

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT
BUDGETARY AFFAIRS **D**

Budgets

Budgetary Control



**EU funds for Migration
policies: Analysis of
Efficiency and best
practice for the future**

STUDY





DIRECTORATE GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT D: BUDGETARY AFFAIRS

EU funds for Migration policies: Analysis of Efficiency and best practice for the future

STUDY

Abstract

This study provides an overview of EU funding and agencies in the field of migration, asylum and integration. It begins with a brief assessment of their effectiveness and efficiency before examining whether the design of management, budgeting and control systems is effective in preventing the misuse of resources. The study illustrates good practices, lessons learnt and recommendations on how to achieve greater transparency in the implementation of future EU funding programmes.

This document was requested by the European Parliament's Committee on Budgetary Control. It designated Mr Marco Valli, MEP, to follow the study.

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ABOUT THE EDITOR

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LIST OF ABBREVIATIONS

- AA** Audit Authority
- AMIF** Asylum Migration Integration Fund
- ANCI** Associazione Nazionale Comuni Italiani
(National Association of Italian Municipalities)
- AVR** Assisted Voluntary Return
- BGMFE** Bureau de la Gestion Mutualisée des Fonds Européens
(Office for the shared management of the European funds)
- CA** Certifying Authority
- CARA** Centri di Accoglienza Richiedenti Asilo
(Centres for the Reception of Applicants for International Protection)
- CDA/CPISA** Centri di Accoglienza per Migranti
(Reception Centres for Immigrants)
- CEAS** Common European Asylum System
- CJEU** Court of Justice of the European Union
- COI** Country of Origin Information
- CSOs** Civil Society Organisations
- DGEF** Direction Générale des Étrangers en France
(General-Directorate for foreigners in France)
- EASO** European Asylum Support Office
- EBF** European External Borders Fund
- EBGT** European Border Guard Teams
- EC** European Commission
- ECA** European Court of Auditors
- ECHR** European Convention on Human Rights
- ECRE** European Council and Refugees and Exiles
- EIF** European Fund for the Integration of third-country nationals
- EP** European Parliament
- ERCAS** European Research Centre for Anti-Corruption and State-Building

| | |
|-----------------|--|
| ERF | European Refugee Fund |
| ESF | European Social Fund |
| EU | European Union |
| EUROJUST | European Union Judicial Cooperation Unit |
| EUROPOL | European Police Office |
| FRONTEX | European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union |
| GDP | Gross Domestic Product |
| GII | General Inspectorate for Immigration |
| GPP | Gateway Protection Programme |
| ICMPD | International Centre for Migration Policy Development |
| IGAE | Interventor General de la Administración del Estado (Spanish National Auditing Agency) |
| ILO | Immigration Liaison Officer |
| IOM | International Organisation for Migration |
| ISF | Internal Security Fund |
| MS | Member State |
| NCC | National Coordination Centre |
| NGOs | Non-governmental organisations |
| NP | National Plan |
| OLAF | European Anti-Fraud Office |
| RA | Responsible Authority |
| RF | European Return Fund |
| SIS II | Schengen Information System II |
| SOLID | Solidarity and Management of Migration Flows |
| SPRAR | Sistema di Protezione per Richiedenti Asilo e Rifugiati (System of Protection for Applicants and Beneficiaries of International Protection) |
| TA | Technical Assistance |
| TCNs | Third Country Nationals |
| TFEU | Treaty on the Functioning of the European Union |
| TFGR | Task Force for Greece |

UK United Kingdom

UNHCR United Nations High Commissioner for Refugees

VIS Visa Information System

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EXECUTIVE SUMMARY

Objective, methodology and scope of the study

The overall objective of the study is to provide an overview of EU funding and agencies in the field of migration, asylum and integration, and to undertake a brief assessment of their effectiveness and efficiency. At the fund level, the study asks whether the design of management, budgeting and control systems is effective in preventing the misuse of resources. It illustrates good practices, lessons learnt and recommendations on how to achieve greater transparency in the implementation of future EU funding programmes. At the agency level, the research analyses added value and the way in which they can facilitate better coordination and collaboration among Member States in the field of asylum and migration.

The study methodology makes use of secondary sources and primary data derived from a targeted interview programme and case studies. The methodology comprises two steps:

1. General overview of migration policies in the EU and related funding and agencies, based on the collection and processing of existing evaluation documents and relevant literature.
2. Analysis of primary data collected in high level interviews at EU level and in case studies across seven Member States (Bulgaria, France, Greece, Italy, Spain, Romania, and the United Kingdom). The aim of this step is to provide illustrative examples of bad and good practices in the use of Funds and to assess the added value of EU agencies.

The funds covered in this study are the four financial instruments under the SOLID ('Solidarity and Management of Migration Flows') programme:

- The External Borders Fund (EBF),
- The European Return Fund (RF),
- The European Refugee Fund (ERF) and
- The European Fund for the integration of third-country nationals (EIF).

Because the Asylum Migration Integration Fund (AMIF) and the Internal Security Fund (ISF) were only launched recently, their efficiency and effectiveness cannot yet be assessed. Instead, the analysis focuses on whether AMIF and ISF address the problems and challenges emerging from the evaluation of the SOLID programme which ended in June 2015.

Specific attention is also paid to the role of the main European agencies operating in the area of asylum and migration. These are:

- FRONTEX (European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union);
- EASO (European Asylum Support Office).

EU policy on migration, asylum and integration

The gradual removal of the EU's internal borders to enable free movement of persons has been accompanied by a strengthening of the Union's external borders. In addition, despite the diversity of national migration policies, there has been an effort at EU level to develop a comprehensive set of common policies to regulate all dimensions of migration: regular migration and integration (Single Permit Directive), reception and asylum (Common European Asylum System (CEAS): Asylum

Procedures Directive, Reception Conditions Directive, Qualification Directive, Temporary Protection Directive and the Dublin Regulation), and returns (Return Directive).

To support the implementation of these policies, the EU has established two agencies (FRONTEX and EASO), and three financial instruments:

- The SOLID programme - which for the period 2007/2013 is based on four funds, and
- The AMIF and ISF programmes covering the years between 2014 and 2020.

In addition, due to the ongoing immigration crisis in the Mediterranean, the European Commission launched a 10 point plan for immediate action backed by a budget allocation of EUR 89 million. The new EU Agenda on Migration which was issued in May promotes the reduction of irregular migration, more cooperation among EU agencies, implementation of the CEAS and the preparation of a new policy for legal migration.

EU Funds for migration

Between 2007 and 2013, the European Commission allocated almost EUR 4 billion to the management of external borders and the implementation of migration policies through SOLID. The programme includes four financial instruments, each of which covers one of the four dimensions of the programme:

- Integrated management of external borders (European Borders Fund -EBF),
- Asylum policy (European Refugee Fund-ERF),
- Social, civic and cultural integration of non-EU nationals (European Integration Fund- EIF), and
- Combating illegal immigration and returning illegally residing individuals (European Return Fund-RF).

The contribution of the SOLID programme is difficult to appreciate because of the diversity of projects implemented, the relatively small size of the funds and the fact that they have been mainstreamed into national funding systems. However, evidence gathered in the field suggests that the overall effectiveness of the programme is positive.

Indeed, as this study shows, the programme:

- Increased national capacity in border management;
- Contributed to improving reception and asylum systems in some countries;
- Invested significantly in language training to facilitate the integration of TCNs;
- Triggered several innovative approaches and good practices in the field of return and resettlement although there is room for greater innovation in the area of integration

Despite this, some concerns have been raised regarding the distribution of the funds. For instance the Decision establishing the ERF allocates a fixed amount to each MS, with the remainder allocated in proportion of the number of people with one of the following statuses: (a) refugee, (b) subsidiary protection, (c) temporary protection and resettlement. This system does not sufficiently respond to the needs of countries that are facing a humanitarian emergency, as in practice a large proportion of the available funds is allocated to states with a large number of refugees in the past, and which have therefore already developed facilities and procedures to deal with significant migration pressure. As a result of this funding formula, the funds could only partly contribute to sharing burdens across Member States.

Overall the implementation of the funds has been efficient, with an absorption rate of 90%. The European Commission is closely involved in controlling the implementation of the funds. Authorized Commission representatives have the power to run on-the-spot checks. The European Court of Auditors audits the EC's internal and national management structures. Any cases of alleged fraud or doubt about the use of funds are referred directly to OLAF, the European Anti-Fraud Office. As a result, some irregularities have been detected. However, these were mainly due to lack of knowledge or unintentional misinterpretation of eligibility rules rather than any fraudulent activities.

In addition, a 2014 Court of Auditors report found that the annual programming system and the control system placed excessive burden on MS and the European Commission. The reduction from four funds to two - AMIF (Asylum, Migration and Integration Fund) and ISF (Internal Security Fund) - should, together with the implementation of a multiannual financial system, reduce the administrative burden on the MS.

EU agencies: FRONTEX and EASO

FRONTEX and EASO were established as agencies at EU level to support MS in the field of border control, migration and asylum management. The study demonstrates that MS benefit from cooperation with both bodies, because they prevent duplication of efforts. In particular, the agencies play an important role in setting standards and harmonising approaches for reception, recognition of international protection and return procedures which should comply with international human rights conventions.

However, there is significant room for further integration of activities between the two agencies to facilitate the full implementation of a common EU approach to migration and asylum. Moreover, the resources allocated to these agencies do not always allow them to deliver on their full mandate. For instance, despite the current FRONTEX budget being recently tripled, this may not suffice to carry out sea operations to address the ongoing humanitarian crisis in the Mediterranean. Similarly, the technical expertise provided by EASO to obtain better quality and more consistent asylum decisions among MS, is constrained by the availability of independent experts from the Member States which may vary over time. Finally, FRONTEX and EASO have a minor role in preventing and fighting criminal infiltration due to migration flows - these activities are within the remit of the European Police Office (EUROPOL).

Lessons learned on the implementation of EU funds for migration from the Member States

Member States are ultimately responsible for the financial management of the multiannual and annual programmes implemented under the EU funds covered in this study. This includes the responsibility to designate:

- A responsible authority in charge of the management of the multiannual and annual programmes and contacts with the Commission;
- A certifying authority, which certifies declarations of expenditure prior to their submission to the Commission; and
- An audit authority which should be completely independent and responsible for verifying the effective functioning of the management and control systems of the funds.

As a result, MS have put in place more or less decentralised management and control systems to oversee the implementation of the Funds. Within these systems, the **main driver of success** in

implementing/controlling the use of funds seems to be the establishment of a new body with a specific mandate to deliver the programme (France and UK).

Only two of the countries analysed delegated audit activities to a **professional external audit firm**. Nevertheless, while the study has found some evidence of weaknesses in systems put in place for the control of the implementation of the funds, this related to the first three years of the implementation of the programme, when MS were still in the process of developing their administrative capacity.

For the EBF, misuse of funds detected in this study was mainly due to **errors and mistakes** in the interpretation of eligibility rules or in the use of equipment by national police and coast guards. Data gathered through desk and field research highlighted a few cases of actual fraud related to the implementation of the ERF and EIF, which require the involvement of actors at local level.

Indeed, in some cases, the **increase in the number of actors involved in projects through subcontracting and the number of financial transfers** increases the risk of irregularity, mistakes, or possibly fraud. This is in line with the findings of previous studies, according to which misuse of EU funds is most apparent in funds managed by the MS, such as the Structural Funds and Pre-Accession Funds', rather than funds that are directly managed by the Commission.

At the same time, pre-award, a **lack of sector expertise** in some project selection committees led to unsuccessful results at a later stage (e.g. the cancellation of the project). Finally, the fact that the responsible and delegated authorities could act, at the same time, as awarding and executing bodies led to a lack of transparency in project selection.

In sum, the findings of this study suggest that **no additional controls – or resources for such control - are needed** in relation to the implementation of EU funds for migration. On the contrary, there has been extensive criticism of the burden and the workload generated by the Commission's control requirements in this field. However, there is room for **improving the management of the funds themselves and the existing resources spent on budget control** by putting in place some procedural safeguards and improving monitoring and evaluation activities.

Recommendations

How can the use of funds be improved?

1. The added value of EU funding for migration lies in supporting innovative actions, especially in the case of actions for the integration of the TCNs and for vulnerable groups of asylum seekers like unaccompanied minors. Hence, they should concentrate on specific innovative projects rather than funding the regular activities of the MS.
2. The allocation of funds should be based on future needs rather than past experience. In practice, this means they need to be based on forecasts of migration trends. While 'fixed allocations' per country do not encourage burden sharing, proportionally allocated resources benefit 'countries with large absolute numbers' over 'countries with much greater relative burdens (e.g. relative to population or size of GDP).
3. The implementation of the funds should be guided by improved monitoring and evaluation systems based on baseline indicators, progressive benchmarks and quantifiable objectives. This is

supported by a 2014 Court of Auditors report which concludes that “serious deficiencies in the monitoring and in the ex-post evaluations by the Commission and Members States are making the measurement of the funds’ overall results impossible”.

How can the role of agencies be enhanced?

4. Both agencies could better contribute to the prevention and fight of criminal infiltration through closer collaboration with EUROPOL in the field of smuggling and trafficking of human beings.
5. The financial and professional resources allocated to both agencies need to be increased. If the agency budgets cannot be increased sufficiently to enable them to comply with their mandate, it could be explored whether they should be allowed to apply to the EU migration funds for additional resources. . For instance FRONTEX could apply to the ISF to conduct joint return operations and EASO could apply to the AMIF to conduct projects that benefit refugees. However this would require, a modification of the current financial regulations and would therefore only be an option in the long term.
6. In order to achieve a common EU approach, the reception, identification, referral, integration and return of migrants should be considered as different steps of a single process. Consequently more integration between FRONTEX and EASO activities is needed. In the long term, it could be considered whether the two agencies should be merged.

How can implementation, management and control of EU funds for migration be improved?

7. The Commission should put in place a system of incentives to improve the implementation of the funds. A ‘performance reserve’ which links financial allocation under the funds to results, similar to what already exists for the Structural Funds, should be considered. Under such a system, Member States could identify programmes they feel should receive a reward, and submit details to the Commission for evaluation.
8. During the implementation of the funds when the Responsible and Delegated authorities act as executing bodies, any funding applications that they submit, have to be considered by an independently appointed body. Less discretion should be left to MS in this area and the Commission should provide clearer rules on the project selection procedure and eligibility rules.
9. Integrity and professionalism must be taken into account in the selection of members of the evaluation committees. Moreover, when possible, a member who is external to the procurement team should be involved in project selection.
10. The members of committees, namely, public officials, temporary staff and external experts, should be always subject to background and reference checks to verify their integrity, objectivity, confidentiality, competence, authority, responsibilities and independence.
11. Public procurement procedures and calls for proposals should be based on standard principles of transparency, equal treatment, programming, eligibility criteria, non-cumulation, non-retroactivity, co-financing, no-profit rule, conflicts of interest.

12. Pre- and post-grant award, corruption risk management should not only focus on the main contractor and beneficiaries, but also on their subcontractors and others involved in the execution of the contract.
13. It should be considered whether a shortlist of accredited NGOs can be developed. Accreditation could take the form of an anti-corruption certification. This should ensure a proper screening of contractors and beneficiaries, especially their ultimate beneficiary owners. Of course it is important to ensure that such an accreditation procedure does not create significant additional burdens, prevent small but innovative local organisations from participating, or reduce the flexibility of the funds to respond to crises.
14. In addition, any tasks to be carried out by subcontractors should always be specified in a contract and in the work-plan of the project. A detailed budget for the activities specifying the direct and indirect costs of the action should be agreed with the main contractors and related supporting documentation should be held by the subcontractor.
15. Procurement information, information on projects carried out, information on all beneficiaries and information about the results of investigations into irregularities and fraud should be publicly available.
16. Audits and evaluation activities should always be performed by independent external organisations according to EU-wide audit and evaluation standards, where prevention of corruption is one of the objectives and results are shared, also between Member States.
17. The establishment of a digital platform to report cases of corruption and fraud could facilitate investigations, help to estimate the financial losses stemming from illegal activities, and prevent or reduce potential misuse of EU funds for migration. The platform should be based on the whistleblowing model (i.e. the anonymous disclosure by a person, usually an employee in a government agency or private enterprise, to the public or to those in authority, of mismanagement, corruption, illegality, or some other wrongdoing).

ZUSAMMENFASSUNG

Ziel, Methodik und Themenbereich der Studie

Mit dieser Studie soll ein Überblick über die EU-Fonds und -Agenturen im Bereich Migration, Asyl und Integration erstellt und eine kurze Einschätzung ihrer Wirksamkeit und ihres Wirkungsgrads vorgenommen werden. Hinsichtlich der Fonds wird in der Studie untersucht, ob die Management-, Budgetierungs- und Überwachungssysteme einen Missbrauch von Ressourcen wirksam verhindern. Bewährte Verfahren, gewonnene Erkenntnisse und Empfehlungen, wie mehr Transparenz bei der Umsetzung von zukünftigen EU-Förderungsprogrammen erzielt werden kann, werden dargestellt. In Bezug auf die Agenturen wird untersucht, welchen Mehrwert sie haben und wie eine bessere Koordinierung und Zusammenarbeit zwischen den Mitgliedstaaten im Bereich Asyl und Migration erzielt werden kann.

Die Untersuchung erfolgte auf der Grundlage von Sekundärquellen und von aus einem strukturierten Interviewprogramm und aus Fallstudien stammenden Primärdaten. Die Methodik umfasst zwei Schritte:

1. Allgemeiner Überblick über die in der EU angewendeten politischen Strategien im Bereich Migration und über die diesbezügliche Mittelvergabe und Agenturen auf der Grundlage bestehender Evaluierungen und einschlägiger Literatur.
2. Analyse von Primärdaten aus Interviews mit hochrangigen Persönlichkeiten auf EU-Ebene und aus Fallstudien aus sieben Mitgliedstaaten (Bulgarien, Frankreich, Griechenland, Italien, Spanien, Rumänien und Vereinigtes Königreich). Mit diesem Schritt sollen Beispiele zur Veranschaulichung von ungeeigneten und von bewährten Verfahren bei der Mittelverwendung gefunden und der Mehrwert der EU-Agenturen eingeschätzt werden.

Bei den in der Studie behandelten Fonds handelt es sich um die vier Finanzierungsinstrumente des Programms „Solidarität und Steuerung der Migrationsströme“ (SOLID):

- den Außengrenzenfonds,
- den Europäischen Rückkehrfonds,
- den Europäischen Flüchtlingsfonds und
- den Europäischen Fonds für die Integration von Drittstaatsangehörigen.

Weil der Asyl-, Migrations- und Integrationsfonds (AMIF) und der Fonds für die Innere Sicherheit (ISF) erst vor kurzem angelaufen sind, können ihr Wirkungsgrad und ihre Wirksamkeit noch nicht eingeschätzt werden. Stattdessen konzentriert sich die Analyse darauf, ob der Asyl-, Migrations- und Integrationsfonds und der Fonds für die Innere Sicherheit auf die Probleme und Herausforderungen ausgerichtet sind, die sich aus der Bewertung des im Juni 2015 ausgelaufenen SOLID-Programms ergeben.

Besondere Aufmerksamkeit gilt zudem auch der Rolle der wichtigsten im Bereich Asyl und Migration tätigen europäischen Agenturen. Dabei handelt es sich um

- FRONTEX (Europäische Agentur für die operative Zusammenarbeit an den Außengrenzen der Mitgliedstaaten der Europäischen Union);
- EASO (Europäisches Unterstützungsbüro für Asylfragen).

EU-Strategien zu Migration, Asyl und Integration

Die allmähliche Aufhebung der EU-Binnengrenzen, mit der Freizügigkeit ermöglicht wurde, ging einher mit einer Verstärkung der Außengrenzen der Union. Zudem hat es trotz der Unterschiedlichkeit der politischen Strategien der Mitgliedstaaten im Bereich Migration auf EU-Ebene Anstrengungen gegeben, gemeinsame Strategien zu entwickeln, mit der alle Dimensionen von Migration umfassend geregelt werden sollen: legale Migration und Integration (Richtlinie über den einheitlichen Aufenthaltstitel), Aufnahme und Asyl (Gemeinsames Europäisches Asylsystem – GEAS: Asylverfahrensrichtlinie, Richtlinie über Aufnahmebedingungen, Anerkennungsrichtlinie, Richtlinie über vorübergehenden Schutz und Dublin-Verordnung) und Rückführungen (Rückführungsrichtlinie).

Um die Umsetzung dieser Strategien zu ermöglichen, hat die EU zwei Agenturen (FRONTEX und EASO) und drei Finanzierungsinstrumente geschaffen:

- Das SOLID-Programm, das im Zeitraum 2007-2013 aus vier Fonds bestand, und
- die Programme AMIF und ISF für die Jahre 2014-2020.

Zudem hat die Europäische Kommission aufgrund der fortbestehenden Flüchtlingskrise im Mittelmeerraum einen Zehn-Punkte-Plan für Sofortmaßnahmen aufgelegt, für den Haushaltsmittel in Höhe von 89 Mio. Euro zur Verfügung gestellt wurden. Diese neue, im Mai veröffentlichte EU-Agenda für Migration fördert die Bekämpfung der illegalen Migration, die Zusammenarbeit zwischen den EU-Agenturen, die Umsetzung des GEAS und die Schaffung einer neuen Strategie für legale Einwanderung.

EU-Fonds im Bereich Migration

Zwischen 2007 und 2013 hat die Europäische Kommission beinahe 4 Mrd. Euro für den Grenzschutz an den Außengrenzen und die Umsetzung der Migrationspolitik im Rahmen von SOLID zur Verfügung gestellt. Dieses Programm umfasst vier Finanzierungsinstrumente, von denen jedes eine der vier Dimensionen des Programms abdeckt:

- integrierter Grenzschutz an den Außengrenzen (Europäischer Außengrenzenfonds),
- Asylpolitik (Europäischer Flüchtlingsfonds – EFF),
- soziale, staatsbürgerliche und kulturelle Integration von Drittstaatsangehörigen (Europäischer Integrationsfonds – EIF) und
- Bekämpfung von illegaler Einwanderung und Rückführung von sich illegal aufhaltenden Personen (Europäischer Rückkehrfonds).

Der Beitrag des SOLID-Programms kann nur schwer abgeschätzt werden, da die umgesetzten Projekte sehr verschiedenartig waren, die verwendeten Mittel verhältnismäßig gering waren und die Gelder in die nationalen Finanzierungssysteme einfließen. Im praktischen Einsatz erhobene Daten weisen jedoch darauf hin, dass die Gesamtwirkung des Programms positiv ist.

Die Studie zeigt, dass das Programm:

- die nationalen Fähigkeiten im Grenzschutz verbessert hat;
- in einigen Ländern zu Verbesserungen in den für Aufnahme und Asylvergabe zuständigen Strukturen beigetragen hat;
- in großem Umfang in Sprachunterricht investiert hat, um die Integration von Drittstaatsangehörigen zu fördern;

- verschiedene innovative Ansätze gefördert und bewährte Verfahren im Bereich Rückführung und Wiederansiedlung gefestigt hat, obwohl hier die Möglichkeiten für weitere Innovationen im Bereich Integration noch nicht ausgeschöpft wurden.

Dennoch wurden in Bezug auf die Verteilung der Mittel Bedenken erhoben. So weist etwa die Entscheidung über die Einrichtung des Europäischen Flüchtlingsfonds jedem Mitgliedstaat eine bestimmte Summe zu und die verbliebenen Mittel werden im Verhältnis zu der Anzahl an Personen zugewiesen, die zu einer der folgenden Kategorien gehören: (a) Flüchtling, (b) subsidiärer Schutz, (c) vorübergehender Schutz und Wiederansiedlung. Dieses System ist nur ungenügend angepasst an den Bedarf von Ländern, die vor einer humanitären Notlage stehen, da in der Praxis ein großer Teil der zur Verfügung stehenden Mittel Staaten zugewiesen wird, die in der Vergangenheit zahlreiche Flüchtlinge aufgenommen haben und daher bereits über Einrichtungen und Verfahren verfügen, mit denen sie einen großen Migrationsdruck bewältigen können. Aufgrund dieses Finanzierungsverfahrens konnten die Fonds nur teilweise dazu beitragen, die Lasten unter den Mitgliedstaaten aufzuteilen.

Insgesamt hatte die Verwendung der Mittel mit einer Ausschöpfungsrate von 90 % einen hohen Wirkungsgrad. Die Europäische Kommission ist unmittelbar in die Überwachung der Verwendung der Mittel einbezogen. Beauftragte der Kommission haben das Recht, Kontrollen vor Ort durchzuführen. Der Europäische Rechnungshof prüft die internen Verwaltungsstrukturen der Kommission und die nationalen Verwaltungen. Jeder Fall eines mutmaßlichen Betrugs oder einer zweifelhaften Verwendung von Mitteln wird direkt an OLAF, das Europäische Amt für Betrugsbekämpfung, weitergeleitet. Im Ergebnis wurden verschiedene Unregelmäßigkeiten entdeckt. Diese wurden jedoch zum größten Teil durch mangelnde Kenntnisse oder unbeabsichtigte Fehlinterpretationen der Förderkriterien und weniger durch betrügerische Machenschaften verursacht.

Zudem hat der Rechnungshof in einem Bericht von 2014 festgestellt, dass das jährliche Programmplanungs- und das Kontrollsystem die Mitgliedstaaten und die Europäische Kommission unverhältnismäßig belasten. Mit der Reduzierung der Zahl der Fonds von vier auf zwei – den Asyl-, Migrations- und Integrationsfonds (AMIF) und den Fonds für die Innere Sicherheit (ISF) – und der Einführung eines mehrjährigen Finanzierungssystems soll der Verwaltungsaufwand für die Mitgliedstaaten verringert werden.

EU-Agenturen: FRONTEX und EASO

FRONTEX und EASO wurden als Agenturen auf EU-Ebene eingerichtet, um die Mitgliedstaaten im Bereich Grenzkontrollen, Migration und Asylpolitik zu unterstützen. Aus der Studie geht hervor, dass die Mitgliedstaaten von der Zusammenarbeit mit den beiden Agenturen profitieren, da auf diese Weise ein Duplizieren von Maßnahmen vermieden wird. Die Agenturen spielen insbesondere eine wichtige Rolle bei der Schaffung von Standards, der Vereinheitlichung der Maßnahmen im Bereich der Aufnahme von Flüchtlingen, sowie bei der Anerkennung von internationalen Schutz- und Rückführungsverfahren, die mit den internationalen Menschenrechtskonventionen im Einklang stehen sollten.

Jedoch sind die Möglichkeiten für ein besseres Ineinandergreifen der Maßnahmen der beiden Agenturen, das die vollständige Umsetzung eines gemeinsamen EU-Vorgehens bei Migration und Asyl ermöglichen würde, noch bei weitem nicht ausgeschöpft. Zudem können die Agenturen mit den ihnen zugewiesenen Ressourcen ihren Auftrag nicht immer vollständig ausführen. Zum Beispiel ist das Budget von FRONTEX zwar vor kurzem verdreifacht worden, doch reicht dies möglicherweise

nicht aus, um die humanitäre Krise im Mittelmeer mit Einsätzen auf See wirksam zu bekämpfen. Ferner ist das technische Fachwissen von EASO, mit der eine bessere Qualität und Gleichartigkeit von Asylentscheidungen in den Mitgliedstaaten erreicht werden soll, abhängig von der Verfügbarkeit unabhängiger Fachleute aus den Mitgliedstaaten, die über die Zeit variieren kann. Schließlich spielen FRONTEX und EASO kaum eine Rolle, wenn es darum geht, das Einsickern von kriminellen Elementen im Rahmen von Migration zu verhindern und zu bekämpfen. Für diese Maßnahmen ist das Europäische Polizeiamt (EUROPOL) zuständig.

Welche Erkenntnisse haben die Mitgliedstaaten aus der Verwendung der für den Bereich Migration bestimmten EU-Mittel gewonnen?

Die Mitgliedstaaten sind letzten Endes verantwortlich für die Mittelbewirtschaftung der Mehrjahres- und Jahresprogramme, die im Rahmen der in dieser Studie untersuchten EU-Fonds umgesetzt werden. Dies beinhaltet die Verantwortung zur Bestimmung:

- einer für die Verwaltung der Mehrjahres- und Jahresprogramme und den Kontakt mit der Kommission zuständigen Stelle;
- einer Zertifizierungsstelle, die die Ausgabenerklärungen beglaubigt, bevor sie an die Kommission übermittelt werden, und
- einer Rechnungsprüfstelle, die vollkommen unabhängig sein sollte und die für die Überprüfung der Wirksamkeit der Verwaltungs- und Kontrollsysteme der Fonds verantwortlich ist.

Im Ergebnis haben die Mitgliedstaaten mehr oder weniger dezentralisierte Verwaltungs- und Kontrollsysteme geschaffen, um die Verwendung der Mittel zu überwachen. Der **wichtigste Faktor für einen Erfolg** bei der Verwendung der Mittel bzw. bei der Überprüfung ihrer Verwendung ist offensichtlich die Schaffung einer eigenen Stelle, die mit der Umsetzung des Programms beauftragt ist (Frankreich und Vereinigtes Königreich).

Nur zwei der untersuchten Länder haben die Prüfungsmaßnahmen an **professionelle externe Rechnungsprüfer** delegiert. Zwar konnten in der Studie einige Hinweise auf Schwachstellen in den für die Überwachung der Verwendung der Mittel geschaffenen Strukturen nachgewiesen werden, doch bezogen sich diese auf die ersten drei Jahre der Umsetzung der Programme, als die Mitgliedstaaten noch dabei waren, ihre Verwaltungskapazitäten aufzubauen.

