders in the debate leading to the proposals for the new MFF***

The policy areas of asylum, migration and borders have featured in the debate on the new MFF more prominently than in past occasions from very early on. In 2014, the European Parliament, the Council and the European Commission already kick-started the reflection on the post-2020 EU budget, by creating an interinstitutional High-Level Group tasked with a review of the EU's financing system. The works of the High-Level Group chaired by Professor Mario Monti took place against the backdrop of the significant challenges to which the current MFF has been confronted since its first years of existence, including as a consequence of the migration and refugee crisis (see Sections 3.2 and 3.3).

Presented in January 2017, the final report of the High-Level Group noted that recent events had triggered the gradual recognition of external border management as an EU public good and shown the limitations of the MFF in addressing budgetary needs stemming from responsibilities in the field of migration policy. Along these lines, one recommendation was that the expenditure side of the EU budget should increase its focus on policy areas relating to EU public goods and European added value, where joint action at Union level is deemed not only relevant but indispensable.<sup>158</sup>

The same year, the discussion gained further momentum as part of the broader debate on the future of the EU that the European Commission initiated with a White Paper in March 2017.<sup>159</sup> In the context of this process, the Commission published a reflection paper on the future of EU finances,<sup>160</sup> taking into account the conclusions and the recommendations of the High-Level Group chaired by Professor Monti.

All the key principles identified by the European Commission as the basis of any possible reform of the EU budget are relevant to the policy areas of asylum, migration and borders and to the challenges that they have been facing in the current MFF. In particular, the principles are: 1) concentrating resources on the policy areas with the highest EU added value, selected through criteria such as Treaty objectives and obligations, and public goods with a European dimension; 2) continuing simplification efforts with a view to further streamlining implementation; 3) keeping the creation of tools outside the EU budget to a minimum so as to ensure democratic accountability and transparency; and 4) reinforcing the flexibility provisions with a view to increasing the capacity to address unexpected events. On this basis, the European Commission concludes that migration and security should get higher resources and/or shares of the EU budget in four out of the five scenarios envisaged for the future of the EU.<sup>161</sup>

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<sup>157</sup> European Commission, Public opinion in the European Union: Standard Eurobarometer 89 (Spring 2018), First results, June 2018.

<sup>158</sup> High Level Group on Own Resources, Future Financing of the EU, December 2016.

<sup>159</sup> European Commission, White Paper on the Future of Europe, COM(2017)2025, 1 March 2017

<sup>160</sup> European Commission, Reflection Paper on the Future of EU Finances, COM(2017) 358, 28 June 2017.

<sup>161</sup> A. D'Alfonso, The future of EU finances, EPRS, European Parliament, September 2017.

The European Court of Auditors endorsed the guiding principles identified by the Commission for the reform of the EU budget, formulating six proposals to increase the efficiency and transparency of EU finances, which included the development and application of a robust concept of EU added value.<sup>162</sup>

At the beginning of 2018, the European Commission released its contribution to the first informal discussion between EU Heads of State and Governments on the priorities for the 2021-2027 MFF. The Commission reiterated that its forthcoming proposals would be based on the concept of European added value and EU public goods, calling for a better alignment of the budgetary framework with political priorities. The contribution included external border control and management of migration flows among the policy areas to be considered in this respect.

In addition, the reinforcement of special instruments and flexibility provisions was deemed instrumental in addressing challenges such as migration. With regard to the expected shortfall in EU resources due to the withdrawal of the United Kingdom from the Union, the intention was to finance new priorities partly through cuts in existing instruments and partly by mobilising new resources.<sup>163</sup>

Following the informal summit of 23 February 2018, European Council President Donald Tusk announced that EU leaders were willing to increase EU spending on a number of political priorities, which included security and stemming illegal immigration.<sup>164</sup> European Parliament President Antonio Tajani called for a reinforced EU budget to address citizens' priorities, singling out external border control and management of migration flows among others.<sup>165</sup>

According to press sources, disagreements on matters relating to these sensitive policy areas also emerged. For example, eastern Member States as well as some of Germany's traditional allies in MFF negotiations such as Austria and Luxembourg were reported to have opposed German proposals that cohesion funding be in part linked to the number of refugees in each Member State, with a view to supporting their integration.<sup>166</sup>

Outlining his country's vision at the end of the February summit, French President Emmanuel Macron was in favour of an expansionary EU budget that adequately reflects and finances new EU priorities including border control.<sup>167</sup> In a speech at the European Parliament on 17 April 2018, he also supported the idea of an EU programme funding local communities that host and integrate refugees. The European Commission has consulted all Member States in the preparation of its proposals.

