

# Coping with Migrants and Refugees

Multilevel Governance across the EU

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## **3 Reforms of asylum seekers' reception during the 2010s**

Driving factors and multilevel  
governance arrangements

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# 3 Reforms of asylum seekers' reception during the 2010s

## Driving factors and multilevel governance arrangements

*Irene Ponzo*

### Introduction

This chapter aims to make sense of processes of policy reform over asylum seekers' reception in the five European member states analysed in this volume, i.e., Germany, Greece, Finland, Italy and Spain during the 2010s, when the consequences of Arab Spring led to an increase in arrivals of third-country nationals. In doing so, I will point out relevant policy changes (or the lack thereof), their main triggers and driving factors and the extent to which multilevel governance (MLG) arrangements underpinned those processes. The subsequent chapters of the volume will then analyse the decision-making processes concerning the implementation of reception policies as they were shaped by those reforms.

In analysing policy change, I will pay specific attention to the impact of the so-called European refugee crisis which can be framed as related either to the sharp increase of unplanned inflows or to the crisis of European Union (EU) governance (Pastore 2015).

As for the first meaning, the perceived problem pressure deriving from the low possibility of controlling unplanned inflows and from the mismatch between reception demand and supply was not the same everywhere. Greece and Italy, being first-entry countries, were at the forefront of the European refugee crises. Germany and Finland were destinations of substantial secondary movements, which, however, decreased after the introduction of border controls within the Schengen area in 2015 and of the EU-Turkey Statement signed in 2016. In contrast, Spain was somewhat on the margin of mass arrivals from Africa and the Middle East, even though the numbers of asylum seekers increased constantly because of inflows from Latin America and, more recently, from Africa (see Table 3.1). Overall, we could expect that the higher the number of unplanned arrivals and the larger the mismatch between reception demand and supply, the greater the perceived pressure for a revision of the reception system.

These dynamics have to be framed within the high degree of Europeanisation of asylum policies and the consequent pressure from the EU on member states. In this regard, the recast Reception Directive

Table 3.1 First-time asylum applicants—Annual aggregated data (rounded)

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
<b>Finland</b>	4,910	3,085	2,915	3,095	3,210	3,620	32,345	5,605	4,990	4,500
<b>Germany</b>	32,910	48,475	53,235	77,485	126,705	202,645	476,510	745,155	222,560	184,180
<b>Greece</b>	15,925	10,275	9,310	9,575	8,225	9,430	13,205	51,110	58,650	66,965
<b>Italy</b>	17,640	10,000	40,315	17,335	26,620	64,625	83,540	122,960	128,850	53,700
<b>Spain</b>	3,005	2,740	3,420	2,565	4,485	5,615	14,780	15,755	36,605	54,050

Source: Eurostat Data Browser, [https://ec.europa.eu/eurostat/databrowser/view/migr\\_asyappctza/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/migr_asyappctza/default/table?lang=en)

2013/33/EU was the main legislative initiative around reception in the considered period. As in the previous Reception Conditions Directive adopted in 2003 (2003/9/EC), the 2013 Directive accommodated the key requests from member states to maintain flexibility, thus undermining the objective of creating common standards in this field (European Commission 2007; Odysseus Academic Network 2006; Trauner 2016; Tsourdi 2016): it just clarified some aspects that were undefined in the previous Directive, such as the territorial and personal scope of applicability. And in terms of material support it only slightly improved asylum seekers' rights, leaving this issue largely to the discretion of member states and failing to establish common and objective benchmarks (Tsourdi 2016).

The European refugee crisis also impacted this Europeanisation process and can be understood as a sort of crisis of the EU governance over asylum, as noted above. In this regard, Trauner (2016) notes that in the 2010s, when Europe went through the economic and refugee crises, the EU “sought to apply a double strategy: maintaining the core of existing EU asylum laws while providing more support to countries under migratory and/or financial stress” (Trauner 2016, 316). According to the author, this support can be articulated as: (a) financial solidarity; (b) operational support through EU agencies and (c) voluntary relocation measures. Specifically, European funding to frontline countries like Italy and Greece increased substantially, and the European Migration Agenda adopted in 2015, while including several issues (a common list of safe countries, a plan for a more efficient return policy and strategies to tackle the root causes of migration), identified its flagship proposal in the “emergency relocation mechanism” for 160,000 third-country nationals in clear need of international protection from Hungary, Italy and Greece<sup>1</sup>. However, the relocation was conditional upon those states' commitment to register and host new migrants. With this purpose, the so-called hotspot approach was proposed, according to which, EU agencies should help national authorities fulfil their obligations under the EU law. The final result was that the hotspot approach increased the responsibility of frontline states such as Italy and Greece to provide refugee protection and accommodation, while the relocation scheme took time to work smoothly, providing them with a limited amount of relief

(Trauner 2016). Moreover, Visegrad group countries (the Czech Republic, Hungary, Poland and Slovakia) opposed the relocation scheme<sup>2</sup> and in 2017 the European Commission launched infringement procedures against the Czech Republic, Hungary and Poland for non-compliance with their obligations under the 2015 Council Decisions on relocation. Therefore, the EU strategy resulted in tensions and fights and failed to overcome the crisis of EU governance over asylum. This chapter will analyse whether and how those EU initiatives interacted with national political dynamics and impacted policy changes over reception.

For the analysis, I will rely on the empirical work carried out by the national research teams of CEASEVAL (for methodological details see the Introduction to this volume) and the findings illustrated in the CEASEVAL country reports (Beinhorn et al. 2019; Dimitriadi and Sarantaki 2019; Garcés-Mascareñas and Moreno-Amador 2019; Giannetto, Ponzo and Roman 2019; Wahlbeck 2019a).

In the first section, I will refine the theoretical framework concerning policy change around asylum by going through the relevant literature. I will then illustrate the reforms over reception that occurred in each target country during the 2010s by clustering them into unitary and federalist/regionalist states, according to the classification provided in the Introduction to the volume. In the final section, I will offer some comparative remarks on the factors driving the observed policy changes and the MLG arrangements underpinning those processes.

### **Making sense of policy reforms over asylum seekers' reception**

In the field of migration, asylum is an issue where the degree of Europeanisation is expected to be high. Indeed, the Treaty of Amsterdam has shifted asylum and immigration from the intergovernmental third pillar to the community pillar. Moreover, in the 1999 Tampere Conclusions of the European Council, member states agreed to develop a Common European Asylum System (CEAS) which encompasses the determination of which state is responsible for examining asylum claims (Dublin Regulation); common minimum standards for asylum procedures, qualification, reception and returns; and the EU-wide collection of digital identification data of asylum seekers and irregular migrants (EURODAC). Because of that, reforms over asylum seekers' reception can be framed within the literature on European policy change<sup>3</sup>. This field of studies encompasses a diverse range of theoretical and methodological approaches which emphasise different explanatory factors such as actors' interest-based rationality, institutional path-dependency, ideas and discourse, etc. Following Schmidt and Radaelli (2004), I do not take sides in the theoretical and methodological debate; rather I will make value of the different approaches by considering the diverse elements they identify as crucial, with the aim of providing a rich and sound—though not exhaustive—explanation of policy change around reception over the 2010s.

A first element highlighted in the literature consists of *problems that pressure for policy change*. Problems may come from the international and European arena (Schmidt and Radaelli 2004). With specific regard to the field of migration and asylum, pressure for change can arise from increasing flows of immigrants and asylum seekers as well as from EU attempts to work out a common immigration and asylum policy (Geddes and Guiraudon 2004).

Yet, the pressure generated by increasing arrivals and EU policies varies according to the status quo in each country. As highlighted by Alink, Boin and THart (2001), the different *degree of institutionalisation of this policy sector* may imply different alternatives in the face of a crisis in the field of asylum: whereas some countries face a choice between reformist and conservative responses, for other countries the main challenge seems to be rapidly building institutions where nothing much existed before. In other words, the response to the crisis for these countries will consist in catching up, rather than in revising deep-rooted policy solutions.

