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## Integration Measures within the Reform of the Common European Asylum System: The Unsolved Limbo of Asylum Seekers

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### Abstract

*The European Union has proved to be ineffective in covering the needs of millions of people who seek asylum, while trying to satisfy the security claims of the Member States. The EU institutions have decided to reform the Common European Asylum System to coordinate the procedures, requirements, and conditions for acceptance, aiming to harmonise the national legislative frameworks. One of the most notorious aspects is the extension of the integration measures and conditions to asylum seekers. Nonetheless, the new rules still fail to offer a solution for those asylum requests that are going to be denied after long waiting periods even if the applicants have benefited from the integration programs. In order to avoid such legal implications for the long-term asylum seekers, this article encourages the EU institutions to adopt an ultimate solution, even if a bit creative, that would be coherent with the goals of the CEAS reforms.*

**Keywords:** CEAS; Dublin System; integration policy; integration measures; European Union.

### Introduction

For the European Union (EU), the governing of migration flows has been the main topic on its agenda and strategic programs for over a decade, which has allowed this issue to reach an advanced stage. On 13 May, 2015, the European Commission issued the European Agenda on Migration, whose introduction coincided with the sharp increase of the number of asylum seekers in the EU (Petracou *et al.*, 2018: 2). This agenda proposed immediate measures for dealing with the crisis in the Mediterranean. All measures have been taken, and will continue to be taken, in the following years to manage all aspects related to migration in a more effective way. With regard to the long and medium terms, the Commission suggested guidelines in four political respects: 1- Reducing the incentives for irregular migration; 2- Border management, which involves saving lives and securing external borders; 3- Europe's duty to protect: a strong common asylum policy; and 4- A new policy on legal migration. These pillars set new priorities for integration policies and optimise the benefits of migration for the people involved as well as for the countries of origin (European Commission, 2015).

The EU has historically been concerned regarding the arrival of immigrants to its territory; however, such concern has grown in the past few years with the massive entrance of mixed flows

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of immigrants and refugees. The launching of the European Union Global Strategy in June 2016 proves this.<sup>2</sup> However, not only the management of such flows but also the acceptance and accommodation of new arrivals into the European societies have been a challenge and a key aspect in the political agenda of the EU. In 2004, European institutions understood that immigration was not an isolated or temporary phenomenon; instead, it involved a considerable number of immigrants who ended up settling on a permanent basis. Therefore, since then, the immigrants' integration plays an important role in the EU's plans. Such priority was established when the Justice and Home Affairs Council adopted the Common Basic Principles (CBP) in the framework of the Hague Programme,<sup>3</sup> which were reaffirmed by the institution in 2014 (European Commission, 2016a).

One of the premises that justified these principles was the conviction that the success of the immigrants and their descendants' integration in the host society is an essential aspect of the management of migrations, and at the same time, the migration policies may contribute to the success of the integration policy. However, one of the main errors in the formulation of the Community institutions' (Commission, Council, and Parliament) integration policies and instruments was to put aside asylum seekers, refugees, and beneficiaries of subsidiary protection (López, 2007: 240). This situation began to be remedied with Regulation (EU) No 516/2014, which rules the Asylum, Migration and Integration Fund (European Parliament, 2014), which establishes the guidelines with regard to the effective integration of applicants and beneficiaries of international protection and of re-established refugees (García-Juan, 2015: 100).<sup>4</sup>

The EU institutions were able to reinforce the idea that if the immigrants' flow was canalised in an orderly fashion and correctly managed, the Member States would obtain benefits such as the strengthening of their economies, higher social cohesion, an increase in the sense of security, and more cultural diversity. Similarly, the conviction took root that if the beneficiaries are considered as a whole, the European process would improve and that the EU's position in the world would be reinforced (Bendel, 2005: 23). The Council understood that the effective management of migrations by each of the Member States would result be in everyone's interest, bearing in mind that the development and application of the integration policy is a fundamental responsibility of each of the states individually, more than the EU as a group (Sebastiani, 2017: 55). But at the time, the fact that the EU was about to experience an unprecedented crisis regarding refugees and asylum applicants, which is still growing today, was unknown.

