INTRODUCTION

The ‘Dublin’ system, which allocates responsibility for determining asylum claims among European Union (EU) and selected other European States, is seen by its supporters as a ‘cornerstone’ of the Common European Asylum
System (CEAS). Its detractors, by contrast, point to the significant problems that have been documented in its operation, including its negative impact on the lives of many individual asylum-seekers and their families – but also for its failure to further the objective of solidarity and fair sharing of responsibility for asylum within the EU which the Treaties require.

This chapter argues that the Dublin system exemplifies a tension which exists between the perspectives of different Member States on solidarity for asylum in the EU, including the circumstances where it is needed or deserved, and the extent to which it should be conditioned upon a demonstration of readiness to assume responsibility for fulfilment of EU obligations. It examines the aims and impact of Dublin in light of available evidence on its application, including areas where serious questions arise about the compatibility of practice under Dublin with fundamental rights obligations under international and European law. The chapter also describes selected EU measures associated with the concept of solidarity for asylum in the EU, aimed at redressing imbalances and gaps in the CEAS, including some arguably caused or exacerbated by Dublin. In conclusion – it considers their potential for ensuring higher standards of protection and fairer sharing of responsibility for international protection and fundamental rights in the EU.

The Dublin system originated as a measure to manage the effects of free movement across internal borders within the Schengen zone, and particularly the movement of asylum-seekers. However, today it produces a number of perverse and unintended effects, including intense suffering for many individuals and families subject to the system, without effectively controlling the movement of asylum-seekers across borders. Given the small proportion of asylum-seekers effectively transferred under Dublin, the intense political focus on the system could be seen to distract attention and resources from the major challenge of ensuring that Member States’ national asylum systems function

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4 For a detailed analysis of the original Schengen Convention of 1990 and its provisions on responsibility for asylum applications within the border-free Schengen area, as well as the Dublin Convention which overtook it, see G. Noll, *Negotiating Asylum: The EU Acquis, Extraterritorial Protection and the Common Market of Deflection* (Martinus Nijhoff 2000) Chapter 4. A description and analysis of the history of the Dublin Regulation within the EC/EU legal order, see A. Hurwitz, *The Collective Responsibility of States to Protect Refugees* (OUP 2009).