Similarly, whether EU policies demand major changes depends on the “*goodness of fit*” between the EU and national policies and on the member states’ policy legacy (Börzel and Risse 2003; Cowles, Caporaso and Risse 2001; Héritier 2001). For instance, policies of traditional countries of asylum such as Germany and the United Kingdom (UK) constituted the blueprint for EU legislation in this field (Boswell and Geddes 2011; Post and Niemann 2007) so that the fit is generally rather high. In contrast, as noted by Lavenex (2001, 863), “the impact of Europeanisation is most salient in the traditional transit countries for asylum seekers and refugees in the south such as Italy, Greece or Spain, where asylum regulations are not particularly well developed.”

Nonetheless, several authors, including Lavenex herself, highlight how fits and misfits are politically constructed and much depends on EU and national political actors (Lavenex 2001; Mastenbroek and Kaeding 2006; Radaelli 2003). In other words, misfits do not automatically produce changes in national policies. For instance, at the beginning of the 1990s, Germany, despite its good fit with the EU legislation, instrumentally used EU harmonisation to circumvent domestic institutions that protected migrant rights and to tighten domestic asylum regulations (Givens and Luedtke 2005; Guiraudon and Lahav 2000; Joppke 1999). On the other hand, for a long time frontline member states did not seem concerned with the CEAS requirements: they largely ignored Dublin’s first-country-of-entry regulation refraining from systematically fingerprinting newly arrived asylum seekers and allowing their secondary movements to other member states (Trauner 2016).

This brings to the fore another factor that is expected to impact policy change, namely the *preferences of actors involved in national policy-making*. Actually, the impact of politics on migration and asylum policies is a matter of dispute. Whereas some authors maintain that party politics is key in driving policy change (Akkerman 2012; Bale 2008; Boswell and Hough 2008; Triadafilopoulos and Zaslove 2006), others argue that political orientation of governments plays a relatively marginal role in determining

migration and asylum policies, and left-right-wing gradient in government coalitions is not a central factor in fostering more progressive or restrictive policy changes (Natter, Czaika and De Haas 2020; Schuster 2000; Sciortino 2000). A greater consensus—and a larger literature—exist on the impact of far right parties (Bale 2008; Mudde 2019; Triadafilopoulos and Zaslove 2006). In this regard, Schuster (2000) noted that as early as the 1990s, while right- and left-oriented majorities did not differ significantly in terms of asylum policies, far right parties, even when not in government, had a significant impact on this policy field so that in some European countries the main political parties ended up adopting the frame and the agenda of the far right in presenting asylum seekers as a problem and a burden, stressing the need to close the border and bemoaning the financial costs, and insisting on temporary protection and repatriation. Those findings have been confirmed by subsequent works that show the radical right's impact, both indirect by influencing mainstream parties' agenda and direct when participating in policy-making (Bale et al. 2009; Demker and Odmalm 2021; Schain 2006; Twist 2019; Williams 2006)—even though some scholars cast doubt on their actual influence on policies when they participate in the government (Akkerman 2012; Heinisch 2003). Taking into account those insights from the literature, in this chapter I will focus on the role of populist right parties which, during the European refugee crisis, entered the parliament in Germany and the national governments in Italy and Finland.

Finally, policy change is expected to be affected by the countries' *political-institutional capacity* to respond to the problems through new policy initiatives even if these reverse policy legacies (Schmidt and Radaelli 2004).

In sum, the various approaches in the literature to explain policy change under conditions of Europeanisation can be summarised in terms of four main mediating factors: the policy problems arising from increasing flows of migrants or EU attempts to developed common policies that establish the pressure for change; the policy legacies that may or may not “fit” proposed policy solutions; the policy preferences; the political-institutional capacity (Schmidt and Radaelli 2004, 186)<sup>4</sup>. These factors will be the ones analysed in this chapter for making sense of processes of policy reform with regard to asylum seekers' reception.

The following sections illustrate policy changes around reception that occurred in unitary states (Finland and Greece) and in federalist and regionalist states (Italy, Germany and Spain) from 2008 to the end of 2018.

## **Unitary countries**

### ***Finland: the European refugee crisis as an accelerator of policy reforms***

In 1968, Finland signed the Refugee Convention. Since then, refugees have arrived in Finland both as asylum seekers and as resettled refugees under the programmes managed by the UNHCR (UN Refugee Agency). In 1986,

the Finnish Parliament set an annual quota for the latter and since then Finland has been one of about twenty-five resettlement countries admitting quota refugees each year (Ministry of the Interior of Finland 2015). As for asylum seekers, they were few until the 1990s, when the numbers started to grow, only to drop again in the mid-1990s when Finland defined Russia and Estonia as safe countries of transit so that people coming from there became ineligible for asylum. Thus, until 2015 the number of asylum seekers had been relatively low in comparison to the larger numbers arriving in neighbouring Scandinavian countries. Overall, the number of resettled refugees, asylum seekers who received international protection, and family reunification cases was between 1,000 and 3,000 in most years in the 2000s and accounted for a small part of all immigrants (Wahlbeck 2019a). Still, despite limited size and the rather controlled nature of those inflows, refugees were the subject of heated debates in the country (Pyrhönen and Wahlbeck 2018).

Here, a reform of the asylum system began in 2008, far before the European refugee crisis, and was driven by the central government's will to increase efficiency and reduce the costs of the asylum system. It followed the suggestions provided by civil servants at the Ministry of the Interior in the early 2000s, and the policy recommendations contained in a specific report on asylum commissioned by the Ministry itself whereas local authorities and non-governmental organisations (NGOs) did not play a significant role. The 2008 reform shifted the authority over migration and asylum, including the overall coordination of reception facilities, from the Ministry of Labour to the Ministry of the Interior and changed the name of the Directorate of Immigration into the Finnish Immigration Service (Migri), a specialised entity placed within the Ministry of the Interior and tasked with an increasing number of responsibilities. Since then Migri has been in charge of setting up new reception facilities, although only after the Ministry of the Interior's formal permission, and of signing agreements with the organisations running the facilities through state funding, among which the Finnish Red Cross has always had a primary role (Wahlbeck 2019a).

At the same time, the government clearly separated integration and reception by reforming the Act on the Integration of Immigrants and Reception of Asylum Seekers (493/1999) and adopting two separate acts, i.e., the Integration Act and the Reception Act, which came into force in September 2011. This separation became even more clear-cut when the broad coalition of the Katainen Government transferred tasks and staff related to immigrant integration from the Ministry of the Interior to the Ministry of Employment and Economy at the beginning of 2012 with the aim of improving the inclusion of migrants in the labour market. In this process, provisions concerning reception did not change significantly. The main modifications concerned the codification of the already-existing division between transit centres for the application process and initial short-term stay, and reception centres, including apartments, for the provision of long-stay reception. Moreover, economic support for asylum seekers

became smaller and clearly separated from the general social assistance. Apart from that, no major policy changes took place before 2015: in the following years the government mainly adopted cost-saving administrative measures concerning the execution of the return and acceleration of asylum application procedures through a further centralisation of responsibilities into the hands of the Migri and a reorganisation of the stages of the asylum process (Wahlbeck 2019a).

Against this backdrop, the recast Reception Directive triggered amendments in the acts concerning asylum including the Reception Act. Yet, this did not bring about any relevant changes since the Finnish reception system was already in line with the requirements (EMN 2015; EMN 2016). On the contrary, the sharp growth in the arrivals in 2015 produced changes on the ground by pressuring the government to expand the reception system: in that year Finland underwent the highest percentage increase of asylum claims in the EU with adults and families hosted in reception facilities increasing from 3,300 to 27,300 and unaccompanied minors from 150 to 2,500. Yet, the peak was short: the inflows abruptly decreased when Sweden introduced controls at the border with Denmark in November 2015, producing, as a side-effect, a decline in arrivals in Finland and a consequent reduction of the country's reception system in 2017.