Im Falle des Europäischen Außengrenzenfonds war der in dieser Studie entdeckte Missbrauch von Mitteln hauptsächlich auf **Fehler und Irrtümer** bei der Auslegung der Förderkriterien oder bei der Nutzung von Ausrüstungsgegenständen durch die nationale Polizei bzw. Küstenwache zurückzuführen. Daten, die durch die Auswertung von Dokumenten und durch Überprüfungen vor Ort erhoben wurden, haben einige Fälle von tatsächlichem Betrug aufgedeckt, die die Verwendung von Mitteln des Europäischen Flüchtlingsfonds und des Europäischen Integrationsfonds betrafen. Diese Betrugsfälle erforderten die Verstrickung von Akteuren vor Ort.

In einigen Fällen steigt das Risiko von Unregelmäßigkeiten, Fehlern oder möglicherweise auch Betrug dadurch, daß **die Anzahl der Beteiligten an Projekten durch die Untervergabe an Nachunternehmen ansteigt und dadurch, dass die Anzahl der Geldtransfers zunimmt.**

Dies entspricht den Erkenntnissen vorangegangener Studien, nach denen ein Missbrauch von EU-Mitteln dann am häufigsten ist, wenn diese durch die Mitgliedstaaten verwaltet werden, also etwa bei

den Strukturfonds und den Heranführungshilfen. Dagegen tritt ein Missbrauch von EU-Mitteln seltener auf, wenn diese direkt von der Kommission verwaltet werden.

Gleichzeitig hat **ein Mangel an fachbezogenen Kenntnissen** in der Phase vor der Auftragsvergabe bei manchen für die Auswahl von Vorhaben zuständigen Ausschüssen zu Misserfolgen in einem späteren Stadium geführt (etwa zum Abbruch des Vorhabens). Darüber hinaus, hat die Tatsache, dass verantwortliche und bevollmächtigte Stellen gleichzeitig für die Auftragsvergabe und für die Durchführung zuständig sein können, zu einem Mangel an Transparenz bei der Auswahl der Vorhaben geführt.

Insgesamt geht aus der Studie hervor, dass in Bezug auf die Verwendung der für den Bereich Migration bestimmten EU-Mittel **keine zusätzlichen Überprüfungen – bzw. Mittel für derartige Überprüfungen – erforderlich sind**. Im Gegenteil, die Belastung und der Arbeitsaufwand, die durch die Prüfanforderungen der Kommission in diesem Bereich entstehen, werden stark kritisiert. Es besteht jedoch die Möglichkeit, **die Verwendung der Mittel selbst und die Verwendung der für die Finanzkontrolle vorgesehenen Mittel zu verbessern**, indem Verfahrensgarantien eingeführt und Begleitungs- und Bewertungsmaßnahmen verbessert werden.

Empfehlungen

Wie kann die Verwendung der Mittel verbessert werden?

1. Die Verwendung von EU-Mitteln im Bereich Migration schafft einen Mehrwert durch die Unterstützung von innovativen Maßnahmen insbesondere für die Integration von Drittstaatsangehörigen und für schutzbedürftige Gruppen von Asylbewerbern wie unbegleitete Minderjährige. Daher sollten diese Mittel auf bestimmte innovative Projekte konzentriert werden und weniger zur Finanzierung von regulären Maßnahmen der Mitgliedstaaten dienen.
2. Die Zuweisung von Mitteln sollte am zukünftigen Bedarf und nicht an den Erfahrungen aus der Vergangenheit orientiert sein. In der Praxis bedeutet dies, dass sie auf der Grundlage von Vorhersagen über Migrationstrends erfolgen müssen. Während „feste Zuweisungen“ pro Land einer Lastenteilung nicht förderlich ist, sind proportional zugewiesene Mittel für Länder mit großen absoluten Migrantenzahlen von Vorteil und für Länder mit einer sehr viel größeren relativen Belastung (etwa im Verhältnis zur Bevölkerungsgröße oder zur Höhe des BIP) von Nachteil.
3. Die Verwendung der Mittel sollte durch verbesserte Begleit- und Bewertungssysteme leiten lassen. Dazu braucht es Ausgangswerte, laufend angepassten Bezugspunkte und quantifizierbaren Zielvorgaben. Diese Einschätzung wird von einem Bericht des Rechnungshofes von 2014 gestützt, in dem der Schluss gezogen wird, dass „deutliche Mängel bei Begleitung und Ex-Post-Bewertung durch Kommission und Mitgliedstaaten eine Messung der Gesamtergebnisse der Fonds unmöglich machen“.

Wie kann die Rolle der Agenturen ausgebaut werden?

4. Beide Agenturen könnten besser dazu beitragen, die Einsickerung von kriminellen Elementen zu verhindern und zu bekämpfen, indem sie enger mit EUROPOL im Bereich Schmuggel und Menschenhandel zusammenarbeiten..
5. Die den beiden Agenturen zugewiesenen finanziellen und personellen Ressourcen müssen erweitert werden. Sollte es nicht möglich sein, die Haushaltsmittel der Agenturen so weit aufzustocken, dass sie ihre Aufträge erfüllen können, bestünde eventuell die Möglichkeit, ihnen zu gestatten, Anträge auf zusätzliche Mittel an die im Bereich Migration tätigen EU-Fonds zu stellen. So könnte etwa FRONTEX einen Antrag an den ISF stellen, um gemeinsame Rückführungsaktionen durchzuführen, und EASO könnte beim AMIF einen Antrag stellen, um Projekte für Flüchtlinge durchzuführen. Dies würde jedoch eine Änderung der geltenden Finanzierungsregelungen erfordern und wäre damit nur eine langfristige Option.
6. Um einen gemeinsamen, EU-weiten Ansatz zu schaffen, sollten Aufnahme, Identifizierung, Weiterleitung, Integration und Rückführung von Migranten als Etappen in einem einzigen Verfahren angesehen werden. Daher müssen die Maßnahmen von FRONTEX und von EASO besser miteinander verknüpft werden. Langfristig könnten diese beiden Agenturen möglicherweise zusammengelegt werden.

Wie können Verwendung, Verwaltung und Überwachung der für den Bereich Migration bestimmten EU-Mittel verbessert werden?

7. Die Kommission sollte ein System von Anreizen schaffen, um die Verwendung der Mittel zu verbessern. Eine „Leistungsreserve“, die die Zuweisung von Finanzen durch die Fonds an Ergebnisse knüpft, ähnlich wie es bereits bei den Strukturfonds üblich ist, sollte in Erwägung gezogen werden. Mitgliedstaaten könnten im Rahmen eines derartigen Systems Programme ermitteln, die ihrer Auffassung nach eine finanzielle Unterstützung erhalten sollten, und diesbezügliche Informationen zur Bewertung an die Kommission weiterleiten.
8. Wenn die verantwortlichen und bevollmächtigten Stellen als Durchführungsstellen tätig sind, muss im Verlauf der Verwendung der Mittel jeder Antrag auf Finanzierung, den diese Stellen einreichen, von einem unabhängig ernannten Gremium geprüft werden. Der Entscheidungsspielraum der Mitgliedstaaten in diesem Bereich sollte verringert werden und die Kommission sollte eindeutigeren Regelungen zum Auswahlverfahren für Projekte und zu den Förderkriterien schaffen.
9. Bei der Auswahl der Mitglieder der Evaluierungsgremien müssen Integrität und Professionalität in Betracht gezogen werden. Außerdem sollte, soweit möglich, ein Mitglied, das nicht zu dem für die Auftragsvergabe zuständigen Team gehört, an der Auswahl der Projekte beteiligt sein.
10. Der Hintergrund und die Referenzen der Mitglieder von Ausschüssen, insbesondere von öffentlich Bediensteten, Mitarbeitern mit Zeitverträgen und externen Fachleuten, sollten stets durchleuchtet werden, um ihre Integrität, Objektivität, Vertrauenswürdigkeit, Kompetenz, Autorität, Verantwortlichkeit und Unabhängigkeit zu überprüfen.

11. Die öffentlichen Vergabeverfahren sollten auf den Standardgrundsätzen von Transparenz, Gleichbehandlung, Programmplanung, Anspruchsberechtigung, Nicht-Kumulierung, Rückwirkungsverbot, Mitfinanzierung, Gewinnverbot und Vermeidung von Interessenkonflikten beruhen.
12. Sowohl im Vorfeld als auch nach der Gewährung von Finanzhilfen sollten sich Maßnahmen zur Verhinderung von Korruption nicht nur auf den Hauptauftragnehmer und die Hauptbegünstigten konzentrieren, sondern auch auf die Unterauftragnehmer und andere an der Ausführung des Vertrags Beteiligte ausgedehnt werden.
13. Es sollte erwogen werden, eine Auswahlliste von akkreditierten nichtstaatlichen Organisationen zu erstellen. Die Akkreditierung könnte durch die Ausstellung eines Anti-Korruptions-Zertifikats erfolgen. Damit sollte eine angemessene Durchleuchtung der Vertragspartner und der Begünstigten und insbesondere der endbegünstigten Eigentümer ermöglicht werden. Natürlich muss sichergestellt werden, dass ein solches Akkreditierungsverfahren keine nennenswerte zusätzliche Belastung schafft, kleine, aber innovative lokale Organisationen an einer Beteiligung hindert oder die Flexibilität der Fonds in ihrer Reaktion auf Krisen verringert.
14. Außerdem sollten alle Aufgaben, die von Unterauftragnehmern durchgeführt werden, stets in einem Vertrag sowie im Arbeitsplan des Projekts genannt werden. Ein detailliertes Budget für die Aktivitäten, in dem die direkten und indirekten Kosten der Maßnahme aufgeführt sind, sollte mit den Hauptvertragsnehmern gemeinsam erstellt werden und der Unterauftragnehmer sollte über diesbezügliche Belege verfügen.
15. Informationen über Vergaben, durchgeführte Projekte, alle Begünstigten und die Ergebnisse von Untersuchungen von Unregelmäßigkeiten und Betrug sollten öffentlich zugänglich sein.
16. Rechnungsprüfungs- und Evaluierungsmaßnahmen sollten stets durch unabhängige externe Organisationen gemäß den EU-weiten Prüfungs- und Bewertungsstandards durchgeführt werden, für die die Verhinderung von Korruption eines der Ziele ist und die vorsehen, die Ergebnisse auch an andere Mitgliedstaaten weiterzugeben.
17. Die Einrichtung einer digitalen Plattform, auf der Korruptions- und Betrugsfälle mitgeteilt werden, könnte Ermittlungen unterstützen, dazu beitragen, die finanziellen Verluste aufgrund von illegalen Aktivitäten einzuschätzen und einen möglichen Missbrauch von für den Bereich Migration bestimmten EU-Mitteln zu verhindern oder zu verringern. Die Plattform sollte auf dem Modell der Offenlegung von Informationen im öffentlichen Interesse („Whistleblowing“) beruhen, d.h. auf der anonymen Weitergabe von Informationen über Misswirtschaft, Korruption, illegales Vorgehen oder anderes Fehlverhalten durch eine Person, zumeist einen Mitarbeiter in einer staatlichen Agentur oder in einer privaten Firma, an die Öffentlichkeit oder an Entscheidungsträger.

SYNTHÈSE

Objectif, champ d'application et méthodologie de l'étude

L'objectif global de l'étude est de donner un aperçu des financements et des agences de l'Union européenne dans le domaine de la migration, de l'asile et de l'intégration et de procéder à une évaluation succincte de leur efficacité. En ce qui concerne le financement, l'étude soulève la question de l'efficacité des modèles de gestion, du budget et des systèmes de contrôle quant à la prévention de l'utilisation abusive des ressources. L'étude illustre aussi les bonnes pratiques, les enseignements tirés ainsi que les recommandations sur la façon de parvenir à une meilleure transparence dans la mise en œuvre des futurs programmes de financement de l'Union. Au niveau des agences, l'étude procède à l'analyse de leur valeur ajoutée et de la manière dont celles-ci peuvent améliorer la coordination et la collaboration entre les États membres dans le domaine de l'asile et de la migration.

La méthodologie de l'étude emploie des sources secondaires ainsi que des données primaires dérivées d'un programme ciblé d'entretiens et d'études de cas. La méthodologie comprend deux étapes :

1. Une vue d'ensemble des politiques de migration de l'Union Européenne ainsi que du financement et des agences associées, basée sur le recueil et le traitement de documents d'évaluation existants et sur la littérature pertinente.
2. Une analyse des données primaires recueillies lors des entretiens de haut niveau à l'échelle de l'Union et dans les études de cas dans sept États Membres (Bulgarie, France, Grèce, Italie, Espagne, Roumanie et Royaume-Uni). L'objectif de cette étape est de fournir des exemples de bonnes et mauvaises pratiques de l'utilisation des fonds et d'évaluer la valeur ajoutée des agences de l'Union.

Les fonds visés par l'étude sont les quatre instruments financiers relevant du programme SOLID ('Solidarité et gestion des flux migratoires') :

- le Fonds pour les frontières extérieures (FFE),
- le Fonds européen pour le retour (FR),
- le Fonds européen pour les réfugiés (FER),
- le Fonds européen d'intégration des ressortissants de pays tiers.

Le Fonds "Asile, migration et intégration" (AMIF) et le Fonds pour la sécurité intérieure (FSI) n'ayant été que très récemment lancés, leur efficacité et leur efficacité ne peuvent pas encore être évaluées. En revanche, l'analyse examine si ces deux fonds s'attaquent aux problèmes et enjeux émergeant de l'évaluation du programme SOLID, qui a pris fin en juin 2015.

Une attention particulière est également accordée au rôle joué par les principales agences européennes opérant dans le domaine de l'asile et de la migration, à savoir:

- FRONTEX (Agence européenne pour la gestion de la coopération opérationnelle aux frontières extérieures des États membres de l'Union européenne) ;
- EASO (Bureau européen d'appui en matière d'asile).

Politique de l'Union européenne en matière de migration, d'asile et d'intégration

La suppression progressive des frontières intérieures de l'Union européenne afin de permettre la libre circulation des personnes s'est accompagnée d'un renforcement des frontières extérieures de l'Union. En outre, malgré la diversité des politiques nationales en matière de migration, l'Union s'est efforcée

de définir un ensemble complet de politiques communes pour réglementer toutes les dimensions de la migration : la migration légale et l'intégration (directive "permis unique"), l'accueil et l'asile (régime d'asile européen commun (RAEC), directive sur les procédures d'asile, directive relative aux conditions d'accueil, directive relative aux conditions que doivent remplir les demandeurs d'asile, directive relative à la protection temporaire et règlement de Dublin) et les retours (directive "retour").

En vue d'appuyer la mise en œuvre de ces politiques, l'Union a créé deux agences (FRONTEX et l'EASO) et trois instruments financiers:

- le programme SOLID qui est fondé sur quatre fonds pour la période 2007-2013, et
- les programmes AMIF et FSI qui portent sur les années entre 2014 et 2020.

En outre, en raison de la crise de l'immigration actuelle dans la région de la Méditerranée, la Commission européenne a lancé un plan d'action en dix points en faveur d'une action immédiate, soutenue par un budget de 89 millions d'euros. Le nouveau programme de l'Union en matière de migration qui a été publié en mai favorise la réduction de l'immigration clandestine, davantage de coopération entre les agences européennes, le renforcement de la coopération entre les agences de l'Union, la mise en œuvre du régime d'asile européen commun (CEAS) et l'élaboration d'une nouvelle politique d'immigration légale.

Fonds de l'Union européenne pour la migration

Entre 2007 et 2013, la Commission Européenne a alloué près de 4 milliards d'euros à la gestion des frontières externes ainsi qu'à la mise en œuvre des politiques de migration par le biais de SOLID. Ce programme comprend quatre instruments financiers, chacun couvrant une des quatre dimensions du programme :

- gestion intégrée des frontières extérieures (Fonds pour les frontières extérieures - FFE),
- politique d'asile (Fonds européen pour les réfugiés – FER),
- intégration sociale, civique et culturelle de ressortissants de pays tiers (Fonds européen d'intégration des ressortissants de pays tiers - EIF), et
- lutte contre l'immigration clandestine et retour des personnes en séjour irrégulier (Fonds européen pour le retour - FR).

La contribution du programme SOLID est difficile à estimer en raison de la diversité des projets mis en œuvre, de la taille relativement modeste des fonds alloués et du fait que ces derniers ont été intégrés dans les systèmes nationaux de financement. Cependant, les preuves recueillies sur le terrain indiquent que, dans l'ensemble, le programme a été efficace.

En effet, comme le montre cette étude, le programme a :

- accru la capacité nationale en matière de gestion des frontières ;
- contribué à l'amélioration des procédures d'accueil et d'asile dans certains pays ;
- largement investi dans la formation linguistique afin de faciliter l'intégration des ressortissants d'un pays tiers ;
- déclenché plusieurs approches innovantes ainsi que des bonnes pratiques en matière de retour et de réinstallation, même si des mesures encore plus innovantes peuvent être prises dans le domaine de l'intégration.

Pourtant, certaines inquiétudes ont été exprimées au sujet de la répartition des fonds. À titre d'exemple, la décision portant création du FER alloue un montant fixe à chaque État membre, les

fonds restants étant attribués proportionnellement au nombre de personnes qui bénéficient: a) du statut de réfugié, b) de la protection subsidiaire, c) de la protection temporaire et d'un programme de réinstallation. Ce système ne répond pas suffisamment aux besoins des pays confrontés à situation d'urgence humanitaire puisque, en pratique, une importante part des fonds disponibles est allouée aux États ayant connu un grand nombre de réfugiés dans le passé, et qui ont par conséquent déjà mis en place des mécanismes et des procédures pour faire face à une pression migratoire importante. Avec cette clé de répartition du financement, les fonds ne pouvaient donc contribuer qu'en partie à la répartition de la charge entre les États membres.

Globalement, la mise en œuvre des fonds a été efficace, avec un taux d'absorption de 90%. La Commission européenne participe étroitement au contrôle de leur mise en œuvre. Les représentants habilités de la Commission ont l'autorité de procéder à des contrôles sur place. La Cour des comptes européenne audite les structures de gestion internes de la Commission et les structures nationales. Tout cas de fraude présumée ou de doute sur l'utilisation des fonds est directement soumis à l'OLAF, l'Office européen de lutte antifraude. Ainsi, un certain nombre d'irrégularités ont été constatées. Celles-ci sont toutefois dues en majorité à un manque de connaissances ou à une interprétation involontairement erronée des règles d'éligibilité plutôt qu'à des activités frauduleuses.

De plus, un rapport de la Cour des comptes de 2014 a permis de constater que le système de programmation annuelle et le système de contrôle faisaient peser une charge excessive sur les États membres et sur la Commission européenne. La réduction du nombre de fonds de quatre à deux – AMIF et FSI – devrait, avec la mise en place d'un système de financement pluriannuel, réduire la charge administrative des États Membres.

Agences de l'Union européenne: FRONTEX et l'EASO

FRONTEX et l'EASO sont des agences qui ont été créés au niveau de l'Union pour aider les États membres dans le domaine de la gestion des contrôles aux frontières, de la migration et de l'asile. L'étude démontre que les États Membres bénéficient de la coopération avec ces deux instances, car elles empêchent la duplication des efforts. Les agences jouent notamment un rôle important dans l'établissement de normes et l'harmonisation des stratégies en matière d'accueil, de reconnaissance de la protection internationale et de procédures de retour, qui doivent être conformes aux conventions internationales sur les droits de l'homme.

Toutefois, il est encore possible d'intégrer davantage les activités des deux agences afin de faciliter la mise en œuvre pleine et entière d'une stratégie européenne commune d'immigration et d'asile. En outre, les ressources affectées à ces agences ne leur permettent pas systématiquement de remplir leurs missions. Par exemple, en dépit de la multiplication par trois du budget de Frontex qui a eu lieu récemment, les fonds pourraient s'avérer insuffisants pour mener à bien les opérations en mer destinées à faire face à la crise humanitaire en cours en Méditerranée. De même, l'expertise technique apportée par l'EASO en vue d'une meilleure qualité et d'une plus grande cohérence des décisions en matière d'asile entre les États membres est limitée par la disponibilité d'experts indépendants des États membres, qui peut varier dans le temps. Enfin, FRONTEX et l'EASO jouent un rôle mineur dans la prévention et la lutte contre l'infiltration des milieux criminels liée aux flux migratoires puisque ces activités entrent dans le champ de compétence de l'Office européen de police (EUROPOL).

Enseignements tirés de la mise en œuvre par les États membres des fonds de l'Union européenne pour la migration

Les États membres sont responsables, en dernier ressort, de la gestion financière des programmes pluriannuels et annuels mis en œuvre dans le cadre des fonds de l'Union faisant l'objet de la présente étude, ce qui inclut la responsabilité de désigner:

- une autorité responsable de la gestion des programmes pluriannuels et annuels et des contacts avec la Commission;
- une autorité de certification des déclarations de dépenses avant leur transmission à la Commission; et
- une autorité d'audit, qui doit être complètement indépendante, chargée de la vérification du bon fonctionnement des systèmes de gestion et de contrôle des fonds.

Par conséquent, les États Membres ont mis en place des systèmes de gestion et de contrôle plus ou moins décentralisés afin de superviser la mise en œuvre des fonds. Dans ces systèmes, le **principal facteur de réussite** de la mise en œuvre et du contrôle de l'utilisation des fonds semble être la création d'un nouvel organe doté d'un mandat précis, qui est celui de réaliser le programme (France et Royaume-Uni).

Seuls deux des pays analysés ont délégué des activités d'audit à un **cabinet professionnel d'audit externe**. Néanmoins, si l'étude a permis de déceler des lacunes dans les systèmes mis en place pour le contrôle de la mise en œuvre des fonds, celles-ci portaient sur les trois premières années de la mise en œuvre du programme, lorsque la capacité administrative des États Membres étaient encore en cours de développement.

En ce qui concerne le FFE, l'utilisation impropre des fonds constatée dans la présente étude était essentiellement due à **des erreurs ou des méprises** dans l'interprétation des règles d'éligibilité ou dans l'utilisation des équipements par les services nationaux de police et les garde-côtes. Les données recueillies par des recherches documentaires et sur le terrain ont mis en évidence quelques cas de fraude réelle liée à la mise en œuvre du FER et de l'EIF, qui requièrent la participation d'acteurs à l'échelle locale.

En effet, dans quelques cas, la **croissance du nombre d'acteurs impliqués dans des projets par un contrat de sous-traitance et le nombre de transferts financiers** augmente le risque d'irrégularités, d'erreurs ou même de fraude. Cette constatation correspond aux conclusions issues des études antérieures, selon lesquelles le mauvais usage des fonds de l'Union est plus visible dans les fonds gérés par les États membres, tels que les Fonds structurels et les fonds de pré adhésion, plutôt que dans les fonds qui sont directement gérés par la Commission.

Par ailleurs, durant la phase précédant l'attribution, un **manque d'expertise sectorielle** de certains comités de sélection des projets a abouti à des résultats infructueux à un stade ultérieur (par exemple l'annulation du projet). Enfin, le fait que les autorités responsables et déléguées aient pu agir à la fois en tant qu'entités adjudicatrices et exécutives a conduit à un manque de transparence dans la sélection des projets.

Pour résumer, les conclusions de cette étude indiquent qu'**aucun contrôle supplémentaire, pas plus que des ressources supplémentaires pour un tel contrôle, n'est nécessaire** quant à la mise en œuvre des fonds de l'Union pour la migration. Au contraire, de nombreuses critiques ont été

exprimées à propos de la charge et du volume de travail générés par les exigences de la Commission en matière de contrôle dans ce domaine. Il est toutefois possible d'**améliorer la gestion des fonds eux-mêmes et des ressources existantes consacrées au contrôle budgétaire** en mettant en place certaines garanties procédurales et en améliorant les activités de suivi et d'évaluation.

Recommandations

Comment améliorer l'utilisation des fonds?

1. La valeur ajoutée du financement européen pour la migration se trouve dans le soutien d'actions innovantes, notamment pour des actions visant l'intégration des ressortissants des pays tiers et pour des groupes de demandeurs d'asile vulnérables tels que des mineurs non accompagnés. En conséquence, ce financement devrait se concentrer sur des projets innovants spécifiques au lieu de financer les actions régulières d'un État membre donné.
2. L'allocation des fonds devrait être basée sur des besoins futurs plutôt que sur l'expérience passée. En pratique, dans la pratique, cela signifie que cette répartition doit se fonder sur des prévisions des tendances migratoires. Tandis que les dotations fixes par pays n'encouragent pas la répartition de la charge, les ressources allouées proportionnellement profitent aux pays présentant d'importants chiffres absolus par rapport aux pays dont la charge relative est beaucoup plus élevée (par exemple, par rapport à la population ou à la taille du PIB).
3. La mise en œuvre des Fonds devrait être guidée par l'amélioration des systèmes de suivi et d'évaluation, sur la base d'indicateurs de référence, de points de repères graduels et d'objectifs quantifiables. Cette recommandation est soutenue par un rapport de la Cour des comptes de 2014 qui conclut que "de sérieuses lacunes dans le suivi et dans les évaluations ex-post menés par la Commission et les États Membres ne permettent pas d'évaluer le résultat global du Fonds de façon appropriée".

Comment renforcer le rôle des agences?

4. Les deux agences pourraient mieux contribuer à la prévention et à la lutte contre les infiltrations des milieux criminels par une coopération plus étroite avec Europol dans le domaine de la contrebande et de la traite des êtres humains.
5. Le niveau de ressources financières et professionnelles alloué aux deux agences doit être plus important. Si le budget des agences ne peut être suffisamment augmenté pour leur permettre de remplir leur mission, on pourrait envisager de les autoriser à faire appel aux fonds de l'Union en matière de migration pour obtenir des moyens supplémentaires. Ainsi, FRONTEX pourrait faire appel au FSI pour mener des opérations de retour conjointes et l'ESAO pourrait faire appel à l'AMIF pour entreprendre des projets en faveur des réfugiés. Ce processus nécessiterait toutefois une modification du règlement financier actuel et ne serait donc qu'une option à long terme.
6. Afin de parvenir à une stratégie commune de l'Union, l'accueil, l'identification, l'orientation, l'intégration et le retour des migrants devraient être considérés comme les différentes étapes d'un processus unique. En conséquence, il est nécessaire de parvenir à plus d'intégration entre les

activités de Frontex et de l'EASO. À long terme, la fusion des deux agences pourrait être envisagée.

Comment améliorer la mise en œuvre, la gestion et le contrôle des fonds de l'Union européenne dans le domaine de la migration?

7. La Commission devrait mettre en place un système de mesures d'incitations pour améliorer la mise en œuvre des Fonds. Une "réserve de performance" reliant l'enveloppe financière allouée au titre des fonds aux résultats, à l'instar de ce qui existe déjà pour les Fonds structurels, devrait être envisagée. Dans le cadre d'un tel système, les États membres pourraient désigner les programmes qui méritent, selon eux, d'être récompensés et soumettre les détails à la Commission en vue de leur évaluation.
8. Pendant la mise en œuvre des Fonds, lorsque les autorités responsables et déléguées agissent en qualité de maître d'œuvre, toute demande de financement soumise doit être examinée par un organisme agréé indépendant. Il y a lieu de réduire la marge de manœuvre laissée aux États membres dans ce domaine, et la Commission devrait définir des règles plus claires sur la procédure de sélection des projets et sur les règles d'éligibilité.
9. L'intégrité et le professionnalisme doivent être pris en compte lors de la sélection des membres des comités d'évaluation. De plus, dans la mesure du possible, un membre qui ne fait pas partie de l'équipe chargée des marchés publics devrait participer à la sélection des projets.
10. Les membres des comités, à savoir les fonctionnaires, agents temporaires et experts externes devraient toujours faire l'objet de vérifications générales et d'une vérification de leurs références afin de s'assurer de leur intégrité, de leur objectivité, de leur confidentialité, de leurs compétences, de leur autorité, de leurs responsabilités et de leur indépendance.
11. Les procédures d'acquisitions publiques et les appels d'offres devraient se fonder sur les principes généraux de transparence, d'égalité de traitement, de programmation, de critères d'éligibilité, de non-cumul, de non-rétroactivité, de cofinancement, d'absence de profit et de conflits d'intérêts.
12. Avant et après l'octroi des fonds, la gestion du risque de corruption ne devrait pas seulement se concentrer sur le contractant principal et les bénéficiaires, mais également sur les sous-traitants et les autres parties impliquées dans l'exécution du contrat.
13. Il conviendrait d'examiner si une liste restreinte d'ONG accréditées peut être dressée. L'accréditation pourrait prendre la forme d'une certification en matière de lutte contre la corruption, ce qui permettrait de garantir un examen réel des contractants et des bénéficiaires, et notamment des bénéficiaires finaux. Il est évidemment important de veiller à ce qu'une telle procédure d'accréditation ne crée pas de charges supplémentaires importantes, n'empêche pas la participation d'organisations locales petites mais innovantes, et ne réduise pas la flexibilité des fonds lorsqu'il s'agit de répondre aux crises.

14. En outre, toute tâche devant être exécutée par des sous-traitants doit toujours être indiquée dans le contrat et dans le programme de travail du projet. Un budget détaillé des activités précisant les coûts directs et indirects de l'action devrait être convenu avec les contractants principaux et les documents justificatifs correspondants devraient être conservés par le sous-traitant.
15. Les informations relatives aux marchés publics, aux projets mis en œuvre, à tous les bénéficiaires et aux résultats des enquêtes sur les irrégularités et sur les cas de fraude devraient être mises à la disposition du public.
16. Les audits et les activités d'évaluation devraient toujours être réalisés par des organismes extérieurs indépendants, conformément aux normes d'audit et d'évaluation en vigueur à l'échelle de l'Union, selon lesquelles la prévention de la corruption est l'un des objectifs principaux et les résultats sont partagés, notamment entre les États membres.
17. La création d'une plate-forme numérique pour signaler des cas de corruption et de fraude pourrait faciliter les investigations, permettre d'estimer les pertes financières liées aux activités illégales, et prévenir ou réduire le mauvais usage éventuel des fonds de l'Union pour la migration. Cette plate-forme devrait être basée sur le modèle de dénonciation des dysfonctionnements (à savoir la révélation anonyme, au public ou aux responsables, par une personne, en général un employé d'un organisme public ou d'une entreprise privée, de faits de mauvaise gestion ou de corruption, d'agissements illégaux ou de tout autre acte répréhensible).

