

Impact case study (REF3)

Institution: London School of Economics and Political Science		
Unit of Assessment: 25 – Area Studies		
Title of case study: Improving refugee protection policies in Europe: towards a mandatory, capacity-based allocation system for asylum seekers		
Period when the underpinning research was undertaken: 2003-2020		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting HEI:
Eiko Thielemann	Director, LSE Migration Studies Unit; and Associate Professor in Political Science and Public Policy, European Institute	2000 to present
Period when the claimed impact occurred: 2015-2020		
Is this case study continued from a case study submitted in 2014? No		
1. Summary of the impact (indicative maximum 100 words)		
<p>Dr Eiko Thielemann's research into asylum policy in the EU has been used to inform new asylum laws adopted by the EU Council in September 2015. These were the EU's first mandatory, quota-based physical asylum burden-sharing mechanisms for the resettlement of up to 160,000 asylum seekers from the EU's external border countries to other Member States. The research has made sustained contributions to the EU policymaking process, notably through two key reports evaluating the Dublin Regulation, recommendations which have informed new proposals for reform published by the European Commission in September 2020. These interventions have contributed to the development of more equitable and effective policies that have helped some of the world's most vulnerable individuals find protection from persecution.</p>		
2. Underpinning research (indicative maximum 500 words)		
<p>Dr Eiko Thielemann's research on the effectiveness of refugee burden-sharing is embedded in the International Migration Policy and Law Analysis (IMPALA) project, a collaboration between LSE, Harvard University, Sydney Law School, and the Universities of Amsterdam and Luxembourg. IMPALA collects comparative data on immigration and refugee policies and develops policy indices that have enabled new research into the management of migration flows. LSE Migration Studies Unit's research on refugee burden-sharing in Europe has generated concrete policy recommendations on how to improve the sharing of responsibilities for asylum seekers and refugees in Europe based on research findings on three types of burden-sharing initiatives: (i) regulatory harmonisation (sharing policy); (ii) financial compensation (sharing money); and (iii) physical allocation (sharing people). The findings on the limitations of the first two types demonstrate the need for new physical allocation mechanisms (the third type), which has been the focus of the MSU's more recent research.</p>		
<i>i) Regulatory harmonisation: the need for complementary burden-sharing instruments</i>		
<p>Thielemann's research on the determinants of asylum flows [1] has demonstrated that the EU's attempts to achieve equitable refugee burden-sharing through policy harmonisation have been fundamentally flawed. The research found that even if Europe succeeded in harmonising national policies, the unequal distribution of asylum burdens would persist given differences in the "structural pull factors", such as geographic location or labour market opportunities [2]. Analysis showed that EU harmonisation initiatives undermined Member States' ability to use distinctive policy tools to counteract the effect of country-specific structural factors that influence the distribution of responsibilities in this area. By so doing, they undermined rather than advanced the goal of fair burden-sharing. This research has established the need for complementary, responsibility-sharing initiatives.</p>		
<i>ii) Financial burden-sharing: the limits of the EU's Asylum, Migration, and Integration Funds</i>		
<p>Thielemann's analysis of the European Refugee Fund (ERF), led to the publication of a special issue of the <i>Journal of Common Market Studies</i>, which he co-edited, and a research report commissioned by the European Parliament [3], which Thielemann co-authored. This research</p>		

found that financial instruments such as the ERF remain highly ineffective burden-sharing tools. These studies argued that ultimately only new, physical burden-sharing mechanisms for asylum seekers would make a significant contribution to a more equitable distribution of asylum costs across Member States [4].

iii) Physical allocation: the need for a revised, capacity-based, responsibility-sharing mechanism

Research by Thielemann also found that the EU's principal instrument for the physical relocation of asylum seekers, the Dublin III Regulation, encourages burden-shifting towards Member States located on the external borders of the European Union, because it mostly allocates the final responsibility for asylum seekers to the country through which they first entered the EU; i.e. on the basis of geographic coincidence rather than capacity [5]. The research also warns against a reliance on voluntary relocation mechanisms. The ineffectiveness of such instruments became tragically evident when the Dublin responsibility-allocation system broke down during the Syrian refugee crisis, reinforcing the MSU's findings that a revised allocation mechanism for asylum seekers, based on Member States' capacities, is necessary to achieve more equitable and effective responsibility-sharing [6].