The increase in the number of asylum claims led to the adoption of an emergency plan in 2015. Preparation of the plan started in 2011 and was based on a hypothetical inflow of 10,000 asylum seekers. Although that scenario was initially regarded as highly unlikely, it turned out that it had under-evaluated the coming developments. Nevertheless, the plan mainly impacted reception management without producing relevant policy changes (for further details see the chapter on Finland).

Regarding decision-making, an expert group with representatives of the key Ministries and state authorities was set up to manage the situation. At the same time, Migri, which was in charge of coordinating the accommodation operations and the distribution of asylum seekers throughout the available facilities, was given the mandate to establish the necessary registration and reception centres without requiring the authorisation of the Ministry of the Interior (EMN 2016). While becoming more independent of the Ministry, Migri also decided to cease consulting the lower levels of government, namely local authorities, concerning the establishment of reception facilities in their territory, given that this was not a mandatory practice and might take substantial time, while reception centres had to be set up in few days (Wahlbeck 2019a).

Finally, in 2017 Migri assumed responsibility for all matters regarding resident permits and asylum investigation (verifying identity, travel routes and entry into the country), including those that had until then been under the jurisdiction of the police, and in the following year it took over the detention units. All of those changes were justified with the goal of reducing overlap in administrative procedures and achieving financial savings. As a

result, the position of Migri as the authority responsible for asylum issues has strengthened. We can then affirm that the refugee crisis sped up a policy change which was already ongoing by further increasing the amount of responsibilities in the hands of Migri (Wahlbeck 2019a).

Against the background of this incremental reform, politics acted as a factor for rapid change in the midst of the refugee crisis, leading to restrictions of asylum seekers' rights. In May 2015, a brand-new coalition government made up of the agrarian Centre Party (which the Prime Minister Juha Sipilä came from), the Euro-sceptic and populist party The (True) Finns and the conservative National Coalition Party was formed and remained in power until June 2019. The new government published a "Government Action Plan on Asylum Policy" on December 8, 2015 and then followed up with amendments to the Aliens Act, mostly of restrictive nature. Among other things, the reform shortened the time within which an appeal has to be made on negative asylum decisions and restricted the family reunification criteria (Wahlbeck 2019b). In terms of protection, the government removed the possibility of granting a residence permit based on humanitarian grounds and reviewed the criteria for international protection. Although those measures do not directly concern reception measures, they limited the pool of people entitled to it. Moreover, according to changes in the Aliens Act introduced in February 2017, asylum applicants can be subjected to residential requirements while waiting for an asylum decision and even more so if the decision is negative, while since 2018 reception services have no longer been provided to rejected applicants whose removal cannot be enforced (Wahlbeck 2019a).

It is worth underscoring that "The Government Action Plan on Asylum" explicitly emphasised the need to harmonise asylum policies among the Nordic countries (EMN 2016; Government of Finland 2015) in order to avoid a supposed magnet effect as a result of better services and less restrictive policies that asylum seekers enjoyed in Finland. Adherence to international conventions and EU legislation was a key argument, too. For instance, the suppression of humanitarian protection was justified by the fact that it was based on Finland's national laws and not on the United Nations (UN) Geneva Convention or EU legislation; meanwhile the review of family reunification criteria was supposedly oriented "to comply with the EU Family Reunification Directive" (EMN 2016; Wahlbeck 2019b). This strategy appeared to be aimed at preventing criticism by Finnish human rights activists and the left-wing and Green opposition parties, and can thus be regarded as a case of venue shopping where, despite the "good fit" with the EU legislation, harmonisation was instrumentally used to circumvent domestic obstacles.

### ***Greece: a brand-new governance of reception system***

The Greek asylum system started to develop mainly in the context of Europeanisation of migration and asylum. The Alien Law no. 1975, adopted

in 1991 right before acceding to the Dublin Convention, was the first aliens legislation amendment since 1929 and included several articles dealing with refugee recognition and protection. Yet, a decade later refugee protection infrastructure was still underdeveloped and reception of asylum seekers remained untackled. Although in the 1980s and 1990s all Greek governments put the integration of the country into the European community high on their agenda and openly supported the communitarisation of asylum, at the beginning of the 2000s the refugee protection regime was still in its infancy. NGOs such as Médecins du Monde and the Hellenic Red Cross were the main actors providing social welfare assistance to asylum seekers, and no political parties or government had presented a coherent plan of action for the creation of an integrated and efficient asylum regime (Sitaropoulos 2000). Prior to 2010, there was almost no reception capacity in Greece, aside from the few places allocated by the National Centre for Social Solidarity (NCSS), financed through the state budget with the support of the European Refugee Fund, and whose numbers were already insufficient before the European refugee crisis (UNHCR 2009). The deficiencies of the Greek authority, namely, the Ministry of Public Order, have been regarded as one of the main causes of the rudimentary nature of the asylum system and of the consequent abundant criticism coming from international organisations (Sitaropoulos 2000).

In this context, EU decisions played a role in promoting the policy change that occurred in the 2010s. The 2003 Reception Directive contributed to the revision of distribution of responsibilities: the Presidential Decree 220/2007 that transported the 2003 Reception Conditions Directive transferred reception and accommodation of asylum seekers from the Ministry of Public Order to the Ministry of Health and Social Solidarity recognising that the Hellenic police did not have the competences to properly provide reception services.

Yet, Greece continued to be criticised and condemned by international organisations and the European Court of Human Rights (ECtHR) for its poor reception conditions and its inability to match the demand<sup>5</sup>. In particular, the 2011 judgement of the ECtHR in *M.S.S. v. Belgium and Greece* can be regarded as a key turning point. It stated that “an adult male asylum seeker had virtually no chance at all of being offered a place in a reception centre” and resulted in the suspension of all Dublin transfers to Greece, as the country’s reception conditions were found to be in violation of article 3 of the European Convention on Human Rights, which refers to the prohibition of torture or inhuman or degrading treatment or punishment.

Largely as a result of the *M.S.S v. Belgium and Greece* case, the Greek government presented the European Commission a national Action Plan on Asylum Reform and Migration Management<sup>6</sup> which led to the adoption of Law 3907/2011. The law established specific offices devoted to asylum under the Minister of Citizen Protection, including the First Reception Service which entered into force in 2013 and became responsible for first reception, while open accommodation facilities for medium-term stay remained

under the coordination of the National Centre for Social Solidarity (NCSS-E.K.K.A.) which was under the Ministry of Labour, Social Security and Social Solidarity (Dimitriadi and Sarantaki 2019).

That said, the most relevant policy change was triggered by the increase in the number of people claiming asylum, further boosted by EU decisions in this field. In Greece, 847,084 maritime arrivals were recorded in 2015, more than 20-fold that of the 34,442 arrivals of the previous year (IOM 2016). Yet, the turning point was a shift from being a transit country to becoming a country of prolonged stay. This was fostered not only by the closure of the Balkan route as a chain effect of national decisions, but also by two-key EU decisions, namely the implementation of the EU hotspot approach introduced by the 2015 European Agenda on Migration and the adoption of the EU-Turkey Statement signed in March 2016. The latter foresaw that all migrants who arrived in the Greek islands via Turkey or who were intercepted in the Aegean Sea after March 20, 2016 would be returned to Turkey, as Turkey had been declared a safe third country (in contrast, the land border in Evros was exempted from the agreement). A month later, in April 2016, Law 4375/2016 was passed to implement the hotspot approach and the EU-Turkey Statement introducing fast-track border procedures. The establishment of the hotspots stopped the secondary movements and led to a rapid increase in the number of people hosted in the Greek reception system while the EU-Turkey Statement turned those hotspots into closed detention centres where newcomers had to stay in order to be returned to Turkey (Dimitriadi and Sarantaki 2019).

