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Policy Brief

Four implications of the Covid-19 pandemic for the EU's asylum and migration policy

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Border closures and regional lockdowns related to Covid-19 have had a direct impact on the functioning of the EU's asylum and migration policy. This Policy Brief shows that the virus impaired access to asylum in the EU, hampered the EU's ability to steer a common response to the crisis, and underlined the importance of migrants as "essential workers". The Brief concludes by identifying lessons learned that can inform the process of making the EU's asylum and migration policy Covid-19-proofed.

The outbreak of Covid-19 has disrupted all strands of EU policy-making. Discussions about the EU's immediate response to the pandemic focus predominantly on the bloc's economic recovery. However, mitigating its fallout in other branches of EU policy is equally necessary. The Union's area of free movements is among the policies most tangibly affected by the pandemic. While national border closures and regional lockdowns impaired EU citizens' ability to travel, they also had substantial consequences for migrants and asylum seekers.

This Policy Brief identifies four ways in which Covid-19 affects the EU's asylum and migration policy. First, the outbreak of Covid-19 has further restricted people's ability to seek asylum in the EU. Second, the EU's capacity to steer a "common" asylum and migration policy has been weakened by the largely uncoordinated responses of the member states. Third, the virus has highlighted the importance of migrants as "essential workers". And fourth, there is a risk that the virus could accelerate existing push factors in countries neighbouring the EU.

The lessons that can be learned from the past months should inform the current process of lifting mobility restrictions and contribute to drawing up the Commission's New Pact for a post-pandemic asylum and migration policy. They should also help in making national asylum procedures flexible enough for guaranteeing access to fundamental rights in case of a renewed lockdown. As a result of border closures and suspending asylum procedures, national asylum services are likely to be confronted with a considerable backlog of cases to be processed. Moreover, the worsening of living conditions in countries of first refuge could force people to move onward and increase arrival numbers in the EU. While the exact impact of Covid-19 on migratory movements is still uncertain, the need for a resilient and sustainable asylum policy in the EU has never been clearer.

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1. Restricted access to asylum and a potential backlog

Migrants' ability to enter EU territory and apply for asylum has been constrained by the measures adopted to stop Covid-19 from spreading across member states. Based on a proposal by Commission President von der Leyen, the European Council decided on 17 March to close the Union's external borders for non-essential travel. The entry ban was initially scheduled to last for 30 days, but member states were invited to extend it to 15 May and subsequently to 15 June. Guidelines issued by the Commission on 30 March explicitly stated that "persons in need of international protection or for other humanitarian reasons" should be exempted from this ban in order to uphold international law and respect the principle of non-refoulement. Despite these formal exemptions, UNHCR and IOM found that practically "travel arrangements for resettling refugees are currently subject to severe disruptions", which has led them to suspend resettlement activities and humanitarian admission programmes as of 17 March.

These measures were accompanied by a sharp decrease of asylum applications. Compared to February (55,886), the number of new asylum applications in March fell by 43% (31,661). According to EASO, this number further shrunk to only 7,507 asylum applications in April[1]. These statistics are particularly remarkable given that the number of asylum applications in the first two months of 2020 (116,009) had in fact increased compared to the same period in 2019 (104,055). It thus appears that asylum seekers' chances to lodge their claim in an EU member state were significantly undermined by the imposed border closures.

Although the Commission urged member states to exempt asylum seekers from entry restrictions, Covid-19 has been used as a pretext by some member states to deny migrants access to their national territory. Most visibly, this has been the case in the Mediterranean. On 20 March, Cypriot authorities prevented a boat carrying 175 Syrian asylum seekers from entering its maritime territory. The push-back was justified as a necessary measure to enforce the entry ban for all foreign nationals issued on 15 March. Similarly, Maltese authorities published a statement on 9 April saying that they could no longer guarantee a "safe place" to any person rescued at sea. Allowing rescued asylum seekers to disembark, it was argued, would risk "compromising the efficiency/functionality of the national health, logistic and safety structures" needed to stop the spread of Covid-19. The statement was made only one day after Italy published a decree declaring its ports closed for NGO vessels carrying rescued migrants aboard. Yet, such measures are not limited to search and rescue operations. The Austrian government released a decree which made it possible to reject applicants for international protection at the border in case the person in question cannot provide a medical certificate. An extensive overview filed by the European Council on Refugees and Exiles (ECRE) also reports difficulties for asylum seekers to enter Serbian and Polish territories.