The debate regarding the extent and level of Community competences in immigrant integration policies was put on hold with the Treaty of Lisbon as, in the Treaty, the European institutions were conferred an active role in integration but did not assume any specific competence that may

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<sup>2</sup> In contrast to the Global Strategy for the European Union's Foreign and Security Policy established in 2016 "*Shared Vision, Common Action: A Stronger Europe*," the migration policy failed to appear within the European Security Strategy in the period 2003–2015 "*A Secure Europe in a Better World*." But thirteen years later, migration is one of the key points of the new global strategy (See European Council, 2016). Far more complete than the previous document and with clearly international hopes, the new strategy understands migrations as a challenge and as an opportunity and acknowledges the key role that migrations play in a scenario where security can change unexpectedly.

<sup>3</sup> The Hague Programme: Strengthening Freedom, Security and Justice in the European Union, Official Journal of the European Union (OJEU) C 53/1, March 3, 2005.

<sup>4</sup> As I am writing this article (August 2019), the European Commission is accepting applications for funding through the Asylum, Migration and Integration Fund to support the integration of third-country nationals. A total of €21.5 million is available through the various calls for proposals.



anticipate a communitarization.<sup>5</sup> This way, as the harmonisation regarding these matters on the 28 internal legal systems is excluded, each state was granted the liberty to rule according to its own decisions, which spawned a diversity of models and approaches. This Treaty refers to promote “the integration of third-country nationals residing legally in their territories”, but do not say a word about asylum seekers integration measures or policies.

The reforms set forth in the Common European Asylum System (hereinafter CEAS) pay significant attention to integration as well as the extension of the integration measures to the asylum seekers. This approach is something new that is worth to put the focus on. The first part of this paper offers an overview of the CEAS and the Dublin System. The second part revises the principal reforms, which are currently being negotiated among the European institutions, incisively analysing those affecting integration. The third part focuses on a particular aspect of the CEAS reform: measures and requirements for integration of asylum seekers.

### **The Common European Asylum System in the context of the refugee crisis**

The growing and intense migration influx into Europe in the past few years has made refugees, asylum seekers, and international immigrants to become one of the central issues of current political debate (Tocci, 2017: 491). The pressure on Dublin’s system and the increasing, incoherent plans suggested in relation to migration are emphasising the need, among the Member States, to revisit the role of European institutions in the handling of this political subject. In fact, some states have accused the European Commission, the Parliament, and the Council of imposing regulations that have a negative effect upon them. However, at the same time, the EU claims that countries such as Italy and Greece are not complying with the existing rules. The solidarity between states has been rather scarce, and flagrant violations of human rights have been documented. Such situations have led to a series of questions with regard to the rules and ethics that apply to handling of migration (Ceccorulli & Lucarelli, 2017: 96).

The countries that constitute the EU have their own national legislations that apply the common framework in very different ways. These divergences have, in the past few years, spawned increasing tension between the countries that defend the free movement of people within the EU and those that demand stricter controls at international borders, thus showing themselves as weak, disorganised, and fragmented before public opinion and the international community, which is something they were not used to (Chaban & Elgström, 2014: 174).

To avoid possible disagreements or inconsistencies in the use and meaning of the terms, this article shall employ the word “immigrant” as a means of representing the person who has voluntarily abandoned their home to seek a job and a better life in another country for their own and their family’s welfare. This includes those who cross international borders because it is their own decision, with legally issued permits or visas or without them. In this sense, the term “regular immigrants” (legal ones or those who migrated under regular administrative conditions) stands for both the former ones and for those who remain in the host country with all authorisations in order. “Irregular immigrants” (illegal ones or those who migrated under irregular administrative conditions) shall include those in the second group and those who have decided to remain in the

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<sup>5</sup> Article 79 of the consolidated version of the TFUE, in point 4 states: “The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member States.” (OJEU C 83, 03/30/10).

host country even though they do not have the required authorisations in order.<sup>6</sup> In both cases, these definitions shall exclude those who move around the country with such intents and purposes but whose nationality is that of a EU Member State as these are considered to be citizens of the EU and thus entitled to free movement.