1. METHODOLOGY

KEY FINDINGS

- There is a limited amount of literature on the efficiency and effectiveness of EU funds for migration.
- The literature review is therefore complemented by data gathered through high level interviews at EU and international level and through seven case studies, developed on the basis of a questionnaire with national authorities and non-governmental organisations.

The findings and conclusions of this study are informed by a combination of results from the comparative analysis of case studies as well as a literature review. This section illustrates the methodological approach in more detail.

1.1. LITERATURE REVIEW AND INTERVIEWS

1.1.1. Literature review

A literature review was carried out to produce a descriptive overview of EU funding and agencies in the field of migration, asylum and integration and to assess their effectiveness and efficiency. In view of the questions outlined in the Terms of Reference for the study, the literature review covers academic literature regarding the efficiency and effectiveness of the funds and principles and systems for the good management of the funds.

The literature review covers publically available EU-level information on the implementation of EU funding for migration, relevant academic literature, and evaluations at EU and Member State level, covering the languages of the countries included in the analysis.

A complete list of the sources consulted can be found in the references chapter at the end of the study. Sources for relevant material spanned:

- Council of the European Union
- European Commission
- European Parliament
- European Court of Auditors
- European Union Agency for Fundamental Rights
- International Organization for Migration
- FRONTEX
- EASO
- Refugee Survey Quarterly
- European Journal of Migration and Law

It should be noted that the available documentation focused on the first three years of the programming period 2007/2013 (i.e. mid-term evaluations). A second round of evaluation is currently ongoing and recent financial data are not available. As a consequence, the literature review was further enriched by primary data collected through high level interviews with EU officials and experts from international organisations.

1.1.2. High level interviews

While the desk research, described above, provided the data needed to answer the research questions, the high level interviews with EU officials and international organisations representatives allowed to complete, discuss, question, and validate the findings resulting from the desk research. We conducted **13 semi-structured interviews** with key actors on the topics of EU migration and asylum policies, the implementation of the EU migration funds and the work of the external agencies. To maximise added value from the interviews, interview topic guides were developed. The interview guide (see Annex) was informed by the outcome of the literature review and agreed with the panel of experts of the project and with the EP project team.

Interviews were carried out with the representatives of the following institutions:

- European Commission – Directorate General Migration and Home Affairs (four interviews)
- FRONTEX (one interview)
- EASO (one interview)
- European Anti-Fraud Office (one interview)
- European Court of Auditors (one interview)
- United Nations High Commissioner for Refugees (three interviews)
- International Centre for Migration Policy Development (two interviews)

1.2. CASE STUDIES

1.2.1. Objective

As detailed in the Terms of Reference the study involves an in-depth analysis of EU funding for migration in Bulgaria, France, Greece, Italy, Spain, Romania, and the United Kingdom through case studies. The objective of the case studies is to complement the literature with empirical evidence such as illustrative examples of bad and good practices in management and implementation.

The empirical research in each country analysed the following aspects:

- National organisational and management model for the implementation of the EU funding for migration (funds used, allocation and expenditure, management structure and organisational level, fund monitoring and evaluation logic, strategy);
- Examples of cooperation with EU agencies (i.e. participation in joint actions);
- Good and bad practices in the use of EU funds for migration, during the project life cycle (tender preparation process, pre-award procedures, selection, post-award procedures, monitoring, audit and evaluation);
- Lessons learned and country specific recommendations.

1.2.2. Desk research

The case studies are partly based on desk research using the Annual Plans, Annual reports, evaluations and grey literature from the national authorities, as well as EU-level material.

1.2.3. Field research

The case studies are mainly based on one questionnaire and 2–3 telephone interviews per country with:

- The national authorities responsible for the implementation of the funds, and
- Project beneficiaries, mainly non-governmental organisations that are part of the European Council and Refugees and Exiles (ECRE).

1.2.4. Comparative analysis of the case studies

A comparative analysis of the case studies was then carried out to get a thorough insight of differences and similarities among Member States regarding:

- The effectiveness of the funds;
- The efficiency of the funds;
- The added value of the funds; and
- The efficiency and the effectiveness of the systems put in place for management and control of the funds.

In this report, the findings from the comparative analysis are reported in tabular format with illustrative examples from the case studies. Examples from the case studies are also used throughout the study to support the narrative and offer good practice examples.

1.3. CONCLUSIONS AND RECOMMENDATIONS

The final part of the study answers the study questions by combining the literature and the lessons learned 'on the ground' through case studies and interviews. This synthesis of findings based on all the different research tools forms the basis for a set of conclusions and recommendations that could be taken forward by EU institutions and MS.

2. MIGRATION AND ASYLUM POLICIES IN THE EU

KEY FINDINGS

- The gradual removal of the EU's internal borders to enable free movement of persons has been accompanied by a strengthening of the EU's external borders.
- Despite the diversity of national migration policies, there has been an effort at EU level to develop a comprehensive set of common policies to regulate all dimensions of migration: regular migration and integration (Single Permit Directive), reception and asylum (Common European Asylum System (CEAS): Asylum Procedures Directive, Reception Conditions Directive, Qualification Directive, Temporary Protection Directive and the Dublin Regulation), and returns (Return Directive).
- To support the implementation of these policies, the EU has established two agencies (FRONTEX and EASO), and three financial instruments: the SOLID programme - which for the period 2007/2013 is based on four funds, and the AMIF and ISF programmes covering the years between 2014 and 2020.
- In addition, due to the ongoing migration crisis in the Mediterranean, the European Commission launched a 10 point plan for immediate action backed by a budget allocation of EUR89 million. The new EU Agenda on Migration which was issued in May promotes the reduction of irregular migration, more cooperation among EU agencies, implementation of the CEAS and the preparation of a new policy for legal migration.

Asylum and migration are two fundamental elements of the European Union (EU) and the principles it upholds, recognized in Articles 77 through to 79 of the Treaty on the Functioning of the European Union (TFEU), with further recognition of the shared jurisdiction in Article 4 of the TFEU. The European Pact on Immigration and Asylum (2008)¹ forms the basis of immigration and asylum policies for the Member States of the EU, covering issues of legal immigration, control of irregular immigration, and the improvement of border controls.

2.1. MIGRATION AND IRREGULAR MIGRATION

The strengthening of the EU's external borders is a logical consequence of the free movement of persons within the EU. The EU and its Member States are managing and regulating entry and residence of non-EU nationals through a number of immigration and asylum policies.

The EU is currently developing a common migration and asylum policy, aiming to establish a 'framework for legal migration'.² Steps towards this policy have been made by the Single Permit Directive (December 2011)³, detailing the rights of non-EU workers legally residing in an EU Member State. The EU also launched the EU Immigration Portal, to provide information to non-EU nationals interested in working and living in one of the EU's Member States. An effective return policy – in

¹ Council of the European Union (2008). *European Pact on Immigration and Asylum*.

<http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2013440%202008%20INIT>

² DG Migration and Home Affairs, European Commission (2015). *Policies: Legal Migration*. http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/legal-migration/index_en.htm

³ Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State. 13 December 2011. OJ L343/1

conformity with the Charter of Fundamental Rights and based on the preference for voluntary return – is key to this objective.⁴

However, the new **European Agenda on Migration**⁵ launched in May of 2015 highlighted the ‘structural limitations’ of existing EU migration policy, and expressed that this was an opportunity to open discussion on how to manage migration better, through the following four pillars:

- Reducing the incentives for irregular migration and addressing it at its root;
- Improving border management, with the goal of saving lives and securing external borders;
- Implementing the CEAS in a coherent manner;
- Preparing a new policy on legal migration.

In addition, the **Agenda** sets out a European response to the situation in the Mediterranean area, involving Member States, EU institutions, international organizations, civil society, local authorities, and third countries. As part of this, immediate initiatives include an increase in resources for saving lives at sea (see Triton), targeting criminal smuggling networks with EUROPOL, responding to high volumes of arrivals within the EU through a temporary distribution scheme (with an aim to develop a permanent system), and the development of a common approach to granting protection to those in need. The EC also reaffirmed its commitment to collaborate with third countries to tackle these issues, through regional development and protection programmes, setting up local centres, among other things.

The Commission identified a number of immediate actions to save lives and allow a quick response to the unfolding situation.

- A pledge to triple the available budgets for the FRONTEX joint-operations Triton and Poseidon (see Table 1) for the last 7 months of 2015 ‘by topping up with the additional amount of EUR 26 million as compared with the initial earmarked budget for both operations. For 2016, the forecasted budget of EUR 22.5 million for both operations was tripled with an additional amount of EUR 45 million’.⁶
- The development of Common Security and Defence Policy operations and the synthesis and improvement of information allowing Europe to target criminal smuggling networks.
- A proposal for a permanent distribution scheme for high volumes of arrivals to spread pressure among Member States, preceded by a temporary system.⁷
- A proposal for an EU-wide resettlement scheme to offer 20,000 individuals resettlement in the EU. In the Agenda, an additional EUR 50 million across 2015 and 2016 was pledged to these efforts, to be added to the AMIF.
- A pilot multi-purpose centre to be established in Niger, to allow the EU to work in partnership with third countries to tackle migration.
- A pledge for EUR 30 million for Regional Development and Protection Programmes, to be complemented by Member State contributions.

⁴ DG Migration and Home Affairs, European Commission (2014). *Return Fund*.

http://ec.europa.eu/dgs/home-affairs/financing/fundings/migration-asylum-borders/return-fund/index_en.htm

⁵ Communication From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions: European Agenda on Migration. Brussels, 13.5.2015, COM(2015) 240 final

⁶ European Commission (2015). *Factsheet: First measures under the European Agenda on Migration: Questions and Answers*. 27th of May, 2015.

http://europa.eu/rapid/press-release_MEMO-15-5038_en.htm

⁷ As part of a proposal to trigger the emergency response system in Article 78(3) TFEU.

The Agenda includes **the 10 point plan** launched in April of 2015 for immediate action in response of the rising death toll in the Mediterranean Sea.⁸ The plan, accompanied by a strong statement of Dimitris Avramopoulos (EU Commissioner for Migration Home Affairs and Citizenship), together with Federica Mogherini (High Representative of the European Union for Foreign Affairs and Security Policy) on the urgency of the situation⁹, called for the following actions to be implemented:

- Reinforce the Joint Operations in the Mediterranean, namely Triton and Poseidon, by increasing the financial resources and the number of assets. We will also extend their operational area, allowing us to intervene further, within the mandate of FRONTEX (see section 2.2.1);
- A systematic effort to capture and destroy vessels used by the smugglers. The positive results obtained with the Atalanta operation should inspire us to similar operations against smugglers in the Mediterranean;
- EUROPOL, FRONTEX, EASO and EUROJUST will meet regularly and work closely to gather information on smugglers modus operandi, to trace their funds and to assist in their investigation;
- EASO to deploy teams in Italy and Greece for joint processing of asylum applications (see section 2.2.2);
- Member States to ensure fingerprinting of all migrants;
- Consider options for an emergency relocation mechanism;
- An EU wide voluntary pilot project on resettlement, offering a number of places to persons in need of protection;
- A new return programme for rapid return of irregular migrants coordinated by FRONTEX from frontline Member States;
- Engagement with countries surrounding Libya through a joint effort between the Commission and the EEAS; initiatives in Niger have to be stepped up.
- Deployment of Immigration Liaison Officers (ILO) in key third countries, to gather intelligence on migratory flows and strengthen the role of the EU Delegations'.¹⁰

In total, the Commission allocated EUR 89 million of funding to the implementation of these activities in its draft budget from the 13th of May.¹¹ This included EUR 27 million for FRONTEX's activities and an increase of the AMIF of EUR 57 million.¹² The Commission's allocation also set aside additional expenditure for 2015 for FRONTEX (16 additional posts, EUR 528,000), EUROPOL (3 additional posts, EUR 99,000), and EASO (4 additional posts, EUR 132,000). To fund these activities, the Commission is using the margins left by the closure of EBF activities to allocate EUR 7 million in payment appropriations and

⁸ European Commission (2015). Press Release: Joint Foreign and Home Affairs Council: Ten point action plan on migration. 20th of April 2015. http://europa.eu/rapid/press-release_IP-15-4813_en.htm

⁹ European Commission (2015). Press Release: Joint Foreign and Home Affairs Council: Ten point action plan on migration. 20th of April 2015. http://europa.eu/rapid/press-release_IP-15-4813_en.htm

¹⁰ European Commission (2015). Press Release: Joint Foreign and Home Affairs Council: Ten point action plan on migration. 20th of April 2015. http://europa.eu/rapid/press-release_IP-15-4813_en.htm

¹¹ European Commission (2015). *Draft Amending Budget no. 5 to the General Budget 2015: Responding to Migratory Pressures*. COM(2015) 241 final. 13th of May 2015.

¹² The amount covers EUR27 million for emergency assistance for all stages of arrival and screening of migrations, EUR25 million to implement a voluntary pilot programme on resettlement, and EUR7 million to reinforce the Regional Development and Protection Programmes for North Africa and the Horn of Africa, in addition to an increase of EUR5 million for the Internal Security Fund for surveillance activities for the Triton and Poseidon activities run by FRONTEX. European Commission (2015). *Factsheet: Questions and answers on the European Agenda for Migration*. 13th of May 2015. http://europa.eu/rapid/press-release_MEMO-15-4957_en.htm

EUR 13.2 million in commitment appropriations (both going to support FRONTEX activities), and the remaining EUR 70 million resulting from delayed procurement of satellites under the Galileo programme (now set for the second quarter of 2016, no longer 2015).¹³

2.1.1. FRONTEX

The EU external agency, FRONTEX, was established in 2004 to 'promote, coordinate, and develop European border management in line with the EU fundamental rights charter'.¹⁴ In order to achieve this objective the agency has several areas of activities:

- Develop common training standards and specialist tools for border guards across the Union.
- Assist Member States in joint return operations by coordinating their efforts to maximise efficiency and cost-effectiveness while also ensuring that respect for fundamental rights and the human dignity of returnees.
- Plan and implement joint operations conducted using Member States' staff and equipment at the sea, land and sea external borders of the EU.
- Provide rapid response capability based on the creation of a pooled resource in the form of European Border Guard Teams (EBGT) and an extensive database of available equipment. These teams are kept in full readiness in case of a crisis situation at the external border.
- Elaborate risk analysis report based on the ongoing situation at the external borders based on data from border crossing points and other operational information as well as from the Member States and academic sources.
- Serve as a platform to exchange knowledge on how to bridge the gap between technological advancement and the needs of border control authorities.

The agency is in the process of being evaluated and not many recent documents can be found to assess its effectiveness in relation to all its areas of activity.¹⁵ However, evidence from desk research, interviews and case studies report a significant value added in relation to the coordination role of FRONTEX.

For instance, the EU estimates that the number of people entering the EU irregularly in 2014 was close to 277,000 individuals, an increase of 138% over the same period in 2013.¹⁶ To tackle this, the EU is implementing specific measures against employers who hire undeclared migrant workers, combating human trafficking networks, and setting up a return strategy through FRONTEX.¹⁷ In this area, the agency plays an important role in **setting standards and harmonising approaches through training on reception and return procedures**. In practice, FRONTEX has helped spread a common code of conduct on border practices. Moreover because of the role of FRONTEX, monitoring of interventions in certain areas of crisis, are more structured and efficient now than they were before the agency was established.^{18,19}

¹³ European Commission (2015). *Factsheet: Questions and answers on the European Agenda for Migration*. 13th of May 2015. http://europa.eu/rapid/press-release_MEMO-15-4957_en.htm

¹⁴ FRONTEX(2014). *FRONTEX Website: Mission and Tasks*. <http://frontex.europa.eu/about-frontex/mission-and-tasks/>

¹⁵ The last evaluation of the agency was conducted in 2009. Please see: COWI (2009). *Frontex: External evaluation of the European Agency for the Management of operational cooperation at the External Borders of the Member States of the European Union*. <http://www.statewatch.org/news/2009/may/frontex-eval-report-2009.pdf>

¹⁶ DG Home Affairs, European Commission (2015). *Irregular Immigration*.

http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/irregular-migration-return-policy/index_en.htm

¹⁷ DG Home Affairs, European Commission (2015). *Irregular Immigration*.

http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/irregular-migration-return-policy/index_en.htm

¹⁸ Interview with UNHCR representative.

¹⁹ Interview with FRONTEX representative.

However, the main direct positive and tangible impacts can be seen when FRONTEX provides **additional means and infrastructure to the MS**, such as helicopters or ships. In contrast, the contribution of FRONTEX is less visible in the field of reception and return procedures, as decisions in this area ultimately rely on national border guarding.²⁰ These findings suggest that more coordination is needed in the field of reception and return of irregular TCNs mainly by enhancing a **European System for Border Guard Teams**.

This is very much emphasised in the new **EU Agenda on Migration**, according to which a wider mandate and a stronger role for FRONTEX is required. However, the proposal still foresees an active role of the agency at the beginning (reception stage) and at the very end (return stage), and no provisions exist in relation to the referral procedures for those that are seeking protection or in terms of integration.²¹ At present, this role is left to EASO although there are calls for stronger integration of activities between the two agencies so as to develop a holistic approach to migration at EU level.^{22,23}

Interviews carried out for this study also opened an interesting debate about the possibility for FRONTEX to apply for funds under the ISF programmes. On the one hand, the agencies have their own budget and their intervention is based on demand from the MS and hence there is no need for them to take part in projects.²⁴ On the other hand, some experts²⁵ maintain that the effectiveness of the agency could be improved by the possibility to apply for ISF resources, as the allocation of funds to the agency on a case by case basis could avoid duplication of effort for instance in the field of border surveillance. To this regard, the ECA suggested that the legislator should consider making the entering of relevant ISF co-financed assets for the MS into FRONTEX's technical equipment pool obligatory, so as to support FRONTEX joint operations.²⁶

In the area of **joint operations**, the EP requested a tripling of the initial budget foreseen for the last 7 months of the year 2015 for FRONTEX. The initial budget foreseen by FRONTEX for the whole year 2015 was EUR 13.5 million for Triton and EUR 9 million for Poseidon, i.e. some EUR 1.9 million per month or EUR 13.125m for June-December 2015. The Draft Amending Budget (DAB) 5/2015 proposes to add EUR 26,250 million to triple the initial planned budget for the last 7 months of 2015.²⁷

These additional resources will allow FRONTEX to extend the operational area of Triton as far as Mare Nostrum (see Table 1). Notably missing from these actions, is a search and rescue activity. This became painfully apparent during the recent tragedies in the Mediterranean following termination of the Italian Operation Mare Nostrum, which ran between October 2013 and October 2014 as a search and rescue mechanism to save the lives of immigrants on perilous journeys across the Mediterranean. Operation Mare Nostrum was terminated due to a lack of political support, and cost pressures on a single Member State. It was replaced by FRONTEX's Operation Triton, which focuses more on protecting Europe's borders than on search and rescue, and has a far smaller territorial remit (currently 30 nautical miles from the Italian coastline, unlike Mare Nostrum, which operated in international waters). FRONTEX's press release on Triton stated: 'While saving lives is an absolute

²⁰ Interview with UNHCR representative.

²¹ Interview with UNHCR representative.

²² Interview with EASO representative.

²³ Interview with UNHCR representative.

²⁴ Interview with EC- DG Migration and Home Affairs representatives.

²⁵ Interview with ICMPD representatives.

²⁶ European Parliament (2014). *The EU External Borders Fund (EBF): European Court of Auditors' Special Report No 15/2014*.

[http://www.europarl.europa.eu/RegData/etudes/BRIE/2014/536340/EPRS_BRI\(2014\)536340_REV1_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2014/536340/EPRS_BRI(2014)536340_REV1_EN.pdf)

²⁷ Additional elements of information on DAB 5/2015 following EP BUDG Committee meeting of 26/05/2015. European Commission (2015). *Draft Amending Budget no. 5 to the General Budget 2015: Responding to Migratory Pressures*. COM(2015) 241 final. 13th of May 2015.

priority in all maritime operations coordinated by FRONTEX, the focus of Joint Operation Triton will be primarily border management'.²⁸

The cessation of Operation Mare Nostrum was considered one of the reasons the death toll on these journeys increased almost tenfold between 2014 and 2015 (the other being the number of people on board the boats).²⁹ The European Parliament called on the EU and its MS to expand Operation Triton's mandate to include 'search and rescue operations at EU level' and even for the EC to (co-)fund a robust and permanent humanitarian European rescue operation, which, like Mare Nostrum, would operate on the high seas and to which all MS would contribute financially and with equipment and assets.³⁰

Table 1: Operation Triton

Triton was launched after Italy ended its domestic operation Mare Nostrum, which had become too onerous for a single country to fund (EUR 9 million per month for an operation that lasted 12 months).

The first phase of Triton took place in November, with an allocation of EUR 9.319 million. It involved the contribution of Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Latvia, Luxembourg, Malta, The Netherlands, Poland, Portugal, Romania, Sweden, Slovenia, Spain, Switzerland and United Kingdom.

The voluntary character of support to the operation and its limited scope - Mare Nostrum had a wider mandate to conduct search and rescue operations across the Mediterranean Sea - have raised several criticisms. Since the operation began, the number of migrants who drowned while crossing the Mediterranean has dramatically increased. For instance, in April 2015, migrant shipwrecks from Libya resulted in over 1,000 deaths alone.³¹ The International Organisation for Migration (IOM) says that deaths at sea have risen ninefold since the end of Operation Mare Nostrum.³² The New York Times reported that early 2015 saw a 1600% increase in the number of migrants drowning while attempting to cross the Mediterranean as compared to the same period in early 2014.³³ As a consequence of this situation it has been proposed to triple the initial planned budget for the remaining seven months of 2015 (EUR 23.625 million).³⁴ However, this may still not be sufficient, because it does not match the funds spent on the previous Mare Nostrum operation which amounted to EUR 108 million per year.

Finally, irregular migration is linked with illicit activities of criminal organisation that smuggle non-EU citizens into Europe. Recent policy development required the EU Agencies to contribute to fighting this phenomenon (see section 2.1). Nevertheless, regarding crime prevention, the role of the agency is limited, as this is mainly a EUROPOL duty. In this area, FRONTEX is in charge of risk analysis in the field of Terrorism and Smuggling. In addition, FRONTEX contributes to the development (led by EUROPOL) of profiling some types of criminals. Evidence suggests that these profiling activities could be part of FRONTEX training. Moreover, in the short term FRONTEX may share more data regarding criminal organisations with EUROPOL, but this is an issue related to data protection that is being assessed at the EU level.

²⁸ Frontex (2015). *Frontex launches call for participation of the EU Member States in Joint Operation Triton*. <http://FRONTEX.europa.eu/news/FRONTEX-launches-call-for-participation-of-the-eu-member-states-in-joint-operation-triton-b9nupQ>

²⁹ The Economist (2015). *Refugees in the Mediterranean: The worst yet?* April 19th, 2015. <http://www.economist.com/news/europe/21648896-another-boat-capsizes-between-libya-and-italy-europe-debates-migration-policy-worst-drowning-yet>

³⁰ European Parliament (2015). *Migration: Parliament calls for urgent measures to save lives*. 20th of April, 2015. <http://www.europarl.europa.eu/news/en/news-room/content/20150424IPR45723/html/Migration-Parliament-calls-for-urgent-measures-to-save-lives>

³¹ Reuters (2015). *Hundreds drown off Libya, EU leaders forced to reconsider migrant crisis*. April 19th, 2015. <http://www.reuters.com/article/2015/04/19/us-europe-migrants-idUSKBN0NA07020150419>

³² The New York Times (2015). *What's behind the surge in refugees crossing the Mediterranean Sea*. May 21st, 2015. http://www.nytimes.com/interactive/2015/04/20/world/europe/surge-in-refugees-crossing-the-mediterranean-sea-maps.html?_r=0

³³ The New York Times (2015). *What's behind the surge in refugees crossing the Mediterranean Sea*. May 21st, 2015. http://www.nytimes.com/interactive/2015/04/20/world/europe/surge-in-refugees-crossing-the-mediterranean-sea-maps.html?_r=0

³⁴ Additional elements of information on DAB 5/2015 following EP BUDG Committee meeting of 26/05/2015. European Commission (2015). *Draft Amending Budget no. 5 to the General Budget 2015: Responding to Migratory Pressures*. COM(2015) 241 final. 13th of May 2015.

2.2. ASYLUM

Asylum is the protection granted by a state to individuals who left their home country and were granted refugee status by another state through a determination procedure on their arrival, in line with the 1951 Refugee Convention on the Status of Refugees. The EC recognizes asylum as a fundamental right, and granting asylum as an international obligation.³⁵ For those individuals who do not qualify for refugee status, the EC provides subsidiary protection in some cases where there are sufficient grounds to believe the individual would suffer serious harm if returned to their country of origin³⁶.

Although the number of asylum seekers' varies from year to year (and even quarter to quarter), 435,000 asylum applicants were registered in 2013 across the EU (nearly 100,000 more than in 2012) according to Eurostat in 2014³⁷, with over 70% of all applicants registered in Germany, France, Sweden, Italy and the UK. The EU established the CEAS, with its first origins in the Tampere Programme of 1999 and its current form being finalized in 2013, in order to fill a gap left by the open borders and free movement for citizens across the EU Member States and to harmonise the variety of national policies on this issue. The CEAS aims to improve access to the asylum procedure, enable quicker and better quality asylum decisions, and provide sufficient reception conditions and support for those applying for asylum. This System is founded on legislative acts, including:

- The revised Asylum Procedures Directive, which sets out rules on the whole process pertaining to claiming asylum;
- The revised Reception Conditions Directive, which covers issues relating to access to reception conditions for asylum seekers (including housing, food, healthcare, and employment) while they wait for their claim to be evaluated;
- The revised Qualification Directive, which clarifies the grounds for granting international protection;
- The revised Dublin Regulation, which grants the primary responsibility for handling an asylum claim to the Member State playing the 'greatest part in the applicant's entry or residence in the EU'; and
- The revised Eurodac Regulation, which establishes an EU asylum fingerprint database³⁸.

In her speech regarding the CEAS in March 2014, Cecilia Malmström, the previous EU Commissioner for Home Affairs, reiterated that the primary challenge facing the CEAS is the coherent and consistent implementation of these regulations and CEAS practices across the EU, which requires to reconsider national policies in this area.³⁹ This sentiment was also highlighted by the 2014/2019 EU Commissioner for Home Affairs, Dimitris Avramopoulos, who stated 'the Commission is determined to adopt a more cohesive asylum policy [...] and that 'responsibility and solidarity go hand in hand'.⁴⁰

³⁵ 1951 Geneva Convention on the Protection of Refugees.

http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/index_en.htm

³⁶ Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals and stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted. OJ L 304 of 30.9.2004

³⁷ Eurostat news release (2014). *Asylum in the EU28: Large increase to almost 435,000 asylum applicants registered in the EU28 in 2013*. STAT/14/46. 24 March 2014.

³⁸ European Commission (2014). *A Common European Asylum System*.

http://ec.europa.eu/dgs/home-affairs/e-library/docs/ceas-fact-sheets/ceas_factsheet_en.pdf

³⁹ Cecilia Malmström (2014). *Speech on 'Common European Asylum System: challenges and perspectives'*. Conference on Common European Asylum System: challenges and perspectives, Sofia (24 March 2014). http://europa.eu/rapid/press-release_SPEECH-14-244_en.htm

⁴⁰ EurActiv (2014). *Avramopoulos proposes new strategies to solve refugee crisis*. 3rd of December, 2014.

CEAS also relies on the solidarity between, and cooperation of, MS to implement a high-quality system; EASO, exists to encourage practical cooperation on issues relating to asylum, to aid Member States in the implementation of fair and just asylum procedures, and offers support to those that are faced with increase pressure on their national systems.⁴¹

2.2.1. EASO

EASO was established by Regulation (EU) 439/2010 as an independent body, in line with the intentions outlined in the EC's 2008 Policy Plan on Asylum, and became operational in 2011. More specifically, its duties according to the Regulation are:

- The organisation and coordination of activities enabling knowledge exchange and the identification of best practices;
- The organisation and coordination of activities synthesising information on countries of origin;
- Support to MS with disproportional pressures through information exchange and relocation.
- Support the development of training modules available for national administrations, national services, courts and tribunals.
- Support the external dimensions of the CEAS.

EASO is funded through a contribution from the EU's general budget, voluntary contributions from MS, charges for publications or other services, and contributions from associate countries.

The agency is currently undergoing its first evaluation. Despite the paucity of the documentation to assess its effectiveness, the primary data collected in the field demonstrates that EASO produces a more effective and efficient collaboration on asylum between Member States.

The added value of the agency can be seen in a number of activities. First of all the agency promotes access to common quality Country of Origin Information (COI). The agency also acts as a kind of clearing house to capitalise on MS COI research capacities and avoid duplications. More importantly EASO facilitates a common MS practice with regards to the implementation of the EU Asylum Acquis, e.g. recast EU Qualification Directive, recast Asylum Procedure Directive, recast Reception Conditions Directive and Dublin III. This is in practice translated in the elaboration of the common EASO Training curriculum and practical cooperation meetings to facilitate the implementation of common asylum and reception standards. Moreover through the implementation of special support plans the agencies supports the improvement of MS capacity building in the area of asylum. This is for instance the case of Greece and Italy, where EASO experts are currently helping both countries to reduce the backlog of requests of protection.