Asylum seekers who were nevertheless able to enter the EU, or already resided in a member state, were equally impaired by restrictive measures. Access to asylum procedures was constrained either through explicit legislation or as an implicit consequence of the physical distancing measures and the closure of public facilities. The Hungarian government indefinitely suspended the admission of asylum seekers to its border transit zones on 1 March, arguing that "there is a connection between the coronavirus and illegal migration". In other member states such as Belgium, Finland, Greece, Ireland, or the Netherlands, reception facilities were temporarily closed, registration suspended, or interviews cancelled. Countries like Sweden, Lithuania and the Netherlands conducted asylum interview through video conferences. Physical distancing requirements also complicated access to legal counselling, either because NGOs suspended their services, or because lawyers faced difficulties entering reception centres. Adhering to physical distancing measures has been a particular difficulty for asylum seekers in overcrowded reception centres. In the Greek refugee camp Ritsona, 2,300 people were placed under mandatory quarantine after 20 residents tested positive to Covid-19. Similar incidents were reported in Germany, Austria and Malta.

These examples help explain the sudden decrease in registered asylum applications. Yet, the initial uptick of asylum applications at the start of the year and the gradual lifting of border controls suggest that once asylum procedures resume, the number of new applications will increase significantly. National asylum services might hence be confronted with a substantial backlog of applications to be processed.

1 Numbers reflect data from 18 April 2020.

2. The EU's ability to steer a common asylum and migration policy is weakened further

Immediate responses to the outbreak of Covid-19 in the EU were largely driven by national considerations. 12 Schengen countries, including Switzerland and Norway, had already unilaterally introduced border controls prior to concluding a common position in the Council on 17 March. This has undermined the EU's role as an effective crisis manager that is able to steer a common asylum and migration policy

The situation bears similarities to the so-called "migration crisis" in 2015, when the absence of a functional common system to cushion an external shock – in that case the arrival of roughly one million asylum seekers – led member states to retreat to national responses. Since 2016, six Schengen countries (Norway, Sweden, Denmark, Germany, Austria, France) continue to maintain border controls by changing the legal bases for reinstating, but de facto prolonging, border checks. Their repeated extension of what is defined by the Schengen Border Codex as a temporary measure of last resort increasingly defies EU legislation. Following the outbreak of Covid-19, member states similarly re-imposed border controls with little regard to the formal requirements under the Schengen Border Codex. As argued elsewhere, procedural and substantive requirements for the temporary reintroduction of border controls in response to Covid-19 have once again been subordinated to political considerations in national capitals. Instead of reinstating its role as a guardian of the Treaties the Commission finds itself increasingly succumbed to mediating national interpretations of EU law.

Similar difficulties to forge a common European response could be observed in the evacuation of the Greek hotspots. The abhorrent living conditions in the refugee camps on the Aegean islands made it impossible for asylum seekers to implement physical distancing, hence increasing their exposure to a possible Covid-19 infection. In early March, the Moria camp hosted some 20,000 people although the facility was initially designed to accommodate no more than 3,000 asylum seekers. UNHCR organised transfers from the islands to an Emergency Support and Integration facility on the mainland, which is co-funded by the EU. Yet, the Commission's "voluntary relocation exercise" to other EU countries was received with restraint in national capitals. While the relocation of asylum seekers has already been a sensitive issue prior to the outbreak of Covid-19, the virus has spurred further scepticism towards taking in refugees. On 6 March, at least 11 EU countries pledged to evacuate 1,600 children from the Greek islands, but the distinct requirements by some member states have initially made it difficult to meet national quotas. Germany, for example, insisted on relocating only unaccompanied girls under the age of 14, who are rarely found under the population in the camps.