Within the CEAS framework, the term refugee shall encompass people fleeing from wars, prosecution, or natural disasters to save their lives (because of necessity, not voluntarily). Although the United Nations Convention on the 1951 Refugee Law includes a restricted definition of the term, it is interpreted here in a broader sense than it is in other international agreements such as the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa and the 1984 Cartagena Declaration on Refugees. Along these lines, an asylum seeker is a refugee who has initiated the administrative proceedings to be granted the right of asylum. If the authorities finally acknowledge that right, the petitioner shall legally acquire refugee status.

These points having been made, it is worth remembering that never before have the EU's migration policies been subject to such levels of criticism nor have they raised such a debate not only within the institutions and the Member States but also within the international community. The incompatibility of the so-called "Fortress Europe", together with the self-proclaimed goal of contributing to a fairer world, creates a gap between what the EU does and what it wishes to represent (Cortés, 2013: 112). Moreover, regulating migration flows and their consequences represents a particularly serious challenge for this supranational entity. The migration responsibility is shared between the EU and its Member States, but the efforts for agreeing on common policies have become highly polemical because of the different ways in which countries apply the European regulations (Lucarelli, 2014: 4).

This research is focused on a relatively new aspect of the CEAS: the importance of the integration of the asylum applicants and international protection beneficiaries as understood in the CEAS reform. When the 2004 Basic Common Principles of Integration were established, they all made reference to immigrants who were legal residents and none referred to refugees, asylum seekers, or beneficiaries of any kind of international protection (Illamola, 2011: 162). Because of this, the extended integration treatment is surprising. In that year, integration was defined as a "dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States". The 6<sup>th</sup> principle proclaims that "Access for immigrants to institutions, as well as to public and private goods and services, on a basis equal to national citizens and in a non-discriminatory way is a critical foundation for better integration" (European Commission, 2005). However, the formal declaration of these principles has still not solved the matters related to the effective and careful assessment of individual cases, which is an essential aspect of the right to asylum.

What happens in a daily basis is that the receiving country tags incomers as refugees, economic immigrants, regular or irregular immigrants, asylum seekers, and so on and applies certain prior selection criteria, such as nationality and country of origin. From this tag or category, migrants are

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<sup>6</sup> Although the term has been broadly criticized by several fields for not being legally acknowledged, these migrants shall also be referred to with the expression "economic migrants" as this is a term generally used by the specialized doctrine and by the EU institutions and other international organizations. See McDowell, L. (2009). *The Manual on the Criteria for Determining the Refugee Status* by virtue of the 1951 Convention and the 1967 Protocol on the Refugee Law, enacted in 1992 by the United Nations High Commissioner for Human Rights, contains the following definition: "Migrants are people who, for different reasons included in the Convention, voluntarily abandon their country in order to settle somewhere else". They may be motivated by the desire of making a change or embarking on an adventure, for family reasons or personal matters. If exclusively motivated by economic matters, it shall be referred to as an economic migrant and not a refugee. However, the distinction between economic migrants and refugees is sometimes confusing..." (paragraphs 62 and 63).



forced to take different administrative paths that lead them to different situations, depending on the group under which they have been classified. For example, if someone who considers themselves to be a refugee or has been *a priori* classified as such initiates asylum proceedings, they shall, from that moment onward, be subject to the EU's asylum and refugee rules until the petition is granted (Moldovan, 2018: 83). Moreover, if an economic migrant requests a residence permit, their administrative situation will be completely different and they shall be subject to the immigration laws of the country where the proceedings have been initiated. Once the process has begun, the former shall be protected by the *non-refoulement* principle, but the latter shall not. In principle, they are both "condemned" to follow the path of the blanks that they filled in when completing the form, without having any correspondence with the detailed and effective analysis of each specific case, which is what lends sense to the creation of the refuge (Menéndez, 2016).

Once the refugee status or immigrant status as a legal resident is acquired, the country that has granted the relevant permit starts to consider another aspect: integration. As previously said, integration policies are a matter, the approach and development of which correspond entirely to the EU Member States, with the applicable Community Directives being limited to suggest (without imposing) certain strategies or solutions. Here we shall center upon the treatment given to integration in the CEAS with regard to asylum seekers, although some references shall be made to the concept in relation to legal residents.

### **The reform of the Common European Asylum System with regard to integration**

Focusing on the foundations of the complete integration policy of the EU by far exceeds the aim of this paper. Nonetheless, it is worth mentioning that the "integration" concept was formulated to deal with the peculiarities and identities of immigrants and refugees with the purpose of facilitating their inclusion in the education systems of the Member States and making feasible their access to the labour market (Joppke, 2007).