In its input to the debate, the European Parliament said that the current MFF is tackling asylum and refugee policy in a crisis-management mode, noting that significant contributions to this effect were provided by many of the flexibility provisions that Parliament itself had promoted and defended in the negotiations for the 2014-2020 MFF. While supporting a further reinforcement of such provisions in the next programming period, the European Parliament called for the approach to asylum and migration in the MFF to evolve from crisis management to a permanent and common EU policy, endowed with appropriate resources for relevant measures and decentralised agencies. In addition, complementarity with other EU funding instruments for internal and external policies should be enhanced. Likewise,

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<sup>162</sup> European Court of Auditors, *Future of EU finances: reforming how the EU budget operates*, Briefing Paper, February 2018.

<sup>163</sup> European Commission, *A new, modern Multiannual Financial Framework for a European Union that delivers efficiently on its priorities post-2020*, COM (2018) 98 final, 14 February 2018.

<sup>164</sup> D. Tusk, *European Council Statements and remarks*, 82/18, 23 February 2018.

<sup>165</sup> European Parliament, *President Antonio Tajani sets out the European Parliament's position on the EU budget and the Spitzenkandidaten process at the informal European Council*, press release, 23 February 2018.

<sup>166</sup> M. Khan, J. Brunsden and M. Peel, *Merkel plan to link EU money to migration policy hits opposition*, *Financial Times*, 23 February 2018.

<sup>167</sup> P. Briançon, *France wants more ambitious, tougher EU budget*, *Politico*, 13 April 2018.

according to the resolution, the EU should assume its responsibility in strengthening external border protection, looking at both the internal and the external dimensions of the policy areas.<sup>168</sup>

## **6.2 Proposals for the 2021-2027 period**

The attention to asylum, migration and borders that characterised the preparation of the proposals for the 2021-2027 MFF has resulted into a number of provisions that seek to address challenges emerged in recent years. Envisaged measures, which are part of the draft MFF Regulation and of the proposals for its implementing programmes, include an increase in relevant financial allocations, the strengthening of flexibility provisions, a stronger complementarity with other EU funding instruments and attempts to simplify the implementation framework of relevant measures.

On 2 May 2018, the European Commission proposed the creation of a policy-specific heading 'Migration and border management' (heading 4) within the 2021-2027 MFF, confirming the growing relevance that these policies have acquired at EU level over the last years.

The new heading 4 of the MFF would include the decentralised EU agencies active in the policy areas and the successors of the current funding programmes to be named Asylum and Migration Fund (AMF)<sup>169</sup> and Integrated Border Management Fund (IBMF).<sup>170</sup> According to the European Commission, in the new programming period allocations for these categories of expenditure would be 2.6 times higher (or +160 %) when compared to the 2014-2020 MFF without the United Kingdom (in current prices).<sup>171</sup> When looking at the policy areas individually, Figure 6 shows that both are projected to grow, but the increase is proportionally more significant for border management (+292 %) than for asylum and migration (+59 %).

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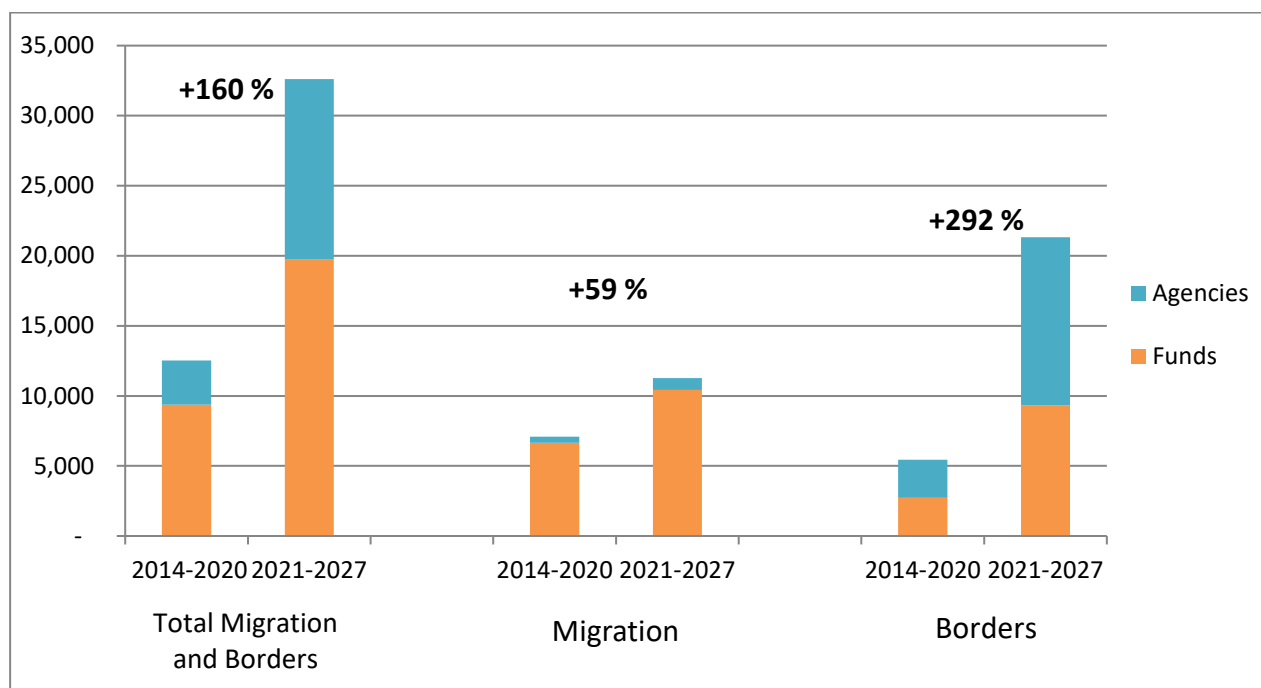
<sup>168</sup> European Parliament, Resolution on the next MFF: Preparing the Parliament's position on the MFF post-2020, P8\_TA(2018)0075, 14 March 2018.

