

NATIONAL
STAKEHOLDER
REPORT

September **2019**

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**Secondary movements of asylum seekers
within the European Union**

ASYLUM



National Stakeholder Reports aim to inquire the **stakeholders' response to the evolving EU policy agenda** and **assess the unmet needs** in EU Member states. They also offer a key opportunity to bring the recently ReSOMA briefs and outputs on each topic to the attention of the relevant actors at national level. As such, the reports play a key role in linking the current EU policy agenda with the debate and recent developments on migration, asylum and integration within Member states.

In the second year of ReSOMA, the consultations underpinning the reports were conducted via the ReSOMA online platform in order to mobilise the community of experts (the "Expert Database") through thread discussions.

Download this document and learn more about the Research Social Platform on Migration and Asylum at: www.resoma.eu

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National Stakeholder Report

How to address secondary movement of asylum seekers and beneficiaries of international protection?

By Peter Scholten & Zeynep Kaşlı

The prevention of secondary movements is a key political issue in the reform of Common European Asylum System (CEAS). Distrust in the effectiveness of proposed measures is one of the reasons for the deadlock in negotiations beyond the issue of solidarity. **2016 Commission proposals** include **punitive measures** such as restrictions to the freedom of movement and withdrawal of reception conditions for applicants who abscond and engage in secondary movements. **European Parliament**, however, in its Report on the Commission's proposal states that “the **provision of high quality reception conditions**, at the same level throughout the EU will be the most important factor in preventing secondary movements”.

As ReSOMA ask the expert brief mapping the existing research in this field shows, the drivers for onward movements, how the phenomenon of secondary migration led to the **securitization of the Schengen space** and the need for a comprehensive **harmonization of asylum rules and for new measures on asylum policy to ensure solidarity** between all Member States. In ReSOMA expert interview, Dr. Jeroen Doomernik and Prof. Chiara Favilli highlight that:

- harmonization and implementation of the CEAS is needed to eliminate or reduce the discrepancies between national asylum systems to minimize onward movements.
- it is necessary to find an alternative mechanism for the allocation of responsibility between Member States, in the view of a Dublin Regulation reform.
- solutions require a careful consideration of asylum seekers' needs and limitations on the freedom of movement and residence for beneficiaries of international protection.

Key issues and controversies further highlighted in upcoming ReSOMA discussion brief include:

- The impact of current barriers to family reunification on secondary movements.
- The political and rhetorical use of secondary movements to reintroduce internal border checks within the Schengen area.

- The incompatibility between punitive measures towards asylum seekers engaging in secondary movements and fundamental rights principles enshrined in the EU Charter of Fundamental Rights, CJEU and ECtHR jurisprudence and EU asylum law.

This report summarizes the online discussions via the ReSOMA web portal and survey conducted via the SurveyMonkey platform. The questions for both the online discussion and the survey have been developed based on the needs and specifications of the ReSOMA stakeholder partners and were launched over the course of late June and early July. During that time, experts, who are already registered to the ReSOMA Expert Database, received invitation e-mail to take part in both the online discussions and the surveys. Further promotion was carried out from the ReSOMA twitter account. As a privacy measure, survey responses cannot be matched with Expert Database Profiles whereas the comments posted on the platform match with the name and the institution of each commentator. Summary reports include only the names of the organizations as the comments reflect the views of affiliated institutions.

During the online discussions, the respondents were asked to provide input on the following topics: (1) **the drivers** of secondary movement; (2) **policy actions** to ensure that needs are addressed and (3) the role of **the EU and other actors**. Although it is hard to make strong inferences due to low response rates, the survey results (N=12) and five inputs mainly from NGOs highlight following points:

- There is a contrast between NGOs' accounts working in this field and survey respondents regarding the drivers of secondary movement
- Policy action and positive incentives are necessary for integration, and especially access to the labour market and education.
- At the EU level, it is essential to develop mechanisms for effective monitoring and enforcement by the Commission of Member State obligations under existing EU law, including the EU Charter of Fundamental rights combined with.