The integration of immigrants and refugees, its regulations, and the creation of related public policies, including those issued by European institutions and the Member States themselves, is another aspect of migrations' governance that has been heavily criticised in Europe. Once again, we are apparently facing the dilemma between what is being said and what is actually being done (Acosta, 2012: 158). In different forums, the instrumentalism of the so-called "integration measures and conditions" has been censured, and its misuse for dubious immigration selection plans has been condemned (Groenendijk, 2004: 117). In this section, we study the evolution of this key aspect in the CEAS and the treatment given by the proposed reforms to the integration measures and conditions that apply to applicants and beneficiaries of international protection in the envisaged reform.

The CEAS is a set of EU rules developed between 2011 and 2013 that establish the common procedures to deal with international protection applications and to receive and resettle refugees and asylum seekers. However, since this system is governed by Directives rather than Regulations, the 28 states have produced protocols and regulatory provisions that differ significantly from one state to the other as they opted to follow the recommendations of European institutions in an unequal manner (Chetail, 2016a: 24). Not determining that refugees have the legal duty to seek asylum in the first Member State they arrive at is one of the CEAS's main problems. Consequently, many refugees try to reach other places, where they have relatives or friends who may receive them. Nevertheless, the so-called Dublin system states that Member States may send asylum seekers back to the country through which they entered the EU as long as the said country has an efficient asylum

regime (Weber, 2016: 37). Here we find an inconsistency that the reform addresses in an unsuccessful way (Chetail, 2016b: 594).

The migration and refugee crisis suffered by most EU countries has revealed the need to review the legal reforms introduced in the CEAS during those years. Although one of the main purposes of the said modifications was to achieve further harmonisation regarding procedures and requirements, the practice has demonstrated that considerable differences, which are still difficult to unify, continue to exist.<sup>7</sup> The main consequence is that the “secondary movements” of refugees and *asylum shopping* are usual practices, both of refugees and asylum seekers, which still hinder the efficient and organised management of international protection applications (Thielemann & Armstrong, 2013: 159).

In 2016, the European Commission encouraged a series of reforms, the objective of which is to harmonise the asylum procedures in all Member States by establishing common agreements to address the unequal implementation of the CEAS and the problems pertaining to the Dublin system. The ultimate goal is to offer a law not only suitable to any third-country national who needs international protection but also to ensure the fulfilment of the principle of *non-refoulement*. The whole system proceeds on the basis of articles 67.2 and 78 of the Treaty on the Functioning of the European Union, as well as Article 18 of the Charter of Fundamental Rights of the EU. Neither of these two legal instruments provides a definition for the words “asylum” or “refugee,” referring, in both cases, to the 1951 Geneva Convention and its 1967 Protocol (Rossi, 2017: 53).

European institutions are conducting negotiations to make the said reforms. On 6 April, 2016, in Brussels, the European Commission presented the Communication entitled “Towards a Reform of the Common European Asylum System and Enhancing Legal Avenues to Europe” (European Commission, 2016b). The proposed priorities are five, namely, 1- Establishing a sustainable and fair system for determining the Member State responsible for asylum seekers; 2- Reinforcing the EURODAC system; 3-Further harmonising the CEAS rules to ensure more equal treatment across the EU and reduce unjustified pull factors; 4-Preventing secondary movements within the EU to ensure the functioning of the Dublin mechanism; and 5-Transforming the European Asylum Support Office into the EU’s asylum Agency. Three months later, on 13 July, 2016, the Commission presented the second package of reforms consisting of a Directive proposal and two Regulation proposals, the objective of which is to reinforce the priority mentioned in the third place, that is, further harmonising the system rules to ensure a more equal treatment across the EU.<sup>8</sup> Nowadays, the negotiations are still ongoing. However, they are in a dead end in view of the last report issued by the Presidency of the Council of Europe addressed to the Permanent Representatives Committee, dated February 26, 2019.<sup>9</sup>

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<sup>7</sup> Even though the CEAS is one of the most protective asylum systems in the world, it is characterized by the Member States’ difference in treatment regarding asylum seekers and asylum applications per se. Some of these differences comprise the terms for administrative proceedings, reception conditions, term of duration of the residence permits granted, and unequal access to integration programs. See Schittenhelm, K. (2019).