Both examples, the uncoordinated reintroduction of national border controls and the partial commitments to relocate some of the most vulnerable children from the Greek hotspots, illustrate a further fragmentation of the EU's asylum and migration policy. Mending the fractures between member states and revitalising the negotiations about a reform of the Common European Asylum System were initial priorities of the von der Leyen Commission. However, the decision to focus on finding a compromise on the EU's economic recovery prior to announcing the Commission's New Pact on Asylum and Migration has delayed negotiations. Whereas Covid-19 clearly illustrates the need for collective action, the virus contributed to a de-prioritisation of the asylum reform. This is also mirrored in the substantial decrease of financial commitments foreseen in the next Multiannual Financial Framework (MFF) that was proposed at the European Council on 21 July. Compared to the initial proposal by the Commission from 2018, the heading for Migration and Border Management shrunk by 26%. As table 1 shows, the reduction in commitments is particularly severe in the area of border management. The European Border and Coast Guard's budget for the next seven years has been cut into half, despite the fact that establishing a standing corps of 10,000 border guards was foreseen to be an essential part of the Commission's "fresh start" for a common migration policy.

Table 1: Overview of commitments for Migration and Border Management

	Commission Proposal 2018	Council Conclusions 2020	Change
Overall commitment	30 829	22 671	-26%
Asylum & Migration Fund	9 205	8 705	-5%
Integrated Border Management Fund	8 237	5 505	-33%
European Border & Coast Guard Agency	10 587	5 148	-51%

Note: numbers in million; 2018 prices. Source: European Commission

With reform negotiations delayed to the second half of Germany's EU Council presidency and a substantially smaller budget for the next seven years than initially foreseen, Covid-19 has minimised the EU's capacity to steer collective action and instead prolongated its dependency on ad hoc solutions.

3. Covid-19 has highlighted the relevance of migrants as "essential workers"

Across EU member states, physical distancing measures have confined a large share of the workforce at home. However, some functions continued largely untouched by the lockdown in order to guarantee that access to health care and other basic services remained intact. Migrants, both from within the EU and from third countries, play a crucial role as "essential workers" in keeping these services running during the pandemic.

Although the majority of "essential workers" are natives, a study by the Commission's Joint Research Centre (JRC) found that on average 13% of "essential workers" in the EU are immigrants. The share of immigrants in the domestic "essential workforce" varies across member states and mirrors the overall share of migrants residing in each country. Whereas the share of "essential" migrant-workers is almost zero in Romania, Poland or Bulgaria, it comes close to or exceeds 20% in Italy, Belgium, Germany, Austria, Sweden, Ireland, Cyprus and Luxembourg. The study also finds that migrants from non-EU countries are overrepresented among "essential workers", relative to their share as part of the general migrant workforce. Their overrepresentation largely stems from non-EU immigrants working as cleaners, in mining and construction or as personal care workers.

In a number of cases, EU member states recognised the contribution of migrant workers to the Covid-19 response by either passing new legislation or adapting existing rules. In Portugal, irregular migrants and asylum seekers were regularised to ensure their access to health and social services. Italy allowed undocumented migrants to apply for a temporary stay of six months during which they could work in sectors such as agriculture, domestic work or social care. Similarly, the Spanish government granted 2,000 doctors from Venezuela the right to practice even though the evaluation of their credentials was still pending. Exemptions were not only made for migrants from third countries and asylum seekers, but also for immigrants from other EU member states. In Germany, an earlier travel ban was lifted for 80,000 seasonal farm workers from Eastern Europe, including from Poland, Romania, and Bulgaria, who were allowed to enter the country in April and May. The decision was justified by the workers' essential contribution to securing the harvest and preventing a spike in food prices.

These measures illustrate how migrant workers are performing critical roles which help keep basic services running in societies struggling to mitigate the repercussions of Covid-19. However, acknowledging their contributions should not be limited to temporary interventions. Instead, it is necessary to conceive policies that harness migrants' potential, while also considering the vulnerabilities that come with a constrained access to basic rights and services as well as with an overrepresentation in lower income sectors. In particular, the employment of low-skilled migrants in essential occupations suggests the need to reconsider the exclusive focus on attracting high-skilled migrants when designing legal pathways to the EU.

4. Support the EU's neighbourhood to mitigate potential push factors

Addressing Covid-19 related fallouts within member states' asylum policies should not impede the EU's ambition as a global actor. The pledging exercise organised by the Commission to help develop a Covid-19 vaccine and ensure universal access to medical treatment is a helpful start to that end. Such efforts should be tailored to also support migrants and asylum seekers in countries of first refuge. As the Commission strives for a holistic perspective in its New Pact, it is well worth considering how Covid-19 impacted the situation in refugee-hosting countries neighbouring the EU.