<sup>169</sup> European Commission, Proposal for a Regulation establishing the Asylum and Migration Fund, COM(2018) 471, 12 June 2018.

<sup>170</sup> The IBMF would have two components: the instrument for financial support for border management and visa (see: European Commission, COM(2018) 473, 12 June 2018), which would replace the ISF Borders and Visa and get most of the resources; and a new instrument for financial support for customs control equipment.

<sup>171</sup> European Commission, A Modern Budget for a Union that Protects, Empowers and Defends The Multiannual Financial Framework for 2021-2027, COM (2018) 321, 2 May 2018. It should be noted that the comparison between the two MFFs is this time more difficult than on other occasions, due to the expected withdrawal of the United Kingdom from the EU. Depending on the assumptions made, the calculations of relative changes may differ.

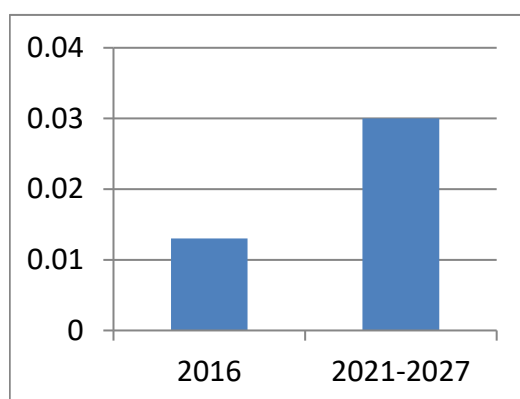
**Figure 6 – Migration and borders allocations: Commission proposal for 2021-2027 as compared to 2014-2020 resources except United Kingdom (€ million, current prices)**



Source: Own calculations based on European Commission data.

Under the MFF proposal, the share of the EU budget allocated to the internal dimension of asylum, migration and borders is 2.55 % (or 2.73 % when including the margin left available for the heading), which is well above the level reached in 2016 (1.4 %) in the wake of the refugee crisis. Likewise, the

**Figure 7 – EU budget policy-specific expenditure on borders, asylum and migration as % of EU GNI in 2016 and estimated average for the 2021 to 2027 period**



Source: Own calculations

proposed resources mark an increase in the share of EU GNI pooled together by Member States for the policy areas, which would reach 0.029 % (or 0.030 % when including the margin of the heading). This percentage is more than double the level reached in 2016 (see Figure 7), but still well below the share of its GNI that the US spends on borders, migration and asylum (see Section 3.2).<sup>172</sup>

Table 10 shows that, in the Commission proposal, heading 4 would allocate 61 % of its €30.8 billion resources (2018 prices)<sup>173</sup> to border management and 32 % to migration, leaving the remainder as a margin for unforeseen events. In the final year of the programming period, the allocations of the heading would be 60 % higher than in 2021 (in constant prices, to

<sup>172</sup> The calculations in Section 3.2 refer to payment appropriations, while the expenditure ceilings for individual headings in the MFF concern commitment appropriations (both in current prices). However, a comparison between the two sets of values provides a good idea of the projected trend of EU expenditure in the policy areas under the Commission proposal.

<sup>173</sup> Or €34.9 billion in current prices.

give a better idea of real increases, by eliminating the impact of estimated inflation). The relative increase in the course of the programming period would again be more pronounced for border management (+72 %) than for asylum and migration (+54 %).