<sup>8</sup> The three texts under discussion are: 1- Proposal for a Directive of the European Parliament and of the Council laying down standards for the reception of applicants for international protection [COM(2016) 465 final]; 2- Proposal for a Regulation of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents [COM(2016) 466 final]; 3- Proposal for a Regulation of the European Parliament and of the Council establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU [COM(2016) 467 final].

<sup>9</sup> Council of the European Union (JAI). Note from Presidency to Permanent Representatives Committee/Council [Document ST\_6600\_2019\_INIT]. Brussels, 26 February 2019.



With that second package, the Commission would have completed the reform of the CEAS by adopting three new proposals: a) replacing the asylum procedures Directive with a Regulation, harmonising the current disparate procedural requirements in all Member States, and creating a genuine common procedure; b) replacing the asylum requirements Directive with a Regulation and setting uniform standards for the recognition of people in need of protection and the rights granted to beneficiaries of international protection; c) revising the previous Reception Conditions Directive with another Directive to further harmonise reception conditions in the EU, increase applicants' integration prospects, and decrease secondary movements.

By means of an accelerated examination procedure (fast-track), these reforms propose the dismissal of asylum applications of those who are not expected to be recognised as beneficiaries of international protection, for it is highly likely that they would be considered unfounded. This category includes, among other cases, those whose country of origin has been classified as "safe" by the EU<sup>10</sup> and also when there is existing reasonable grounds to believe that a third country is safe for the applicant. This means that an application may be dismissed when the determining authority establishes that "there is a connection between the applicant and the third country in question on the basis of which it would be reasonable for that person to go to that country, including because the applicant has transited through that third country which is geographically close to the country of origin of the applicant," and when "the applicant has not submitted serious grounds for considering the country not to be a safe third country in his or her particular circumstances".<sup>11</sup>

In other words, asylum applications submitted by Albanians, Bosnians, Macedonians, Kosovars, Montenegrins, Serbians, and Turks may be dismissed by means of accelerated procedures, as well as applications submitted by nationals of other countries who have crossed a safe country on their way to the EU and cannot prove that staying in such country did not jeopardise their life or physical integrity. According to the foregoing, if the reform of the CEAS is passed in its current wording, the sense of the right to asylum itself in the European Union would lack meaning.

Pursuant to the literalness of the proposed regulations, an individual's nationality or the accidental circumstance of choosing one route instead of another on their way to the EU will define the result of their application in advance. Clearly, this is not in line with the detailed and meticulous assessment of each concrete case and personal circumstances, which constitutes the very basis of the right to asylum. In this scenario, it is possible to foresee that the hopes of millions of refugees and asylum seekers of being granted refugee status in Europe will end up completely shattered. In spite of this, we must also consider those people whose applications are regulated by the CEAS currently in force. What happens with the people who are official asylum applicants and have not yet received a reply by the competent authority? They have been authorised to remain in the country of the EU that is dealing with their application but in what conditions are they living? Can adults

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<sup>10</sup> International law and the EU legislation on asylum procedure consider that a country is safe when it has a democratic system and when, generally and consistently, no persecution, punishment, torture, inhuman or degrading treatment, violence threat, or armed conflicts exist. There are still 12 EU Member States (Austria, Belgium, Bulgaria, Czech Republic, Germany, France, Ireland, Luxemburg, Latvia, Malta, Slovakia and United Kingdom) that have their own lists of safe countries. Nevertheless, the EU is suggesting that a unique list be used, according to which, all Member States should apply the same criteria. European institutions have estimated that 17% of the total number of asylum applications submitted before the EU derives from citizens of the 7 countries included in this unique list (Albania, Bosnia and Herzegovina, Republic of Macedonia, Kosovo, Montenegro, Serbia, and Turkey). Furthermore, it is proposed that the applications of nationals of "safe" countries be assessed through a fast-track procedure to unblock the system and expedite the decisions of grounded applications.

<sup>11</sup> See article 45.3 COM(2016) 467 final "The concept of safe third country".

work legally in the labour market? Do children have access to regular education systems? Did they have access to the reception and integration programs offered by the different public administrations and other private entities?

