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UN & CoE

January

25 January – In *J.R. and Others v. Greece* (No. 22696/16), the ECtHR holds that Greece violated the right to be informed promptly of the reasons for arrest (Article 5 (2) of the ECHR) when detaining three migrants on the island of Chios

26 January – CoE Steering Committee for Human Rights (CDDH) publishes analysis on alternatives to immigration detention

February

1 February – In *M.A. v. France* (No. 9373/15), the ECtHR finds that France failed to comply with an interim measure indicated by the court under Rule 39 of its rules when expelling a migrant in an irregular situation to Algeria

7 February – UN Working Group on Arbitrary Detention adopts its Revised Deliberation No. 5 on deprivation of liberty of migrants

26 February – CoE Special Representative on Migration and Refugees publishes first activity report

March

1 March – UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment publishes report on migration-related torture and ill-treatment. The report finds that increasingly obstructive laws, policies and practices have pushed migrants towards irregular pathways and methods marked by an escalating prevalence of torture and ill-treatment

7 March – CoE's Committee of Ministers adopts the Gender Equality Strategy for the years 2018-2023, which includes a specific objective to protect the rights of refugee and asylum-seeking women and girls

23 March – Global Migration Group and UN Office of the High Commissioner for Human Rights publish the UN Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations, endorsed by the UN Human Rights Council

28 March – CoE's Congress of Regional and Local Authorities adopts a recommendation on the role and responsibilities of local and regional authorities regarding unaccompanied refugee children

April

10 April – In *Bistieva and Others v. Poland* (No. 75157/14), the ECtHR holds that Poland violated the right to respect for private and family life (Article 8 of the ECHR) by detaining a Russian national and her three underage children for almost six months in a secure centre and failing to justify the reasons for doing so

26 April – In *Hoti v. Croatia* (No. 63311/14), the ECtHR finds that not providing for an effective and accessible procedure to enable a stateless migrant to resolve his residence status constitutes a violation of the right to respect for private and family life (Article 8 of the ECHR)

May

4 May – UN Special Rapporteur on the human rights of migrants publishes report on return and reintegration of migrants

June

7 June – UN Security Council imposes sanctions (travel ban and asset freeze) on certain human traffickers and smugglers operating in Libya

27 June – CoE's Parliamentary Assembly adopts a resolution and a recommendation on the international obligations of CoE member States to protect life at sea

July

August

September

6 September – CoE Special Representative of the Secretary General on Migration and Refugees publishes a report on the fact-finding mission to Spain

18 September – European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) publishes its report on the situation in the two transit zones in Hungary

26 September – CoE Special Representative of the Secretary General on Migration and Refugees publishes a progress report on the implementation of the Action Plan for 2017-2019 concerning refugee and migrant children in Europe

October

11 October – CoE's Parliamentary Assembly adopts a resolution and a recommendation on family reunification of refugees and migrants in the CoE member States

November

December

11 December – In *M.A. and Others v. Lithuania* (No. 59793/17), the ECtHR finds that border guards' failure to accept asylum applications by a Chechen family of seven at the Lithuanian border violated the prohibition of torture and inhuman or degrading treatment (Article 3 of the ECHR) and the right to an effective remedy (Article 13 of the ECHR)

11 December – Intergovernmental Conference adopts the UN Global Compact for Safe, Orderly and Regular Migration, which is then endorsed by the UN General Assembly on 19 December

17 December – UN General Assembly endorses the Global Compact on Refugees, prepared by the UN Refugee Agency (UNHCR)

20 December – UN High Commissioner for Human Rights and the UN Support Mission in Libya publishes report on the human rights situation in Libya, finding that "[m]igrants and refugees suffer unimaginable horrors during their transit through and stay in Libya"

EU

January

16 January – In *E (C-240/17)*, the CJEU clarifies how the consultation procedure in cases where a return decision with an entry ban is issued to a third-country national, who holds a valid residence permit issued by another Member State, should be initiated and under which conditions the return decision and entry ban can be enforced

25 January – In *F v. Bevándorlási és Állampolgársági Hivatal (C-473/16)*, the CJEU holds that the Qualification Directive (2011/95/EU), read in the light of the right to respect for private and family life (Article 7 of the Charter), does not allow national authorities to use psychological tests to assess an asylum seeker's claim of homosexuality

February

March

14 March – European Commission puts forward proposals to reform the EU Visa Code

14 March – European Commission sets out the main elements for developing the European Integrated Border Management Strategy

April

17 April – European Commission presents proposal on strengthening the security features of ID cards and other documents

18 April – European Commission and OECD publish a checklist to support local, regional and national authorities in migrant integration