**Table 10 – Composition of heading 4 ‘Migration and Border Management’ in the European Commission proposal for the 2021-2027 Multiannual Financial Framework (commitments in € million and 2018 prices)**

	<b>2021-2027 allocations</b>	<b>As % of heading 4</b>	<b>2027 resources as compared to 2021 resources</b>
<i>Migration</i>	9 972	32 %	+ 54 %
- Asylum and Migration Fund (AMF)	9 205	30 %	+ 61 %
- Decentralised agencies	770	2 %	0 %
<i>Border management</i>	18 824	61 %	+ 72 %
- Integrated Border Management Fund (IBMF)	8 237	27 %	+ 67 %
- Decentralised agencies	10 587	34 %	+ 75 %
<i>Margin</i>	2 033	7 %	0 %
<b>Total heading 4</b>	<b>30 829</b>	<b>100 %</b>	<b>+ 60 %</b>

Source: Own calculations (based on COM (2018) 321, 2 May 2018, p. 30)

The difference in the allocation of resources between the two main categories of expenditure (funding programmes and decentralised agencies) already observed in the two policy areas (see Section 3.2) would be reinforced, confirming deeper development of common tools in the field of external border control. In this policy area, 56 % of the resources would go to decentralised agencies, which reflects the Commission’s intention to further strengthen the European Border and Coast Guard Agency beyond its 2016 reform<sup>174</sup> and to develop a standing corps of 10 000 border guards by 2027. In addition, the funding programme IBMF includes allocations for development, maintenance and interoperability of common IT systems.

Conversely, in the field of migration, the new funding programme AMF would get 92 % of the allocations, and the remaining 8 % would finance decentralised agencies. In particular, the figures suggest that the European Commission does not plan any significant reinforcement of EASO’s role beyond the extension of the agency’s mandate proposed in May 2016 and still being debated in the Council and the European Parliament in July 2018.<sup>175</sup> The annual amount for decentralised agencies in the field of migration is projected to remain stable at €110 million (2018 prices) over the entire 2021-2027 period, whereas the resources for decentralised agencies in the area of borders would increase each year with funding in 2027 being 75 % higher than in 2021 (see Table 10).

Both the draft MFF Regulation and the related sectoral proposals include new elements as compared to the current programming period. For the first time, the policy-specific funds for external borders, asylum and migration would have common financial rules<sup>176</sup> with the European Structural and Investment Funds (ESIF) under cohesion policy.<sup>177</sup> This development could contribute to improving their complementarity, which is currently hindered (e.g. in the case of the AMIF and the ESF) by the

<sup>174</sup> Regulation (EU) 2016/1624 of 14 September 2016 on the European Border and Coast Guard (OJ L 251, 16.9.2016, p. 1).

<sup>175</sup> European Commission, Proposal for a Regulation on the European Union Agency for Asylum, COM(2016) 271 final, 4 May 2016. The proposal for a reform of EASO is interrelated to the proposal for the reform of the Dublin Regulation. Some stakeholders wonder whether a different proposal for EASO would be needed should the Dublin reform be shelved. See: C. Woollard, Asylum in Europe: Where do we go now?, European Council on Refugees and Exiles (ECRE), 8 June 2018.

<sup>176</sup> For the components implemented under shared management with Member States.

<sup>177</sup> European Commission, COM(2018) 375 final, 29 May 2018.

coexistence of two sets of different rules (see Section 4.1). Improving complementarity of the various funding instruments is all the more important, since the European Commission proposes that the AMF focus on short-term needs, while the medium- and long-term needs in the field of integration of third-country nationals should be addressed by the relevant ESIFs, in particular the new European Social Fund and the European Regional Development Fund (ERDF). The proposal for the European Social Fund Plus (ESF+) includes the promotion of the socio-economic integration of third-country nationals and marginalised communities among its eleven specific objectives.<sup>178</sup>

To reflect this strengthened role of ESIF in the field of integration, the distribution of financial allocations between Member States would be determined not only on the basis of gross domestic product (GDP),<sup>179</sup> but also on net migration from outside the EU to each Member State between 2013 and 2016, among other factors.<sup>180</sup>

With regard to the new generation of policy-specific funds, the European Commission seeks to simplify a number of implementing, audit and control provisions, taking into account the interim evaluations of the AMIF and the ISF Borders and Visa. In addition, this objective appears to be in line with observations of the European Court of Auditors, according to which a number of weaknesses in the 2014-2020 AMIF and ISF have led to delays in their implementation.<sup>181</sup>

Another objective that the interim evaluations have fed into the proposals for the 2021-2027 funding programmes is an increased flexibility of the mechanisms to allocate resources with a view to improving the ability to address emerging needs. To this end, as compared to their predecessors, both the new AMF and the IBMF would have a significant share of their resources that is not geographically pre-allocated, but would periodically be assigned to specific objectives on the basis of developments and emerging needs.<sup>182</sup>