These asylum seekers are in an uncertain life situation, in a legal limbo, without receiving an answer from the CEAS. In the following paragraphs, we go through the way in which integration measures and conditions have been addressed in the reforms that are currently subject to negotiation in the EU's main institutions.

### **Integration measures and requirements**

Although both terms are used indistinctively in the different translations on Community rules, here the expression "integration requirements" will be used to refer to specific *compulsory* requirements that the Member States may demand (before leaving the country of origin or upon arrival) of the relatives with whom reunification has been sought. They also refer to the *compulsory* requirements that may be stipulated to renew the temporary residence permit or to acquire a permanent one (called "long-term residence permit") in order to acquire the nationality of the country of residence or to retain the benefit of the material conditions for its acceptance. Here the term "integration measures" will be used when referring to agreements, programs, circuits, or devices in which migrants *voluntarily* participate (involving economic immigrants, refugees, asylum applicants, and beneficiaries of subsidiary protection) to access specific rights.

Such integration measures and requirements comprise courses, tests, and other kinds of examinations in which the level of mastery over the language of the host community is assessed, as well as knowledge regarding regulations, history, costume, and principles of the Member State to which the application is filed regardless of the purpose. In some European countries, these are called cultural integration courses (Van Niejenhuis, Ottenb & Flachea, 2018).

The main normative instruments of the EU that refers to the integration measures and requirements are as follows: the Council Directive on the right to family reunification<sup>12</sup> and the Council Directive concerning the status of third-country nationals who are long-term residents.<sup>13</sup> The scope of application of the former comprises both the resident legal immigrants as well as beneficiaries of refugee status, although in this second scenario the regulation fails to allow the imposition of integration conditions prior to departure. The second directive is applied to resident legal immigrants in any of the 28 Member States of the EU but not to the applicants or beneficiaries of international protection.

From the analysis of the CEAS regulation and the reforms planned, the following inferences can be made. The Directives still in force are limited with regard to integration, considering other special needs and the particular challenges of integration to which the beneficiaries of international protection are faced with to be guaranteed the effective exercise of their rights and benefits. Likewise, it is requested that such individuals be considered in the integration programs that the beneficiaries are assigned to. However, the said Community rules fail to allude to the integration measures and requirements. While Directives 2013/32/EU and 2013/33/EU fail to mention such

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<sup>12</sup> Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJEU October 3, 2003).

<sup>13</sup> Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJEU January 23, 2004).





issue,<sup>14</sup> Directive 2011/95/EU simply establishes that Member States have to guarantee their international protection beneficiaries access to integration programs that they consider fit considering the specific needs but leaving out total freedom with regard to its structure. Besides, the said access is limited to those who are already beneficiaries of the refugee or subsidiary protection status.<sup>15</sup>

Unlike these Directives, in the reformed texts of 2016, the integration of international protection beneficiaries is a key and crosscutting issue in the entire regulation. Accordingly, such reforms would amend what was pointed out above regarding the historical omission of this group in the Community *acquis* with regard to integration, as well as to the minor importance given to integration in the European Community law enforced regarding asylum and refuge (Kancs and Lecca, 2018: 2601). The texts being discussed deal with “effective integration and participation of all, refugees or legal migrants”.<sup>16</sup> Referring to the said integration as being inclusive is relatively new for the EU, since, as stated in the introduction, in 2014, the Regulation on the Asylum, Migration and Integration Fund achieved it for the first time (García-Juan, 2015: 134).

The expected reforms emphasise the need of increasing the applicants’ integration perspectives not only for those already having refugee status or subsidiary protection but also for those cases where there is a possibility of applications being accepted. To achieve this, it is suggested that the asylum applicants be able to work and obtain their own income as soon as possible (between three and six months from the application’s initial filing) even while their applications are being processed. Also, compulsory integration measures are mentioned for the first time, the nonfulfillment of which may lead to benefit substitution, reduction, or withdrawal of the material reception conditions.