3. References to the research (indicative maximum of six references)

[1] Thielemann, E. (2003). Between interests and norms: explaining patterns of burden-sharing in Europe. *Journal of Refugee Studies*, 16(3), pp. 253-73. DOI: 10.1093/jrs/16.3.253.

[2] Thielemann, E. (2004). Why European policy harmonization undermines refugee burden-sharing. *European Journal of Migration and Law*, 6(1), pp. 43-61. DOI: 10.1163/1571816041518769.

[3] European Parliament (2010). *What system of burden sharing between Member States for the reception of asylum seekers?* Final Report for the Directorate General for Internal Policies, Policy Department C: Citizens' Rights and Constitutional Affairs, Civil Liberties, Justice and Home Affairs, IP/C/LIBE/IC/2008-049, 30.10.09 (lead academic author: E Thielemann).

[4] Thielemann, E. (2012). How effective are national and EU policies in the area of forced migration? *Refugee Survey Quarterly*, 31(4), pp. 21-37, DOI: 10.1093/rsq/hds017.

[5] Thielemann, E. and Armstrong, C. (2013). Understanding European asylum cooperation under the Schengen/Dublin system: a public goods framework. *European Security*, 22(2), pp. 148-164. DOI: 10.1080/09662839.2012.699892.

[6] Thielemann, E. (2018). Why refugee burden-sharing initiatives fail: public good, free-riding and symbolic solidarity in the European Union. *Journal of Common Market Studies*, 56(1), pp. 63-82. DOI: 10.1111/jcms.12662.

Five of the articles listed above are published in peer-reviewed international journals. For the underpinning research, the LSE component of the IMPALA consortium (Thielemann as PI) secured major funding from the European Parliament (EUR350,000) and the Australian Research Council (AUD320,000).

4. Details of the impact (indicative maximum 750 words)

The MSU's research, led by Thielemann, has made sustained contributions to EU policymaking debate and practice on asylum seekers. Its findings have directly informed pre-legislative policy reports, with some of its key recommendations regarding the need for reformed burden-sharing policies subsequently having been adopted by the EU Council. MSU research interventions led to the creation of 160,000 places for the internal relocation of asylum seekers, with around 40,000 being relocated from Greece and Italy, the two most over-burdened Member States at the EU's external border in the first two years of this policy. Recent new proposals for replacement of the Dublin Regulation have been similarly influenced by MSU's policy recommendations. In doing so, MSU's work has helped to improve the chances of the tens of thousands of refugees who come to Europe each year to find protection from persecution.

New legislation relocating asylum seekers according to Member States' capacity

In 2015, more than one million people arrived in Europe to escape conflict in their own countries (notably Syria, Afghanistan, and Iraq), with many crossing the Mediterranean Sea or travelling over land to cross the EU's eastern borders. This large number of arrivals, and the strains

subsequently exerted on external border countries due to the Dublin “country of first entry” allocation rules, intensified pressure on the European Union and its Member States to develop fairer and more equitable policies on refugee protection. In response, the European Commission asked an external consultancy (ICF International) to prepare two studies: an evaluation of the implementation track record of the Dublin Regulation, and a second evaluation focused on identifiable shortcomings and options for reform. Based on his research work (in particular for [4], [5] and [6]) and on the strength of his previous advisory work for the EU dating back to 2007 [3], Thielemann was one of three academics invited by the Commission to contribute to these studies, which would also put forward a detailed set of reform proposals for more effective burden-sharing [A] [B] [C]. While contributing to both, Thielemann’s primary input, drawing on [5] and research for [6], was on the second report [B], outlining how a fairer allocation system could be developed. The research recommended alternatives to Dublin, and specifically a physical redistribution mechanism based on capacity and the need for complementary burden-sharing mechanisms.