However, the support of EASO is based on a flexibility clause, which means that the agency' activities in a host country can be rescheduled because of lack of experts and changing circumstances of the international protection and reception system in the other MS. This limits the action of the agency. Respondents in Bulgaria confirmed these findings, as the little resources of the organisation and its limited powers were indicated as the main areas that, if improved, could lead to higher effectiveness.⁴² The Spanish case study confirms that cooperation with EASO works quite well,

<http://www.euractiv.com/sections/justice-home-affairs/avramopoulos-proposes-new-strategies-solve-refugee-crisis-310525>

⁴¹ EASO. *Easo.europa.eu*. <https://easo.europa.eu/>

⁴² Interview with NGO representative.

especially with regards to training, knowledge exchange and access to the EASO database on countries of origin. However, training sessions are considered quite costly and long.⁴³

Generally, to reach more consistency in asylum decisions, EASO has developed several practical tools: common training, common practical guides, expertise, and organised 'practical cooperation' meetings for MS practitioners. These activities are essential to contribute to a common understanding and practical implementation of the EU Asylum Acquis, to ensure that similar cases are treated according to similar procedures and with similar outcomes in all EU MS, as stipulated in Art 78 (2) TFEU. However, there are still many differences among the MS in terms of asylum practices, procedures and reception standards to grant protection and to facilitate integration. The current issue is not only about the variations in recognition rates, but also about the type of protection granted: e.g. refugee status or subsidiary forms of protection. This can be crucial to those seeking asylum, as family reunification is not granted in some countries to people enjoying subsidiary forms of protection.

To improve its action, interviews for this study suggested that EASO should be given funds not only to send experts but also for emergency and contingency planning.⁴⁴ EASO currently has an annual budget of EUR 15 Million and EUR 2 Million for emergencies to deploy experts across all EU Member States. Given current developments in the Mediterranean, this does not seem sufficient.

Furthermore, EASO could improve its actions through greater inclusion of civil society. Because EASO is a recent institution, it first dedicated time to building relationships with MS, but it would be important to now involve more actors, such as academia and NGOs to improve a common understating of migration and asylum issues and refugees conditions. A recent call for experts in this field made by EASO is an important step in this direction.⁴⁵

Regarding the ability of EASO to fight crime, it should be noted that this is primarily a police/EUROPOL role. However EASO can collect information for instance on smuggling and trafficking facilitators. Nevertheless, in interviews to grant asylum MS need to apply certain safeguards. For instance, it should be made clear to the interviewee that there won't be any negative consequences for their asylum application if she or he cannot or does not want to answer questions relating to trafficking, smuggling or other criminal activity, which are not related to the claim for protection.⁴⁶

⁴³ Interview with Ministry of Interior representative.

⁴⁴ Interview with UNHCR representative.

⁴⁵ Interview with UNHCR representative.

⁴⁶ Interview with UNHCR representative.

3. EU FUNDS FOR MIGRATION AND ASYLUM POLICIES

KEY FINDINGS

- The Commission allocated almost EUR 4 billion to the management of external borders and the implementation of migration policies through the General Programme 'Solidarity and Management of Migration Flows' (SOLID) over the 2007 to 2013 funding period.
- The SOLID programme is made of four financial instruments, each of which covers one of the four dimension of the programme: the integrated management of external borders (European External Borders Fund -EBF), asylum policy (European Refugee Fund-ERF), the social, civic and cultural integration of non-EU nationals (European Integration Fund- EIF), and the combat of illegal immigration and the return of illegally residing individuals (European Return Fund-RF).
- Isolating the added value of the SOLID programme is a very difficult exercise since the funds, have been often integrated with domestic funding, which are by far larger than the EU funding. Nevertheless, evidence gathered through the case studies suggests that the programme has created positive spill overs, for instance the establishment of a common policy for migration or the improvement of the countries' asylum systems.
- The majority of the funds have been invested in strengthening the control of the internal and external borders. This has raised some doubts around the relevance of the programme priorities in relation to the needs of some countries, such as Italy and Greece, which could have invested more on their systems for migration, asylum and international protection. In practice, the allocation of resources based on the length of the border, on the numbers of asylum seekers and or an a fixed amount do not necessarily match the needs of the countries, especially in relation to unforeseen events, such as the influx of migrants following the Arab Spring.
- Overall the implementation of the funds has been efficient, with an absorption rate of 90%. The European Commission is closely involved in controlling the implementation of the funds. Authorized Commission representatives have the power to run on-the-spot checks. The European Court of Auditors audits the Commission's internal and national management structures. Any cases of alleged fraud or doubt about the use of funds are referred directly to OLAF, the European Anti-Fraud Office. As a result, some irregularities have been detected. However, these were mainly due to lack of knowledge or unintentional misinterpretation of eligibility rules rather than any fraudulent activities.
- The Court of Auditors found that the annual programming system and the control system placed excessive burden on the MS and the Commission. The reduction from four funds to two (AMIF (Asylum, Migration and Integration Fund) and ISF (Internal Security Fund)) should, together with the implementation of a multiannual financial system, reduce the administrative burden in the MS.

3.1. EU FUNDS FOR MIGRATION 2007/2013

The Commission allocated almost EUR 4 billion to the management of external borders and the implementation of migration policies through the General Programme 'Solidarity and Management of Migration Flows' (SOLID)⁴⁷ over the 2007 to 2013 funding period. The General Programme is made up of four instruments: the External Borders Fund (EBF), the European Refugee Fund (ERF), the European Fund for the Integration of third-country nationals (EIF) and the European Return Fund (RF). Each of these funds corresponds to one of the four dimensions of the General Programme: integrated management of external borders (EBF), asylum policy (ERF, an extension of previous rounds of the ERF), the social, civic and cultural integration of non-EU nationals (EIF), and the fight against illegal immigration and the return of illegally residing individuals (RF). The SOLID programme was allocated EUR 5,866 million over its period of implementation. This is out of a total of EUR 7,133.4 million allocated by the European Commission, as aside from the SOLID programme, the Commission made EUR 285.1 million available for FRONTEX, EUR 900 million for the implementation of large-scale information systems, and EUR 62.3 million for the establishment of a European Migration Observatory.⁴⁸

The available funding through these mechanisms was largely implemented through shared management (i.e. the implementation of funds by EU Member States⁴⁹), with a smaller portion available for Community Actions, accessed at the Commission's initiative (which may be transnational actions or actions of interest to the EU as a whole).⁵⁰

3.1.1. External Borders Fund (EBF)

The External Borders Fund was established in May 2007 (Decision 574/2007/EC) as part of the General Programme, with allocated resources reaching EUR 1,820m for the protection and management of the EU's external borders between 2007 and 2013.⁵¹ The EBF aimed at supporting:

- Efficient administrative organisation;
- Efficient management of flows of persons at external borders and enhanced collaboration in respect of forged or false travel documents;
- Uniform implementation of EU legislation;
- Enhance consular services.⁵²

This includes activities such as investment in infrastructure at border crossing points, the purchase of equipment to support border control, cooperation initiatives, training activities, research and investment in the Schengen information system and visa information system. The EBF was able to co-finance activities across the EU Member States already financed by public or private means, though the EBF contribution cannot exceed 50% of the total costs for the activity (with the exception of specific conditions where co-financing can reach 75%).⁵³ The Fund was allocated to Member States on

⁴⁷ Communication from the Commission to the Council and the European Parliament establishing a framework programme on Solidarity and the Management of Migration Flows for the period 2007-2013 {SEC(2005) 435} /* COM/2005/0123 final /

⁴⁸ European Commission (2008). *Framework programme on solidarity and management of migration flows for the period 2007-2013*. Summaries of EU legislation. http://ec.europa.eu/dgs/home-affairs/financing/fundings/migration-asylum-borders/return-fund/index_en.htm

⁴⁹ Member States design a multi-annual programme, which is broken down in to annual programmes.

⁵⁰ European Commission (2008). *Framework programme on solidarity and management of migration flows for the period 2007-2013*. Summaries of EU legislation. http://ec.europa.eu/dgs/home-affairs/financing/fundings/migration-asylum-borders/return-fund/index_en.htm

⁵¹ All EU countries, with the exception of the UK and Ireland, participate in the EBF. Non-EU countries associated with the Schengen Area (Iceland, Liechtenstein, Norway, and Switzerland) also participate.

⁵² Article 3.1. Decision No 574/2007/EC Of The European Parliament And Of The Council of 23 May 2007 establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows'. L144/22 6/6/2007.

⁵³ European Commission (2014). *External Borders Fund – National Actions*.

http://ec.europa.eu/dgs/home-affairs/financing/fundings/migration-asylum-borders/external-borders-fund/national-actions/index_en.htm

the basis of the type of border: 30 % of the Fund supported external land borders, 35 % external sea borders, 20 % airports and 15 % consular offices.⁵⁴ The available funds for external land borders and external maritime borders were allocated to Member States with a 70% weighing for the length of their external borders and a 30% weighing for the workload at their external land or maritime borders, respectively. The funds for airports were allocated entirely on the basis of the workload at a State's airports, and the funds for consular offices were broken down with a 50% weighing for the number of offices in certain countries, and 50% for the workload related to the management of visa policies at offices in the countries listed in the Decision.⁵⁵

Besides these allocations for the national programmes, the EBF had up to EUR 10 million available for specific actions, where co-financing was at 80% of the total cost of the activity. Likewise, the EBF also supported Community actions, up to 6% of the annual budget, where co-financing was at 90%. All EU MS participate in the EBF, with the exception of Ireland, Croatia and the UK.

For the funding period 2007/2010, the EBF co-financed programmes with approximately EUR 630m from the available budget. 48% of the funding was provided to Spain, Italy and Greece over this period. The average implementation rate across 26 countries was 86.7%, as reported by the Commission, ranging from 46% in the Czech Republic and 100% in Cyprus, Estonia, Norway, and Germany.⁵⁶ Most activities were implemented under Priority 1 (integrated border management), though expenditure was the highest under Priority 2 (strengthening national border surveillance).

In general, in all the countries covered by the study the EBF was the largest share of the SOLID programme.

In **Bulgaria**, where the EBF allocation was around EUR 38m, actions have been targeted towards investment projects. The border police is the main beneficiary of the funds. The money is spent on the development of information systems, equipment and training of personnel. For instance, funds have been used for the development of an integrated system for the monitoring of the Bulgarian - Turkish border – around EUR 20 million. There has been some use of funds for visa systems with the Ministry of Foreign Affairs. Similarly, in **Greece** the main uses of the EBF include: border control infrastructure, surveillance and technical means, the so-called 'sealing' of the Greek-Turkey land border⁵⁷. The country significantly invested in the implementation of the Schengen Information System II (SIS II) and Visa Information System (VIS) (see table hereafter).

⁵⁴ Decision No 574/2007/Ec Of The European Parliament And Of The Council of 23 May 2007 establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows'. L144/22 6/6/2007.

⁵⁵ Article 14. Decision No 574/2007/Ec Of The European Parliament And Of The Council of 23 May 2007 establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows'. L144/22 6/6/2007.

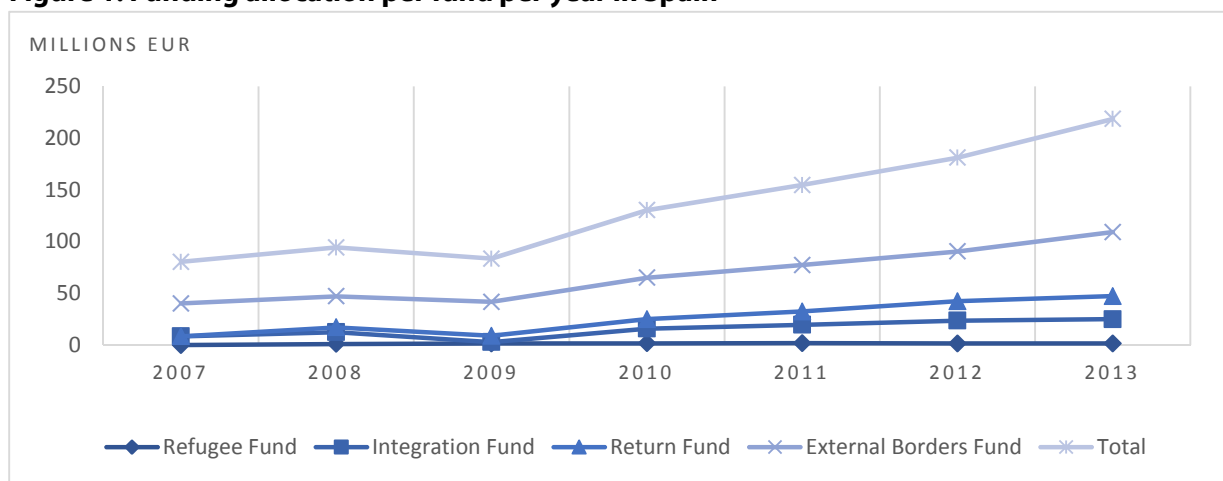
⁵⁶ European Commission (2014). Report From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions on the ex-post evaluation of the External Borders Fund for the period 2007-2010 (report submitted in accordance with Article 52(3)(c) of Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007). 23.4.2014, COM(2014) 235 final

⁵⁷ UNHRC (2013). *Report of the Special Rapporteur on the human rights of migrants*, François Crépeau. Addendum. Mission to Greece.

Table 2: Implementation of SIS II and VIS system in Greece

The implementation of the SIS II and VIS under the External Border Fund serves as an example of clearly targeted intervention and funding. The implementation of the SIS II and VIS Systems both fall under Priority 4 of the EBF: Support for the establishment of IT systems required for the implementation of the Community legal instruments in the field of external borders and visas.⁵⁸ The objectives under the Priority target ‘the purchase of software, the installation of hardware, the development of applications improving the border checks’ as well as making infrastructures and systems of visa-issuing compatible with the demands of Common Consular Instructions.^{59,60} The work done under this priority followed the completion of a detailed ‘feasibility study which will define the technical parameters for installing and operating the whole VIS project’, therefore grounding the project selection within a clear framework.⁶¹ Furthermore, Greece focused its technical assistance spending under the EBF on ‘IT and equipment’ which additionally supported the implementation of the SIS II/ VIS systems.⁶² The success of the set of practices was also grounded in their prioritisation in the 2009 Annual Programme. The project on the application of the new VIS aimed to harmonise the procedures followed and the systems used to issue visas with Greece’s statutory commitments to the European Union and its obligations as a signatory to the Schengen Convention.⁶³

Italy and **Spain** have also spent a large part of the EBF for surveillance of the borders that are exposed to major immigration pressure. In the case of Italy, after 2010 the fund has been mainly concentrated on the development of national components for a permanent system of patrols on the southern sea borders of the EU.⁶⁴ Similarly border control is one of the main priorities for the Spanish authorities, with Ceuta and Melilla under particular pressure. In Spain, the EBF has been the fund with the highest annual allocation increase (see figure below).

Figure 1: Funding allocation per fund per year in Spain

Source: European Commission⁶⁵

⁵⁸ Evaluation report on Implementation of actions co financed by the External Borders Fund: Greece. (Report set out in Article 52(2) (a) of Decision No 574/2007/EC).

⁵⁹ Evaluation report on Implementation of actions co financed by the External Borders Fund: Greece. (Report set out in Article 52(2) (a) of Decision No 574/2007/EC). (2010). http://ec.europa.eu/dgs/home-affairs/financing/fundings/pdf/borders/el_ebf_revised_mte.pdf.

⁶⁰ European Commission (2008). Press release on the External Borders Fund 2007-2013 – Greece IP/08/2020, Brussels, 18 December 2008. http://europa.eu/rapid/press-release_IP-08-2020_en.htm?locale=en

⁶¹ Evaluation report on Implementation of actions co financed by the External Borders Fund: Greece. (Report set out in Article 52(2) (a) of Decision No 574/2007/EC). (2010). http://ec.europa.eu/dgs/home-affairs/financing/fundings/pdf/borders/el_ebf_revised_mte.pdf

⁶² European Commission (2014). Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the Ex-post Evaluation of the External Borders Fund for the period 2007-2010 (report submitted in accordance with Article 52(3)(c) of Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007), Brussels, 23.4.2014, COM(2014) 235 final. http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/borders-and-visas/schengen/docs/com_2014_235_f1_report_from_commission_en.pdf

⁶³ Evaluation report on Implementation of actions co financed by the External Borders Fund: Greece. (Report set out in Article 52(2) (a) of Decision No 574/2007/EC). (2010). http://ec.europa.eu/dgs/home-affairs/financing/fundings/pdf/borders/el_ebf_revised_mte.pdf

⁶⁴ Decisione della Commissione Europea del 27.06.2012 che approva per l'Italia la revisione del programma annuale 2010 per il Fondo per le Frontiere esterne, e il cofinanziamento a titolo di tale fondo per l'esercizio 2010.

⁶⁵ DG Migration and Home Affairs, European Commission (2015). Country overview: Italy.

http://ec.europa.eu/dgs/home-affairs/financing/fundings/mapping-funds/countries/italy/index_en.htm

In 2013, according to the Assessment of the Fight against Irregular Immigration by the Ministry of Interior, illegal entry of immigrants in 2013 via Ceuta and Melilla increased by 48.5% compared to the previous year.⁶⁶ Through the use of EBF money, between 2007 and 2010, Spain bought the highest number of components and surveillance systems in the EU (386), mainly to expand its Integrated Exterior Surveillance System (*Sistema Integrado de Vigilancia Exterior - SIVE*). This expenditure amounted to over EUR 44 million. This enabled Spain to intercept 5,279 irregular migrants and improve the security of its maritime border, reducing irregular migration to the Canary Islands by 17.5%.⁶⁷

Romania and **France** focused on the development and implementation of a national digital system for implementing the European database VIS, as well as on increasing the detection capacity on the external borders.

The ECA noted that the EBF had partially ineffective systems for the reinforcement of specific priorities, and that though the Commission has tried to focus EBF funding, there is little evidence of the impact of this due to a lack in monitoring.⁶⁸ However interviews conducted with Commission representatives⁶⁹ and MS suggested that infrastructure built through this fund would not have occurred without EU funding.

Moreover, as part of the evaluation after the first funding period, all Member States rated the implementation of the national EBF allocations (efficiency) as 'very good', 'good', or 'satisfactory'⁷⁰ and the European Commission concluded that the EBF is 'meeting its objectives, despite some delays in implementation'.⁷¹

Only five Member States reported being able to achieve the same results without the financial means provided by the EBF, while the remainder noted that very few or none of their activities would have taken place otherwise. The ECA Special Report on the EBF (based on a sample of 5 Member States), found that in two of the five Member States, Greece and Spain, many projects would have been financed nationally, or even were, at the time of their incorporation in the National Programmes. This is supplemented by an example in Greece, where the procurement of 75 police vehicles was supported by the national budget and then included in a revised annual programme.

According to an EU evaluation report, Member States consider the EBF to be relevant to their needs, with seven States evaluating it as 'very relevant' and 14 as 'reasonably relevant'. The Commission provides technical assistance as part of each annual programme, which was used by Member States

⁶⁶ European Migration Network (2013). *Annual Immigration and Asylum Policy Report: Spain*. http://extranjeros.empleo.gob.es/es/redeuropeamigracion/Informe_Anual_Politicas_Inmigracion_Asilodoc_2013/Annual_Immigration_and_Asylum_Policy_Report_2013_EN.pdf

⁶⁷ Report From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions on the ex-post evaluation of the External Borders Fund for the period 2007-2010 (report submitted in accordance with Article 52(3)(c) of Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007). 23.4.2014, COM(2014) 235 final

⁶⁸ Page 22. European Court of Auditors (2012). *Do the European Integration Fund and European Refugee Fund contribute effectively to the integration of third-country nationals?* Special report No 22.

⁶⁹ Interview with EC – DG Migration and Home Affairs representative.

⁷⁰ Report From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions on the ex-post evaluation of the External Borders Fund for the period 2007-2010 (report submitted in accordance with Article 52(3)(c) of Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007). 23.4.2014, COM(2014) 235 final

⁷¹ Report From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions on the ex-post evaluation of the External Borders Fund for the period 2007-2010 (report submitted in accordance with Article 52(3)(c) of Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007). 23.4.2014, COM(2014) 235 final

to manage the annual programmes from 2007 to 2010, and evaluated to be important, or even essential, to the efficient and effective implementation of the APs. Overall, the EBF was noted to help either considerably or to some extent the management of migration flows in Member States. However, there is a broader issue: the EU uses the national evaluation reports in its evaluation, while the ECA noted that in its sample it found omissions, errors and inaccuracies in all five national evaluation reports.

At the same time, the Commission evaluation also noted that unforeseen events, such as the 2011 uprisings in the north of Africa, impacted EU migration flows; over this period of time, 12 Member States saw a rise in the number of entry refusals, with 80% of refusals occurring in Spain.⁷² Undocumented migrants were stopped in Greece, Italy, Spain and Portugal, with apprehensions in Greece totalling about one-third of the EU total (approximately 227,420 people as an annual average)⁷³. This raises a question about the allocation of funds in relation to these kinds of unforeseen events – Greece or Spain’s allocation may be considered disproportionately low over these annual programmes given this influx of migrants and the strain on their borders compared with other Member States.

Interviews with Commission representatives reveal that the changes applied in the new programming period should improve the readiness of the MS to react to emergency and critical situations, as the allocation of resources is now more flexible due to the multiannual financial framework of the new programming period.⁷⁴

Looking at efficiency the Commission noted that the implementation process for the EBF is straightforward given that beneficiaries of the Fund are generally State institutions. Difficulties in implementation were reported over issues such as delays, unsuccessful or cancelled procurement, and the Fund’s general lack of flexibility⁷⁵. Despite this, most countries reported the EBF increased national capacities, and identified specific national deficiencies in border management. The ECA’s audit of the EBF found that there were inadequate procurement procedures in some Member States.

Looking forward, Member States noted that administrative burdens could be reduced by implementing fewer but larger interventions and by applying the principle of concentration of resources. This was reiterated by the ECA in its statement that ‘annual programming requirements [lead] to an excessive administrative burden and implementation difficulties’; the Court recorded an average delay of 6.5 months between the first and the final submission of Annual Programme reports.⁷⁶ The ECA also noted that the creation of new bodies specifically for the Fund was a step which allowed four Member States to manage the Fund more efficiently. In their report, the Commission confirms that they would like to shift towards multiannual programming (with no sub-programmes run annually).

⁷² Report From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions on the ex-post evaluation of the External Borders Fund for the period 2007-2010 (report submitted in accordance with Article 52(3)(c) of Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007). 23.4.2014, COM(2014) 235 final

⁷³ Report From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions on the ex-post evaluation of the External Borders Fund for the period 2007-2010 (report submitted in accordance with Article 52(3)(c) of Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007). 23.4.2014, COM(2014) 235 final

⁷⁴ Interview with EC – DG Migration and Home Affairs representative.

⁷⁵ From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions on the ex-post evaluation of the External Borders Fund for the period 2007-2010 (report submitted in accordance with Article 52(3)(c) of Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007). 23.4.2014, COM(2014) 235 final

⁷⁶ Page 32. European Court of Auditors (2012). *Do the European Integration Fund and European Refugee Fund contribute effectively to the integration of third-country nationals?* Special report No 22.

The ECA Annual Report for 2013 outlined an incident of ineligible expenditure in Spain, where a project under the EBF purchased four helicopters to spend 75% of their time on EU external border surveillance and control. The ECA audit found that, in reality, the helicopters were only used for this purpose 25% of their time, leading to the conclusion that the EU should have only paid for 25%, not 75% of their costs. Interviews with stakeholders⁷⁷ confirmed that assessing the added value of these funds is a difficult task, as separating the domestic use of the equipment from the EU purposes for which they were purchased is not always possible. Moreover, calculation of amortisation to establish the level of co-financing is also difficult and the authorities implementing these funds - border police and coast guard - are not very familiar with these concepts.⁷⁸

In terms of bad practices in the context of the EBF, the ECA's Special report raises several red flags including in Greece. Among the issues flagged are the use of EBF funding for projects that have already been implemented, creation of indicators / targets *after* the implementation of the project and a focus on covering short-term expenses.⁷⁹ One of the difficulties has been estimating the total funds received and the absorption rates, due to the multiple sources of funding which include both direct and indirect financing as well as accounting for additional sources (private contributions, donations and NGO work). In the case of border surveillance and control, in particular, it is difficult to estimate the resources used since tasks under the SOLID Fund have been integrated with the regular duties of officers.⁸⁰

3.1.2. European Refugee Fund (ERF)

The European Refugee Fund (ERF)⁸¹ supported efforts in receiving refugees through guaranteeing access to 'consistent, fair, and effective asylum procedures'.⁸² Specifically, the ERF co-financed activities including:

- 'Improvements of reception accommodation infrastructures or services;
- Structures and training to ensure access to asylum procedures;
- Legal and social assistance for asylum seekers, refugees including with regard to voluntary return;
- Measures to support the empowerment of and acquisition of skills by refugees, including language training;
- Resettlement or relocation (i.e. intra-EU transfer) operations, etc.'⁸³

ERFIII⁸⁴ existed over a five-year period (2008 /2013), with EUR 630m available to finance activities supporting the creation and maintenance of fair and effective procedures. The Fund was implemented through shared management, allowing each participating EU State to implement the

⁷⁷ Interview with EC – DG Migration and Home Affairs representative.

⁷⁸ Interview with EC – DG Migration and Home Affairs representative.

⁷⁹ European Parliament (2014). *The EU External Borders Fund (EBF): European Court of Auditors' Special Report No. 15/2014*. [http://www.europarl.europa.eu/thinktank/it/document.html?reference=EPRS_BRI\(2014\)536340](http://www.europarl.europa.eu/thinktank/it/document.html?reference=EPRS_BRI(2014)536340)

⁸⁰ Angeli, Danai et al (2014). *Assessing the Cost-effectiveness of Irregular Migration Control Policies in Greece*, Midas policy paper. <http://www.eliamep.gr/wp-content/uploads/2014/11/MIDAS-Policy-Paper-EN.pdf>.

⁸¹ All EU Member States, with the exception of Denmark, participated in the implementation of the ERF. See: Decision No 573/2007/EC Of The European Parliament And Of The Council of 23 May 2007 establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' and repealing Council Decision 2004/ 904/EC. L144/1, 6.6.2007

⁸² European Commission (2014). *Refugee Fund*. http://ec.europa.eu/dgs/home-affairs/financing/fundings/migration-asylum-borders/refugee-fund/index_en.htm

⁸³ European Commission (2014). *Refugee Fund*. http://ec.europa.eu/dgs/home-affairs/financing/fundings/migration-asylum-borders/refugee-fund/index_en.htm

⁸⁴ The European Refugee Fund existed prior to the SOLID Programme. There have been three cycles of the ERF: ERF I (2000 - 2004), ERF II (2005 - 2007) and ERF III (2008 - 2013). This last one was integrated in the SOLID Programme.

Fund through multiannual national programmes. A small portion of the Fund (approximately 4%) was available to finance transnational actions at EU level. For projects implemented through the national programmes, the EC's contribution could not exceed 50% of the total cost of the activity, which could be increased to 75% for either projects supporting a specific priority or for all projects in those Member States covered by the Cohesion Fund.

The ERF was set up with an aim of promoting 'a balance of efforts' among the Member States, through the use of redistributive policy instruments⁸⁵. The Decision establishing the ERF allocates a fixed amount of EUR 300,000 to each Member State (EUR 500,000 for Member States which acceded in 2004). The remainder of the fund is allocated to Member States with 30% being allocated in proportion of the number of persons that are '(a) any third-country national or stateless person having the status defined by the Geneva Convention and who is permitted to reside as a refugee in one of the Member States; (b) any third-country national or stateless person enjoying a form of subsidiary protection within the meaning of Directive 2004/83/EC, [...or] (e) any third-country national or stateless person who is being or has been resettled in a Member State' and the remaining 70% allocated to the proportion of persons '[...] (c) any third-country national or stateless person who has applied for one of the forms of protection described in points (a) and (b); (d) any third-country national or stateless person enjoying temporary protection within the meaning of Directive 2001/55/EC [...]'.⁸⁶

As for Decision 573/2007/EC, each participating Member State was required to submit two evaluations of the implementation of the ERF: one on the implementation of the Fund over the 2008/2010 funding period, the second covering the implementation of the 2011 /2013 funding period. The Commission's report on the second ex-post evaluation of the European Refugee Fund III is scheduled to be published in 2015.⁸⁷

There is therefore not much evidence on the effectiveness and the efficiency of this fund. In its review of the 2008/2009 funding period, Ramboll stated that the ERF's funds were sufficient, though there were delays in making funding available to implementing organisations. They concluded that 'the same results could probably not have been achieved at a lower cost', with reductions in costs still being possible with regards to the administrative burden.⁸⁸ However, the programming and implementation mechanisms were deemed to be 'largely inadequate', with particular reference to delays in procedures, the obligatory review of annual programmes, and administrative requirements.⁸⁹

To some extent our analysis confirmed these findings with too much variation across and within countries regarding the costs and the quality of services for those third country nationals that are seeking protection⁹⁰. Nevertheless, interviews with key stakeholders report a very positive impact and

⁸⁵ Page 808. Thielemann, E.R. (2005). *Symbolic Politics or Effective Burden Sharing? Redistribution, Side-payments and the European Refugee Fund*. JCMS 2005 Volume 43. Number 4. pp. 807–24

⁸⁶ Decision No 573/2007/EC Of The European Parliament And Of The Council of 23 May 2007 establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' and repealing Council Decision 2004/ 904/EC. L144/1, 6.6.2007

⁸⁷ European Commission (no date). *Forward Planning of Evaluations for 2014 and Beyond*.

http://ec.europa.eu/smart-regulation/evaluation/docs/evaluation_forward_plan_2014_en.pdf

⁸⁸ Ramboll Management Consulting (2013). *Synthesis of the National Evaluation Reports on the Results and Impacts of Actions Co-financed by the European Refugee Fund from 2008 to 2010*.