May

16 May – European Commission presents its proposals on the reformed Visa Information System (VIS) and the recast regulation on the creation of a European network of immigration liaison officers (ILOs)

June

12 June – European Commission publishes an interim evaluation of the EU Asylum, Migration and Integration Fund and the Internal Security Fund

19 June – In *Gnandi v. État belge (C-181/16)*, the CJEU rules that a return decision can be adopted before the deadline for appealing asylum decisions expires or pending judicial review but only if that Member State suspends the return decision's legal effects until the outcome of the appeal, and if the person can rely on any change of circumstances after the adoption of the return decision

28 June – Conclusions of the European Council set out actions to reduce irregular migration and improve orderly processing of migrants rescued at sea

July

5 July – In *C and Others (C-269/18 PPU)*, the CJEU explains that asylum seekers whose application was rejected at the first instance as manifestly unfounded must not be detained for the purpose of return as long as it is not established whether they can stay in the Member State while their appeal against the first instance negative asylum decision is pending

August

September

12 September – European Commission presents its proposals on the reformed European Border and Coast Guard and the recast Return Directive (2008/115/EC)

12 September – European Commission presents its amended proposal on the EU Agency for Asylum (focusing on the agency's operational and technical assistance and its role in the Migration Management Support Teams)

12 September – European Commission publishes first evaluation of the European Border Surveillance System (EUROSUR)

12 September – EU adopts Regulation (EU) 2018/1240 establishing a European Travel Information and Authorisation System (ETIAS)

26 September – In *X v. Belastingdienst/Toeslagen (C-175/17)* and *X and Y v. Staatssecretaris van Veiligheid en Justitie (C-180/17)*, the CJEU finds that Member States are required to set up at least one level of judicial review against a negative asylum decision with automatic suspensive effect but are not required to provide for a second level of appeal

October

4 October – In *Bahtiyar Fathi v. Predsedatel na Darzhavna agentsia za bezhantsite (C-56/17)*, the CJEU holds that an applicant who sought asylum on religious grounds does not have to provide evidence to support all elements included in the concept of "religion" to substantiate his beliefs. It is sufficient if the asylum seeker supports the claim in a credible manner

November

14 November – EU adopts Regulation (EU) 2018/1806 on the lists of the third countries whose nationals must have visas to come to the EU

14 November – EU adopts Regulation (EU) 2018/1726 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)

28 November – EU adopts three new Regulations amending the Schengen Information System (SIS)

December

6 December – JHA Council adopts conclusions to step up the fight against migrant smuggling networks

13 December – In *Bundesrepublik Deutschland v. Touring Tours und Travel GmbH & Sociedad de Transportes SA (joined cases C-412/17 and C-474/17)*, the CJEU finds that the Schengen Borders Code precludes Member States from requiring coach transport operators to check passengers' passports at the start of intra-Schengen cross-border journeys and to impose on them sanctions for infringement of that obligation

21 December – Council decision (CFSP) 2018/2055 extends the mandate of the European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED operation SOPHIA) until 31 March 2019