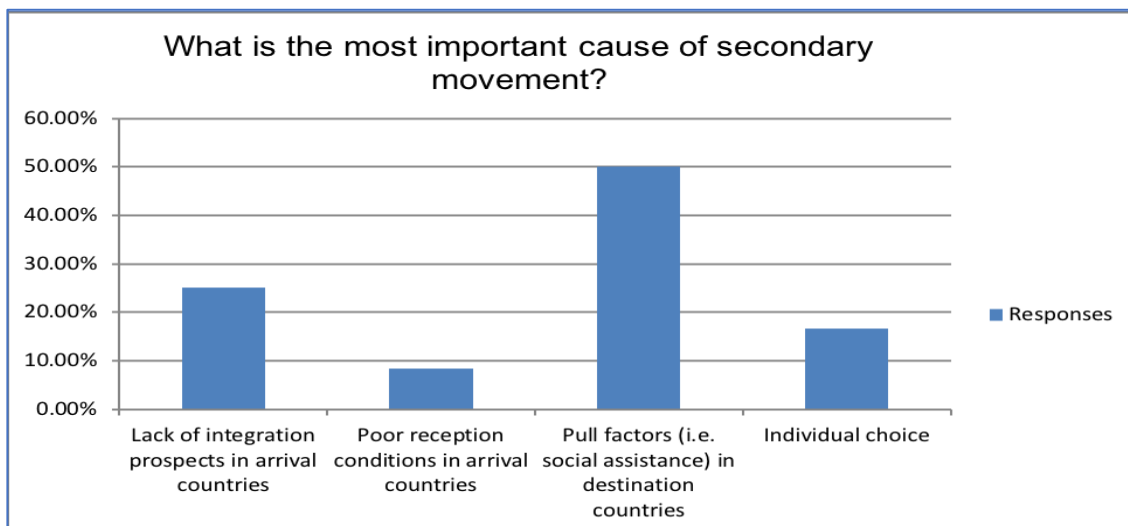
Drivers of secondary movements

On this topic, the experts were asked to comment on the following questions: What are the critical factors and conditions encouraging secondary movement? What are the specific needs of local and national actors to be actively involved in eliminating conditions that lead to secondary movement?

In this respect, ASYLEX from Greece counts several factors, namely poor/non-existent reception conditions in the country of first arrival, routine and rigid application of "safe third country" and "safe country of origin" concepts which leads to

high levels of rejection together with very lengthy asylum procedures for those who are admitted to the asylum process, limited prospects for integration to local society and access to labor market even after having been granted international protection, last but not the least the presence of family or community members in another Dublin member state. Danish Refugee Council also stresses as the key factor the urge to reunite with the family members who have been split up during the journey from their home countries.

In contrast to this first-hand account of the NGOs working in this field, half of the respondents who took the survey has the impression that the pull factors in the destination countries as the most important cause of secondary movements rather than the push factors in the arrival countries. The chart below presents the percentage of answers chosen (N=12).



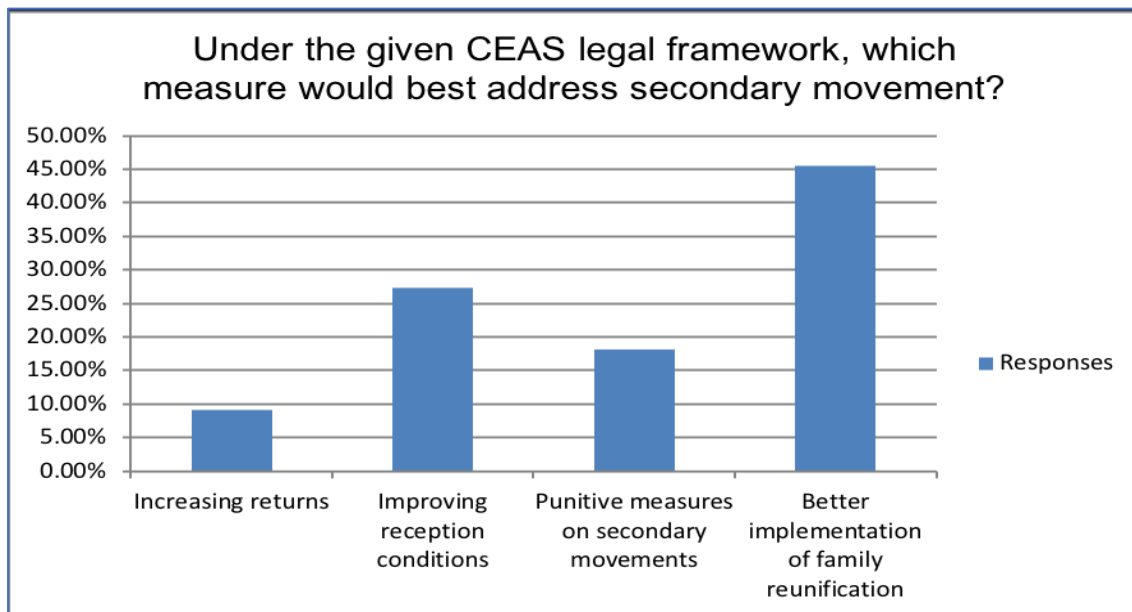
There is therefore a clear contrast between the perceptions on secondary movement and the actual needs and drivers for secondary movement on the ground.

Policy actions to ensure that needs are addressed

On this topic, the experts were asked to comment on the following questions: What are the measures that have been implemented to fulfil these needs in your national/local context? What are other possible measures to implement to fulfil these needs?

According to ASYLEX, local actors still need immediate support for especially capacity on decision for asylum claims and for improving reception conditions. Moreover, considering bureaucratic hurdles in implementing orderly secondary movements, both ASYLEX and Danish Refugee Council state that there must be

more collaboration between local and national level actors across the EU to reach a quick formal decision to ensure asylum applicants and beneficiaries of international protection enjoy their right to family life. Survey results echo similar suggestions. The chart below presents the percentage of answers chosen (N=12).