In addition, the attempt to increase the EU budget's capacity to respond to unexpected and evolving challenges is more generally addressed at MFF level. The proposed Regulation for the 2021-2027 programming period reinforces the possibilities of shifting resources within the MFF and increases the allocations of special instruments that have proved crucial in the wake of the 2015-2016 refugee crisis. Among other modifications, the maximum annual allocation of the Emergency Aid Reserve would be increased to €600 million (2018 prices) and its scope would be extended to include crises on the territory of the European Union, thus assuming the role played in the current period by the temporary instrument for emergency support within the EU introduced in 2016 (see Section 3.3). The draft MFF Regulation specifically mentions situations of particular pressure resulting from migratory flows at the Union's external borders among the reasons for mobilising the Emergency Aid Reserve.<sup>183</sup>

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<sup>178</sup> European Commission, Proposal for a Regulation on the European Social Fund Plus (ESF+), COM(2018)382, 30 May 2018.

<sup>179</sup> However, GDP would remain by far the most significant variable in the calculation, since it would determine the main financial envelope of national allocations.

<sup>180</sup> In addition to the main financial envelope determined by GDP (see previous footnote), Member States would receive top-ups to respond to demographic, economic, environmental and social challenges, taking into account variables such as net migration of non-EU citizens, unemployment, youth unemployment, low level of education and greenhouse gas emissions. See: European Commission, COM(2018) 375 final, 29 May 2018, Annex XXII.

<sup>181</sup> European Court of Auditors, Annual report on the implementation of the budget concerning the financial year 2016, together with the institutions' replies, OJ C322/01, 28 September 2017.

<sup>182</sup> European Commission, A Modern Budget for a Union that Protects, Empowers and Defends The Multiannual Financial Framework for 2021-2027, COM (2018) 321, 2 May 2018.

<sup>183</sup> European Commission, Proposal for a Regulation laying down the multiannual financial framework for the years 2021 to 2027, COM (2018) 322, 2 May 2018.

### **6.3 Initial reactions and some points to watch during the negotiations**

In May 2018, the European Parliament criticised the overall level of resources proposed by the European Commission for the 2021-2027 MFF, when taking into account the needs stemming from new political priorities and emerging challenges. Parliament called for additional funding to be secured in a number of policy areas, which include migration, security and external relations.<sup>184</sup>

At its meeting of 28 June 2018, the European Council made direct and indirect references to the 2021-2027 MFF in its conclusions on migration. In particular, the European Council stressed that the next framework should include flexible and fast instruments to fight illegal migration, adding that EU funds for asylum, migration and borders should have significant components devoted to the external dimension of migration management.

In addition, the European Council expressed its favourable view on the further strengthening of the financial resources and mandate of Frontex proposed by the Commission, with a view to increasing the Agency's support to Member States in the protection of the EU's external borders as well as in return operations.<sup>185</sup>

On the same topic, shortly after Austria assumed the six-month rotating Presidency of the Council in July 2018, Chancellor Kurz called for the expansion of Frontex from 1 300 to 10 000 staff to happen immediately in 2020 rather than being implemented gradually by 2027, as planned in the initial Commission proposal. Austria expressed its intention to act as an honest broker of EU compromises for the topics being considered by the Council during its rotating Presidency, including the 2021-2027 MFF. In this respect, the proposal to shift ESIF resources, increasing allocations for Member States most affected by the 2015-2016 refugee crisis, is reported to encounter the opposition of Poland and other Member States.<sup>186</sup>

The European Court of Auditors (ECA) considered that the European Commission prepared its MFF proposals on the basis of a sound procedure, which included a spending review providing strong arguments for simplification and useful elements to improve the efficiency of EU funding instruments. Analysing whether the European Commission had addressed a series of proposals put forward by the Court in the context of the debate on the future of EU finances (see Section 6.1), the ECA concluded that the MFF proposal significantly improved the EU budget's capacity to respond to evolving needs. However, progress was deemed more nuanced in other fields, such as the development and application of a robust concept of EU value added.<sup>187</sup>

Commenting on the Commission proposals for the 2021-2027 MFF, various analysts have differing views on their degree of innovativeness, but in general agree that the level of funding proposed for the new heading 'Migration and border management' would represent a significant increase.

In particular, Claeys and Darvas (2018) consider the funding proposals for a number of EU common goods among the positive elements of the package, specifically mentioning the huge increase in the allocations for border control and the (more limited) increase in the resources for migration management. Conversely, the authors deem the proposed allocations for external policies too timid, suggesting that this might have a negative impact on the external dimension of migration management.<sup>188</sup>

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<sup>184</sup> European Parliament, Resolution on the 2021-2027 multiannual financial framework and own resources, P8\_TA(2018)0226, 30 May 2018.