<http://ec.europa.eu/smart-regulation/evaluation/search/download.do?documentId=10697239>

⁸⁹ <http://ec.europa.eu/smart-regulation/evaluation/search/download.do?documentId=10697239>

⁹⁰ Interview with ICMPD representatives.

a great added value of the ERF.^{91,92} One of the experts interviewed⁹³ observed that in some cases, for instance in **Bulgaria** and **Italy** the establishment of the fund has been a stepping stone for the design of a national strategy for migration and international protection.

In **Bulgaria** the fund is used mainly for voluntary return activities and asylum accommodation. Projects are usually implemented through work with NGOs. The funds have allowed for a significant expansion of the registration and reception centre capacity in Bulgaria (around 5 times - from 782 places in 2012 up to 4,060 places in 2013).⁹⁴ However, visits to the accommodation centres in the country raised doubts around the quality of the services provided to the asylum seekers (see table below).

Table 3: Misuse of European Refugee Fund in Bulgaria

Two cases of bad practice in the use of the ERF were identified through local media articles. The same cases were also mentioned in the 'Report on actions undertaken by the public authority as part of its crisis management measures due to increasing migratory pressures'⁹⁵. The cases regarded subsistence aid projects for the building/renovation of accommodation centres in Harmanli (EUR 100,000 budget) as well as 'Voenna rampa' and 'Vrazhdebna' (EUR 280,000 budget). According to a local daily newspaper⁹⁶ the beneficiary firm had collected around EUR 280,000 without competing with other bidders to repair refugee centres in 'Voenna rampa' and 'Vrazhdebna'. Nevertheless, a visit to the accommodation centres by the Bulgarian Helsinki Committee found that the buildings were in a very bad condition. This created doubts with regards to how the money had been spent. 1,000 people were reported to be living in a building with no heating, no hot water, while some of the bathrooms/toilets had no water at all.

According to the Ministry of Interior⁹⁷, the case was referred to prosecution. Nevertheless, the desk research could not find any certain information regarding the status of the case.

The general objective of the ERF in **Italy** is the enhancement of the Italian system for asylum which requires more integration and synergies among the existing services for reception and integration and a better alignment toward common standards in the field of human rights. This has been a major concern for the EU^{98,99} and the fund should help to speed up access to the asylum procedure and to secure decent living conditions to those that are waiting to be granted protection. In this regard, given that for several years the ERF was mainstreamed into the main national fund for asylum policies and services (*Fondo nazionale per le politiche e i servizi dell'asilo*) (see table below), no definitive conclusions can be reached on the effectiveness of the ERF. Only recently, has EU funding for refugees (ERFIII) been used in an innovative manner, for instance to target specific vulnerable groups of refugees – unaccompanied minors, disabled persons - or to offer refugees services that are additional to the basic services provided through the national fund. The national fund is currently under the magnifying lenses of the press because of several alleged cases of frauds¹⁰⁰, which also include two cases of EU co-funding that are currently under OLAF investigation.¹⁰¹

⁹¹ Interview with UNHCR representative.

⁹² Interview with UNHCR representative.

⁹³ Interview with UNHCR representative.

⁹⁴ Ministry of Interior (2014). *Bulgaria National Programme AMIF*. http://www.dmp.mvr.bg/NR/rdonlyres/4D6460DC-D9FB-492A-B5EC-D5AB0A25D0E/0/C_2015_1685_EN_DOCUMENTDETRAVAIL2_f.pdf

⁹⁵ Ministry of Interior (2014). *Report on actions undertaken by the public authority as part of its crisis management measures due to increasing migratory pressures*. www.mvr.bg/NR/rdonlyres/.../Kriza_Doklad.doc

⁹⁶ Standard News (2013). *Refugees as a scam*. http://www.standartnews.com/mneniya-komentar/bezhantsite_kato_dalavera-209351.html

⁹⁸ Camera dei Deputati (2015) *Incremento del Fondo per le Politiche dell'asilo nella stabilità* http://www.camera.it/leg17/561?appro=I_incremento_del_fondo_per_le_politiche_dell_asilo_nella_stabilit_2015

⁹⁹ Interview with UNHCR representative.

¹⁰⁰ La Repubblica *L'Anticorruzione commissaria il CARA di Mineo* 09.06.2015 http://palermo.repubblica.it/cronaca/2015/06/09/news/l_anticorruzione_commissaria_il_cara-116451789/

¹⁰¹ Interview with EC –DG Migration and Home Affairs representative.

In addition to this, the control system put in place by the delegated authority of the ERF (*Servizio centrale – Associazione Nazionale Comuni Italiani – ANCI*) has detected some cases of diversion of funds that led to the interruption of the financial contribution from the municipality of Rome.¹⁰² Moreover, EU practices have created positive spillovers that have enhanced the capacity of local actors, including non-governmental organisations, to deal with the administrative requirements originating from the implementation of the projects supported by both EU funding and the national fund for asylum policies and services.¹⁰³

In practice, on the one hand the involvement of small NGOs leads to a fragmentation of expenditure and to an increased risk of misuse of funds through error or abuse by the subcontracting party, on the other hand the involvement of small NGOs and of several local actors helps to meet the needs of migrants at local level.¹⁰⁴

Table 4: The Italian system of protection for asylum seekers and refugees

The Ministry of Interior puts in place policies to receive asylum seekers and refugees while they await a decision on their asylum request. Reception is currently based on three types of facility:

Reception Centres for Immigrants (*Centri di accoglienza per migranti - CDA/CPSA*): here migrants are identified and provided with first assistance;

Centres for the Reception of Applicants for international Protection (*Centri di accoglienza richiedenti asilo – CARA*). These are centres where asylum seekers are hosted during the period required for the formal registration of their application. These centres which are located mainly in the South of Italy, are managed by NGOs which should have been selected by a public tender procedure. According to the national law that sets the standards of CARAs, the centres should offer daily subsistence, accommodation, health and mental care services, training and leisure activities, as well as legal assistance. The management of these centres however have been very often subject of criticism because of the poor material conditions of the centres and the lack of services, for example, overcrowding and limitations in the space available for assistance, legal advice and socialisation; physical inadequacy of the facilities and their remoteness from the community; or difficulties in accessing appropriate information.¹⁰⁵ In addition, since April 2015, several investigations have been undertaken because of alleged cases of fraud in the management and allocation of CARA funds, which include resources from the European Refugee Fund.¹⁰⁶

System of Protection for Applicants and Beneficiaries of International Protection (*Sistema di protezione per richiedenti asilo e rifugiati - SPRAR*). TCNs who are waiting for a formal decision as a result of their application for protection can benefit from reception and integration projects that are implemented in the framework of the SPRAR. In practice, local authorities can voluntarily decide to host groups of refugees and asylum seekers by initiating reception and integration projects. The projects are funded through the Ministry of interior's fund for policies and services for asylum (*Fondo nazionale per le politiche e i servizi dell'asilo*). The projects are evaluated by an ad hoc commission set up at the Ministry of the Interior. If they meet the requirements envisaged by the Decree of the Ministry of the Interior dated 28th December 2005, they are placed on a list of successful candidates and are entitled to co-financing amounting to 80% of the total sum to be paid out of the Fund resources. Each year the Fund receives allocations from the ERF, to set up to develop a common reception policy at EU level.¹⁰⁷ In 2009 the EC expressed concerns about delays in the implementation of the funds and the impossibility to monitor the projects implemented under the ERF, as EU resource were excessively diluted into the national fund for policies and services for asylum. As a consequence the Ministry of Interior established a delegated authority to support the implementation and the evaluation of the projects financed through the ERF. The delegated authority is called central service (*Servizio centrale*) and it originates from the national association of the municipalities (ANCI)

¹⁰² Interview with delegated authority representative.

¹⁰³ Interview with delegated authority representative.

¹⁰⁴ Interview with delegated authority representative.

¹⁰⁵ Report by Nils Muiznieks, Commissioner for Human Rights of the Council of Europe, following his visit to Italy from 3 to 6 July 2012, Comm DH (2012)26, 18 September 2012, at p. 36. <http://www.asylumineurope.org/reports/country/italy/reception-conditions/access-forms-reception-conditions-reception#sthash.hEtvXVPt.dpuf>

¹⁰⁶ La Repubblica *L'Anticorruzione commissaria il CARA di Mineo* 09.06.2015

http://palermo.repubblica.it/cronaca/2015/06/09/news/l_anticorruzione_commissaria_il_cara-116451789/

¹⁰⁷ <http://www.cittadinitalia.it>

The role of NGOs, is equally relevant in **Greece**. The ERF is indeed mainly directed to the reception of refugees, fair asylum procedures, and Civil Society Organisations (CSOs) providing support for asylum seekers. Greece has made use of Emergency response mechanism under the ERF in every year since 2008¹⁰⁸. In addition to the technical and financial monitoring applicable to all MS, the Commission has undertaken 'several general monitoring missions to Greece, involving visits to different facilities, in particular in the Evros region'.¹⁰⁹ These reports were presented to the Council and the Parliament. In 2010 the Commission started infringement proceedings against Greece for the 'breach of EU asylum rules' for substandard conditions, discrimination and insufficient care for migrants and asylum seekers.

This was followed by two key court judgements in 2011 which resulted in asylum seekers no longer being able to be transferred to Greece under the Dublin Regulation because the deficiencies of the asylum and reception system were so severe that return risked breaching their fundamental rights as laid down in European law¹¹⁰. This the case of an Afghan asylum seeker entered the EU through Greece, and travelled on to Belgium.¹¹¹ In detail, as per the Dublin Regulation, Greece became the MS responsible for reviewing his case, and Belgian authorities returned him to Greece to await his decision. The asylum seeker was placed in detention which was found to violate the prohibition of inhumane or degrading treatment or punishment (Article 3 of the European Convention on Human Rights (ECHR)) and, taken with that violation, a violation of the right to an effective remedy (Article 13 of the ECHR). Belgium was also found in violation of Article 3 and Article 13 of the ECHR by exposing the applicant to 'the risks arising from the deficiencies in the asylum procedure in Greece'¹¹². In December 2011, the European Court of Justice heard joined cases *N.S. v the UK* (C-411/10) and *M. E., A. S. M., M. T., K. P., E. H. v Ireland* (C-493/10), where non-EU individuals travelled through Greece to ultimately lodge an asylum claim in the UK and Ireland, respectively, but the claimants received a decision to transfer them back to Greece under the Dublin Regulation. The Court of Justice of the European Union (CJEU) stated that:

'[...]the Member State [...] may not transfer an asylum seeker to the 'Member State responsible' within the meaning of Regulation No 343/2003 where they cannot be unaware that systemic deficiencies in the asylum procedure and in the reception conditions of asylum seekers in that Member State amount to substantial grounds for believing that the asylum seeker would face a real risk of being subjected to inhuman or degrading treatment within the meaning of Article 4 of the Charter' (§94, C-411/10).

¹⁰⁸ European Commission (2011). Task Force for Greece. 1st quarterly report. http://ec.europa.eu/archives/commission_2010-2014/president/news/speeches-statements/pdf/20111117_1_en.pdf.

¹⁰⁹ IPS correspondent Apostolis Fotiadis interviews Michele Cercone, spokesperson for Home affairs of the European Union. <http://cdn.ipsnews.net/Library/2013/03/QA-1.pdf>

¹¹⁰ Court of Justice of the European Union. *Opinions of the Advocate General in Joined Cases C-411/10 N.S. v Secretary of State for the Home Department and C-493/10 M.E. and Others v Refugee Applications Commissioner and Minister for Justice, Equality and Law Reform*. Press Release No 96/11.

https://ec.europa.eu/antitrafficking/sites/antitrafficking/files/court_of_justice_of_the_european_union_press_release_no_96_11_luxembourg_22_september_2011_1.pdf

European Commission (2015). *Case of M.S.S. v. Belgium and Greece, Application no. 30696/09. Together Against Trafficking in Human Beings*. https://ec.europa.eu/anti-trafficking/legislation-and-case-law-case-law/case-mss-v-belgium-and-greece-application-no-3069609_en

¹¹¹ European Court of Human Rights. *Judgement on the Case of M.S.S. v. Belgium and Greece*. no. 30696/09 § 410

¹¹² European Court of Human Rights. *Judgement on the Case of M.S.S. v. Belgium and Greece*. no. 30696/09 § 410

Since then an Asylum System was created in 2013 with the aim to improve recognition rates which has brought Greece closer to the European average and has had positive effects on the general asylum procedures and ensuring security by avoiding forgery.¹¹³

'Migration, asylum and borders' is one of 10 policy areas¹¹⁴ which the Task Force for Greece (TFGR)'s activities¹¹⁵ cover.¹¹⁶ The Task Force has supported the implementation of the Action Plan and provided technical assistance to improve the absorption of the SOLID Funds through facilitating the coordination between the Ministries involved in the reforms to rationalise policy, budgetary and public administration objectives.¹¹⁷ The Task Force also assisted in streamlining requests for assistance to FRONTEX, EASO and Member States. A number of assessments and evaluations highlight that as a result of this structure, Greece's policies have improved as a direct result of EU's migration and asylum approach and despite a few issues, Greek authorities have closely followed EU objectives and priorities.^{118,119}

More generally, as observed by representatives of the UNHCR¹²⁰, in the past **Bulgaria, Italy and Greece** together with **Romania** have shown at national level a lack of human resources and high turnover in their public administrations for the management of the funds, as well as some difficulties in the integration of EU rules in their national framework. Most recently, three of these countries - Greece, Italy and Bulgaria - have increasingly been focusing on the improvement of their reception systems through the contribution of the EU and the inclusion of the NGOs operating at local level. However, they are experiencing a massive inflow of individuals seeking protection arriving by boat or land and their reception systems are under pressure and do not have sufficient capacities to always offer basic living conditions to asylum seekers. In such conditions it is difficult to assess the effectiveness of funding for refugees.¹²¹ All three countries have asked for EASO support.

France, Spain and the **UK** on the other hand do not show any specific issues with regards to the implementation of the ERF. The fund in these MS is generally used to increase the capacity for managing asylum requests. Some doubts have been raised regarding the substitution effect caused by the ERF in France, where EU funds are claimed to have led to a reduction of domestic funding in this area¹²², however the interview with an NGO representative contends that the co-financing levels of the funds are considered adequate and an increase in the rate is not necessary.¹²³ More generally, the effectiveness of the ERF is confirmed to be high and it is ensured by the very detailed calls for proposals, which ask for highly specific descriptions of the activities that the projects will be

¹¹³ Additionally, statistics of the new Greek Asylum Service (June 2013 – May 2014) are available here: http://www.minocp.gov.gr/images/stories//2014/prokhrukseis14/Greek%20Asylum%20Service%201st%20year%20of%20operations%20Jun13-May14_en.pdf.

¹¹⁴ The list of areas are: (1) acceleration of cohesion policy projects; (2) access to finance/financial sector; (3) reform of the public administration; (4) budget and taxation including tax administration, public financial management, and anti-money-laundering; (5) anti-corruption; (6) business environment; (7) public health; (8) reform of the judicial system; (9) migration, asylum and borders; (10) labour market and social security.

¹¹⁵ EU Member States, EFTA EEA states, European and international organisations such as the EIB, EIF, OECD, ILO, Council of Europe, IMF, UNECE and the World Bank.

¹¹⁶ European Commission (2012). One year of Task Force for Greece, MEMO/12/784.

http://europa.eu/rapid/press-release_MEMO-12-784_en.htm#footnote-1.

¹¹⁷ European Commission (2012). One year of Task Force for Greece, MEMO/12/784.

http://europa.eu/rapid/press-release_MEMO-12-784_en.htm#footnote

¹¹⁸ Angeli, Danai et al (2014). Assessing the Cost-effectiveness of Irregular Migration Control Policies in Greece, Midas policy paper.

<http://www.eliamep.gr/wp-content/uploads/2014/11/MIDAS-Policy-Paper-EN.pdf>.

¹¹⁹ UNHCR (2015). "Greece as a Country of Asylum". UNHCR's Recommendations.

http://www.unhcr.gr/fileadmin/Greece/Extras/Greece/2015_EN_R.pdf.

¹²⁰ Interview with UNHCR representative.

¹²¹ Interview with UNHCR representative.

¹²² Interview with UNHCR representative.

¹²³ Interview with NGO representative.

implementing. This helps the beneficiaries of the projects to develop a clear strategy that will be of great importance during the implementation phase and to avoid expenditure eligibility issues. However, there are issues related to delays in payments from the Ministry of Interior to the beneficiary organisations (see section 4).

The research findings highlight that the UK is a good example of inclusiveness of NGOs and international organisations regarding the design and management of the funds. This is confirmed by the fact that a member of the UNHCR is included in the projects' selection committees. Similarly, the Spanish case reveals that the majority of the country's activities and projects in the field of protection of migrants are managed through subsidies granted on a competitive basis to not-for-profit organisations. These projects, aimed at vulnerable migrants, were funded by both the ERF and the European Social Fund (ESF).

3.1.3. European Fund for the Integration of third-country nationals (EIF)

The European Fund for the Integration of third-country nationals for the period 2007/2013 was established in the Council Decision 2007/435/EC.¹²⁴ The objective of the EIF was to support Member States' efforts in 'enabling third-country nationals of different economic, social, cultural, religious, linguistic and ethnic backgrounds to fulfil the conditions of residence and to facilitate their integration into the European societies'¹²⁵, with a specific focus on third-country nationals that have recently arrived in European territories. The Fund was available to fund the following specific objectives:

- Facilitation of the development and implementation of admissions procedures;
- Development and implementation of the integration process of newly-arrived third-country nationals;
- Increasing Member States' capacity to develop, implement and monitor policies and measures for the integration of these individuals;
- Exchange of information among Member States on these issues.¹²⁶

The EIF had a budget of EUR 825 million over the period 2007/2013 across 26 Member States¹²⁷, with up to 7% available for Community Actions, similarly to the funds discussed above. Each Member State was eligible to receive a fixed amount of EUR 500,000 per annum, with the remainder of the Fund being divided proportionally across MS: 40% of the remainder allocated proportionally to legally residing third-country nationals in the State's territory, and 60% of the remainder allocated proportionally based on the number of third-country nationals having obtained authorization by a State to reside in its territory over the past 3 years.

The EIF was evaluated over the period 2007/2009 by the European Commission¹²⁸, based on the evaluative reports on the Fund's implementation submitted by the Member States. For the period 2007/2009, 29% of the overall Fund was covered, with a total of EUR 239 million available for shared

¹²⁴ Council Decision 2007/435/EC establishing the European Fund for the Integration of third-country nationals for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' of 25 June 2007 (2007) L 168/18.

¹²⁵ Article 2.1. Council Decision 2007/435/EC establishing the European Fund for the Integration of third-country nationals for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' of 25 June 2007 (2007) L 168/18.

¹²⁶ Article 3. Council Decision 2007/435/EC establishing the European Fund for the Integration of third-country nationals for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' of 25 June 2007 (2007) L 168/18.

¹²⁷ Denmark does not participate in the EIF.

¹²⁸ Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the results achieved and on qualitative and quantitative aspects of implementation of the European Fund for the Integration of third-country nationals for the period 2007-2009 (report submitted in accordance with Article 48 (3) (b) of Council Decision 2007/435/EC of 25 June 2007) /* COM/2011/0847 final */

and direct management actions. Over this period, the main beneficiaries were Spain, the United Kingdom, Germany, Italy, and France (respectively), with a combined total 68% of funding received for the period.

The Commission confirms that each MS submitted a description of the management and control system put in place to the Commission for a final compliance check, with most of these descriptions receiving an 'unqualified'¹²⁹ opinion from the Commission by the end of 2010.¹³⁰ On-the-spot checks of the systems in place were conducted in 2010 and 2011, with the conclusion that 'most systems appeared to function adequately' and 'most of the MS would seem to have robust systems in place', though improvements were needed in some cases in issues of selection procedures, staff resources, and documentation on the implementation of systems.¹³¹

In their assessment of the implementation of their programmes over the 2007/2009 period, MS noted that both the administrative workload and the Commission's delays in approval of APs were negative aspects of the EIF.¹³² This was reinforced by the reports of five Member States stating they were dissatisfied with the efficiency of the programme due to the amount of human and financial resources required to run the administrative and management side of the Fund. This feedback was again seen in the suggestions MS made for improvement of the programmes, including:

- A decrease in administrative workload;
- The provision of timely feedback by the Commission;
- The provision of clear requirements for the management and control systems;
- Increased opportunities for Member States to share knowledge and experiences in programme implementation.

Some MS also raised the issue of the proportionality of the EIF allocation to domestic spending; for example, the Dutch evaluation report on the EIF (2007/2009), stated that its EIF allocation (approximately EUR 2 million per year) is only a small part of the national resources available for civic integration (approximately EUR 500 million per year) and integration (approximately EUR 80 million per year).¹³³ The Dutch report attributed its inability to comment on the effectiveness and efficiency of the programme partly to the relatively small size of the funding. A similar observation has emerged from the interview conducted with Commission officers in relation to **France**, where the EIF represented a very small percentage (2%) of the funds that the country devotes to the integration of TNCs¹³⁴ and for this reason an appreciation of the impact of the fund is difficult to obtain. The country mainly invested the fund in support of learning French, training in the values of French society, preparing and supporting access to employment.

¹²⁹ The auditor considers that the management and control system functioned effectively so as to provide reasonable assurance that the statements of expenditure presented to the Commission are correct and the underlying transactions are legal and regular. This corresponds to a high level of assurance (category 1). European Commission (2009) Draft Guidance Note on Annual Control Reports and Opinions. COCOF 09/0004/01-EN

¹³⁰ Page 6. Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the results achieved and on qualitative and quantitative aspects of implementation of the European Fund for the Integration of third-country nationals for the period 2007-2009 (report submitted in accordance with Article 48 (3) (b) of Council Decision 2007/435/EC of 25 June 2007) /* COM/2011/0847 final */

¹³¹ Page 6. Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the results achieved and on qualitative and quantitative aspects of implementation of the European Fund for the Integration of third-country nationals for the period 2007-2009 (report submitted in accordance with Article 48 (3) (b) of Council Decision 2007/435/EC of 25 June 2007) /* COM/2011/0847 final */

¹³² Page vii. Ramboll Management Consulting (2013). *Synthesis of the National Evaluation Reports on the Results and Impacts of Actions Co-financed by the European Refugee Fund from 2008 to 2010*.

<http://ec.europa.eu/smart-regulation/evaluation/search/download.do?documentId=10697239>

¹³³ Evaluation Report On Implementation Of Actions Co Financed By The European Fund For The Integration Of Third-Country Nationals: The Netherlands. 2010.

http://ec.europa.eu/dgs/home-affairs/financing/fundings/pdf/integration/netherlands_eif_national_report_2007_2009.pdf

¹³⁴ Interview with EC –DG Migration and Home Affairs representative.

In **Bulgaria** the fund was used for the establishment of information and support centres for the integration of immigrants, support for the inclusion of immigrants and the development of policies and strategies for successful inclusion, as well as for strengthening the administrative capacity of the Ministry of Labour and its partnerships with other institutions.¹³⁵ According to the Ministry of Labour and Social Policy¹³⁶, the management/use of the funds has been reported as effective and efficient given the high budget consumption registered (99.95% in 2007 and 79.68% in 2008). According to the National AMIF programme (2014), the wide range of beneficiaries under the EIF (e.g. municipalities, NGOs, associations, etc.) for the period 2007/2013 has contributed to the establishment of a strong cooperation between organisations at national, regional and local levels. According to the report, targets for most EIF evaluation indicators were exceeded in the programme period 2007/2013.

In **Italy** resources can only be granted to those TCNs granted the status of refugee. For the period 2007/2011 a satisfactory level of expenditure with on average a 90% fund absorption capacity was registered, which means that the EIF priorities were congruent with the needs of the country.¹³⁷ However, interviewees reveal that the very short time frame within which the resources had to be spent did not always allow to put in place innovative projects¹³⁸ and that the majority of the resources were spent on language courses¹³⁹. A longer time frame would have allowed the realisation of more sustainable and tailor made services for the integration of TCNs.¹⁴⁰ Despite this, the collaboration between the Ministry of Interior and the Regional Offices for Education allowed to carry out and complete the regional plans for language training for TCNs. These findings go in the direction of the two main principles on which the reform of the funds for migration is based in Italy: (i) multi annual financial programme and (ii) co-sharing of the management of the resources for the TCNs' integration with the Ministry of Labour and social policies.

This is similar to the model established in **Spain**, where in the years 2007/2010, actions of EIF were integrated into the Strategic Plan for Citizenship and Integration implemented by the Ministry of Employment and Social Affairs. The model suggests a more coherent division of responsibilities among public bodies with relevant competences in the field of migration. However, interviewees contended that the EIF is the fund with the highest level of irregularities. In fact, it appears that funds are sometimes allocated to EU nationals and not only to third country nationals.¹⁴¹

Turning to the **UK**, the Home Office's declared intention for the EIF was for the evaluation programme to 'go a little further' than the requirements of the EU and 'provide insights for those working in the field of integration into what tactics work best'.¹⁴² The example given was that projects that had

¹³⁵ European Commission, Migration and Home Affairs (2010). *Evaluation Report On Implementation Of Actions Co Financed By The European Fund For The Integration Of Third-Country Nationals submitted by the Responsible Authority of Republic of Bulgaria.* http://ec.europa.eu/dgs/home-affairs/financing/fundings/pdf/integration/bulgaria_eif_national_report_2007_2009.pdf

¹³⁶ European Commission, Migration and Home Affairs (2010). *Evaluation Report On Implementation Of Actions Co Financed By The European Fund For The Integration Of Third-Country Nationals submitted by the Responsible Authority of Republic of Bulgaria.* http://ec.europa.eu/dgs/home-affairs/financing/fundings/pdf/integration/bulgaria_eif_national_report_2007_2009.pdf

¹³⁷ In the studies to assess the relevance and the effectiveness of the EU funding, the absorption capacity of funding is traditionally used as a proxy to assess the economic and institutional capacity of a given territory to absorb the resources. A low level of funds absorption can be imputed to a lack of efficiency and administrative capacity of the institutions responsible for the implementation of the funds, but also as lack of ability of the strategy underpinning the funds to meet the need of that territory. A lack of absorption capacity can also simply be imputed to a no need of resources.

¹³⁸ Interview with NGO representative.

¹³⁹ Interview with delegated authority representative

¹⁴⁰ Interview with Ministry of Interior representative (written contribution)

¹⁴¹ Interview with national auditing authority representative.

¹⁴² Home Office European Integration Fund: summary for 2007 to 2013

strong, direct links into specific communities had less difficulty in recruiting participants. Often, such projects had been able to fill programmes simply by word of mouth and there had been no need to advertise to attract participants.

3.1.4. European Return Fund (RF)

The European Return Fund¹⁴³ (RF) financed actions that designed integrated return management in, and encouraged cooperation between, EU countries between 2008 and 2013. The Fund supported activities assisting return to countries of origin and the provision of information to returnees on available processes, with an aim to improve the integrated return management by Member States and promote an 'effective and uniform application of common standards'¹⁴⁴. The Fund had four priorities for its application:

- Priority 1: Support for the development of a strategic approach to return management by Member States;
- Priority 2: Support for cooperation between Member States in return management;
- Priority 3: Support for specific innovative (inter)national tools for return management;
- Priority 4: Support for Community standards and best practices on return management.¹⁴⁵

The RF had a budget of EUR 676m in support of initiatives pursuing these priorities, predominantly implemented through shared management, with up to 7% of the budget earmarked for Commission-initiated Community Actions. Each Member State received EUR 300,000 as a fixed amount (EUR 500,000 for those States that acceded to the Union in 2004). The Fund aimed to uphold the principle of solidarity and the fair distribution of the burden of responsibility in line with the varying pressure of migration flows on individual Member States. In order to ensure this, the remainder of the available funds after the fixed amounts were allocated, were divided in proportion to the number of third-country nationals in a given territory who are subject to a return decision (50% of the remainder of the available funds distributed across eligible MS), and the number of third-country nationals who have already left the territory (50% of the remainder of the available funds distributed across eligible MS, Article 14.2.). The RF could co-finance activities up to 50% of the total costs, with the exception of project addressing specific priorities¹⁴⁶, or projects in Member States covered by the Cohesion Fund (in both cases funding can increase to 75%).