Key recommendations of these reports reflected recommendations made by Thielemann in a series of high-profile interventions in the EU policy process in 2015. In March, he advised a cross-party group of Members of the European Parliament on potential reforms of the Dublin system at a seminar entitled “Beyond Dublin”. The background paper for this event [D] extensively referenced the Thielemann research, in particular [1] and [3]. In June, Thielemann was one of the keynote speakers (together with the Head of the Commission’s Asylum Unit and the European Parliament’s rapporteur for Dublin reforms) in public hearings on the subject of asylum burden-sharing, organised by the European Parliament [D]. Also in June, Thielemann and the United Nations Deputy High Commissioner for Refugees gave evidence to the European Parliament’s Committee on Civil Liberties, Justice and Home Affairs [D]. Able to directly engage with more than 100 legislators, Thielemann presented options for how to reform the European asylum system. In particular, he called for three concrete reforms for asylum burden-sharing in the EU [D]:

- (1) Strengthening of physical (people-sharing) solidarity instruments.
- (2) A *permanent* responsibility-allocation mechanism based on concrete options for capacity-based allocation developed in Thielemann’s 2010 report for the European Parliament [3].
- (3) Change from “voluntary” to “*mandatory*” (i.e. binding) contributions to EU burden-sharing efforts.

The most prominent new asylum laws proposed and adopted by the European Union since then have incorporated all three of these policy recommendations. On 22 September 2015, the Commission proposed and the Council adopted the EU’s first mandatory, quota-based physical asylum burden-sharing mechanisms [E] which aimed to provide emergency help to some of the EU’s external border countries with the highest asylum burdens. Building on an earlier voluntary pilot instrument [F], this law stipulated the physical relocation of up to 160,000 asylum-seekers from Greece and Italy, to be resettled in other Member States, using objective and quantifiable capacity indicators - such as GDP per capita and population size - for its quotas. Europe’s politicians won praise for having the political courage to agree to the principle of sharing the burden. Peter Sutherland, the UN’s special representative for international migration, said: “*The principle is so important and reflects such a change of thinking that in itself this is a very significant development*” [G].

The changes in legislation have enhanced the stability of the EU’s asylum system. They have also started to provide significant benefits for over-burdened Member States like Greece and Italy. More importantly still, while much more remains to be done, these changes have helped to improve reception conditions for asylum seekers and refugees and improved protection opportunities for forced migrants in Europe.

Informing new proposals for reform of the Dublin Regulation

After the submission of the final ICF report that appraised the various reform options for the Dublin regulation [C], in May 2016 the European Commission published its proposal for a reformed Dublin system (“Dublin plus”) which included provisions for a permanent and mandatory capacity-based relocation instrument [H]. In its legislative briefing on the reform of the Dublin system, the European Parliamentary Research Service makes explicit references to the ICF reports:

“In 2015, the Commission asked an external consultancy (ICF International) to prepare two studies: an Evaluation of the Implementation of the Dublin III Regulation and an Evaluation of the Dublin III Regulation. These exposed a number of shortcomings in the design and implementation of the Dublin system. In addition to the external evaluation, the Commission undertook targeted consultations with the coordinators of the political groups on the European Parliament’s Committee on Civil Liberties, Justice and Home Affairs, with Member States and with other stakeholders.” [I]

While the 2016 Dublin proposals were eventually endorsed by the European Parliament, opposition by some Member States led to years of protracted negotiations in the Council. In the run-up to the migration-focused Finnish Presidency of the EU Council in 2019, Thielemann was invited to participate in another round of high-level, face-to-face interactions with policymakers in Brussels and Helsinki. At the invitation of the European Migration Network Finland, acting on behalf of the 2019 Finnish Presidency of the Council of Ministers for Justice and Home Affairs [J], Thielemann spoke and served as a section chair at a conference held to mark the 20th anniversary of the ground-breaking 1999 Tampere Council Conclusions, which shaped the EU’s common European asylum policy as we know it today. Other speakers at the conference included the UN High Commissioner for Refugees and the Director General of the International Organisation for Migration, the Head of the European Commission’s asylum unit, among other top-level policymakers [J]. The conference aimed to achieve a renewed impetus at the highest political levels to address burden-sharing issues as part of negotiations on the EU’s new legislative migration and asylum package, put forward by the new Commission under Ursula von der Leyen in September 2020.