<sup>185</sup> European Council, Conclusions, EUCO 9/18, 28 June 2018.

<sup>186</sup> M. Peel, Austria's Sebastian Kurz urges EU to bolster border forces quickly, *Financial Times*, 5 July 2018.

<sup>187</sup> European Court of Auditors, The Commission's proposal for the 2021-2027 Multiannual Financial Framework, Briefing Paper, July 2018.

<sup>188</sup> G. Claeys and Z. Darvas, The Commission's proposal for the next MFF: A glass half-full, Blog Post, Bruegel, 25 May 2018.

While arguing that the MFF proposal is much in continuity with the current programming period, Nuñez Ferrer and Gros (2018) highlight the creation of a specific heading for migration and border control and its increased funding among its most significant innovations.<sup>189</sup>

Haas, Rubio and Schneemelcher (2018), who assess the planned allocations of resources to new priorities as relatively ambitious, likewise note the significant increase proposed for the policies currently included in heading 3 'Security and Citizenship'.<sup>190</sup>

In the context of the expected withdrawal of the United Kingdom (UK) from the EU, the MFF proposals put forward by the European Commission include cuts in the allocations for some policy areas in both nominal and real terms. Against this background, the proposed increase in the resources for migration and borders confirms that these policy areas attracted more attention and consideration than in the run-up to previous MFF proposals.

At the same time, it should be noted that the figures in the draft MFF Regulation for 2021-2027 are the Commission input to the process. Past MFF negotiations show that, in relative terms, Member States in the European Council have regularly cut proposed allocations for activities in the fields of justice and home affairs more drastically than the overall framework (see Section 3.1). It remains to be seen whether higher focus on these policy areas will persist in a negotiation phase that may be different from those that characterised the preparation of past MFFs.

Analysts consider that the expected withdrawal of the UK from the EU might alter the traditional dynamics and coalitions of Member States in MFF negotiations, for example among net contributors to the EU budget.<sup>191</sup> If the balance between and within groups of Member States sharing similar objectives varies, this development may have an impact on the European Council's approach to the various headings of the MFF, including the one for migration and border management.

Another element to be watched in the negotiations for the 2021-2027 MFF is the distribution of resources between the individual components of the heading. For example, the resources proposed by the Commission for the Asylum and Migration Fund increase as compared to its predecessor, but proportionally less than the other components of the heading. The European Commission proposed that the Fund be allocated €9.2 billion (2018 prices) for the 2021-2027 period. Despite the increase, this amount to be implemented over seven years across the EU still represents just around two thirds of what Germany currently spends, at federal level only, for the internal dimension of asylum management in a single year.<sup>192</sup> If the outcome of the negotiations confirms the proposed level of resources, this basic comparison suggests that expenditure in the policy area would predominantly remain at national level, with the EU budget designed to provide a complementary contribution.

Finally, while the MFF negotiations will determine the level of resources for the heading 'Migration and Border Management', they should not be seen in isolation from the negotiations on the sectoral Funds that are to implement relevant activities. The AMF and the IBMF include the rules that determine how the resources agreed for asylum, migration and borders are distributed between the Member States. The parameters eventually retained to this effect and their capacity to reflect evolving needs will have an impact on the actual contribution that financial resources from the EU budget can make to the principle of solidarity and fair sharing of responsibility enshrined in Article 80 TFEU.

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<sup>189</sup> J. Núñez Ferrer and D. Gros, *The Multiannual Financial Framework, where continuity is the radical response*, CEPS Commentary, 4 May 2018.

<sup>190</sup> J. Haas, E. Rubio and P. Schneemelcher, *The MFF proposal: What's new, what's old, what's next?*, Policy Brief, Jacques Delors Institute, 21 May 2018.

<sup>191</sup> J. Haas and E. Rubio, *Brexit and the EU budget: Threat or opportunity?*, Policy Paper 183, Jacques Delors Institute, 16 January 2017.

<sup>192</sup> Based on data from: Bundesministerium der Finanzen, *Finanzbericht 2018*, 11 August 2017, p. 45.



## **7. Conclusions**

Against the background of the common policies on borders, asylum and migration promoted by EU Member States over the last decades, this paper has gathered and analysed data to investigate the role of budgetary resources in their gradual development and in the provision of the related common goods.