The European Commission delivered a report on 'the ex-post evaluation of the European Return Fund for the period 2008-2010' in April 2014.¹⁴⁷ Across the 2008/2010 funding period, over EUR 199m was contributed to Member States' initiatives. The largest allocations, based on number of returnees and

¹⁴³ Funds were distributed across 26 Member States (Denmark did not participate in the Fund). Decision 575/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Return Fund for the period 2008 to 2013 as part of the General Programme 'Solidarity and Management of Migration Flows' [2007] L 144/45

¹⁴⁴ Article 3.1.c. Decision 575/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Return Fund for the period 2008 to 2013 as part of the General Programme 'Solidarity and Management of Migration Flows' [2007] L 144/45

¹⁴⁵ Page 4. European Commission (2014). *Report From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions on the ex-post evaluation of the European Return Fund for the period 2008-2010* (report submitted in accordance with Article 50(3)(c) of Decision No 575/2007/EC of the European Parliament and of the Council of 23 May 2007) <http://ec.europa.eu/transparency/regdoc/rep/1/2014/EN/1-2014-230-EN-F1-1.Pdf>

¹⁴⁷ European Commission (2014). *Report From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions on the ex-post evaluation of the European Return Fund for the period 2008-2010* (report submitted in accordance with Article 50(3)(c) of Decision No 575/2007/EC of the European Parliament and of the Council of 23 May 2007) <http://ec.europa.eu/transparency/regdoc/rep/1/2014/EN/1-2014-230-EN-F1-1.Pdf>

the influx of irregular migrations, were allocated to France, Greece, Italy, Spain and the UK, which benefitted from a total of 59% of the EU contribution over this period¹⁴⁸. The absorption rate implementation rate of the EU financing allocated to Member States was 66% across all participating States for the 2008 national annual programmes, though it varied from 16% (in the Netherlands) to 100% (in Spain), with a total implementation rate of 76% over the entire 2008 /2010 period. The Commission found that States with higher funding allocations also experienced higher implementation rates. The Spanish performance is highlighted through the 'Humanitarian and Incentivised Voluntary Return' project as a good practice in the mid-term evaluation report of the ERF (see table)

Table 5: A return project in Spain

The 'Humanitarian and Incentivised Voluntary Return' was highlighted as good practice carried out by the NGO CEPAIM.¹⁴⁹ This includes two versions: return due to cashing of unemployment benefits and for humanitarian reasons. The methodology used included the creation of a national coordination team, who acted as sole communicators and liaison with the Ministry. In addition, the NGO's personnel was trained in different countries and internal management systems and coordination amongst the centres were implemented. Moreover, a database of beneficiaries was created and maintained so as to track them. The programme also involved the creation of an information service regarding the regulations of the Voluntary Return Programme, the creation of individual files recording any problems and needs of the applicants and report covering guidance and advice for those who may need it, and the provision of information to the national coordination team for final acceptance of candidates.

The management of RF funding was supported by financial means obtained by technical assistance (TA) made available through the Fund. Member States reported that this TA funding was allocated primarily to staff costs in the responsible (or delegated) authority of the State, followed by IT equipment costs. Interestingly, the observation made by the Commission regarding Member States' details on the programme management costs does not provide any detail on the costs provided to the audit authority (or these costs allocated are minimal in comparison to the expenditure listed above). MS did report that administrative costs were a large portion of the total expenditure.

The report observes that most Member States reported efficient implementation of the Fund; the main constraints identified in regard to the inefficiency of implementation were due to difficulties in securing the co-funding and complex administrative mechanisms.¹⁵⁰ This is for instance the case emerging from the UK interviews, according to which the auditing system was felt to be excessively onerous and insufficiently linked to the key performance indicators. NGOs frequently maintain that the EU's reporting requirements are more onerous than those of other donors. It is claimed, for example, that no other donor requires proof of every single item of expenditure and every item has to be marked with a justification.

The Commission's evaluation report suggests that, overall, the effectiveness of the programmes under the RF was 'positive' or 'very positive', with programmes supporting all four priority areas and

¹⁴⁸ European Commission (2014). *Report From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions on the ex-post evaluation of the European Return Fund for the period 2008-2010* (report submitted in accordance with Article 50(3)(c) of Decision No 575/2007/EC of the European Parliament and of the Council of 23 May 2007) <http://ec.europa.eu/transparency/regdoc/rep/1/2014/EN/1-2014-230-EN-F1-1.Pdf>

¹⁴⁹ Directorate General for Infrastructures and Material for Security (2010), *Evaluation Report on Implementation of Actions co-financed by the European Return Fund – Spain*.

http://ec.europa.eu/dgs/home-affairs/financing/fundings/pdf/integration/spain_eif_national_report_2007_2009.pdf

¹⁵⁰ Page 9. European Commission (2014). *Report From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions on the ex-post evaluation of the European Return Fund for the period 2008-2010* (report submitted in accordance with Article 50(3)(c) of Decision No 575/2007/EC of the European Parliament and of the Council of 23 May 2007) <http://ec.europa.eu/transparency/regdoc/rep/1/2014/EN/1-2014-230-EN-F1-1.Pdf>

results aligning with the objectives of the Fund. For example, a total of 88% of all voluntary returns during the given period resulted from actions implemented under Priority 1 of the RF (support for a strategic approach to return management), with the UK leading with 14,110 returnees (see table below), followed by Germany (4,903), France (3,900) and Poland (2,616), and 97% of forced returns were co-financed by Priority 1, led by Spain, Greece, Italy, and Cyprus.¹⁵¹ Over the period of the EIF, the UK was awarded 14.85% of the total allocation to the MS through the EIF, while Germany was awarded 13.75%.¹⁵² Considering the figures for voluntary returns, where the UK returned almost triple the numbers in Germany, the funding for Germany may seem disproportionate, though the full breakdown of actions and expenditure would need to be reviewed to understand this discrepancy.

Table 6: UK refugee resettlement programme: a good practice

The UK's refugee resettlement programme, known as the Gateway Protection Programme (GPP), was suggested as an example of good practice in the use of EU funds. The programme has received 50% of its funding from the ERF.¹⁵³ For the 2011 to 2013 funding period the total value of EU funding will be around £17.8m.¹⁵⁴

The UK announced the GPP in 2002 and it started in 2004, aiming to bring 500 refugees annually to the UK, subsequently increased to 750 a year. An evaluation has recently been carried out, but has not yet been published. An early evaluation found that it was delivering high quality, appropriate services that were helping some of the most vulnerable refugees to successfully integrate and settle in the UK.¹⁵⁵ Support to refugees has been provided by three partnerships. It has been difficult to engage municipalities, however, and the low number of refugees resettled raised concerns about the programme's cost effectiveness, given that the infrastructure was established on the expectation of three times the volume of refugees.

A 2011 evaluation¹⁵⁶ found that the vast majority of refugees on the programme participating in the research were satisfied with their life in the UK 18 months into resettlement. Their basic material needs had been met, they were beginning to access mainstream services and socialise with local people. Almost all had accessed English language classes, although English language skills remained a problem for many and represented a barrier to integration (particularly for women). Difficulties finding work were common, even for people with good English.

The key success factors of the projects were related to an intensive supporting over a long period of time. The case workers were able to provide orientation, practical, social and, sometimes, emotional support and were almost universally highly valued. In addition, volunteering opportunities helped improve English language skills, refugees prepare for work and help integrate refugees into the local community. Finally, the partner organisations' existing facilities that could be used.

The RF was also evaluated to be a contributing factor in an 'increase in the scale, duration, and sustainability of national return activities'¹⁵⁷, and provided MS with added financial means to manage these activities. Member States noted that the latter was limited in value, given the size of the Fund's

¹⁵¹ Page 12. European Commission (2014). *Report From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions on the ex-post evaluation of the European Return Fund for the period 2008-2010* (report submitted in accordance with Article 50(3)(c) of Decision No 575/2007/EC of the European Parliament and of the Council of 23 May 2007) <http://ec.europa.eu/transparency/regdoc/rep/1/2014/EN/1-2014-230-EN-F1-1.Pdf>

¹⁵² DG Migration and Home Affairs, European Commission (no date). *Table no. 1: financing*. http://ec.europa.eu/dgs/home-affairs/financing/fundings/pdf/table_n1_v_200611_en.pdf

¹⁵³ Letter from Damien Green to the Chair of the EU Scrutiny Committee, 7 March 2012. <http://www.parliament.uk/documents/commons-committees/european-scrutiny/Ministerial-Correspondence-2010-12-v1.pdf>

¹⁵⁴ Home Office (2013). *Spec for tender of Evaluation of UK European Union funded programme: 2011 to 2013 projects funded by the European Integration Fund, European Refugee Fund, and Return Fund*.

¹⁵⁵ Maggie Cramb & Jo Hudek, (2005). *Evaluation of the Gateway Protection Programme*. https://www.refugeecouncil.org.uk/assets/0002/5052/evaluation_gateway_protection_programme.pdf

¹⁵⁶ Platts-Fowler, D. and Robinson, D. (2011). *An evaluation of the Gateway Protection Programme*, Report to the Home Office, Sheffield: Sheffield Hallam University <http://www.shu.ac.uk/research/cresr/sites/shu.ac.uk/files/eval-gateway-protection-programme.pdf>

¹⁵⁷ Page 14. European Commission (2014). *Report From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions on the ex-post evaluation of the European Return Fund for the period 2008-2010* (report submitted in accordance with Article 50(3)(c) of Decision No 575/2007/EC of the European Parliament and of the Council of 23 May 2007) <http://ec.europa.eu/transparency/regdoc/rep/1/2014/EN/1-2014-230-EN-F1-1.Pdf>

contributions. Despite these positive comments, the report does not provide details on the implementation of specific spending or budgetary control measures, and it focuses on the content and impact of the activities over the efficiency in spending the Fund's contributions or other management concerns.

Again, the Commission noted the impact of current events on migratory pressure, with a total of 630,475 individuals being returned (40% of these voluntary and 60% forced) from the EU to third countries.¹⁵⁸ Interestingly, over half of the voluntary returns were carried out solely by Sweden and the UK. Prior to the Fund's start, the ECRE questioned the choice to allocate a large proportion of the available funding to countries receiving and recognizing large numbers of refugees, considering that these countries were likely to have established reception and integration procedures. ECRE noted that the Fund contributed little to creating an equal burden on each Member State, as a large portion of the available funds is allocated to states which have recognized many refugees in the past, and which have already developed facilities and procedures to deal with the resulting pressure.¹⁵⁹

3.2. EU FUNDS FOR MIGRATION 2014/2020

The SOLID programme ceased in 2013 with the possibility to spend the allocated funds up to 2015. The European Commission's follow-on programme is the AMIF¹⁶⁰, set up for the period 2014/2020, with the aim of promoting 'efficient management of migration flows, and the implementation, strengthening and development of a common Union approach to asylum and immigration'.¹⁶¹ The AMIF was introduced together with the ISF, which supports the implementation of the Internal Security Strategy and EU law enforcement cooperation, including external border management; the AMIF replaces the ERF, RF, and the EIF, while the ISF (specifically, ISF-Borders) replaces the EBF.¹⁶²

The announcement of the AMIF and the ISF in March 2014 was accompanied by a statement from then-Commissioner Malmstrom that 'reducing the number of Funds will improve and simplify the way EU funding is delivered. There will be more flexible rules and less red tape, allowing for a faster and more effective EU response in all [DG HOME's] areas of activity'.¹⁶³

The AMIF Fund aims to contribute to the following objectives:

- Asylum: strengthening and developing the CEAS;
- Legal migration and integration: supporting legal migration to EU States;
- Return: enhancing fair and effective return strategies;
- Solidarity: making sure that EU States which are most affected by migration and asylum flows can count on solidarity from other EU States.¹⁶⁴

¹⁵⁸ European Commission (2014). *Report From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions on the ex-post evaluation of the European Return Fund for the period 2008-2010* (report submitted in accordance with Article 50(3)(c) of Decision No 575/2007/EC of the European Parliament and of the Council of 23 May 2007) <http://ec.europa.eu/transparency/regdoc/rep/1/2014/EN/1-2014-230-EN-F1-1.Pdf>

¹⁵⁹ European Council on Refugees and Exiles (no date). *Comments by the European Council on Refugee and Exiles on the Commission Proposal for a Council Decision establishing the European Refugee Fund for the period 2005-2010*.

¹⁶⁰ All EU Member States, with the exception of Denmark, participate in the implementation of the AMIF. Regulation (EU) No 516/2014 Of The European Parliament And Of The Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC.

¹⁶¹ DG Migration and Home Affairs, European Commission (2015). *Asylum, Migration, and Integration Fund*. http://ec.europa.eu/dgs/home-affairs/financing/fundings/migration-asylum-borders/asylum-migration-integration-fund/index_en.htm

¹⁶² The ISF contains ISF-Borders and ISF-Police.

¹⁶³ European Commission (2014). *Memo: Commissioner Malmström welcomes the Parliament's vote on the new EU Home Affairs' Funds 2014-2020*. http://europa.eu/rapid/press-release_MEMO-14-188_en.htm

¹⁶⁴ DG Migration and Home Affairs, European Commission (2015). *Asylum, Migration, and Integration Fund*. http://ec.europa.eu/dgs/home-affairs/financing/fundings/migration-asylum-borders/asylum-migration-integration-fund/index_en.htm

The AMIF has a total of EUR 3,137 billion available over the 7 year period, with approximately 88% of the available funding directed through shared management. This portion of the funds will support EU Member States in implementing their National Programmes in the field. 11% of this portion of funds is allocated to Specific Actions, activities implemented as part of National Programmes but in response to EU priorities, and in support of the Union Resettlement Programme. Within the 2015 Annual Budget, the AMIF is allocated EUR 486,01 million out of a total EUR 2,357,08 million allocated through the Security and Citizenship heading, and a total of EUR 161,800,45 million allocated for the entire annual programme¹⁶⁵.

The remainder of the AMIF funding (approximately 12%) is designated to support Union activities, which includes transnational projects in the field of asylum, and Emergency assistance, and is implemented through direct management. This consolidated programme should promote economies of scale, and enhance coherence and consistency on programme management.¹⁶⁶

In the Regulation establishing the AMIF (Regulation (EU) 516/2014), there is a dedicated Article, Article 6, aimed at allowing actions under the AMIF which enhance MS's capacity to develop, monitor, and evaluation asylum policies and procedures.

Regulation No 514/2014¹⁶⁷ on general provisions of the AMIF attempts to address the issues identified by the Member States, the Commission, and the ECA in the implementation of the SOLID General Programme, and adjusts certain issues regarding the implementation, monitoring and control of the funds. The Regulation outlines the terms of the programme management, which still largely lies with Member States (Article 19 and 20). However, the Regulation outlines the necessary actions for the protection of the financial interests of the Union (Article 5). Additions of interest or articles identifying previous issues relating to auditing and fraud are outlined below:

- Point 16 of the Preamble: Member States are requested to properly document contributions from the Fund.
- Point 18 of the Preamble: The on-the-spot audits can be carried out by the Member States, the Commission, the Court of Auditors and the European Anti-Fraud Office, and can be announced as well as unannounced.
- Point 25 of the Preamble: The power and responsibility of the Commission in verifying the management and control system should be laid down.
- Article 5.4.: An explicit mention of fraud, requesting Member States to provide 'effective prevention' against fraud, and to consider areas or actions with higher risk of fraud.
- Article 5.7.: On-the-spot or documentary audits can be conducted over 'all grant beneficiaries, contractors, and subcontractors' receiving Union funds.
- Article 5.8.: OLAF is explicitly mentioned and awarded the power to conduct investigations to establish fraud, fraudulent activity, corruption etc.

Specifically on the set up of the new funds, the AMIF (and the ISF) both retain the element of shared management. The Commission attempts to reduce the administrative burden outlined by Member

¹⁶⁵ European Commission (2014). *EU annual budget life-cycle: figures and documents*.

http://ec.europa.eu/budget/annual/index_en.cfm?year=2015

¹⁶⁶ European Parliamentary Research Services. *EU Funds for asylum, migration and borders*.

http://www.europarl.europa.eu/RegData/bibliotheque/briefing/2014/130663/LDM_BRI%282014%29130663_REV1_EN.pdf

¹⁶⁷ Regulation (EU) No 514/2014 Of The European Parliament And Of The Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management

States across the evaluation of the SOLID funds by withdrawing the annual programming and allowing MS to implement their shares on the basis of 'results-driven' multiannual programmes. The Horizontal Regulation on the funds also presents new legal provisions: among others, there is no longer a CA and the procedure for the clearance of accounts was amended. On this basis, the MS are asked to evaluate and reconsider the management and control systems depending on what problems were encountered during the implementation of the SOLID fund; MS are requested to indicate any changes between the SOLID and AMIF in their National Programmes.¹⁶⁸

Under the AMIF, the technical assistance available to Member States over the programming period 2014 – 2020 is 5.5% of the allocation to a specific Member State, plus an additional EUR 1 million. The percentage of the MS allocation is the same as for the SOLID funding programme (also 5.5% over 6 years), but drastically increases the additional amount from EUR 60,000 to EUR 1 million.

Member States are scheduled to provide an interim report on the activities and programme management of AMIF in December 2017, with a final ex-post evaluation of the programme in December 2023¹⁶⁹.

Since the study is taking place in the transition period between the closure of the SOLID programme and the launching of the AMIF programme, the evaluation of the latter would be a premature exercise. The study, instead presents in the next section an examination where possible of the extent to which the new AMIF programme could improve the existing obstacles and bottlenecks in the implementation of the EU funds for migration.

¹⁶⁸ DG Migration and Home Affairs, European Commission (2014). *Manual to help Member States programme for the Asylum, Migration and Integration Fund and Internal Security Fund of the 2014–20 Multiannual Financial Framework*.
[http://igi.mai.gov.ro/api/media/userfiles/Programming%20Manual%20for%20AMIF_ISF\(1\).pdf](http://igi.mai.gov.ro/api/media/userfiles/Programming%20Manual%20for%20AMIF_ISF(1).pdf)

¹⁶⁹Article 57.1. Regulation (EU) No 514/2014 Of The European Parliament And Of The Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management.

4. MANAGEMENT AND CONTROL SYSTEM OF THE EU FUNDS FOR MIGRATION

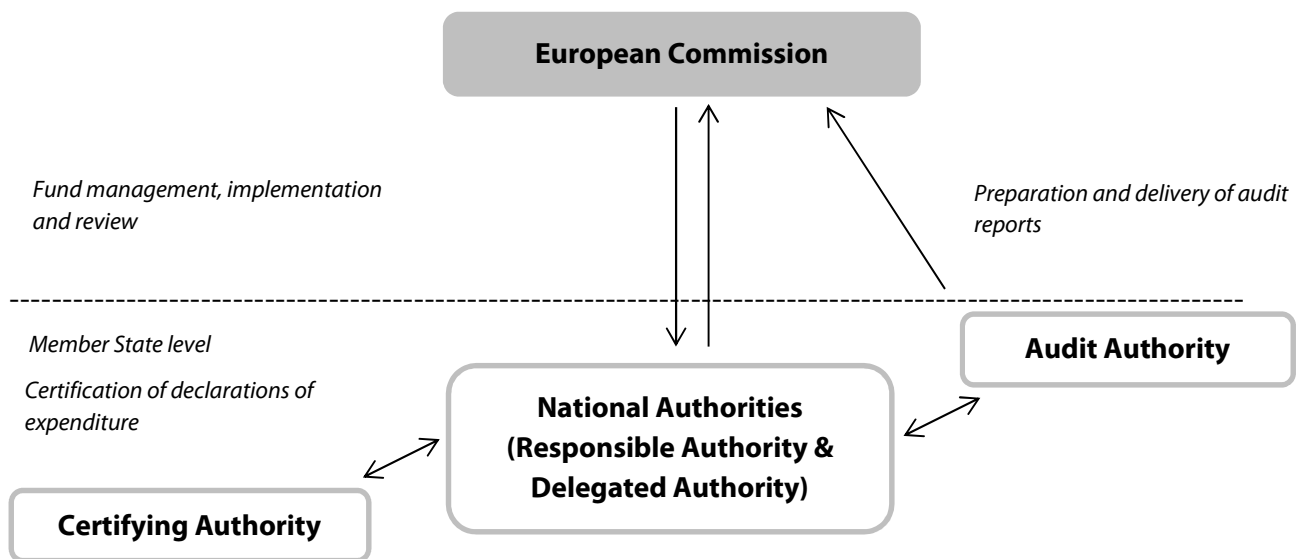
- Member States were ultimately responsible for the financial management of the multiannual and annual programmes implemented under the funds, including the responsibility to designate: a responsible authority, in charge of the management of the multiannual and annual programmes and in contact with the Commission; a certifying authority, which certifies declarations of expenditure prior to their submission to the Commission; and an audit authority which should be completely independent and responsible for verifying the effective functioning of the management and control systems of the funds.
- Authorized Commission representatives are provided with the power to run on-the-spot checks on actions financed by the Fund, with three working days' notice. However, the new AMIF regulation establishes that that on-the-spot checks visits can now be unannounced.
- The ECA is also involved in reviewing and designing principles of these structures when the financial and fund specific regulations are authored, and audits the Commission's internal and national management structures through its mandate. If any cases of alleged fraud or instances of doubt are found, they are referred directly onto OLAF, the European Anti-Fraud Office.
- All the MS have put in place management and control system to oversee the correct implementation of the funds. However, not all the countries have set up independent audit systems and activities performed, for instance, by a professional external audit firm which is independent from the responsibility authority of the funds.
- Bulgaria has chosen a centralised model with the function of management, monitoring, control and auditing placed within the Ministry of Interior. In Romania the system is less centralised, but still the Ministry of Interior takes part in auditing activities. In both countries a few cases of misuse of funds have been identified.
- Italy has chosen to place the responsibility of the fund within the Ministry of Interior, however thus it has delegated the management of the funds to different departments within it. Auditing and control activities have instead been delegated to different authorities. A few cases of alleged fraud have been recorded in the country due to an excessive use of subcontracting.
- Greece and Spain have both chosen a model that involves more than one ministry, in the management of the fund. Despite these similarities, the countries have achieved very different results in the implementation of the funds. Greece has experienced some issues in the implementation of the funds, while with the exception of some irregularities, Spain records a satisfactory level of fund absorption (90%).
- France and the UK have established new bodies for the management of the funds. The two countries can be considered as good practice examples respectively for the monitoring procedure (France) and the projects awarding and evaluation procedures (UK).

4.1. MANAGEMENT AND CONTROL SYSTEM OF THE FUNDS AT EU LEVEL

The legal provisions for programme management and control are identical across the SOLID Funds created for the period 2007/2013.¹⁷⁰ Member States were responsible for the management of the funds and implementation of control systems, and were meant to employ systems of reliable accounting, monitoring, and financial reporting allowing them to guarantee the proper and effective use of Community funds. Member States were ultimately responsible for the financial management of the multiannual and annual programmes implemented under the funds, including the responsibility to designate a responsible authority, a certifying authority, and an independent audit authority to verify the effective functioning of the management and control systems, and the responsibility of providing this authority with ‘adequate guidance’. Member States ‘shall prevent, detect, and correct irregularities’ and should implement actions to ensure funds are ‘used properly and effectively’.

As part of this, MS were required to set up a ‘triple’ authority structure prior to Commission approval of the multiannual programme.

Figure 2: Interactions between organisations in fund management



Source: VVA and partner

The Responsible Authority (RA) would be in charge of the management of the multiannual and annual programmes, and is in contact with the Commission; the Certifying Authority (CA) would certify declarations of expenditure prior to their submission to the Commission; the Audit Authority (AA) would be completely independent and responsible for verifying the effective functioning of the management and control systems in that MS.¹⁷¹

¹⁷⁰ See Chapter V of Decisions 573/2007/EC and 574/2007/EC.

¹⁷¹ Page 36. European Court of Auditors (2012). *Do the European Integration Fund and European Refugee Fund contribute effectively to the integration of third-country nationals?* Special Report no. 22/2012.

Member States are required to submit a detailed summary of the organizations designated to these roles and a description of their management and control systems to the Commission, which reviews these summaries while preparing their reports for 2008/2010, to be submitted to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions.¹⁷² However, there are significant delays in the approval of these documents: in its evaluation report for the EIF from June 2010, the Netherlands reported that its management and control system description for the programming period 2007 - 2009, submitted in 2007 with a number of revisions over the course of 2008, had not been accepted to date. However, the Dutch representative did note that their system seemed to be efficient up to that point (though no significant action had been taken by the AA or the CA).¹⁷³

The designated AA is asked to present an audit strategy to the Commission within 6 months of the approval of the multiannual programme. The authority should submit an audit report for each annual programme, supplemented by an opinion on whether the management and control systems provide 'reasonable assurance' that the financial activities are legal and correct, and a statement assessing the validity of the final balance of the State's activities under the fund.

Authorized Commission representatives have the power to run on-the-spot checks on actions financed by the Fund, with three working days' notice. However the new AMIF regulation establishes that on-the-spot checks visits can now be unannounced (see section 3.2). The ECA is also involved in reviewing and designing principles of these structures when the financial and fund specific regulations are authored, and audits the Commission's internal and national management structures through its mandate. If any cases of alleged fraud or instances of doubt are found, they are referred directly to OLAF, which is mandated to run investigations into fraud against the EU budget, corruptions, and misconduct in the EU institutions.

Each fund under the SOLID General Programme also provides for technical assistance to Member States, allowing them to 'finance preparatory measures, management, monitoring, evaluation, information and control measures, as well as measures for the reinforcement of the administrative capacity [...]'.¹⁷⁴ Their respective legislative acts allow Member States to use, at their initiative, 7% of their annual amount of co-financing plus EUR 30,000 for the 2008/2010 period, and 4% plus EUR 30,000 for the 2011 - 2013 period.¹⁷⁵

4.2. MANAGEMENT AND CONTROL SYSTEM OF THE FUNDS AT MEMBER STATE LEVEL

In practice every MS is left with the possibility to design their own system for fund management and control. The study has analysed all the different models set in the countries covered by the analysis and the way in which these can facilitate or hamper the fund implementation.

¹⁷² The Commission submitted two intermediate reports in 2010 and a final report on the period by 2013.

¹⁷³ Evaluation Report On Implementation Of Actions Co Financed By The European Fund For The Integration Of Third-Country Nationals: The Netherlands. 2010.

http://ec.europa.eu/dgs/home-affairs/financing/fundings/pdf/integration/netherlands_eif_national_report_2007_2009.pdf

¹⁷⁴ Article 16 (1). Decision No 573/2007/Ec Of The European Parliament And Of The Council of 23 May 2007 establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' and repealing Council Decision 2004/ 904/EC. L144/1, 6.6.2007.

¹⁷⁵ The funds also allow for technical assistance at the initiative of the Commission, but this funding (ceiling of EUR500,000 of the annual allocation) is earmarked for studies or reports, information measures, computerized management systems, and the design of a common framework for evaluation and monitoring.

The **Bulgarian** system for the management of the funds is highly centralised. For the period 2007/2013 the country was responsible for creating management and control measures. The Interior Ministry was the responsible authority for verification, certification and audit for the funds it managed. With regards to the Refugee fund, the State agency for refugees was the RA, while the Ministry of Finance was the auditor. With regards to the new programme period from 2014, the Ministry of Interior is responsible for internal security, asylum and migration and return funds. The current monitoring is based on an approach where the Interior Ministry covers the whole programme cycle. While there has been a separation of competencies within the Ministry, with programming, control and monitoring of projects now being separated, these remain within the Ministry.

The logic of centralisation is motivated by the belief that the reputation of the Ministry would act as a disciplining tool. According to the information outlined in the national plan for the programme period 2014/2020, the Internal Audit Unit at the Ministry of Interior which is functionally independent from the International Projects Directorate is envisaged to take the role of the AA. The functional independence will be ensured as there is no direct hierarchical relation between the AA and the RA. The Audit Authority also has full autonomy in its opinions and declarations as per Art. 13 of Delegated regulation (EU) No 1042/2014. No delegated authorities are planned to be designated.¹⁷⁶ While the concentration of responsibilities is perceived as useful practice by the Ministry of Interior¹⁷⁷, local NGOs see it as inappropriate and leading to inefficiencies and fraud. For example, references to unilateral use of control by the Ministry were made during the interview (e.g. rejections of reimbursement on projects). According to the interviewed NGO, problems seem to start at the invitation to tenders stage. It was reported that invitations are often published at a very short notice, which represents an obstacle for interested organisations to prepare a bid. The government acknowledges that bad practices exist but they are not seen as more common than in any other country. Overall, the Ministry of Interior believes that the current system of monitoring and control is an appropriate one and delivers good results. Yet, NGOs seem to disagree and argue for more independent external control and monitoring in order to improve the efficiency of fund use. The management and monitoring approach that was adopted in the second programme aims to keep all funds under the management of the Ministry of Interior to enhance efficiency and reduce misuse (which is in conflict with what the NGO recommends). The managing authority believes that given the effective separation of responsibilities between different divisions within the Ministry, this should allow for the benefits of decentralization to materialise.¹⁷⁸

Romania has chosen a less centralised model compared to Bulgaria. The responsibility of the SOLID programme was with the Ministry of Interior, which however is taking part in the auditing activities. In detail, the Romanian management structure underwent a number of changes over the course of the implementation of the SOLID funds. The SOLID funding programme was run by the European Funds Unit of the Ministry of Interior and Administrative Reform (the RA), while the General Inspectorate for Immigration (GII) was designated the Delegated Authority for the ERF, RF, and the EIF. For the EBF, the Delegated Authority was the General Directorate of European Affairs and International Relations of the Ministry of the Interior, though for the 2013 annual programme, the GII ran the technical assistance for the EBF, previously run by the Delegated Authority itself. Across all SOLID funds, the CA was the General Financing Directorate of the Ministry of Interior and Administrative Reform and the Audit Authority of the Court of Accounts acted as AA.

¹⁷⁶ Ministry of Interior (2014). *Bulgaria National Programme AMIF*. http://www.dmp.mvr.bg/NR/rdonlyres/4D6460DC-D9FB-492A-B5EC-D5ABB0A25D0E/0/C_2015_1685_EN_DOCUMENTDETRAVAIL2_f.pdf

¹⁷⁷ Interview with Ministry of Interior representative.

¹⁷⁸ Interview with Ministry of Interior representative.