In Lebanon, for example, the virus exacerbated the already dire living conditions of roughly 1.5 million Syrian refugees. Amid an economic downturn and spiralling food prices, refugees and asylum seekers struggle to find employment to provide for basic necessities, such as food and water. In Jordan, 29% of Syrian refugees and 37% of non-Syrian refugees reported that they did not have enough food to eat in the past week. Difficulties adhering to physical distancing measures in overcrowded refugee camps and lack of access to health services are among the common problems that refugees in both countries experience. Syrians under temporary protection in Turkey are also confronted with insufficient healthcare provisions and economic hardship. With a struggling Turkish economy, refugees also face growing hostilities by the local population, who blame them as representing a burden to the country's social and economic services. For asylum seekers and refugees in Libya, the outbreak of Covid-19 further aggravated a situation of forced immobility.

A worsening of living conditions in countries of first refuge has been one of the main factors leading up to the EU's 2015 "migration crisis". A recent study by the Syrian Association for Citizens' Dignity (SACD) found that only 9% of Syrian feel settled in Lebanon and only 34% do so in Turkey[2]. While it is too early to tell how Covid-19 will impact migratory flows, there is a possibility that the virus will reinforce existing push factors. At the Conference on the future of Syria and the region on 30 June, the EU's High Representative Josep Borrell therefore reiterated the "need to extend our support to Syria's neighbours - Jordan, Lebanon and Turkey - that in a spirit of solidarity and generosity harbour millions of Syrian refugees". The EU and its member states should build on this promise and prioritise assisting neighbouring countries in their effort to mitigate the negative consequences of the pandemic.

Conclusion: towards a Covid-19-proofed asylum and migration policy

How, and to what extent, Covid-19 will continue affecting public life in the EU is uncertain. But as the EU and its member states prepare for different scenarios, it is important to build coping strategies based on the lessons already learned. Given the possibility of recurring regional or national lockdowns, three conclusions should be kept in mind when designing a Covid-19-proofed asylum and migration policy.

First, member states must make guaranteeing access to a fair and efficient asylum procedure a benchmark for potential future mobility restrictions. This includes assessing which of the electronic tools put in place during the immediate crisis response, such as online registration, remote management of applications or video interviewing, can help ensuring that asylum procedures are not suspended in the event of a renewed lockdown. The quality of asylum interviews and access to legal counselling should equally be ensured. That also requires preparing reception facilities in a way that physical distance and sanitary requirement can be upheld.

Second, negotiations about reforming the Common European Asylum System urgently need to be revitalised. To do so, the Commission should stick to presenting its New Pact no later than September. Otherwise, Germany's EU Council Presidency will not have sufficient time to prepare a political agreement among the member states. The idea of pre-screening asylum applications in closed facilities at the EU's external borders, which is expected to form a central component of the Commission's New Pact, will further need adaptation to allow for necessary physical distancing and healthcare provisions. Strengthening the external dimension of the EU's migration policy is another priority for the Commission. Here, it will be important to prepare targeted support to refugee-hosting countries, helping to facilitate migrants' access to health care services.

Third, the EU and its member states should acknowledge the contributions made by migrant workers who contribute to keeping essential services running during the pandemic. The ad hoc

2 Interviews were conducted prior to the outbreak of Covid-19.

measures taken by some EU countries can serve as starting points to conceive ways in which accessing national labour markets is facilitated for high- and low-skilled migrants. In general, the widespread realisation about member states' reliance on migrants as essential workers is an opportunity for policy-makers to build a more positive and inclusive narrative on the issue of migration.

Table 2: Lessons from Covid-19

Impact of Covid-19	Lessons
Restricted access to asylum	• E-services for lodging and processing asylum claims, as well as video interviewing, can help keep asylum procedures running • Adequate access to information and legal counselling must be guaranteed at all stages of the asylum process • Emergency shelters and contingency planning are necessary to allow for physical distancing in reception facilities
Lack of a common European response	• Relocation schemes based entirely on voluntary contributions fall short of providing sufficient relief during acute crises • Covid-19 has led to a de-prioritisation of the asylum reform, leaving little time for a political compromise under Germany's EU Council presidency
Migrants as "essential workers"	• EU countries benefit from both, highly and low-skilled migrants, and legal pathways should be designed to account for both • The contributions of migrants as "essential workers" can help shape a progressive narrative on migration
Pressure on countries of first refuge	• A worsening of living conditions and lack of economic opportunities could exacerbate existing push factors

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