This pressure led to an expansion of the reception system. In 2015, the Greek government pledged to create 50,000 reception places. Because of the urgency, the option of collective facilities, such as refugee camps, prevailed so that forty camp-like facilities were set up, almost all outside the existing legal framework and the coordination of First Reception Service. It is worth noting that 20,000 places out of 50,000 were created and managed by UNHCR within the Emergency Support to Integration and Accommodation (ESTIA) programme, funded by the Directorate-General Humanitarian Aid and Civil Protection (DG ECHO) whose regulative framework was developed by the UNHCR and its partners (i.e. municipalities and local NGOs) without the Greek state's involvement. Specifically, ESTIA was born to provide accommodation and cash assistance to beneficiaries of the EU relocation programme and, since 2016, expanded to Dublin family reunification candidates and vulnerable applicants. The International Organisation for Migration (IOM) can also be regarded as a key player. Until August 2017, it supported the Greek state with the setting up of accommodation facilities, camp coordination and service management. Formally, organisations like UNHCR and IOM have signed memoranda of cooperation with the central government to provide reception services. In practice they ran a parallel system. Overall the Greek state was unable to provide accommodation for all asylum seekers as requested by the 2013 EU Reception Directive and urged by the ECtHR's judgement, thus opening the way for the involvement

of international organisations to make up for this lack, adding further complexity to the MLG of reception (Dimitriadi and Sarantaki 2019).

Concerning MLG, the rationalisation of responsibilities which started in 2011 made a step forward. In November 2016, the Ministry of Migration Policy was established (P.D. 123/2016) in order to bring all migration issues, including reception, under a single ministry which coordinated the camps through two regional representatives. At the same time, Law 4375/2016<sup>7</sup> transferred the First Reception Service to the newly established Reception and Identification Service (RIS), dependent on the General Secretariat for Reception which was under the Ministry of the Interior and solely responsible for initial screening and temporary accommodation in the Reception and Identification Centres of arrival, including the hotspots on the islands<sup>8</sup>. Moreover, to increase coordination over asylum, in 2016 an inter-ministerial Coordinating Body for the Management of the Refugee Crisis was established (Dimitriadi and Sarantaki 2019). However, organisation deficits and lack of coordination have remained critical issues so that the country has not been able to make use of all the available EU funds<sup>9</sup> (Greek Ombudsman 2017).

Meanwhile, pressure from the EU did not stop. The European Commission adopted an infringement decision against Greece in December 2015 for failing to fully transpose and implement the recast Directive 2013/33/EU<sup>10</sup>. And the Commission, in its 2016 Recommendation, while acknowledging that improvements had been made concerning the increase of available places, stated that reception capacity was still insufficient and urged Greece to improve reception conditions meeting the standards laid down by the Directive (Papademetriou 2016). In October 2016, the Ministry of the Interior submitted a draft law transposing the Directive for public consultation with NGOs and all interested parties including regular citizens, who could post online comments about the proposed bill with the exception of articles directly transposing the Directive (Papageorgiou 2017). The proposal was criticised by the Greek Council for Refugees and other NGOs for the introduction of restrictions on asylum seekers' movement within specific geographical areas, arguing that the law did not fully incorporate the provisions of the recast Reception Directive as far as detention and guarantees on the rights and welfare of detainees were concerned. Yet, the most criticised aspect concerned the reduction or withdrawal of material reception conditions when submitting an asylum application with unjustifiable delays or leaving the accommodation facility or area the applicant was allocated to without authorisation (AIRE and ECRE 2016).

However, those criticisms were not incorporated into Law 4540/2018<sup>11</sup> which transposed the recast Reception Directive—almost three years after the deadline. The transposition of the Directive seems to be mainly a “window of opportunity” through which the above-mentioned restrictions were introduced, the types of accommodation facilities were rationalised and those already established by NGOs and international organisations were effectively incorporated into the national reception system (see the chapter

on Greece for details). On the other hand, Law 4540 facilitated asylum seekers' access to health care, education, vocational training and the labour market and introduced the term "applicant with special reception needs" to define the vulnerable person entitled to special guarantees.

Concerning the governance of reception, according to Law 4540/2018, the RIS and the Directorate for the Protection of Asylum-seekers (which was under the Ministry of Migration Policy) were appointed as the responsible authorities for reception while the National Centre for Social Solidarity (NCSS-E.K.K.A.), under the Ministry of Labour, Social Security and Social Solidarity, was appointed as the responsible authority for protection, including the provision of reception to unaccompanied and separated minors<sup>12</sup>. Furthermore, the Law acknowledged the crucial role of international organisations: it provides that the responsible Reception Authority, in cooperation with the responsible public bodies, international organisations or accredited NGOs, as deemed appropriate, shall ensure that material reception conditions are available to applicants through the use of national, EU or other resources (ECRE 2018; Leivaditi et al. 2020).

Overall, decision-making, although scattered among different ministries and state authorities, has remained concentrated within the central government which has no formal obligation to consult other national and local stakeholders that have in fact been rarely heard regarding political decisions over reception. As highlighted by interviews conducted by the Greek team, whereas before 2015 ministries did not care about reception, after the start of the refugee crisis decision-making became extremely centralised with most decisions taken at a political level by ministers without even the involvement of senior public officials. Actually, consultations were mainly with the supra-national level, namely the EU and the international organisations: semi-formal consultations (monthly meetings) were started in 2016 between the Minister of Migration Policy, the European Commission representation and the main international organisations (Dimitriadi and Sarantaki 2019).

To conclude, we can affirm that, despite the centralisation of decision-making in the hands of the central government, the double pressure from the EU and from the increasing arrivals led the international organisations to step in and play a central role with the aim of compensating for the weaknesses of the Greek reception system and its poor political-institutional capacity, thus becoming key actors in decision-making processes about reception by both initiating their own programmes and participating in the informal consultations with the government.

## **Federalist and regionalist states**

### ***Italy: the swinging role of MLG in reception reforms***

Although formally provided for by article 10 of the Italian Constitution, asylum in Italy has long been more of a theoretical than a real right. With

the elimination in 1990 of the so-called “geographical limitation” to the Geneva Convention—which allowed Italy to accept as refugees only citizens from Europe—the country became one of the European destinations of asylum seekers without, however, providing for their reception in any way. The only measure introduced by Law 39/1990 was a daily allowance of 17 euros circa (34,000 old liras) covering a period of a maximum forty-five days for those in need.

The following humanitarian crises triggered by arrivals from Albania and ex-Yugoslavia, and managed through the setting up of emergency shelters, together with pressure from other EU countries to improve the asylum system, led to the establishment of an ordinary reception system at the beginning of the new millennium (Bona and Marchetti 2017; Ponzio 2022; Vincenzi 2000): in 2000, the National Asylum Programme (PNA) was set up on the basis of a memorandum of understanding signed by the Ministry of the Interior, the UNHCR and the National Association of Italian Municipalities, thus appearing as a clear stance of MLG. The PNA was institutionalised by Law 189/2002 and renamed SPRAR (Protection System for Asylum Seekers and Refugees) whose facilities, mostly funded by the central government and set up by municipalities on a voluntary basis, generally follow rather high standards, although the number of available places has always been far below the demand.

In this context, Legislative Decree 140/2005 which transposed the 2003 EU Reception Directive specified that asylum seekers had to be hosted in the SPRAR facilities and, if no places were available, accommodation should be provided in the centres directly managed by the Ministry of the Interior for the time necessary in order to find a suitable accommodation in a SPRAR centre<sup>13</sup>. Clearly, the national law transposing the EU Reception Directive has allowed for important exceptions to the SPRAR system, establishing a *de facto* two-pronged approach to reception.

In fact, the governmental reception centres multiplied in response to the increase in arrivals triggered by the Arab Spring, to compensate for the lack of available places in the SPRAR ordinary system. Specifically, to manage the growth of arrivals that followed the fall of the Tunisian and Libyan regimes, in February 2011, the Minister of the Interior declared a “state of emergency”—the so-called “North Africa Emergency” (ENA)—which lasted until March 2013. This gave considerable powers initially to the prefectures, *i.e.*, the local branches of the Ministry of the Interior, and then to the Civil Protection Service, which had coordinating tasks to set up emergency reception centres outside the ordinary system, with a consequent temporary centralisation of the decisions over reception (Giannetto, Ponzio and Roman 2019).