Within the SOLID funds, the Programme Implementation Unit of the GII has, though criticised by some EU bodies, 100% of its expenditure checked by its financial department, providing some security to the direction and use of funds. Likewise, the GII is strict on expenditure that is ineligible, adjusting pay-outs to achievements by programmes (therefore, if a programme does not deliver some or all of its indicated measures, the payment is adjusted). The GII also invites potential beneficiaries to partake in training sessions on the regulations and rules surrounding the funds, to ensure that they are equipped to engage with the funds. This was in response to issues arising in the initial stages of the SOLID fund in Romania, where the observation was made that beneficiaries were not adequately aware of the processes. The GII has indicated that procurement procedures are still problematic, especially as these activities were subject to national procurement laws. This has been circumvented by the design of fund specific procurement rules (developed over the 2013 AP, to be used for the AMIF). The Romanian Authorities have applied a similar process to the rules surrounding the call for proposals, firstly by amending laws, and now by passing internal rules on this specifically for the AMIF.

For the new programming period Romania has proposed the same authorities as the Responsible, Delegated and Audit Authorities. However for the AMIF, the Romanian National Programme (NP) establishes a Monitoring Committee (between the RA and the DA), which is meant to oversee the implementation progress of ongoing projects, and will receive quarterly reports from beneficiaries on their progress. The Romanian NP allocates the responsibility of evaluating the projects run under the AMIF to external parties, to be selected through public procurement.

In **Italy** the auditing activities are placed outside the Ministry of Interior, as illustrated in the figure below. The Audit strategy is based on an 'appropriate sampling logic'. In other words, the projects to be evaluated and inspected are chosen according to risk criteria: the more the project is believed to experience problems, the more it will be subject to control.

There are no delegated authorities for the management of the funds with the exception of the ERF. After some concerns expressed in 2009 by the European Commission regarding the management of the main national fund for asylum policies and services to which the ERF is integrated (*Fondo nazionale per le politiche e i servizi dell'asilo*), the delegated authorities launched activities of technical support, monitoring and evaluation for projects.¹⁷⁹

In addition, because of severe delays in the auditing and control process, the Ministry of Interior decided to delegate these activities to an external independent accounting and auditing company.¹⁸⁰

¹⁷⁹ Interview with delegated authority representative.

¹⁸⁰ Interview with Ministry of Interior representative (written contribution).

Figure 3: Italian designated authorities



Source: VVA and partner based on data from the Italian Ministry of Interior

Issues in the case of Italy have been recorded in both the awarding of the projects and the execution and implementation of projects. Some cases of diversion of funds have been detected and are currently under investigation in relation to the assignation of funds to NGOs for the management of the CARAs. It is alleged that some of the resources have been awarded without public procurement procedure or that only a small part of the resources allocated have been properly invested for adequate services to the asylum seekers.¹⁸¹ As the cases are currently under investigation not much information can be provided. Nevertheless three points should be mentioned:

1. The Ministry of Interior and its departments (the Department of public security responsible for the EBF, and the Department for civil liberties and immigration responsible for the other three funds) act at the same time as executing and awarding bodies. The RA had the power to be an executing authority in certain circumstances i.e. when *'the characteristics of the project leave no other choice for implementation, such as de jure monopoly situations or security reasons. In these cases, the rules concerning the final beneficiary shall apply mutatis mutandis to the responsible authority'*.¹⁸² Italy has, however, had in comparison with other MS the largest number of projects funded without a call for proposal, it has used this possibility for three separate years of the implementation of the EIF (2007/2009) and for an increasing number of projects.¹⁸³ A clear separation of roles is needed to improve transparency, absence of conflict of interest and the application of the best value for money criteria.

¹⁸¹ Il fatto quotidiano, *Mafia Capitale*, Buzzi: "Con immigrati si fanno molti più soldi che con la droga" 02.12.2014.

<http://www.ilfattoquotidiano.it/2014/12/02/mafia-capitale-buzzi-immigrati-si-fanno-soldi-droga/1245847/>.

¹⁸² Article 7(3). Commission Decision of 8 March 2010 amending Decision 2008/22/EC laying down rules for the implementation of Decision No 573/2007/EC of the European Parliament and of the Council establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' as regards Member States' management and control systems, the rules for administrative and financial management and the eligibility of expenditure on projects cofinanced by the Fund.

¹⁸³ Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the results achieved and on qualitative and quantitative aspects of implementation of the European Fund for the Integration of third-country nationals for the period 2007-2009 (report submitted in accordance with Article 48 (3) (b) of Council Decision 2007/435/EC of 25 June 2007) /* COM/2011/0847 final */.

2. Sometimes the members of the selection committees are not professionally competent in the subject matter, and this generates project awards that are not always relevant to the objectives of the funds.¹⁸⁴
3. Because the implementation of the funds is based on a very decentralised system that involves regional authorities and NGOs, there is an excessive use of sub-contracting, which leads to a fragmentation of resources which become difficult to track. The result is therefore a low level of accountability regarding how resources have been spent.¹⁸⁵

In the case of Italy, the approval of the budget and authorities management for the AMIF and ISF is still pending.

In **Greece** the coordination of the SOLID programme has fallen under the responsibility of different ministries. This organisational setting has made it difficult for Greek authorities to have a holistic approach to all aspects of migration, as well as to provide effective budgetary management.¹⁸⁶ In terms of coordination, there is a formal Inter-ministerial Committee on Migration but in practice it does not meet regularly and has not made much progress.¹⁸⁷ The Ministry of Public Order and Citizen Protection is responsible for the EBF and the Return Fund, and it also hosts the Asylum Service, Appeals Authority and First Reception Service, and is Programme Operator for some of the EEA Grants.¹⁸⁸ The European Court of Auditors' 2014 special report particularly focuses on the management of the EBF in Greece and highlights 'serious weaknesses in management', inefficient allocation and delivery of funding as well as lack of focus on long-term capacity building.¹⁸⁹ Vis-à-vis the EBF implementation, the EC working document¹⁹⁰ reports that there has been 'intensification of inter-service cooperation, in particular by setting up an interministerial Committee and a National Coordination Centre (NCC), as well as coordination centres at regional and local levels.'¹⁹¹ The Ministry of Health and Social Solidarity (currently the Ministry of Labour, Social Security and Welfare) is the RA for the European Refugee Fund (ERF). Concerning the EIF, the Social Integration Division of the Directorate General of Migration Policy and Social Integration of the Ministry of Interior, Decentralization and E-Governance¹⁹² is the responsible authority and its mission is to prepare, manage and implement the multiannual program 2007 – 2013 and annual programs supported by the EIF. The Division also acts as awarding body (through open call for proposals) and / or as executing body (esp. in cases of security risks). The responsible authority cooperates with other directorates in the Ministry of Interior on the payment of expenditure, control of documentary evidence of expenditure incurred and upkeep of the electronic reporting system. Despite the clear organisational structure illustrated, a monitoring logic of EU funding is difficult to trace.

¹⁸⁴ Interview with delegated authority representative.

¹⁸⁵ Interview with delegated authority representative.

¹⁸⁶ UNHRC (2013). Report of the Special Rapporteur on the human rights of migrants, François Crépeau. Addendum. Mission to Greece.

¹⁸⁷ UNHRC (2013). Report of the Special Rapporteur on the human rights of migrants, François Crépeau. Addendum. Mission to Greece.

¹⁸⁸ UNHRC (2013). Report of the Special Rapporteur on the human rights of migrants, François Crépeau. Addendum. Mission to Greece.

¹⁸⁹ Page 6 and 27. European Court of Auditors (2014). *The External Borders Fund has fostered financial solidarity but requires better measurement of results and needs to provide further EU added value.*

http://www.eca.europa.eu/Lists/ECADocuments/SR14_15/OJAB14015ENC.pdf

¹⁹⁰ European Commission (2014). Commission Staff Working Document on the Assessment of the implementation of the Greek Action Plan on Asylum and Migration management, SWD(2014) 316 final. <http://data.consilium.europa.eu/doc/document/ST-14027-2014-INIT/en/pdf>.

¹⁹¹ European Commission (2014). Commission Staff Working Document on the Assessment of the implementation of the Greek Action Plan on Asylum and Migration management, SWD(2014) 316 final. <http://data.consilium.europa.eu/doc/document/ST-14027-2014-INIT/en/pdf>.

¹⁹² For a detailed organisational chart of the Ministry of Interior, see: European Commission & European Migration Network (2012). The Organisation of Asylum and Migration Policies Factsheet.

http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/asylum-migration/11.greece_factsheet_institutional_chart_october2012_en.pdf.

In practice the structure of the implementation of the SOLID Funds is characterised by high complexity and difficult coordination and communication among diverse units, as a result of this situation and because of the current pressure under which the Greek system for migration is found, the Commission is closely monitoring the implementation of the SOLID programme in the country. The funds are currently invested on large infrastructure as the implementation of VIS system, while one could argue that resources could be more targeted on the reception of asylum seekers.

Like in Greece, the SOLID programme management in **Spain** has fallen under the responsibility of different ministries. Under Royal Decree 1823/2011, of 21 de December, the Ministry of Employment and Social Security is responsible for the ERF and the EIF, whereas the Ministry of Interior is responsible for the management of the RF and the EBF. On the one hand, the Ministry of Employment and Social Security is in charge of developing Government policy in the areas of foreign national affairs, immigration and emigration. Moreover, it is in charge of the functional coordination of Immigration Offices, as well as overseeing the Permanent Observatory for Immigration and the Spanish Observatory for Racism and Xenophobia. The Directorate General for Immigrants is the Delegate Authority for the EIF. On the other hand, the Ministry of Interior's activities include controlling the entrance to and exit from national territory of Spanish and foreign nationals and the prevention, prosecution and investigation of irregular immigration networks.

Auditing and budgetary controls on the SOLID Programme funds are carried out by the National Auditing Agency (IGAE). Auditing is carried out on a sample of projects and can involve field audits. The auditor is selected both within and outside the organisations. In addition, an external evaluator can be in charge of carrying out the controls.

Controls are carried out on an annual basis on the four funds of the SOLID programme. Auditing is carried out on a sample of projects and can involve field audits (see table below). The auditor is selected both within and outside the organisations. In addition, an external evaluator can be in charge of carrying out the controls. The first step involves controls over the documentation submitted by the funds beneficiary, the second step involves visits to the beneficiary, and then a provisional report is sent to the organisation that managed the funds in adversary procedure. Finally, a final report is issued.

Table 7: Number of controls carried out in Spain

| Fund | Tot n. of controls planned | | Completed | | | | | | Ongoing | |
|-------------|----------------------------|------|-----------|------|-----------|------|-------|------|---------|------|
| | | | 2012 Plan | | 2013 Plan | | Other | | | |
| | 2012 | 2013 | 2012 | 2013 | 2012 | 2013 | 2012 | 2013 | 2012 | 2013 |
| SOLID (tot) | 64 | 44 | 64 | 44 | 37 | 26 | 101 | 70 | 0 | 1 |
| ERF | 3 | 1 | 3 | 1 | 5 | 1 | 8 | 2 | / | 1 |
| EIF | 43 | 21 | 43 | 21 | 32 | 9 | 75 | 30 | / | 0 |
| EBF | 9 | 11 | 9 | 11 | 0 | 11 | 9 | 22 | / | 0 |
| RF | 9 | 11 | 9 | 11 | 0 | 5 | 9 | 16 | / | 0 |

Source: IGAE¹⁹³

¹⁹³ IGAE (2013), Activity Report. Available at [http://www.igae.pap.minhap.gob.es/sitios/igae/es-ES/ClnPublicaciones/ClnPublicacionesLinea/Documents/MemoriaFinal\(accesible\)3.pdf](http://www.igae.pap.minhap.gob.es/sitios/igae/es-ES/ClnPublicaciones/ClnPublicacionesLinea/Documents/MemoriaFinal(accesible)3.pdf)

Whilst irregularities linked to fraud and/or corruption were not detected, the interview with IGAE¹⁹⁴, the National Auditing Agency, showed that most irregularities are caused by administrative mistakes and problems of eligibility. According to the interviewee¹⁹⁵, the fund with the highest number of irregularities is the EIF. In fact, it appears that funds are sometimes allocated to EU nationals and not only to third country nationals. As for the EBF, the main problem is linked to the fact that sometimes EU funds are used to finance infrastructure that is then used for aims other than border control. As regards the RF, the interviewee highlighted the fact that sometimes documentation on voluntary returnees is missing or hard to collect, whilst in the case of forced return it is sometimes difficult to assess whether the returnee has left the country (especially when the returnee also takes domestic flights). Conversely, for the ERF no major issues were detected.

France has established a completely new Ministry, the Ministry for Immigration, in charge of the management of the SOLID funds and of all the migration related policies. This led to a period of administrative and organisational adjustment. This can be understood as a transition period, during which the authorities responsible for the management of the funds had to learn and deal with completely new procedures and at the same time to plan long term multiannual programmes.¹⁹⁶ From both the desk research and the interview with the Ministry of the Interior no case of fraud in the use of migration funds emerged. The explanation for the absence of criminal misuse of the SOLID and AMIF funds in France has to do with the control practices put in place in the country (see table below). In some cases the Ministry recovered part of the financing due to some expenses that were not eligible. In other cases, beneficiaries encountered operational problems and were not financially sustainable anymore, so after the first pre-financing the Ministry of Interior reclaimed the funds that had been allocated and not used for the planned activities. Some difficulties and problems needed to be addressed, in particular related to the delay in the payments to beneficiaries, which very often are small NGOs that do not have large financial resources to cover the costs of the projects they implement while they wait to receive financing.

From a general point of view the implementation of EU migration funds in France is effective and the mechanisms designed and put in place by the Managing Authority ensured a smooth and effective implementation of the actions in the field. This should be enhanced by the simplification of the management in the shift between the SOLID funds and AMIF. The office for the shared management of the European funds (*Bureau de la Gestion Mutualisée des Fonds Européens* -BGMFE) now acts, within the General-Directorate for foreigners in France (*Direction générale des étrangers en France* - DGEF) at the Ministry of Interior, as a 'single service' in centralising all the tasks for the administrative and financial management of the European programmes (training, financing, contracting, controlling, etc.). The strategic management, in terms of objectives, thematic eligibility of projects, programme evaluation, is the responsibility of the relevant thematic directions of the DGEF. The previous generation of funds was managed by different directions within the Ministry of Immigration, in an attempt to respond quickly to the new set of responsibilities the new Ministry was obtaining. However, running four funds in parallel has not been efficient from an internal administrative and management point of view, and this new structure has been introduced to simplify the management of the programme and respond to the changes between SOLID funds and AMIF.

The Audit and Certification Authorities remain unchanged.

¹⁹⁴ Interview with national auditing authority representative.

¹⁹⁵ Interview with national auditing authority representative.

¹⁹⁶ Interview with Ministry of Interior representative.

Table 8: Auditing and control: a good practice in France

The Ministry of Interior was in charge of the management of the SOLID funds and is now the Managing Authority of the AMIF funds. The **Auditing Authority is an independent body responsible for controlling the public expenditure in the context of European Funds in general**. The CA is within the Ministry of Finance. The Ministry of Interior is responsible for the programme management and the first level controls. A very important feature of its activity consists in the field controls run on a sample (around 15-20% of the total projects financed). These controls have a strategic importance in helping the Ministry in keeping track of the state of play of the various projects and of how the financial resources are spent. In case irregularities are identified, the Ministry, in the report that will be drafted after the control, specifies the details of the issues identified. This report is then forwarded to the CA, which has the power to decide for sanctions against the beneficiaries. The Certifying Authority is also in charge of the second level control on the expenditures, as well as of the control on the annual closure drafted by the Ministry of Interior, checking the coherence of the figures provided by the Ministry with the annual work programme. The Auditing Authority runs controls on a sample of around 10% of the projects financed after the Ministry of Interior has run the first level control.

Like France, the **UK** set a new body for the management of the funds: a high level **EU Solidarity Mechanism Funding Apportionment Board** to organise cooperation with stakeholders and fulfil the partnership requirements of the legislative base for the funds. The Board is chaired by the UK Borders Agency and its members included a representative of UNHCR, as well as other government departments. The Independent Apportionment Board advised on the UK's proposed allocations of all European funding. Each fund have a RA¹⁹⁷, which presented its UK tri-annual and annual strategy proposals to the Board at the start of each multi-annual period.¹⁹⁸ The RA has the power to be an executing authority in certain circumstances i.e. when 'the characteristics of the project leave no other choice for implementation, such as de jure monopoly situations or security reasons. In these cases, the rules concerning the final beneficiary shall apply mutatis mutandis to the responsible authority'.¹⁹⁹ However, contrary to what happens in Italy, when the Home Office acts as an executing body, applications have to be considered by the independent Apportionment Board, which weighs them against the domestic priorities agreed during the high level apportionment process, as well as the standard criteria. The Board then advises whether the proposals constitute value for money and may recommend changes. Another relevant aspect of the British model is the evaluation of the projects. The table below illustrates the details of the procedure that can be defined as a good practice.

¹⁹⁷ Home Office, European Integration Fund: summary for 2007 to 2013.

¹⁹⁸ Home Office, European Integration Fund: summary for 2007 to 2013.

¹⁹⁹ Article 7(3). Commission Decision of 8 March 2010 amending Decision 2008/22/EC laying down rules for the implementation of Decision No 573/2007/EC of the European Parliament and of the Council establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' as regards Member States' management and control systems, the rules for administrative and financial management and the eligibility of expenditure on projects cofinanced by the Fund.

Table 9: Evaluation: a good practice in UK

Responsibility for the evaluation of the EU SOLID funds lies with the Home Office's Migration and Border Analysis, a unit of specialist qualitative and quantitative social researchers, economists and evaluators. Migration and Border Analysis contracts out some of the evaluation to external research organisations, including the evaluations of the three SOLID funds. The UK uses a mix of methodologies to evaluate the projects and therefore the Funds²⁰⁰ – document review, which produces an extensive and detailed Excel spreadsheet that can be used to aggregate performance of all projects across all targets, analysis of management information, desk research, in-depth interviews and focus groups. In more detail, the UK conducts evaluation on three levels, in accordance with the principle of proportionality:

Documentary review of all projects (EIF, RF and ERF) – analysing targets and achievements. The data are kept in a comprehensive Excel spreadsheet.

20 projects per funding year (across the three funds) are selected for more in-depth analysis. Projects are selected to give a cross-section of funding: the level of funding (50% or 75%), amount of funding, type of project, type of organisation running the project, project aims and geographical location, in-depth interviews, focus groups.

Particularly large or strategically important projects are evaluated in greater depth. For the UK during the period 2011-13, these projects were Gateway and Assisted Voluntary Return (AVR).

The UK has piloted and encouraged integration projects to collect standardised baseline data which can be used to show impact. Evaluation specialists also regularly brief projects on good practice. Particular areas of focus are needs assessments, target setting, recruitment and measuring impact.

The evaluation team collates key lessons on the funding processes and Home Office project management to improve future practices.

The UK ensures evaluation requirements are embedded in contractual documents to encourage the compliance with the evaluation process.

Turning to the AMIF, the UK's stated position during the triologue negotiations was to seek to reduce administrative burdens and increase the effectiveness of all EU funds. It also negotiated a set of minimum percentages that it believed it could use effectively and which allowed it to focus the majority of its budget on its main priority, returns. It also successfully argued for the inclusion of a condition that would allow it to depart from the minimum percentages as long as an acceptable explanation was provided. It also blocked mandatory intra-EU relocation and the resettlement of refugees.²⁰¹ UK Ministers felt they had been successful in negotiating a Regulation that allowed for simplified implementation and generally greater flexibility, including the composition and implementation of partnerships and a monitoring committee. It has also managed to retain in the Regulation implementing acts for both the Commission's Annual Work Programme and the Mid-Term Review.²⁰²

²⁰⁰ Home Office, European Integration Fund: summary for 2007 to 2013.

²⁰¹ Letter from Karen Bradley to the Chair, 18 February 2014, EM 17959/13, 17939/13, 17425/13, 16600/13: Multi-Annual Financial Framework (MFF), Home Affairs Regulations update, Ministerial Correspondence, House of Commons European Scrutiny Committee. UK Parliament. <http://www.parliament.uk/documents/commons-committees/european-scrutiny/MinCor-2013-14.pdf>

²⁰² Letter from Karen Bradley to the Chair, 18 February 2014, EM 17959/13, 17939/13, 17425/13, 16600/13: Multi-Annual Financial Framework (MFF), Home Affairs Regulations update, Ministerial Correspondence, House of Commons European Scrutiny Committee. UK Parliament. <http://www.parliament.uk/documents/commons-committees/european-scrutiny/MinCor-2013-14.pdf>

5. EU SYSTEM AGAINST ORGANISED CRIME AND MISUSE OF FUNDS

- The design and maintenance of management and control systems for EU funds for migration purposes (SOLID and AMIF) lie with the Member States; these systems are required in part to avoid misuse or fraudulent activity of EU funds.
- All possible instances of fraud are reported by stakeholders involved, such as the Commission, the ECA, national authorities, and third parties, directly to OLAF to assess and investigate the events.
- A study by OLAF found that corruption was lower in procurement resulting from EU funds, than from national funds.²⁰³
- In general, misuse of EU funds points towards the EU funds managed by the Member States, such as the structural funds and pre-accession funds²⁰⁴, rather than funds directly managed by the European Commission. A possible explanation for this observation is that an increase in the number of actors involved and the number of transfers, increases the risk of irregularity, mistakes, or possibly fraud.
- OLAF itself has estimated that irregularities reported as fraudulent cost EUR 315 million (0.25% of total EU expenditure) in 2012, and irregularities not reported as fraudulent costed EUR 2.6 billion (2.06% of total EU expenditure).²⁰⁵
- With regard to migration funds, it should be noted that on the scale of national budgets, the contribution of migration funds is comparatively small, and that the Home Affairs budget makes up less than 1% of the entire EU budget.²⁰⁶

Europe's fight against fraud is spearheaded by OLAF, in accordance with the provisions in Article 325 of the Treaty on the Functioning of the European Union (TFEU).²⁰⁷ The protection of the EU's financial interests is defined further in the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests (1995), which defines fraud as consisting of:

'(a) in respect of expenditure, any intentional act or omission relating to:

- The use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities,
- Non-disclosure of information in violation of a specific obligation, with the same effect,

²⁰³PWC; Ecorys (2013). *Identifying and Reducing Corruption in Public Procurement in the EU: Development of a methodology to estimate the direct costs of corruption and other elements for an EU-evaluation mechanism in the area of anti-corruption.*

http://ec.europa.eu/anti_fraud/documents/anti-fraud-policy/research-and-studies/identifying_reducing_corruption_in_public_procurement_en.pdf

²⁰⁴ Page xiv, European Parliament (2011). *How does organized crime misuse EU funds? P organized crime and fund misuse.* IP/D/ALL/FWC/2009 – 56. http://www.europarl.europa.eu/RegData/etudes/etudes/join/2011/453225/IPOL-JOIN_ET%282011%29453225_EN.pdf

²⁰⁵ OLAF. (2015) *Fraud in Figures.* Ec.europa.eu. http://ec.europa.eu/anti_fraud/investigations/fraud-in-figures/index_en.htm (May 18, 2015)

²⁰⁶ DG Migration and Home Affairs. *Funding Overview: AMIF and ISF Funds.*

http://ec.europa.eu/dgs/home-affairs/financing/fundings/index_funding_en.htm

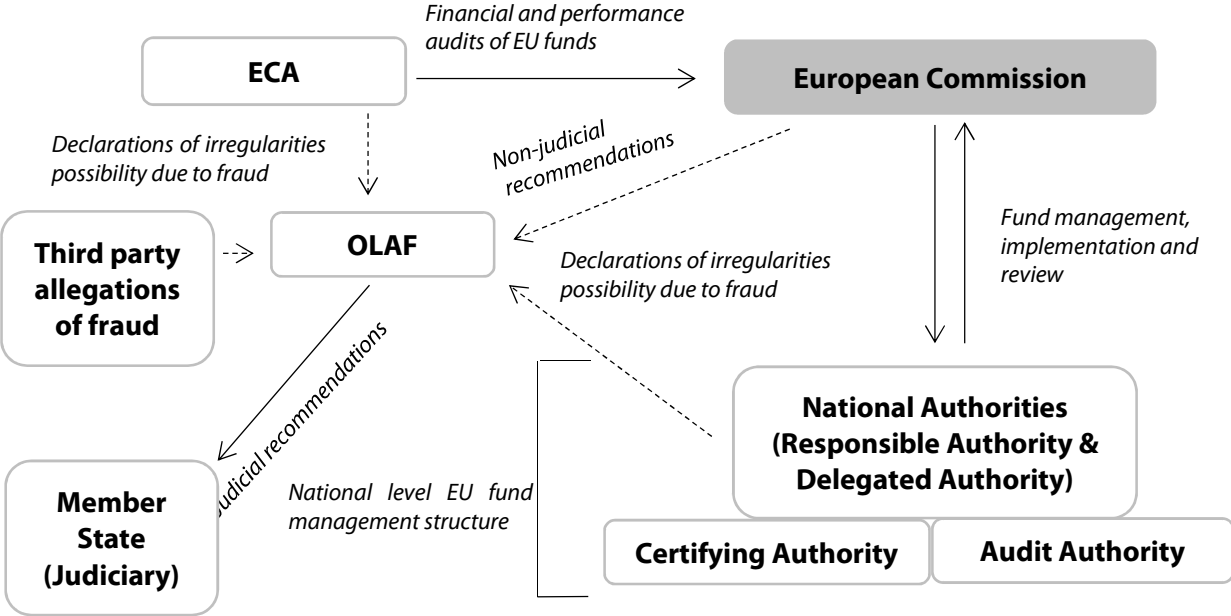
²⁰⁷ In particular, subarticles 1 and 2:

1. The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union through measures to be taken in accordance with this Article, which shall act as a deterrent and be such as to afford effective protection in the Member States, and in all the Union's institutions, bodies, offices and agencies.
2. Member States shall take the same measures to counter fraud affecting the financial interests of the Union as they take to counter fraud affecting their own financial interests.

- The misapplication of such funds for purposes other than those for which they were originally granted;
- (b) in respect of revenue, any intentional act or omission relating to:
- The use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities,
 - Non-disclosure of information in violation of a specific obligation, with the same effect,
 - Misapplication of a legally obtained benefit, with the same effect.²⁰⁸

The figure below illustrates the interactions among national and EU-level institutions in the detection of fraudulent activity. The design and maintenance of management and control systems for EU funds for migration purposes (SOLID and AMIF) lie with the Member States; these systems are required in part to avoid misuse or fraudulent activity of EU funds. In the implementation of EU funds, the Commission provides Member States with guidance and review of procedures.

Figure 4: Interactions between organisations in fund management and the identification of fraudulent activity



Source: VVA and partner

As seen in the figure above, all possible instances of fraud are reported directly to OLAF to assess and investigate. Importantly, though the ECA runs financial and performance audits of all EU finances, if it detects an irregularity possibly due to illegal activity it passes this on to OLAF without passing a judgement or running a separate investigation. Therefore, **the ECA can be considered instrumental in detecting possible fraud, but not in assessing or passing judgment on its merits or demerits, which lies wholly in the mandate of OLAF.** Similarly, in the Regulation establishing the EASO, there

²⁰⁸ Article 1, Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests (1995).

is an Article (44) on combating fraud, which reiterates OLAF's role in fraud investigations, and grants the ECA and OLAF the power to run on-the-spot checks with recipients of EASO's funding.

OLAF²⁰⁹ is mandated with the right to run investigations into fraud as described in Regulation (EC) 1073/1999 concerning investigations conducted by the European Anti-Fraud Office. While OLAF is concerned with the protection of the Commission's financial interests, the Regulation defines this as 'not only the management of budget appropriations, but also to all measures affecting or liable to affect their [the Community's] assets.' OLAF is able to run administrative investigations (all inspections, checks and other tasks performed by OLAF staff), including externally, in the Member States and (in accordance with agreements in force), third countries, and internally within the institutions, offices and agencies. The Regulation confers a duty of declaration of possible cases of fraud to OLAF by the EC and MS, and for them to collaborate (under EU law, or in the case of MS, in as far as national law allows). Informants can also be third parties, such as beneficiaries or other stakeholders.

5.1. FIGHTING FRAUD IN PRACTICE

OLAF's Fraud Prevention unit works with the European Commission in a number of ways to ensure fraud and illegal activity is avoided. Firstly, all EU actions using EU funds are checked and approved by OLAF to ensure there are no loopholes for abuse. However, no legislation can be guaranteed fool-proof, especially with creative and unusual measures set up by individuals for illegal purposes. The Fraud Prevention unit also operates as a think-tank within the Commission, and manages the Fraud Prevention and Detection Network within the Commission, as well as running training and conferences within the EU and for Member States on specific issues.

Outside of OLAF's activities, the EU set-up the EU Anti-Corruption Report in 2011²¹⁰ with the aim of assessing the situation in Member States, to identify best practices, provide recommendations, and aid Member States in counteracting illegal activity (Article 1). In its first edition, 2014, the Commission stated 'public procurement is particularly prone to corruption in the Member States, owing to deficient control mechanisms and risk management'. This statement, is corroborated by other studies, such as the report published by the European Research Centre for Anti-Corruption and State-Building (ERCAS), which states corruption is more likely to exist in the allocation of public resources, and the additional resources provided by EU funding to the overall public procurement budget is likely to increase the risk of corruption.²¹¹ The PWC report on Identifying and Reducing Corruption in Public Procurement in the EU, however, found that corruption was lower in procurement resulting from EU funds.²¹²

The EU tries to counteract possible effects of fraud or corruption by implementing strict monitoring and audit requirements – a study found²¹³, through statistical analysis on structural and cohesion

²⁰⁹ OLAF was established by Decision 1999/352/EC, ECSC, Euratom: Commission Decision of 28 April 1999 establishing the European Anti-fraud Office (OLAF) (notified under document number SEC(1999) 802).