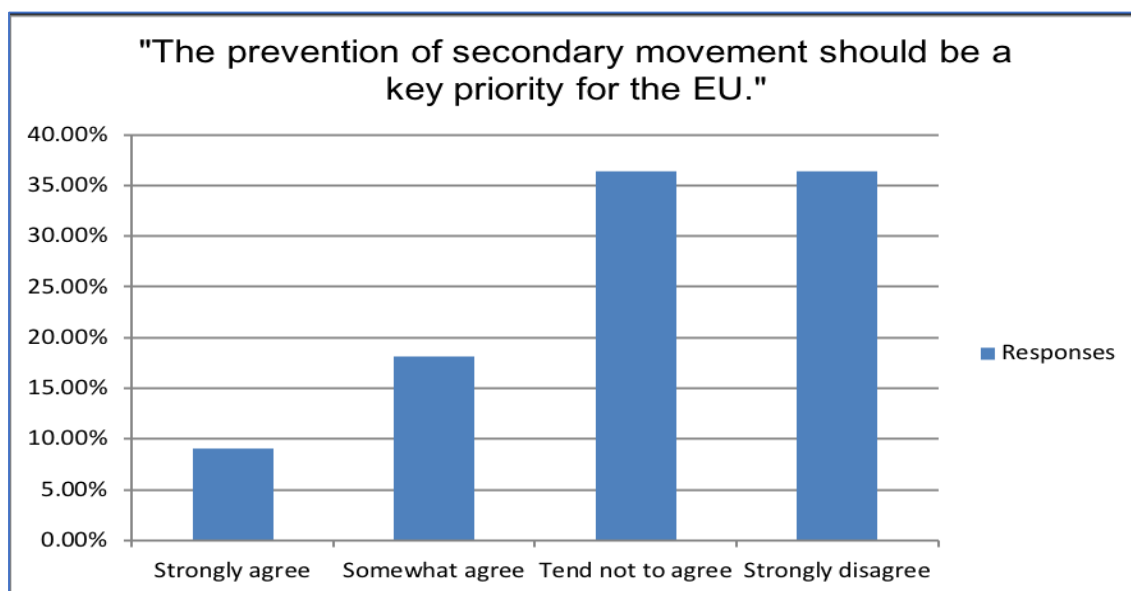


According to these NGOs, lack of cooperation and flexibility with regard to family reunification and implementation of the Dublin regulation is often a deliberate political decision. ASYLEX gives the example of Swiss legislation and its long asylum procedures, which used to take 2 years or more. This has only recently changed in March 2019, hence the impact on new and pending applications are yet to be seen. ASYLEX considers working ban also as a matter of political will which could easily be changed, and applicants could be provided work permit during the procedure. Danish Refugee Council also suggests that more member states should develop clear guidelines on how to implement the Dublin regulations based on input from human rights experts and civil society and ensure that that newly arrived third country nationals have access to free high quality legal counselling from the time of arrival in the EU.

The role of the EU and other actors

On this topic, the experts were asked to comment on the following questions: What role could the EU play to strengthen the current legislative framework and foster good practices and empower local and national stakeholders in addressing secondary movements? Who are the other key institutions and actors that are or should be involved in managing secondary movements? How can they help ensure freedom of movement?

ASYLEX suggests that Dublin regulations should be reformed in a way that gives greater importance to the individual needs of asylum applicants. This entails greater leeway for family reunification and increasing the possibilities of free movement upon reception of international protection status, which decreases the incentive to move as early as possible and leaves the option of freely moving later on. Dialogue between all Dublin states should be fostered for fair responsibility sharing and use of the legal avenues allowing movement such as relocation mechanisms and Temporary Protection Directive. Survey results also suggests that prevention of secondary movement should not be the way forward. The chart below presents the percentage of answers chosen (N=12).



These suggestion complement ECRE's point that the punitive measures on those engaging in secondary movements, such as the refusal of access to material reception conditions or procedural sanctions is self-defeating as it does not address the key drivers for secondary movements; i.e. divergences in protection standards, risk of refoulement and lack of access to basic guarantees: "Such an approach also ignores non-compliance of States with obligations under the EU asylum acquis and risks of human rights violations as key factors of secondary movements, in-

creasingly acknowledged by national courts suspending Dublin transfers on those grounds."

The consultations show that what is a much more promising avenue is effective monitoring and enforcement by the Commission of Member State obligations under existing EU law, including the EU Charter of Fundamental rights combined with positive incentives for integration, access to the labour market, education. In monitoring process, ECRE stresses that, national and local NGOs and refugee-led organisations in this process play a key role, hence their position must be fully secured in the future Multi-annual Financial Framework.



ReSOMA - Research Social Platform on Migration and Asylum

is a project funded under the Horizon 2020 Programme that aims at creating a platform for regular collaboration and exchange between Europe's well-developed networks of migration researchers, stakeholders and practitioners to foster evidence-based policymaking. Being a Coordination and Support Action (CSA), ReSOMA is meant to communicate directly with policy makers by providing ready-to-use evidence on policy, policy perceptions and policy options on migration, asylum and integration gathered among researchers, stakeholders and practitioners.

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