Traditionally, policy-specific financial resources pooled by Member States for the internal dimension of these policy areas have represented a minor share of the EU budget and of EU GNI. Unlike other major EU projects such as the completion of the single market in the 1990s and enlargement in the 2000s, the creation of the Area of Freedom, Security and Justice to which these policies pertain has not seen a significant investment of common financial resources through the EU budget, despite support in such a development from the European Parliament and the European Commission. This difference is explained on the one hand by institutional challenges proper to the Area of Freedom, Security and Justice, and on the other by specific features of the EU budgetary system.

Budgetary data show that the 2015-2016 refugee crisis has triggered a change of pace in pooling of resources and financial solidarity at EU level, reflecting increased efforts to address jointly the responsibilities related to asylum, migration and borders, and the common goods that they involve. This financial solidarity can be seen as a common insurance mechanism for EU Member States, when considering that Member States receiving relevant allocations also contribute to funding them through the standard financing system of the EU budget.

However, only a vast resort to the flexibility provisions of the 2014-2020 MFF made the recent increase in EU financial resources for asylum, migration and borders possible. Analysing the latest developments in the field of the Common European Asylum System (CEAS), Tsourdi (2017) concludes that the solidarity principle remains emergency-driven and fair sharing of responsibility is not structurally embedded in the system contrary to what Article 80 TFEU would require.<sup>193</sup>

Data on public spending on asylum, migration and borders at national level are scattered, incomplete and difficult to compare. However, available estimates and information tend to confirm that this expenditure is unevenly distributed across the EU, for example in terms of the share of their GNI that each Member State devotes to the policy areas. Geographic position and the Dublin rule assigning the responsibility for asylum claims mainly to the first country of entry in the EU are factors that may play a role in this imbalance.

Despite the recent increases, the contribution of the EU budget is still limited as compared to systems such as the US where these policy areas are much more centralised. In the EU, most expenditure for asylum, migration and borders appears to be covered by the budgets of national (as well as regional and local) authorities. In addition, new developments such as the 2015-2016 refugee crisis have the potential to affect some Member States much more significantly than others, acting as a sort of an asymmetric shock.

Pooling of financial resources at EU level to match the obligations stemming from the EU's common policies on asylum, migration and external border control is a necessary element of any effort to ensure an effective provision of the common goods related to the Area of Freedom, Security and Justice through a fair sharing of responsibility between Member States. However, 'sharing money' alone will not be sufficient to achieve these objectives, but needs to be accompanied by a broader reflection and agreement on the responsibility to be shared and a corresponding design of the common policies. In this sense, the European Parliament has repeatedly called for a holistic EU approach to migration.<sup>194</sup> In June

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<sup>193</sup> E. Tsourdi, *Solidarity at work? The prevalence of emergency driven solidarity in the administrative governance of the Common European Asylum System*, *Maastricht Journal of European and Comparative Law*, 2017, Vol. 24(5), pp. 667–686.

<sup>194</sup> See for example: European Parliament, *Resolution on the situation in the Mediterranean and the need for a holistic EU approach to migration*, P8\_TA(2016)0102, 12 April 2016.

2018, German Chancellor Angela Merkel declared that the absence of a common response to migration challenges could threaten the foundations of the EU, starting with free movement.<sup>195</sup>

At the same time, an agreement on the responsibility to be shared could include better monitoring and reporting of related financial resources, thus contributing to improving the forecasting of the overall investments needed in the policy areas.

The 2016 transformation of Frontex into the European Border and Coast Guard is an example of the fact that measures taken by EU Institutions in the wake of the 2015-2016 refugee crisis have tried to take into account the different elements at stake, by coupling a reinforcement of the Agency's mandate with the mobilisation of additional funding despite the limited resources available in the 2014-2020 MFF.

Nevertheless, analysts consider that, while the new configuration of Frontex is an improvement, it does not yet represent a common and automatic mechanism to fairly share responsibility concerning EU external border management between Member States.<sup>196</sup> This interpretation appears to be indirectly confirmed by the European Commission's estimates of the financial resources that an upgraded Agency would imply as compared to the maximum use of the Agency in its current configuration over the 2021-2027 period. Providing support for a fully integrated EU border management system would require an increase in the resources allocated to Frontex estimated between +150 % and +213 %, while only a +1775 % increase would be able to ensure a full EU border management system comparable to those of the US or of Canada.<sup>197</sup>

Similar considerations are made in the field of asylum management, where the development of common EU structures and tools is less advanced than in external border control (see Section 3.2), and the negotiations on a possible reinforcement of EASO are still ongoing. Deeming the current CEAS to imply a systemic solidarity gap in the distribution of related responsibilities between EU Member States, Carrera and Lannoo (2018) argue that intra-EU solidarity for asylum management and search and rescue operations should be stepped up significantly and embedded in the system. In their view, this development would involve both the institutional design of the policy areas (through a reinforced European asylum agency and a fully operational mandate for search and rescue operations given to Frontex, which could eventually lead to the creation of a single European Border and Asylum Service), and the related increase in the financial resources provided by the EU budget.<sup>198</sup>

The European Commission proposals for the 2021-2027 MFF seek to address the challenges emerged in recent years, by enhancing the allocations for the internal dimension of the policy areas and in particular for border control. If accepted as they stand, relevant resources would represent 0.03 % of EU GNI, suggesting that most of the expenditure will continue to occur at national level despite an increase in the pooling of resources at EU level.