When ENA ended in March 2013 the government worked towards two goals: to increase the involvement of local authorities who were excluded during the emergency from decisions about reception; and to reshape the phases of reception to channel asylum seekers arriving at Italian borders in an orderly way in order to prevent the need for further emergency plans.

Regarding the first goal, the agreement signed by the Unified Conference State-Regions-Local Authorities on July 10, 2014 and formulated through the participation of all the levels of government, institutionalised the consultative working groups that started on an informal basis during the North Africa Emergency, namely the National and the Regional Coordinating Groups on Asylum. These were conceived to provide venues for discussion and exchange on the main issues concerning reception among key stakeholders, both public and non-public and belonging to the different levels of government (for more details see the chapter on Italy). As for the second goal, the agreement identified three levels of reception: first aid and identification centres at disembarkation points; governmental first-reception facilities; and second-level reception at SPRAR facilities.

This articulation was ratified in Legislative Decree 142/2015 transposing the 2013 recast EU Reception Directive. Thus, the Directive, rather than being a trigger of reform, represented a “window of opportunity” for institutionalising changes that had already been introduced through inter-institutional agreements and legislative and administrative acts.

Actually, in the 2010s, the main changes resulting from EU policies were related to the European Agenda on Migration and the ensuing Italian Roadmap which led to the introduction of hotspots as key components of the Italian reception system, and to the implementation of the so-called hot-spot approach based on a tight collaboration between Italian police forces, EU agencies (FRONTEX, EASO, EUROPOL) and UN agencies (IOM and UNHCR). Like in Greece, the consequent fingerprinting of all newcomers led to a clampdown on secondary movements and a consequent sharp increase in the number of people accommodated in the country’s reception system (Giannetto, Ponzo and Roman 2019).

To cope with the growing demand for reception, in 2016, all of the key actors (the Ministry of the Interior, the Italian National Association of Municipalities, the Conference of Regions, UNHCR and the largest national NGOs engaged in reception) agreed to introduce specific incentives to promote the participation of municipalities in the SPRAR system: the procedure to start new SPRAR projects, extend the duration of the existing ones, or expand their size was simplified and the co-funding from the Ministry of the Interior was raised from 80% to 95%. Nevertheless, the SPRAR system, although increasing (the number of places rose from approx. 40,000 in 2011 to approx. 129,000 in 2017), remained undersized, thus leading to a proliferation of emergency governmental facilities (CAS) which should have been an alternative exceptional measure but at the peak of arrivals ended up providing more than 80% of the available places. In contrast to the reception system’s design decided in 2014 and ratified by Legislative Decree 142/2015, this dynamic reinforced its two-pronged articulation where the ordinary facilities and the emergency governmental structures (CAS) coexisted (Giannetto, Ponzo and Roman 2019).

On one hand, the *de facto* marginalisation of SPRAR, which is based on a strong collaboration between the Ministry of the Interior and municipalities, reduced the room for MLG arrangements. On the other hand, the problem pressure fostered the involvement of all levels of government (local, regional and national) in the processes of policy change, as proved by the 2014 inter-institutional agreement and the above-mentioned joint effort made to promote SPRAR. Therefore, MLG can be regarded as a key mechanism through which reforms were carried out in 2014–2016.

Yet, when the Five Star Movement populist party and the League populist radical right party<sup>14</sup> formed a new-branded government in May 2018 and Matteo Salvini, leader of the League, was appointed Minister of the Interior, the room for consultation over reception with local authorities, NGOs and international organisations closed down (for further details see the chapter on Italy).

In this absence of MLG, the newly elected government deeply reformed the reception system in a more restrictive direction. The so-called Decree on Security and Migration (Legislative Decree 113/2018 adopted on October 5, 2018 and converted into Law 132/2018) narrowed the conditions for obtaining a residence permit based on humanitarian grounds (so-called “humanitarian protection”<sup>15</sup>), excluded its holders from reception services and established that asylum seekers had to stay in governmental facilities (instead of in SPRAR which was renamed SIPROIMI) while waiting for decisions on their claims. In addition, the public bid scheme for governmental centres was revised in December 2018: it suppressed integration measures, and drastically reduced the per capita daily expenditure limit from 35 euros to 19–26 euros (for further details see the chapter on Italy). Those changes were criticised by the main stakeholders since they would increase the number of rejected asylum claims, hamper the integration of asylum seekers and downsize the SPRAR system by limiting its pool of beneficiaries. Still, the voices of local authorities and NGOs remained unheard. Therefore, we can affirm that the entry of a populist right party such as the League into the government coalition impacted both the governance and the content of reception policies.

In sum, after a first stage of centralisation of decision-making over reception during the North Africa Emergency, MLG arrangements underpinned expansive reception reforms in 2014–2016. Yet, those arrangements, based on soft laws and non-binding consultations, were easily put aside when the right-wing populist coalition came into power, thus paving the way for restrictive reforms.

Against this backdrop, it is worth emphasising the relevance of UNHCR in the governance of reception and asylum in the 2010s. Its role in Italy has been rather multisided, since it combines operational cooperation with the government together with advocacy for a shift from an emergency to a structural approach towards reception, for enhancing planning and evaluating activities and for improving integration measures: UNHCR defines this combination as “operational advocacy” aimed at government’s capacity-building. It provided a crucial contribution in drafting the laws transposing the EU Directives, and

was the main promoter of the National Integration Plan for beneficiaries of international protection issued by the Ministry of the Interior in September 2017, besides being the key implementation actor by establishing its own regional point people. Moreover, with the start of the European refugee crisis, UNHCR and other international organisations have played a major role in the monitoring of governmental facilities through projects co-funded by the Italian government and the EU. Thus, international organisations have been crucial in coping with the double pressure related to the increasing inflows and EU requests, and appear to be significant actors in the establishment of reception and integration measures for refugees, although to a lesser extent than in Greece (Ponzo 2022).

***Germany: a new wave of reforms and a strengthened role of the federal government***

Among the countries analysed in this chapter, Germany's reception system is by far the oldest one. Following the outcome of the Second World War, the first asylum law regulating asylum procedures and reception conditions in Germany was passed as early as 1953. The German asylum system then underwent several restrictive reforms under the pressure of increasing inflows of asylum seekers. By the 1980s and especially in the 1990s both the SPD (*Sozialdemokratische Partei Deutschlands*) and CDU-led (*Christlich Demokratische Union Deutschlands*) coalitions introduced legislation aimed at reducing the number of asylum seekers (Bosswick 2000; Schuster 2000). Moreover, following the German reunification, in 1992 the asylum legislation was revised to include a key for the distribution of asylum seekers among the sixteen *Länder* (i.e. the federal states), and to clarify states' obligations in providing and maintaining reception facilities for asylum seekers (Beinhorn et al. 2019). Yet, the most prominent policy change was the result of the so called "asylum compromise" which led to the emendation of article 16 of the German Basic Law where the right to political asylum is enshrined by excluding applicants from safe countries and requesting proof of persecution for applicants from the other countries (Ayoub 2019; Hänsel, Hess and Schurade 2019). Furthermore, the reform accelerated asylum procedures and induced a separate and reduced social welfare regime for asylum seekers (Hänsel, Hess and Schurade 2019).

After the number of asylum seekers drastically dropped, the early years of the 2010s were marked by some improvements in asylum seekers' rights, including easier access to the labour market and lifting of the residence obligation in 2013. Moreover, the transposition of the 2011–2013 EU Directives led to some relevant changes such as the implementation of subsidiary protection. However, reception conditions which are the core of our analysis, remained more or less the same, particularly because of the high "goodness of fit" between the EU and German legislation.