The key legislative instrument of the package, with regard to burden-sharing, is the proposed new regulation on “asylum and migration management” that is designed to replace the Dublin regulation [K]. It acknowledges the shortcomings of existing policies regarding burden-sharing, identified by the second ICF report, stating that *“there is currently no effective solidarity mechanism in place and no efficient rules on responsibility”* [K, p. 1]. Three changes in the new proposals are worth highlighting as they reflect the core recommendations to have been put forward by Thielemann and MSU:

- The Commission emphasises that *“possibilities for solidarity through [physical] relocation are widened”* in the new proposal [L, p. 9].
- The proposal makes reference to the need for fairness in relation to Member States’ capacity: *“The proposal aims to establish a common framework [...] based on the principles of solidarity and fair sharing of responsibility [and to] assist Member States with effective measures (relocation or return sponsorship and other contributions aimed at strengthening the capacity of Member States)”* [K, p. 97].
- Commissioner Ylva Johansson made it clear that the proposal constituted a step towards more binding burden-sharing mechanisms, stating: *“It’s obvious to everybody that ad hoc solidarity or voluntary solidarity is not enough. That has been proven for many years now. It has to be mandatory”* [M].

Since mid-2013, more than five million asylum seekers have applied for protection in the EU. Ultimately, by helping to shift the EU policy debate on refugee responsibility-sharing towards physical relocation initiatives that are capacity-oriented and mandatory for all Member States, Thielemann’s research has helped to increase the effectiveness of the EU’s policy response and helped some of the world’s most vulnerable individuals to find protection from persecution [N].

5. Sources to corroborate the impact (indicative maximum of 10 references)

[A] European Commission (2015), [Evaluation of the Dublin III Regulation, Final Report](#), 4 December 2015.

[B] European Commission (2016), [Evaluation of the Implementation of the Dublin III Regulation – Final Report](#), DG Migration and Home Affairs, 18 March 2016.

[C] ICF (2016), Evaluation of the Dublin III Regulation – Final Option Appraisal Paper, 23 March 2016. Unpublished, “in-house” report for the European Commission (DG Migration and Home Affairs).

- [D]** Thielemann engagement with European Parliament: [The Greens and European Free Alliance](#), 18 March 2015; [public hearing on the reform of the Dublin System](#), 3 June 2015; [evidence to LIBE Committee](#), including presentation, 4 June 2015.
- [E]** Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece.
- [F]** Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece.
- [G]** “EU governments push through divisive deal to share 120,000 refugees”, [The Guardian](#), 22 September 2015
- [H]** European Commission (2016), Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) Brussels, 4.5.2016 COM(2016) 270 final 2016/0133 (COD).
- [I]** European Parliamentary Research Service (2017), Briefing: EU Legislation in Progress – Reform of the Dublin System, 10 March 2017.
- [J]** Personal invitation to "From Tampere 20 to Tampere 2.0" conference and event programme.
- [K]** European Commission, [Regulation of the European Parliament and the Council on asylum and migration management and amending Council Directive \(EC\) 2003/109 and the proposed Regulation \(EU\) XXX/XXX \[Asylum and Migration Fund\]](#), 23 September 2020, COM(2020) 610 final 2020/0279 (COD).
- [L]** European Commission, [New Pact on Migration and Asylum: Questions and Answers](#), 23 September 2020.
- [M]** “EU’s new migration pact to request ‘mandatory solidarity’ from member states”, [Euractiv](#), 23 September 2020.
- [N]** “Ensuring fair and humane asylum policies in the EU”, [LSE Government Blog](#), 20 January 2016.