Reinforcing the EU budget's contribution to fair sharing of responsibility in asylum, migration and borders will depend not only on the overall level of resources assigned to the policy areas, but also on how these resources are distributed and spent. Enhancement of common EU structures and tools such as relevant EU agencies and IT systems goes in the direction of higher sharing of responsibility.

As regards funding programmes, since resources would remain rather limited in absolute terms as compared to the variety of measures covered, the link between their distribution between Member States

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<sup>195</sup> A. Barker and T. Buck, Merkel warns that EU is at threat from impasse over asylum, *Financial Times*, 6 June 2018.

<sup>196</sup> F. Esteve, The Search and Rescue Tasks Coordinated by the European Border and Coast Guard Agency (Frontex) Regarding the Surveillance of External Maritime Borders, *Paix et Sécurité Internationales*, Num. 5, 2017, pp. 93-116.

<sup>197</sup> European Commission, A new, modern Multiannual Financial Framework for a European Union that delivers efficiently on its priorities post-2020, COM (2018) 98 final, 14 February 2018, p. 6.

<sup>198</sup> S. Carrera and K. Lannoo, We're in this boat together: Time for a Migration Union, CEPS, Policy Insights No 2018/09, June 2018.

and responsibilities stemming directly from the configuration of the common EU policies could be strengthened. In this respect, the distribution formula could give a significant weight to key parameters and/or elements that directly reflect those responsibilities.

For example, in the case of the Asylum and Migration Fund, which the European Commission intends to focus on short-term needs, a major role could be played by the number of asylum applications that each Member State deals with, since it is the Dublin Regulation that assigns this responsibility to a given Member State.<sup>199</sup> A lump sum per request to be tackled could be envisaged as a contribution to related activities (e.g. processing of requests, accommodation, return operations in the case of a negative decision, etc.). In the current programming period, a lump sum contribution has been included in relocation schemes within the EU under which Member States have received €6 000 per person relocated to their territory.<sup>200</sup>

If the ESF+ is to address longer-term needs as proposed by the European Commission, the allocation of resources for its specific objective of integration of third-country nationals could take into account a different parameter, i.e. the number of positive decisions granting international protection taken by each Member State, looking at this element as the follow-up phase of the responsibility stemming from the CEAS in the case of a positive decision.

With regard to the instrument for financial support for border management and visa, Annex I of the proposed Regulation for 2021-2027 includes distribution keys that take into account both structural elements (length of external sea and land borders, number of airports and of consular offices) and the related workload, attributing different weighting to the various components. The proposed calculation also resorts to the expertise of Frontex, which is to provide assessments of the average level of threat of each border section.<sup>201</sup>

Since the MFF and its implementing programmes are agreed for a multiannual period (usually of seven years), other moves supporting fair sharing of responsibility could come from reducing the share of resources geographically allocated before the start of the programming period and from reinforcing flexibility provisions. Such developments could increase the EU's capacity to assign the resources where they are most needed, based on regular monitoring of evolving needs to be translated into actual budgetary allocations. A number of provisions of the proposals for the 2021-2027 MFF seek to go in this direction.

In addition, ensuring a smoother transition between programming periods than it has traditionally been the case for policy-specific EU expenditure on asylum, migration and borders could prevent the EU budget's contribution to fair sharing of responsibility from being potentially under pressure at the start of a new MFF. Proposals for simplification and, again, increased flexibility may help to this effect.

In conclusion, the principle of solidarity and fair sharing of responsibility between Member States is to govern the common EU policies for asylum, migration and borders according to Article 80 TFEU. Any design of such policies should consider and incorporate the contribution that the EU budget can make to fully translating this principle into practice, with a view to ensuring an appropriate level of provisions of the EU common goods that have emerged in these policy areas following the removal of internal borders across most of the European Union.

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<sup>199</sup> In the distribution key proposed by the European Commission for the 2021-2027 AMF, the number of asylum requests would account for 18 % of the formula. See: COM(2018) 471, Annex I.

<sup>200</sup> See for example: Council Decision (EU) 2015/1601 establishing provisional measures in the area of international protection for the benefit of Italy and Greece, 22 September 2015.

<sup>201</sup> European Commission, COM(2018) 473, 12 June 2018

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