Yet, in 2014, when the number of asylum seekers rose again, new restrictions were introduced adding Serbia, Macedonia and Bosnia to the list of

safe countries. Then, since 2015, when arrivals reached their peak with around 890,000 registered entries and 441,899 applications for asylum<sup>16</sup> producing a near collapse of the reception and procedure system, emergency plans were adopted, as in Finland, and a series of amendments were introduced in a very short period of time (Beinhorn et al. 2019; Caponio, Ponzo and Giannetto 2019; Hänsel, Hess and Schurade 2019). However, the main factor of reduction in the number of asylum seekers entering the country seems to be, rather than reforms, the closure of the Balkan route in March 2016 and the deal between the EU and Turkey: arrivals in Germany fell from over 100,000 in January 2016 to around 16,000 in April 2016<sup>17</sup>.

Actually, the policy reforms following the sharp increase in arrivals seemed to pursue two different goals (Brücker, Jaschke and Kosyakova 2019): on one hand, to curb the number of asylum seekers by restricting access to protection and increasing pressure on them (including the substitution of cash benefits with in-kind benefits for residents in the reception facilities and their reduction for people obliged to leave the country); on the other hand, to facilitate integration for those with better prospects of staying. A basic tool to distinguish the targets of those two different types of measures has been the introduction of a categorisation and clustering of asylum seekers at an early stage in the procedure based on their likelihood of receiving protection and the potential complexity of their cases<sup>18</sup> (Brücker, Jaschke and Kosyakova 2019).

The first bulk of policy reforms, aimed at restricting access to the protection system, accelerating asylum procedures and enhancing deportation, was brought about by “Asylum Package I” (October 2015) and “Asylum Package II” (February 2016) which produced changes in various Acts such as the Residence Act, the Asylum Seekers Benefits Act and the Asylum Procedure Law. Even though the focus of those reforms was generally on asylum procedures, they affected reception as well. For instance, after the Law on return (18/11546) those who had to leave the country could be forced to stay in initial reception centres until their return which could take a long time (and proved impossible in some cases) thus affecting the capacity of those reception facilities and putting further pressure on the *Länder* to provide more places (Beinhorn et al. 2019).

The other bulk of reforms was aimed at supporting integration of those asylum seekers who were likely to stay in Germany by acting through a mix of incentives, restrictions and sanctions. The Integration Law of July 31, 2016 granted access to integration measures (language training and instruction on the German legal system, culture and values) and job-related support, since then limited to beneficiaries of protection, to asylum seekers with high prospects of being granted a right to stay, namely the asylum seekers from countries with high protection rates (Beinhorn et al. 2019; Brücker, Jaschke and Kosyakova 2019). At the same time, the Law called for the cooperation of asylum seekers and introduced sanctions (mainly in the form of benefit cuts) in case of non-participation in integration courses (Beinhorn et al. 2019).

In the field of employment, while in 2014 the period of time before being able to work was reduced from twelve to three months for asylum seekers and tolerated individuals (i.e. those whose application was rejected but who cannot be expelled), in 2016 the Integration Act prohibited labour-market access for asylum seekers from safe countries of origin who are required to stay in reception centres while their applications are processed (Brücker, Jaschke and Kosyakova 2019). On the other hand, under the pressure from business associations, the Integration Act incorporated the 3+2 rule: the asylum seeker or tolerated person who is granted an apprenticeship cannot be deported for the three years of the apprenticeship (i.e. the usual length of a training period) plus another two years if he/she receives an employment contract (Ayoub 2019; Brücker, Jaschke and Kosyakova 2019). However, further restrictions on free movement introduced by the Integration Act might impair job search: beyond the restrictions for asylum seekers and tolerated persons, the government implemented a residency obligation that compels recognised refugees to reside in the state in which they claimed asylum for three years, and several federal states even determine the place of residence at the district or municipality level, with the goal of limiting segregation in particular areas (Brücker, Jaschke and Kosyakova 2019).

Shifting to the MLG of reception, the main change was the reinforcement of the role of the federal government. First, jurisdiction in terms of distribution quotas of asylum seekers shifted from the *Bundesrat*, made up of representatives of the federal states, to the federal government. Second, because of the increasing number of asylum seekers, in September 2015 the states and the federal government agreed upon a stronger contribution of the latter in funding reception: the costs for the initial reception facilities (i.e. the accommodation of asylum seekers until the decisions on their claims are made) passed from the states to the federal government. Furthermore, since then several federal states have significantly increased their lump sums for the municipalities to pay for the benefits granted to asylum seekers, and since 2016 the federal government has participated substantially in financing those benefits as well (Beinhorn et al. 2019).

While most legislative proposals were introduced by the federal government, the states and local communities had a key role in inspiring them and pressing the government. Their input was gathered not only through the legislative process that, in a federal country like Germany, gives a substantial say to federal states, but also through informal consultations and roundtables (Beinhorn et al. 2019). Therefore, MLG arrangements underpinned the reform process that resulted in an increase of federal government's responsibilities in funding reception and redistributing asylum seekers.

As in Finland and Italy, in Germany far right also mattered in shaping policy change, although it manifested in a different way since here radical right parties entered the parliament but remained excluded from the government. In 2018, the composition of the *Bundestag* changed: while in 2013–2017 the Grand Coalition (formed by the sister parties

CDU/CSU—*Christlich-soziale Union*—and the SPD) enjoyed a large majority (79.8%), in 2018, the share of its seats drastically decreased (56.3%) and the opposition parties passed from two, namely the Greens and the Left Party, to four including the liberal FDP (*Freie Demokratische Partei*) and the right-wing populist AfD (*Alternative für Deutschland*) which became the largest opposition party. The Grand Coalition became even weaker in the *Bundesrat*, even though its composition changed over time being related to the results of states' elections. Although the radical right did not get the majority, it was able to affect asylum and reception policies not only through the legislative process but also and especially by raising concerns among the Grand Coalition's parties that they would lose their consensus. As declared by high officials interviewed in the Ministry for Migration, Integration and Refugees, the expansion of the federal government's role in funding reception, as well as some of the restrictive measures illustrated above, were driven by the political majority's concerns about perceived competition between natives and refugees and the fears that this dynamic might further strengthen AfD (Beinhorn et al. 2019). As noted by Bosswick (2000), the far right parties already set the German agenda on asylum in the 1990s, although they were not part of the government. Therefore, the weight of the far right in asylum reforms observed during the European refugee crisis was far from new.

### ***Spain: the European refugee crisis as a battlefield to reform MLG***

During the dictatorship there were no legislative standards applicable to immigration. This began to change in the late 1970s with the end of Franco's regime: Spain acceded to the 1951 Geneva Convention and recognised the right of asylum in Title I of its 1978 Constitution. However, prior to the 1980s, Spain had neither an immigration nor an asylum law. In fact, the need to regulate such issues arose only when Spain was entering the European Economic Community (EEC) in the mid-1980s. The first Asylum and Refugee Law, enacted in 1984, was rather generous given that the recent dictatorship had left as its heritage a high concern for the respect of human rights and the memory of over three million Spanish refugees hosted in other countries during the forty years of the Franco regime: in a moment when other European countries were adopting more restrictive policies, this law introduced, alongside the traditional refugee status, a rather accessible asylum status for persons in need of protection who did not fit the Geneva Convention's definition.

In the early 1990s, when Spain joined the Schengen Convention, this generous system was reformed in order to discourage abuse of the asylum system, consistent with the commitment to reinforce external border controls while internal checks were suppressed. Specifically, the 1994 Refugee and Asylum Act deleted the distinction between refugee and asylum status so that protection could only be granted under the conditions set by the

Geneva Convention, and added a preliminary phase, i.e., the inadmissibility procedure, to the refugee status determination which led to the rejection of the large majority of asylum claims (Fuellerton 2005; Garcés-Mascareñas and Moreno-Amador 2019; Gil-Bazo 1998). Thus, the Spanish asylum system has developed quite recently and mainly under the pressure from the EU, as in the other Southern European countries.

