



## Part III: The Challenges Ahead

The EU on the International Stage: Immigration and Asylum – reforming the Dublin System; a common security and defense policy?

# Three pillars of the EU





# Area of Freedom, Security and Justice

- Article 67 TFEU;
- Covers the following matters: border checks, asylum and immigration; judicial cooperation in civil matters; judicial cooperation in criminal matters; and police cooperation;
- The current Area of Freedom, Security and Justice has a **double dimension**:
  - Internal: ***absence of internal border controls*** (between the Member States) for persons;
  - External: ***common policy on asylum, immigration and external border control***, based on commonly agreed principles;
- The **Common European Asylum System** offers a good example of the institutional changes that have occurred.



## Article 18 Charter of fundamental Rights (Right to asylum)

*The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty establishing the European Community.*



# The Dublin System



- Principle: Member States share a fundamental core of common values that enable a **joint approach** based on **mutual trust** and the **mutual recognition of decisions**, with the aim of ensuring a **high level of protection for refugees**, through fair, effective and swift procedures, appropriate means of redress and mechanisms for preventing abuse;
- The Dublin III Regulation (Regulation (EU) No.604/2013) provides the criteria and mechanisms for determining which country is responsible for examining an application for international protection (asylum claim) lodged in one of the Member States by a third country national or a stateless person and to make sure that each claim gets a fair examination in one Member State, regulates the **procedures for examining applications** and the **guarantees** and **rights of appeal** available to the persons concerned, including asylum seekers, children and other family members;
- The objective of the Dublin III Regulation is to ensure quick access to the asylum procedures and the examination of an application on the merits by a single, clearly determined EU country (Article 3(1));
- For a number of years, the system has proved its effectiveness.

# Reform of the Dublin System

- With the large-scale, uncontrolled arrival of migrants and asylum seekers, the Dublin system came **under considerable political, technical and humanitarian pressure**;
- This is why the European Commission proposed to revise and replace the current asylum instruments, with the aim of **improving the management of migration flows** and **speeding up decision making**, while encouraging the **fair sharing of responsibilities** between Member States, based on the **principle of solidarity** enshrined in **Article 80 TFEU**;
- The new proposal included an **automatic mechanism** making it possible to establish objectively, on the basis of the size and resources of each country, the moment at which a Member State is faced with a disproportionate number of asylum applications, thus enabling responsibility to be reassigned to another Member State;
- However, so far, the Member States were unable to agree on a common approach and the negotiations stalled.



# Temporary protection

- Temporary protection is an exceptional measure to provide immediate and temporary protection in the event of a mass influx or imminent mass influx of displaced persons from non-EU countries who are unable to return to their country of origin;
- The Temporary Protection Directive (Directive 2001/55/EC) provides a tool for the EU to address such situations;
- Adopted following the conflicts in former Yugoslavia, the Directive was triggered for the first time by the Council in response to the unprecedented Russian invasion of Ukraine on 24 February 2022 to offer quick and effective assistance to people fleeing the war in Ukraine, since the asylum systems of EU countries would be unable to process applications within the deadlines set (Council implementing decision 2022/382);
- The Directive defines the decision-making procedure needed to trigger, extend or end temporary protection and lists the rights for beneficiaries of temporary protection;
- To better explain and clarify the provisions of the Directive and the Council implementing Decision in the context of granting temporary protection to people fleeing the war in Ukraine, on 21 March 2022 the Commission issued Operational guidelines;





# The Common Foreign Security and Defence Policy

- **Common Foreign and Security Policy** → strengthening the European presence in the world, conveying the values of democracy, the rule of law and individual freedoms; aimed at preserving international peace and security;
- **European External Action Service** → created by the Treaty of Lisbon, with more than 140 delegations - with diplomatic status - spread around the world. The head of this service is the High Representative for Foreign Affairs and Security Policy;
- **Common Security and Defence Policy** → provision of civilian and military resources by the Member States, relationship with NATO, mutual defence clause provided for in Article 42(7) of the TEU, solidarity clause of Article 222 TFEU;
- **Permanent Structured Cooperation** → established by Articles 42 and 46 TEU;
- **European Defence Agency** → improve the military capabilities of the Union, namely by strengthening the industrial and technological base of the European defense sector and by defining common goals;
- **Common European Defence Policy** → development of defence capabilities, investment in projects that can contribute to the strategic autonomy of the Union by strengthening its defence industrial and technological base.





# The wind has changed in Europe

- The feeling of need and vulnerability provoked by the attack on Ukraine now make more credible - and necessary - the effort to develop a foreign and defence policy capable of ensuring the degree of security that European citizens need;
- It is crucial that close relations with other organisations, first and foremost NATO, are ensured and that high levels of cooperation, interoperability and dialogue are maintained;
- For now, only Hungary seems reluctant, and even hostile, to the goal of strengthening the Union's defence capability, especially towards Russia.