²¹⁰ Commission Decision of 6.6.2011 Establishing an EU Anti-corruption reporting mechanism for periodic assessment ("EU Anti-corruption Report"). C(2011) 3673 final http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/pdf/com_decision_2011_3673_final_en.pdf

²¹¹ Fazekas et al (2013). *Are EU funds a corruption risk? The impact of EU funds on grand corruption in Central and Eastern Europe*. European Research Centre for Anti-Corruption and State-Building Working Paper No. 39. http://www.againstcorruption.eu/wp-content/uploads/2013/11/wp39_eufunds_corruptionrisk_cee2.pdf

²¹² PWC; Ecorys (2013). *Identifying and Reducing Corruption in Public Procurement in the EU: Development of a methodology to estimate the direct costs of corruption and other elements for an EU-evaluation mechanism in the area of anti-corruption*. http://ec.europa.eu/anti_fraud/documents/anti-fraud-policy/research-and-studies/identifying_reducing_corruption_in_public_procurement_en.pdf

²¹³ Fazekas et al (2013). *Are EU funds a corruption risk? The impact of EU funds on grand corruption in Central and Eastern Europe*. European Research Centre for Anti-Corruption and State-Building Working Paper No. 39.

funds, that EU funds, compared to national funds, carry a higher corruption risk, that 'the increasing corruption risks due to the greatly increased amount of public resources available for allocation could not be met with more stringent controls of corruption'²¹⁴ and that the 'EU's monitoring system has failed to moderate increasing corruption risks [...]'.²¹⁵ In addition to this, in its report on 'How does organized crime misuse EU funds?', the European Parliament notes 'in general, misuse of EU funds points towards the EU funds managed by the Member States, such as the structural funds and pre-accession funds'²¹⁶, rather than funds directly managed by the European Commission. A possible explanation for this observation is that an increase in the number of involved actors and transfers of funds, increases the risk of irregularity, mistakes, or possibly fraud²¹⁷. In addition, as evidenced by the 2012 ECA Report (discussed above), there are concerns regarding suitability of the mechanisms implemented, and the speed with which issues are identified and commented on by the Commission.²¹⁸ Despite the review of MS mechanisms, there are still relatively **few direct measures for the Commission to oversee direct spending of funds** on the projects financed by the funds.²¹⁹

Though corruption is not always associated with organized crime, corruption is often a facilitator for organized crime.²²⁰ Noting this, there is already little information available about corruption and the siphoning off of funds, and there is even less data or figures on the misuse of funds specifically by organized crime, partially due to the lack of reliable information on these activities²²¹ (with a further possibility that it is near impossible for the ECA, Commission, or OLAF to collect detailed data on this), and partially because, even where fraud is suspected or proven, it is not always easy to link this to wider organized crime rings. Equally, to measure the scale of corruption in public procurement is almost impossible given its nature, and thus, it is near impossible to evaluate the impact or effectiveness of anti-corruption measures.²²²

http://www.againstcorruption.eu/wp-content/uploads/2013/11/wp39_eufunds_corruptionrisk_cee2.pdf

²¹⁴ Fazekas et al (2013). *Are EU funds a corruption risk? The impact of EU funds on grand corruption in Central and Eastern Europe*. European Research Centre for Anti-Corruption and State-Building Working Paper No. 39.

http://www.againstcorruption.eu/wp-content/uploads/2013/11/wp39_eufunds_corruptionrisk_cee2.pdf

²¹⁵ Fazekas et al (2013) found failure of the EU monitoring system in regards to 2 out of 3 countries studied (Hungary and the Czech Republic), while in the final country (Slovakia), these measures only 'partially offset increasing risks'. The authors conclude that the Slovakian case does lead to believe that EU funding and monitoring systems can also have a positive effect. See: page 28. Fazekas et al (2013). *Are EU funds a corruption risk? The impact of EU funds on grand corruption in Central and Eastern Europe*. European Research Centre for Anti-Corruption and State-Building Working Paper No. 39.

http://www.againstcorruption.eu/wp-content/uploads/2013/11/wp39_eufunds_corruptionrisk_cee2.pdf

²¹⁶ Page xiv European Parliament (2011). *How does organized crime misuse EU funds? P organized crime and fund misuse*. IP/D/ALL/FWC/2009 – 56. http://www.europarl.europa.eu/RegData/etudes/etudes/join/2011/453225/IPOL-JOIN_ET%282011%29453225_EN.pdf

²¹⁷ Interview with OLAF representative.

²¹⁸ The ECA reported that issues regarding confusion between the Structural Funds' set up and that of the SOLID Fund (particularly on the difference between the CA and the AA) were only identified by the Commission in October of 2012.

²¹⁹ Page xii. European Parliament (2011). *How does organized crime misuse EU funds? P organized crime and fund misuse*. IP/D/ALL/FWC/2009 – 56. http://www.europarl.europa.eu/RegData/etudes/etudes/join/2011/453225/IPOL-JOIN_ET%282011%29453225_EN.pdf

²¹⁹ Interview with OLAF representative.

²²⁰ Page 19. European Commission (2014). *Report from the Commission to the Council and the European Parliament: EU Anti-Corruption Report*. http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr_2014_en.pdf

²²¹ Page xi. European Parliament (2011). *How does organized crime misuse EU funds? P organized crime and fund misuse*. IP/D/ALL/FWC/2009 – 56. http://www.europarl.europa.eu/RegData/etudes/etudes/join/2011/453225/IPOL-JOIN_ET%282011%29453225_EN.pdf

²²¹ Interview with OLAF representative.

²²² PWC; Ecorys (2013). *Identifying and Reducing Corruption in Public Procurement in the EU: Development of a methodology to estimate the direct costs of corruption and other elements for an EU-evaluation mechanism in the area of anti-corruption*. http://ec.europa.eu/anti_fraud/documents/anti-fraud-policy/research-and-studies/identifying_reducing_corruption_in_public_procurement_en.pdf

5.2. OLAF INVESTIGATIONS

The EU's funds for Home Affairs, SOLID and now AMIF/ISF, are covered by the EU's procedures for detecting and fighting fraud. Where fraud is suspected, Member States or other stakeholders are encouraged to declare their suspicions to OLAF. OLAF is ultimately responsible for identifying fraud and pursuing those in breach of EU provisions on the matter. Speaking about the authority structure implemented in EU funds, the report *Identifying and Reducing Corruption in Public Procurement in the EU states* 'with regard to the EU Structural Funds, designated bodies (i.e. Managing Authority, Certifying Authority and Audit Authority) have been set up in Member States in order to prevent, detect and correct irregularities and suspected fraud, and recover amounts unduly paid. However, these actors are not geared towards the detection of corruption, and neither are the evaluators of these programmes.²²³

In order to open an investigation of any kind, the Director of OLAF has to make a decision based on his/her own initiative or on the basis of information received by the Office. Cases are reviewed on an individual basis to ensure OLAF's competence and jurisdiction, and the existence of sufficient information for the allegation to become an investigation. In 2014, OLAF received 1,417 pieces of incoming information²²⁴, opened ²³⁴ investigations, concluded 250, and issued 397 recommendations – the most recommendations and incoming information it has received over its lifetime. Reports drawn up by OLAF establish the facts of the case, the details of the financial loss (if applicable), and the findings of the investigation, which is disseminated to the relevant body. Romania was the country in which OLAF conducted most investigations concluded in 2014, with a total of 34 investigations, followed by Hungary (13) and Bulgaria (11).²²⁵

OLAF holds the power to issue four types of recommendations resulting from an investigation. The most severe, a judicial recommendation, allows a Member State's judiciary to follow up with legal action. The ultimate responsibility for the case and for the pursuit of justice lies with the Member State, though OLAF may follow the proceedings. This means that, within shared management funds, OLAF and the EC rely on national legislation and processes, while for funds under direct management, OLAF holds more power. However, by its own admission, OLAF's investigations have a strong track record of indictments. The following table outlines the judicial actions taken by the Member States and the rates of conviction between 2007 and 2014 across all EU funds.

²²³ PWC; Ecorys (2013). *Identifying and Reducing Corruption in Public Procurement in the EU: Development of a methodology to estimate the direct costs of corruption and other elements for an EU-evaluation mechanism in the area of anti-corruption.*

http://ec.europa.eu/anti_fraud/documents/anti-fraud-policy/research-and-studies/identifying_reducing_corruption_in_public_procurement_en.pdf

²²⁴ 549 relating to the Structural Funds, 183 to EU staff, 146 to centralized expenditure, 146 to external aid, 114 to the agricultural funds, 81 to customs and trade, 47 to tobacco and counterfeit goods, 24 to new financial instruments and 127 to other/non applicable issues. Page 12. OLAF (2015). *The OLAF Report 2014.*

²²⁵ Page 18. OLAF (2015). *The OLAF Report 2014.*

Table 10: Judicial Action Recommendation from OLAF to Member States across EU Funds 2007/2014

| | Number of judicial recommendations | No decisions taken ²²⁶ | Actions with judicial decision | Actions dismissed before trial | Indictment | Rate of indictment |
|----------|------------------------------------|-----------------------------------|--------------------------------|--------------------------------|------------|--------------------|
| Bulgaria | 30 | 8 | 22 | 10 | 12 | 55% |
| Greece | 23 | 12 | 11 | - | 11 | 100% |
| Italy | 61 | 20 | 41 | 9 | 32 | 78% |
| Romania | 89 | 36 | 53 | 37 | 16 | 30% |
| Spain | 28 | 10 | 18 | 9 | 9 | 50% |
| UK | 23 | 7 | 16 | 11 | 5 | 31% |

Source: OLAF annual report²²⁷

The table is consistent with the case study findings. Bulgaria, Greece, Italy and Romania are those countries where the main issues were identified in relation to the implementation of the SOLID Programme, especially with regard to public procurement procedures to award projects. No systemic fraudulent use of the funds for migration was identified in Spain or the UK.

Other than the judicial recommendations, OLAF may recommend financial action (the retention of funds by the responsible DG within the Commission), administrative action (to combat systematic issues leading to irregular or fraudulent activity), or disciplinary action (for minor, non-criminal issues with EU staff). Under administrative action, OLAF would also be able to voice its concerns about certain trends, such an increase in cases at certain points in fund implementation or within a specific fund.

5.3. ESTIMATING THE COST OF CORRUPTION IN EU FUND IMPLEMENTATION

In 2013, The European Commission commissioned a report on how to estimate the costs of corruption within EU fund implementation.²²⁸ In this report, the authors estimate that two-thirds of performance-related issues in 'grey' or corrupt cases was potentially attributable to corruption

The authors also found that the 'overall direct costs of corruption in public procurement [...] constituted between 2.9% and 4.4% of the overall value of procurements' for that year.²²⁹ However, this is a figure derived from coverage across specific sectors, in specific Member States, estimating direct costs (so, excluding effects on public institutions, the environment, costs to civil society etc.). The figure also only explains 55% of what researchers classified as "corrupt" or "grey" cases, and it does not account for the remaining 45%. OLAF itself has estimated that irregularities reported as

²²⁶ At the time of publication, either due to the reporting period or an ongoing criminal investigation.

²²⁷ Page 24. OLAF (2015). *The OLAF Report 2014*.

²²⁸ The research conducted was in the fields of a) road and rail construction; b) water supply/waste water/water management; c) urban/utility construction; d) training; and e) R&D/high tech/medical products. PWC; Ecorys (2013). *Identifying and Reducing Corruption in Public Procurement in the EU: Development of a methodology to estimate the direct costs of corruption and other elements for an EU-evaluation mechanism in the area of anti-corruption*. http://ec.europa.eu/anti_fraud/documents/anti-fraud-policy/research-and-studies/identifying_reducing_corruption_in_public_procurement_en.pdf

²²⁹ The research was conducted across 5 sectors in 8 Member States. This would account for about EUR 1,470 million to EUR 2,247 million. PWC; Ecorys (2013). *Identifying and Reducing Corruption in Public Procurement in the EU: Development of a methodology to estimate the direct costs of corruption and other elements for an EU-evaluation mechanism in the area of anti-corruption*. http://ec.europa.eu/anti_fraud/documents/anti-fraud-policy/research-and-studies/identifying_reducing_corruption_in_public_procurement_en.pdf

fraudulent cost EUR 315 million (0.25% of total EU expenditure) in 2012, and irregularities not reported as fraudulent cost EUR 2.6 billion (2.06% of total EU expenditure).²³⁰ With regard to migration funds, it should be noted that on the scale of national budgets, the contribution of migration funds is comparatively small, and that the Home Affairs budget makes up less than 1% of the entire EU budget.²³¹ However, when applying the direct costs of corruption in public procurement procedure (2.9% to 4.4%) to EU funding allocation for migration (EUR 4 billion) the total loss could amount in between EUR 116 million and EUR 176 million.

²³⁰ OLAF. (2015) Fraud in Figures. Ec.europa.eu. http://ec.europa.eu/anti_fraud/investigations/fraud-in-figures/index_en.htm

²³¹ http://ec.europa.eu/dgs/home-affairs/financing/fundings/index_funding_en.htm

6. CONCLUSIONS AND RECOMMENDATIONS

KEY FINDINGS

- The lifting of the EU internal borders for the free movement of persons has led to the strengthening of external borders and the coordinated control of the influx of Third country nationals (TCNs). As a consequence, despite the diversity of national migration policies, a common asylum and immigration policy has been increasingly developing at EU level.
- To support the implementation of this policy the EU has established two agencies FRONTEX and EASO, and three financial instruments: the SOLID programme - which for the period 2007/2013 is based on four funds, and the AMIF and ISF programmes to cover the year between 2014 and 2020, which implementation have only recently started.
- The two agencies have overall contributed to the improvement of the coordination of the MS in the field of borders control and migration. While, the effectiveness the added value of the SOLID programme is very difficult to assess since its resources are a very small part of the national funding. Nevertheless, evidence demonstrate that some of the interventions would not had taken place without the EU funds, and that they introduce innovation into the national policies for migration that can be pointed as good practices.
- The resources were primarily invested in strengthening the control of the internal and external borders and some doubts have been raised on whether it would have been more appropriate for some countries to concentrate the resources on the improvement of their migration, asylum and international protection systems.
- The implementation of the funds have been efficient with on average a funds' absorption capacity equal to 90%. Some cases of misuse of funds have been reported, but these are mainly due to errors rather than fraud and corruption. When a fraud has been detected this can be related to an excessive use of the subcontracting practice during the project' post awarding phase.
- All the MS have put in place (more or less) effective systems to comply with the EU requirements to oversee the correct implementation of the funds. However, the possibility for the Responsible Authority to act as both awarding and executing body and the non – establishment of completely independent audit authorities have generated some lack of transparency.
- On the other hand, the Court of Auditors found that the annual programming system and the control system placed excessive burden on the MS and the Commission. The reduction from four funds to two (AMIF and ISF) should, together with the implementation of a multiannual financial system, reduce the administrative burden in the MS.
- In general, corruption is lower in procurement resulting from EU funds than national funds. In addition the misuse of funds are less frequent in the case of funds directly managed by the EU. OLAF itself has estimated that irregularities reported as fraudulent costed EUR 315 million (0.25% of total EU expenditure) in 2012, and irregularities not reported as fraudulent costed EUR 2.6 billion (2.06% of total EU expenditure).²³²

²³² OLAF. (2015) Fraud in Figures. Ec.europa.eu. http://ec.europa.eu/anti_fraud/investigations/fraud-in-figures/index_en.htm

6.1. EU POLICY ON MIGRATION, ASYLUM AND INTEGRATION

The gradual removal of the EU's internal borders to enable free movement of persons has been accompanied by a strengthening of the Union's external borders. In addition, despite the diversity of national migration policies, there has been an effort at EU level to develop a comprehensive set of common policies to regulate all dimensions of migration: regular migration and integration (Single Permit Directive), reception and asylum (Common European Asylum System (CEAS): Asylum Procedures Directive, Reception Conditions Directive, Qualification Directive, Temporary Protection Directive and the Dublin Regulation), and returns (Return Directive).

To support the implementation of these policies, the EU has established two agencies (FRONTEX and EASO), and three financial instruments:

- the SOLID programme - which for the period 2007/2013 is based on four funds, and
- the AMIF and ISF programmes covering the years between 2014 and 2020.

In addition, due to the ongoing immigration crisis in the Mediterranean, the European Commission launched a 10 point plan for immediate action backed by a budget allocation of EUR 89 million. The new EU Agenda on Migration which was issued in May promotes the reduction of irregular migration, more cooperation among EU agencies, implementation of the CEAS and the preparation of a new policy for legal migration.

6.2. EU FUNDS FOR MIGRATION

Between 2007 and 2013, the European Commission allocated almost EUR 4 billion to the management of external borders and the implementation of migration policies through SOLID. The programme includes four financial instruments, each of which covers one of the four dimensions of the programme:

- integrated management of external borders (European External Borders Fund -EBF),
- asylum policy (European Refugee Fund-ERF),
- social, civic and cultural integration of non-EU nationals (European Integration Fund- EIF), and
- combating illegal immigration and returning illegally residing individuals (European Return Fund-RF).

The contribution of the SOLID programme is difficult to appreciate because of the diversity of projects implemented, the relatively small size of the funds and the fact that they have been mainstreamed into national funding systems. However, evidence gathered in the field suggests that the overall effectiveness of the programme is positive.

Indeed, as this study shows, the programme:

- increased national capacity in border management;
- contributed to improving reception and asylum systems in some countries;
- invested significantly in language training to facilitate the integration of TCNs;
- triggered several innovative approaches and good practices in the field of return and resettlement although there is room for greater innovation in the area of integration

Despite this, some concerns have been raised regarding the distribution of the funds. For instance the Decision establishing the ERF allocates a fixed amount to each MS, with the remainder allocated in proportion of the number of people with one of the following statuses: (a) refugee, (b) subsidiary protection, (c) temporary protection and resettlement. This system does not sufficiently respond to

the needs of countries that are facing a humanitarian emergency, as in practice a large proportion of the available funds is allocated to states with a large number of refugees in the past, and which have therefore already developed facilities and procedures to deal with significant migration pressure. As a result of this funding formula, the funds could only partly contribute to sharing burdens across Member States.

Overall the implementation of the funds has been efficient, with an absorption rate of 90%. The European Commission is closely involved in controlling the implementation of the funds. Authorized Commission representatives have the power to run on-the-spot checks. The European Court of Auditors (ECA) audits the Commission's internal and national management structures. Any cases of alleged fraud or doubt about the use of funds are referred directly to OLAF, the European Anti-Fraud Office. As a result, some irregularities have been detected. However, these were mainly due to lack of knowledge or unintentional misinterpretation of eligibility rules rather than any fraudulent activities.

In addition, a 2014 Court of Auditors report found that the annual programming system and the control system placed excessive burden on MS and the European Commission. The reduction from four funds to two - AMIF (Asylum, Migration and Integration Fund) and ISF (Internal Security Fund) - should, together with the implementation of a multiannual financial system, reduce the administrative burden on the MS.

6.3. EU AGENCIES: FRONTEX AND EASO

FRONTEX and EASO were established as agencies at EU level to support MS in the field of border control, migration and asylum management. The study demonstrates that MS benefit from cooperation with both bodies, because they prevent duplication of efforts. In particular, the agencies play an important role in setting standards and harmonising approaches for reception, recognition of international protection and return procedures which should comply with international human rights conventions.

However, there is significant room for further integration of activities between the two agencies to facilitate the full implementation of a common EU approach to migration and asylum. Moreover, the resources allocated to these agencies do not always allow them to deliver on their full mandate. For instance, despite the current FRONTEX budget being recently tripled, this may not suffice to carry out sea operations to address the ongoing humanitarian crisis in the Mediterranean. Similarly, the technical expertise provided by EASO to obtain better quality and more consistent asylum decisions among MS, is constrained by the availability of independent experts from the Member States which may vary over time. Finally, FRONTEX and EASO have a minor role in preventing and fighting criminal infiltration due to migration flows - these activities are within the remit of EUROPOL.

6.4. LESSONS LEARNED ON THE IMPLEMENTATION OF EU FUNDS FOR MIGRATION FROM THE MEMBER STATES

Member States are ultimately responsible for the financial management of the multiannual and annual programmes implemented under the EU funds covered in this study. This includes the responsibility to designate:

- a responsible authority in charge of the management of the multiannual and annual programmes and contacts with the Commission;

- a certifying authority, which certifies declarations of expenditure prior to their submission to the Commission; and
- an audit authority which should be completely independent and responsible for verifying the effective functioning of the management and control systems of the funds.

As a result, MS have put in place more or less decentralised management and control systems to oversee the implementation of the Funds. Within these systems, the **main driver of success** in implementing/controlling the use of funds seems to be the establishment of a new body with a specific mandate to deliver the programme (France and UK).

Only two of the countries analysed delegated audit activities to a **professional external audit firm**. Nevertheless, while the study has found some evidence of weaknesses in systems put in place for the control of the implementation of the funds, this related to the first three years of the implementation of the programme, when MS were still in the process of developing their administrative capacity.

For the EBF, misuse of funds detected in this study was mainly due to **errors and mistakes** in the interpretation of eligibility rules or in the use of equipment by national police and coast guards. Data gathered through desk and field research highlighted a few cases of actual fraud related to the implementation of the ERF and EIF, which require the involvement of actors at local level.

Indeed, in some cases, the **increase in the number of actors involved in projects through subcontracting and the number of financial transfers** increases the risk of irregularity, mistakes, or possibly fraud. This is in line with the findings of previous studies, according to which misuse of EU funds is most apparent in funds managed by the MS, such as the Structural Funds and Pre-Accession Funds', rather than funds that are directly managed by the Commission.

At the same time, pre-award, a **lack of sector expertise** in some project selection committees led to unsuccessful results at a later stage (e.g. the cancellation of the project). Finally, the fact that the responsible and delegated authorities could act, at the same time, as awarding and executing bodies led to a lack of transparency in project selection.

In sum, the findings of this study suggest that **no additional controls – or resources for such control - are needed** in relation to the implementation of EU funds for migration. On the contrary, there has been extensive criticism of the burden and the workload generated by the Commission's control requirements in this field. However, there is room for **improving the management of the funds themselves and the existing resources spent on budget control** by putting in place some procedural safeguards and improving monitoring and evaluation activities.

6.5. RECOMMENDATIONS

6.5.1. How can the use of funds be improved?

1. The added value of EU funding for migration lies in supporting innovative actions, especially in the case of actions for the integration of the TCNs and for vulnerable groups of asylum seekers like unaccompanied minors. Hence, they should concentrate on specific innovative projects rather than funding the regular activities of the MS.

2. The allocation of funds should be based on future needs rather than past experience. In practice, this means they need to be based on forecasts of migration trends. While 'fixed allocations' per country do not encourage burden sharing, proportionally allocated resources benefit 'countries with large absolute numbers' over 'countries with much greater relative burdens (e.g. relative to population or size of GDP).
3. The implementation of the funds should be guided by improved monitoring and evaluation systems based on baseline indicators, progressive benchmarks and quantifiable objectives. This is supported by a 2014 Court of Auditors report which concludes that "serious deficiencies in the monitoring and in the ex-post evaluations by the Commission and Member States are making the measurement of the funds' overall results impossible".

6.5.2. How can the role of agencies be enhanced?

4. Both agencies could better contribute to the prevention and fight of criminal infiltration through closer collaboration with EUROPOL in the field of smuggling and trafficking of human beings.
5. The financial and professional resources allocated to both agencies need to be increased. If the agency budgets cannot be increased sufficiently to enable them to comply with their mandate, it could be explored whether they should be allowed to apply to the EU migration funds for additional resources. For instance FRONTEX could apply to the ISF to conduct joint return operations and EASO could apply to the AMIF to conduct projects that benefit refugees. However this would require, a modification of the current financial regulations and would therefore only be an option in the long term.
6. In order to achieve a common EU approach, the reception, identification, referral, integration and return of migrants should be considered as different steps of a single process. Consequently more integration between FRONTEX and EASO activities is needed. In the long term, it could be considered whether the two agencies should be merged.

6.5.3. How can implementation, management and control of EU funds for migration be improved?

7. The Commission should put in place a system of incentives to improve the implementation of the funds. A 'performance reserve' which links financial allocation under the funds to results, similar to what already exists for the Structural Funds, should be considered. Under such a system, Member States could identify programmes they feel should receive a reward, and submit details to the Commission for evaluation.
8. During the implementation of the funds when the Responsible and Delegated authorities act as executing bodies, any funding applications that they submit, have to be considered by an independently appointed body. Less discretion should be left to MS in this area and the Commission should provide clearer rules on the project selection procedure and eligibility rules.
9. Integrity and professionalism must be taken into account in the selection of members of the evaluation committees. Moreover, when possible, a member who is external to the procurement team should be involved in project selection.

10. The members of committees, namely, public officials, temporary staff and external experts, should be always subject to background and reference checks to verify their integrity, objectivity, confidentiality, competence, authority, responsibilities and independence.
11. Public procurement procedures and calls for proposals should be based on standard principles of transparency, equal treatment, programming, eligibility criteria, non-cumulation, non-retroactivity, co-financing, no-profit rule, conflicts of interest.
12. Pre- and post-grant award, corruption risk management should not only focus on the main contractor and beneficiaries, but also on their subcontractors and others involved in the execution of the contract.
13. It should be considered whether a shortlist of accredited NGOs can be developed. Accreditation could take the form of an anti-corruption certification. This should ensure a proper screening of contractors and beneficiaries, especially their ultimate beneficiary owners. Of course it is important to ensure that such an accreditation procedure does not create significant additional burdens, prevent small but innovative local organisations from participating, or reduce the flexibility of the funds to respond to crises.
14. In addition, any tasks to be carried out by subcontractors should always be specified in a contract and in the work-plan of the project. A detailed budget for the activities specifying the direct and indirect costs of the action should be agreed with the main contractors and related supporting documentation should be held by the subcontractor.
15. Procurement information, information on projects carried out, information on all beneficiaries and information about the results of investigations into irregularities and fraud should be publicly available.
16. Audits and evaluation activities should always be performed by independent external organisations according to EU-wide audit and evaluation standards, where prevention of corruption is one of the objectives and results are shared, also between Member States.
17. The establishment of a digital platform to report cases of corruption and fraud could facilitate investigations, help to estimate the financial losses stemming from illegal activities, and prevent or reduce potential misuse of EU funds for migration. The platform should be based on the whistleblowing model (i.e. the anonymous disclosure by a person, usually an employee in a government agency or private enterprise, to the public or to those in authority, of mismanagement, corruption, illegality, or some other wrongdoing).

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ANNEX

INTERVIEW GUIDELINE

| QUESTIONS | ANSWERS |
|---|---------|
| BACKGROUND INFORMATION | |
| Please describe your role in your organisation | |
| What activities related to EU Funds for migration policies does your organisation perform? | |
| NATIONAL ORGANISATIONAL AND MANAGEMENT MODEL OF THE EU FUNDS FOR MIGRATION | |
| <p><i>What are the funds used?</i></p> <p><i>What is the available budget allocation?</i></p> <p><i>What are the organizational structure, competences and mandates of the organizations involved in the management of the funds?</i></p> <p><i>What is the fund monitoring logics, performance measurement, assessment process?</i></p> <p><i>Can you describe the auditing and budgetary control system?</i></p> | |
| COLLECTION OF PRACTICES IN THE USE OF EU MIGRATION FUNDS | |
| <p><i>What practices are there in the use of EU migration funds in your country?</i></p> <p><i>Are you aware of bad practices in the use of funds?</i></p> <p><i>Are you aware of cases of fraud/corruption in the use of the funds?</i></p> <p><i>Are you aware of cases of criminal organisations diverting the funds?</i></p> <p><i>If yes, what are the factors that facilitate the diversion of the funds?</i></p> <p><i>What are the main factors of risk?</i></p> <p><i>Are there any measure to mitigate the risk of illicit activities?</i></p> <p><i>Is there any evidence of their effectiveness?</i></p> <p><i>What are OLAF's recommendations to identify, define and eliminate criminal practices resulting from the involvement of organised crime in irregular migration?</i></p> | |
| <p><i>Are you aware of good practices?</i></p> <p><i>What are their success factors?</i></p> <p><i>Is the auditing and control system effective in preventing and/or detect misuses of the funds?</i></p> <p><i>Is the cooperation among actors affective to prevent bad practices?</i></p> | |

| QUESTIONS | ANSWERS |
|--|---------|
| <p><i>Can you mention one case for bad practice and one case of good practice?</i></p> <p><i>Are these practices only related to EU funds for migration?</i></p> | |
| THE ROLE OF THE EU AGENCIES | |
| <p><i>What are the costs/benefits associated with the work of EASO?</i></p> <p><i>Is EASO resulting in better quality, more consistent asylum decisions across the EU?</i></p> <p><i>Is EASO resulting in more effective and efficient collaboration on asylum by Member States e.g. by avoiding duplication of efforts?</i></p> <p><i>How is EASO addressing criminal infiltration due to the migration flows?</i></p> <p><i>How can the results of the agency be improved?</i></p> <p><i>What is the mandate of FRONTEX?</i></p> <p><i>How can FRONTEX carry out its mission in compliance with the EU Charter of Fundamental Rights?</i></p> <p><i>How can the results of the agency be improved?</i></p> | |
| CLOSING REMARKS | |
| <p><i>What would suggest to improve the current situation?</i></p> | |
| <p><i>Are you aware of recent articles, reports or studies on consumer vulnerability in your country?</i></p> | |
| <p><i>Which other organisations or individuals in your country should we consult with regard to use of EU Funds for migration, especially with regards to auditing and budget control system?</i></p> | |
| <p><i>Do you have any additional remarks? Is there something that was not covered?</i></p> | |

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