Coming to the last decade, the need to transpose the 2003 European Directives regarding asylum led to a further round of reforms in 2009. In the field of reception, the new Asylum and Subsidiary Protection Law (Law 12/2009), which still regulates asylum, states that asylum seekers without their own financial resources shall be provided with the services necessary not only to guarantee their basic needs but also to facilitate their progressive autonomy so that integration is one of the reception programme's central goals. In terms of governance, reception has remained a highly centralised system, without the participation of regional and local administrations: according to Asylum Law 12/2009, reception is mainly carried out through the facilities run by the ministry in charge, or by NGOs granted with state funds (Garcés-Mascareñas and Moreno-Amador 2019) (for further details see the chapter on Spain).

However, the 2009 Spanish asylum law was not followed by the regulatory developments. As a consequence, the conditions of reception have been defined by the Management Handbook (*Manual de Gestión*), which is updated by the Ministry of Employment and Social Security on a regular basis. This lack of regulatory developments has hampered the full transposition of EU Directives and prevented Spain from complying with community legislation. Furthermore, the subsequent recast Directives were substantially ignored. As a consequence, in September 2015 the European Commission started infringement procedures against the Iberian country for not providing adequate information about how the national legislation had been adapted to the CEAS Directives regarding asylum requisites (2011/95/EU), asylum procedures (2013/32/EU) and reception conditions (2013/33/EU) (Garcés-Mascareñas and Moreno-Amador 2019).

At national level, the Directives, and even more so the management of EU funds for reception and integration of asylum seekers and refugees, became a battlefield where the conflict between the local governments and autonomous communities, on one hand, and the central government, on the other hand, over the MLG of those issues has unfolded. During the European refugee crisis, the Barcelona City Council became particularly vocal against this concentration of authority in the hands of the central government, its management of asylum and reception and the marginal role of cities. Given that asylum seekers' arrivals remained rather low in the analysed period, the focus of the debate was on relocation from frontline European countries. In 2015, the Mayor of Barcelona, Ada Colau, promoted a network of refuge cities available to host relocated refugees from other European countries—that the Spanish government did not want to take in—and

managed to gather more than fifty Spanish city councils from across the political spectrum, including large cities such as Madrid and Valencia. Several autonomous communities followed the example and declared their availability to receive refugees as well. Yet, the government led by Mariano Rajoy refused to meet the cities, so dialogue between the centre-right central government and the Spanish cities on refugee issues was nearly absent (Garcés-Mascareñas and Gebhardt 2020). Ada Colau then moved to international venues, and on several European and international stages blamed the Spanish government for the “immoral” management of the refugee crisis and its little accountability for EU funds, and called for more MLG with a higher coordination among the different levels of government and for city-led relocation (Garcés-Mascareñas and Gebhardt 2020; Garcés-Mascareñas and Moreno-Amador 2019).

Still, the Spanish government remained little receptive and the tensions between the Catalan administrations and the central government over reception turned into a juridical controversy. In April 2016, the Catalan autonomous community brought the central government to court, alleging that social services and assistance addressing the immigrant population, including asylum seekers’ reception facilities and integration services, should be under the autonomous communities, consistent with their jurisdiction over health, education and social policies, and thus requesting that subsidies for asylum seeker reception be managed by the autonomous communities themselves. In January 2018, Madrid’s High Court of Justice ruled in favour of the Catalan government and in October 2018 the Supreme Court rejected the Spanish government’s last appeal, concluding that the management of the services and programmes specifically aimed at asylum seekers in the health, education and social fields were the responsibility of the autonomous communities. These judgements opened the way for revision of the management of reception funds and facilities towards a greater decentralisation whose implementation goes beyond the time-span considered in this chapter.

Given the central role of the Barcelona and Catalunya administrations in the above-mentioned dynamics, it is evident that the fight over reception cannot be disentangled from the struggle over Catalunya’s independence (Garcés-Mascareñas and Moreno-Amador 2019). Besides that, it is important to stress how during this period Barcelona was governed by the citizens’ movement “Barcelona en Comú,” close to human-right and pro-refugee groups so that to a certain extent the municipality channelled the pro-refugee sentiments of the local civil society<sup>19</sup> which in turn strengthened the local government by fuelling public controversy, allocating blame to the EU and the national governments and providing political resources to be invested in higher-level areas (Bazurli 2019). The relevance of the quarrel over Catalunya’s independence and of political parties’ dynamics is confirmed by the improvement of the dialogue between the central government and local authorities over reception in 2018, with the change in

the national majority from the centre-right Partido Popular to the Socialist Party PSOE (Garcés-Mascareñas and Gebhardt 2020). Therefore, although the contrasts with the central government over refugee reception crosscut the different political majorities of the local and autonomous communities, politics did play some role, although in various forms, not just as traditional party politics.

To conclude, we can affirm that the European refugee crisis acted as a catalyst for the political struggle over the distribution of responsibilities between the local and national levels of government in the absence of MLG arrangements. Since dialogue proved impossible, reforms passed through the courts rather than through political reforms.

### **Comparative discussion. Driving factors of reforms over reception and MLG arrangements**

In the previous sections, I have illustrated a large spectrum of situations that go from the setting up of a brand-new reception system in Greece to the absence of substantial reforms in Spain, except for those triggered by the rulings of courts. By comparing those different situations, I will assess the different role of the factors promoting policy change identified at the beginning of this chapter.

The *perceived problem pressure related to the increasing arrivals* pushed national governments to undertake actions in the field of reception. Whereas in Finland the problem pressure accelerated the ongoing reform processes, it produced some new and permanent policy changes in Italy, Greece and Germany; this was not the case in Spain where, instead, the number of asylum claims rose much less substantially. Therefore, according to our findings, the perceived problem pressure related to rapidly increasing arrivals appears to be a sufficient condition for initiating or accelerating reforms where the effort to rationalise the reception system is generally matched by extraordinary measures aimed at coping with the problems framed as emergencies.

In contrast, *pressure from the EU* emerges as a relevant trigger of policy reforms only in the Southern European countries. Moreover, its impact appears to be nuanced and vary according to the type of EU decision.

Specifically, Reception Directives did not bring about any relevant changes in Finland and Germany since their reception systems were well-established and already in line with the requirements. In Finland, however, some changes concerning qualification and slightly impacting reception were actually implemented using European harmonisation as justification and following a venue-shopping strategy, in order to prevent criticism from human right NGOs and opposition parties. In contrast, in Italy, Greece and Spain where reception was poor and the gaps with the standards set by the EU legislation were larger, the 2003 Reception Directive pushed them to expand their reception systems in order to provide a proper accommodation to all

asylum seekers without enough financial means. Yet, in Italy and Greece the subsequent 2013 Reception Directive was mainly a “window of opportunity” for a rationalisation of reception systems and an institutionalisation of decision-making processes which were already on track, while Spain did not even transpose the recast Directives, despite the pitfalls of its reception system. Therefore, *misfits between the EU and national legislation* are not a sufficient condition for policy change, yet they can play some role as an input into the domestic political process (Héritier et al. 2001; Mastenbroek and Kaeding 2006). Against this backdrop, the *low institutionalisation of the asylum sector* may allow for greater policy changes without, however, being a sufficient condition for triggering reforms, as the case of Spain shows.

EU decisions other than Directives, such as the European Agenda on Migration, European Court judgements and EU agreements with third countries like Turkey seem to have produced a greater impact, especially in Greece and Italy, by bringing about relevant changes in their reception systems. This suggests that the role of the EU legislation and legal harmonisation in fostering policy change may be overrated in the literature while other decisions at the EU level, still under-investigated, can play a role greater.