The proposal establishing the requirements for the acknowledgment of international protection considers it to be essential for Member States to promote the integration of its beneficiaries into their societies. It states the scale and scope of the rights and obligations and offers incentives for its active integration but at the same time allows the 28 members (soon to be 27) to grant some kind of social assistance with the condition of effective participation of these beneficiaries in the integration measures in accordance with the Action Plan on the integration of third country nationals (European Commission, 2016c). Nevertheless, when dealing with integration, this document refers exclusively to immigrants and refugees from third countries who are legally residing in the EU.<sup>17</sup>

The 2016 Action Plan encourages the enforcement of integration measures prior to departure to prepare the resettlement of refugees in order to comply with the European Commission suggestions related to resettlement programs (Caponio, 2018: 2059). The argument employed is that providing support to people from third countries as soon as possible in their migration process has

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<sup>14</sup> Respectively: Directive 2013/32/EU of the European Parliament and of the Council, of 26 June 2013, on common procedures for granting and withdrawing international protection; and Directive 2013/33/EU of the European Parliament and of the Council, of 26 June 2013, laying down standards for the reception of applicants for international protection.

<sup>15</sup> See article 34 of the Directive 2011/95/EU of the European Parliament and of the Council, of 13 December 2011, on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.

<sup>16</sup> It is likely that the New York Declaration for Refugee and Migrants, signed by 193 Member States of the United Nations on September 19, 2016, is the reason of such specific reform. By means of this declaratory document, the signatory countries assumed the commitment of sharing in a more equal way the responsibility for the refugees of the world by means of the application of the Comprehensive Refugee Response Framework. One of its aims is to improve the self-reliance and integration of refugees with measures encouraging access to education and work.

<sup>17</sup> Integration measures may be language classes, civil integration courses, professional formation courses, and similar courses related to employment.

contributed to successful integration.<sup>18</sup> As stated above, this 2016 Plan was more restrictive in terms of the scope of integration programs than the SECA reform texts handled in Brussels.

Another new and relevant aspect of the CEAS reform is the possibility for those who were given refugee status or subsidiary protection but, for whatever reason, no longer enjoy this status, to have three months to request another legal status, for example, regular resident immigrant for working reasons. It is important to highlight that such a possibility is only offered to those who at some time benefited from international protection, but it does not include those who were asylum seekers or who were “labeled” refugees from the start but never had a favourable decision on their file. What is true is that the economic impact of alternative refugee integration policies in the EU still is unknown (Kancs and Lecca, 2018: 2628).

## **Conclusion**

The treatment given to integration in the CEAS reform that is pending in the EU’s institutions has evolved in two directions. The first one is positive in that the implementation of policies and integration instruments has been extended to cover asylum seekers whose files are pending when, according to the regulations in force, this is limited to those who already are international protection beneficiaries. The second one is negative as the very basis of the right to asylum are being put at risk by making the mere possibility of requesting for it conditioned on factors such as nationality or the path selected to reach EU countries. Furthermore, the possibility of obligatorily applying integration measures and requirements to the beneficiaries of international protection is real for the first time. Moreover, these are conditions that must be met to obtain certain reception and assistance benefits.

Nonetheless, the reforms do not offer an ultimate solution to asylum applicants in a legal limbo either, that is, for those with a pending application either because they are not in the country where the right to asylum was enforced or because the outcome of the application is unknown. What will happen to those participants in the integration programs for asylum seekers that finally will receive a rejection resolution on their application? How much money and institutional effort will be wasted on these cases? No specific mechanism has been foreseen for solving the problem of millions of people wandering EU territory without a defined legal statute, without the possibility of working under legal terms, and without a clear idea of what their rights and duties are.

The applicability of integration policies aimed at asylum applicants as it has been established within the CEAS reforms exceeds the limits established by the current Community regulations, which restrict the concept to mean third-country nationals who are legal residents and beneficiaries of some kind of international protection. Hence, the very moment of being a bit creative is now. The proposal is that the CEAS reforms include at least a mechanism that allows long-term asylum seekers to change their migrant status to that of immigrants for working reasons so that they can request a working residence permit as long as they meet certain integration requirements. The EU cannot waste a minute.

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<sup>18</sup> The CEAS reform establishes certain limits for the application of compulsory integration measures for international protection beneficiaries in the individual cases of excessive difficulties, which is the result of the Judgment of the Court (Second Chamber) of 4 June 2015, Case C-579/13.



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