Concerning *policy preferences*, the empirical findings suggest that the involvement of radical right parties in the legislative or executive bodies may be a sufficient condition for policy changes aimed at limiting refugees’ access to reception and integration measures. As noted by Schain (2006), radical right parties’ impact on legislation increases when penetrating the political system with elected officials, as happened in Germany where AfD entered the *Länder* and the federal Parliament, or when becoming a coalition partner in national governments, as occurred in Finland and Italy. With regard to the EU legislation, it is worth noting that the “EU card” was played in different ways by the radical right when entering the national governments: although in both Finland and Italy the right-wing coalitions introduced restrictions in asylum seekers’ rights, in the Scandinavian country this was done in the name of EU harmonisation while in the Mediterranean country it was regardless of (and rhetorically against) the EU requests. Hence, EU legislation appears to be a “window of opportunity” through which very diverse policy stances are squeezed.

In sum, according to our findings, the perceived problem pressure and the radical right’s penetration of the political system appear to be sufficient conditions for policy change, while pressure from the EU seems to produce much more nuanced effects where the institutionalisation of the asylum sector and misfits between the EU and national legislation may play some role, although not decisive.

After the analysis of the factors fostering reforms, I now summarise the findings concerning how those reforms have been decided with a special attention to *MLG*. In Italy and Germany key policy reforms occurred with the involvement of local authorities and the *Länder* respectively and, in the case of Italy, also of CSOs, whereas this was not the case in Finland and Greece. We can thus conclude that the *institutional setting* matters: in

federal and regionalist states, actors other than the central state tend to play a greater role in shaping reforms than in unitary states. As a matter of fact, in Spain, regional authorities also played a crucial role by initiating the juridical process that called for a reform of reception. However, this happened through conflictual relations, and not through negotiations as it should happen in MLG settings.

Despite those differences, the *perceived problem pressure* seems to have pushed towards a *centralisation of decision-making over reception* everywhere. In Finland, the Ministry of the Interior and, more specifically, the Finnish Immigration Service gained responsibilities over time, though the process began before the start of the European refugee crisis, which nevertheless acted as an accelerator. In Greece, decision-making over reception was increasingly passed to the newly established Ministry of Migration. In Germany the federal government's authority over redistribution of asylum seekers and funding of reception grew. In Italy, the 2014–2016 period where MLG arrangements prevailed in the formulation of policy reforms was followed by a strong centralisation of decision-making in the hands of the Ministry of the Interior. In Spain, during the European refugee crisis the central government did not step back despite the local and regional authorities' pleas to reduce centralisation of the decision-making process over reception.

At the same time, additional EU funding matched with pressing requests to rapidly improve the functioning of the least developed reception systems, such as the Italian and Greek ones, led to a significant involvement of international organisations—particularly UN agencies—in order to make up for the lack in the national political-institutional capacity. Therefore, the *political-institutional capacity* seems to impact the governance arrangements set up to manage EU resources and requests, and the national governments' ownership and steering power over policy changes.

In terms of policy recommendations, our findings suggest that there is an urgent need to go beyond the emphasis on legal harmonisation and bring into the discussion gaps in political-institutional capacity between member states and the actual functioning of national decision-making processes which, as shown in this chapter, are decisive in determining policy changes. In this regard, the setting up of monitoring activities of reception's governance could help to better understand how EU decisions are actually implemented by member states. Likewise it could sort out policy divergence across countries, by distinguishing negative shortcomings in the efforts towards convergence, on one hand, and positive adaptation to countries' institutional and political contexts, on the other hand. Similarly, the support of the EU to member states in the field of reception could go beyond funding and technical assistance and include capacity-building activities with regard to planning, implementation and monitoring of reception measures, with the aim of overcoming gaps in a state's capacity and preventing takeover by international organisations which appear as exogenous actors in the governance design of CEAS. Finally, policy convergence among member states cannot be regarded

as detached from politics: until the effort remains focused on technical solutions instead of on the elaboration of a renewed value-oriented vision of asylum, the EU legislation risks being an empty “window of opportunity” to justify any kind of measures. In other words, differences in governance settings, state capacity and political priorities cannot be regarded as mere unfortunate inconveniences to be circumvented through additional funding and top-down enforcement. Rather they have to be viewed as key elements of the European policy convergence process in the field of asylum.

## Notes

- 1 Since Hungary rejected the proposal, asylum seekers were actually relocated only from Italy and Greece.
- 2 Although Poland, under a different government, agreed to the decision.
- 3 In this chapter, I will use “policy change” and “policy reform” interchangeably.
- 4 Actually, Schmidt and Radaelli argue that the literature has omitted a fifth factor, namely discourse, which likewise will not be addressed in this chapter.
- 5 UNHCR (2009); ECtHR, *M.S.S. v. Belgium and Greece*, Application No. 30696/09, Grand Chamber Judgement, January 21, 2011; ECtHR *F.H. v. Greece*, Application No. 78456/11, July 31, 2014; ECtHR, *AL.K. v. Greece*, Application no. 63542/11, March 11, 2015; ECtHR, *Amadou v. Greece*, Application No. 37991/11, February 4, 2016; ECtHR, *S.G. v. Greece*, Application No. 46558/12, May 18, 2017.
- 6 Renewed annually i.e., see 2011, 2013 and 2015 revisions.
- 7 For further information, see <https://www.refworld.org/pdfid/573ad4cb4.pdf>
- 8 In 2019, the Ministry for Migration was abolished, and all related services passed to the Ministry of Citizen Protection. In the summer of 2020, the Ministry for Migration was re-established, but the Reception and Identification Service remained under the Ministry of Citizen Protection.
- 9 The management of EU funds has remained quite scattered. From 2015 to 2018 the European Commission allocated 525 million euros in emergency assistance and 561 million euros under the Asylum, Migration and Integration Fund (AMIF) and the Internal Security Fund (ISF), and a further 664 million euros under the Emergency Support Instrument (ESI). Those funds were managed by different state authorities such as the Ministry of National Defence, Ministry of Migration Policy, First Reception Service and Asylum Service (European Commission 2018a and 2018b).
- 10 Actually, some selected provisions of the EU recast Reception Directive were already incorporated into Law 4375/2016 (ECRE 2018).
- 11 For reduction or withdrawal of reception conditions see <https://www.asylumineurope.org/reports/country/greece/reception-conditions/access-and-forms-reception-conditions/reduction-or/>; for restrictions of movement see <https://www.asylumineurope.org/reports/country/greece/reception-conditions/access-and-forms-reception-conditions/freedom-movement>
- 12 For further information, see <https://www.asylumineurope.org/reports/country/greece/reception-conditions>
- 13 In case no place is available, either in the SPRAR or in the governmental centres, the prefecture, i.e., the local branches of the Ministry of the Interior, had to provide an allowance to the asylum seeker.
- 14 For an analysis of the evolution of the League on migration matters see Denison and Geddes 2021.

- 15 This is an additional national form of protection foreseen by Italian law (Legislative Decree 286/1998, article 5.6). It is alternative and residual to the refugee status and subsidiary protection, provided for by EU law.
- 16 BAMF *Das Bundesamt in Zahlen 2015. Asyl*, Nuremberg, 2016; Federal Ministry for Interior Mehr Asylanträge in Deutschland als jemals zuvor. Pressemitteilung vom 06.01.2016, <http://www.bmi.bund.de/SharedDocs/Pressemitteilungen/DE/2016/01/asylantraege-dezember-2015.html>
- 17 Federal Ministry for Interior Monat August 2016: 91.331 Asylanträge, 18.143 EASY-Registrierungen. Pressemitteilung vom 09.09.2016, <http://www.bmi.bund.de/SharedDocs/Pressemitteilungen/DE/2016/09/asylantraege-august-2016.html?nn=3314802>
- 18 Asylum seekers were grouped into four clusters: Cluster A (from countries with high protection rates), Cluster B (from countries with low protection rates), Cluster C (complex cases), Cluster D (Dublin cases) (Brücker, Jaschke and Kosyakova 2019).
- 19 One of the main manifestations of those sentiments was the public rally held in Barcelona in February 2017 under the slogan “Volem Acollir” (“We want to welcome”).

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