6

Asylum, visas, migration, borders and integration



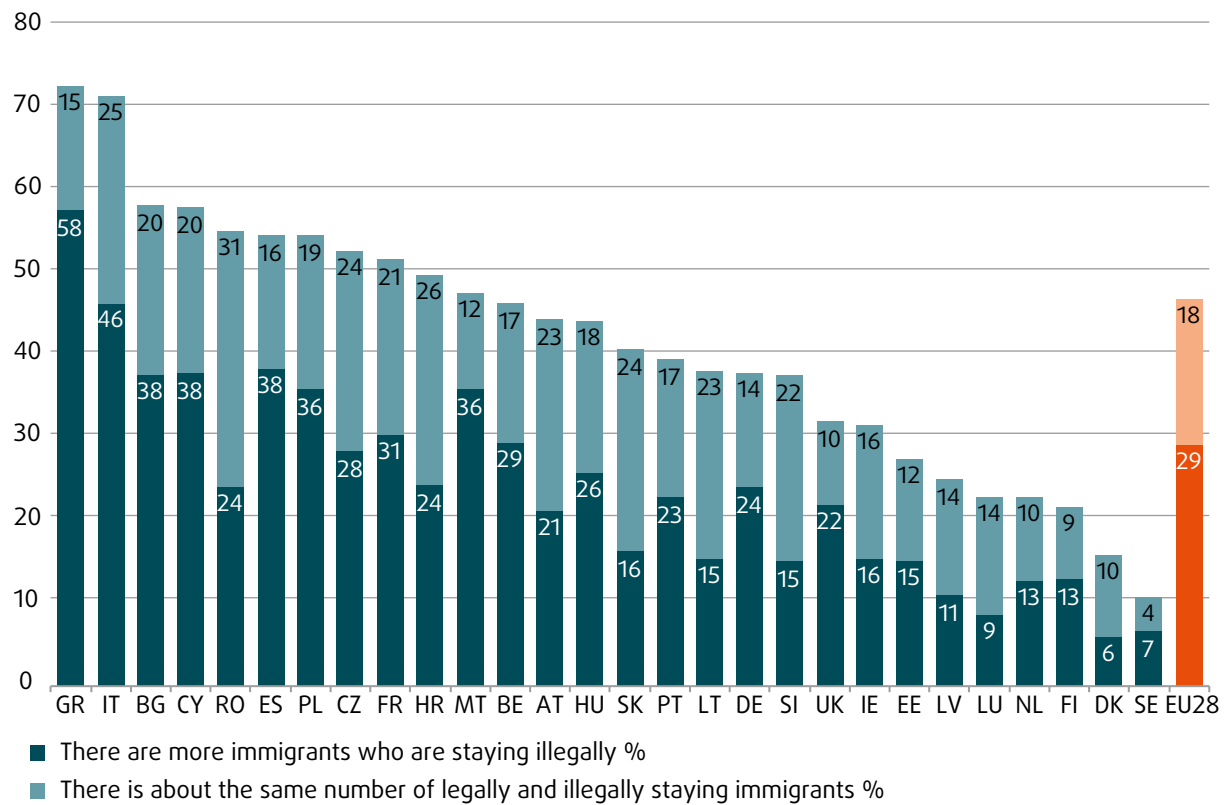
As global displacement numbers remained high, arrivals to the European Union (EU) continued to drop. Attempting to cross the Mediterranean Sea remained deadly, with an estimate of 2,299 fatalities in 2018. Allegations of refoulement and of police mistreating migrants and refugees persisted. In June, European leaders called for a comprehensive approach to migration, with a strong focus on stemming irregular migration, including unauthorised movements within the EU. Diverse large-scale IT systems – most of which involve processing biometric data – were both introduced and further developed. Meanwhile, the integration of refugees who arrived in 2015-2016 made progress despite diverse hurdles.

Although various civil society initiatives throughout the European Union aim to support and welcome migrants, Europe's population overall is concerned about migration, even more so when it is irregular. Results of a Eurobarometer survey published in April 2018 show that nearly four in ten Europeans (38 %) think that immigration from outside the EU is more of a problem than an opportunity, although this varies significantly by country.¹ At the same time, Europe's population is misinformed. Many largely overestimate the scale of irregular migration: almost half of Europe's population (47 %, as shown in [Figure 6.1](#)) believes that there are more or at least as many migrants in an irregular situation in their Member State as there are

migrants who are there lawfully.² However, Eurostat reports that 37 million people in the EU were born in a third country;³ migrants in an irregular situation are estimated to total between 1.8 – 3.9 million.⁴ The misperception tends to be higher in Central and Southern Europe (see [Figure 6.1](#)).

Concerns related to migration affected different policies and practices in 2018. This year's chapter covers the situation at the border, large-scale EU information technology systems, and refugee integration, given that return policies were covered in the last years' reports.⁵

Figure 6.1: Europe’s population’s perception of extent of irregular migration, EU-28



Notes: Question: ‘Generally speaking, would you say that there are more immigrants who are staying legally or staying illegally in [YOUR COUNTRY]?’
 The figure starts with EU Member States with the most respondents who believe that the number of migrants in an irregular situation is higher or equal to that of regular migrants.
Source: FRA, 2019 [based on European Commission, Special Eurobarometer 469, published in April 2018]

6.1. Fundamental rights under threat at borders

As arrivals to the EU continued to drop, globally, the number of displaced persons remained at a record. According to the European Border and Coast Guard Agency, some 150,000 people entered EU territory irregularly in 2018 (compared to some 200,000 in 2017). In 2018, the agency for the first time began to collect detailed data on gender and age: Women accounted for 18 % of all irregular entries across the external EU border. Nearly one in five of the detected migrants were registered as children, with some 3,750 as unaccompanied children. Some 57,000 people crossed into Spain (twice as many as 2017) – it replaced

Italy and Greece as the main country of arrival on the EU’s external borders last year; and some 56,500 people entered through the Eastern Mediterranean route, mainly to Greece (a third more than last year). The number of departures from Libya dropped by 87 % compared to 2017.⁶ In spite of lower numbers, fundamental rights challenges persisted.

6.1.1. Situation in the Mediterranean remains unresolved

As shown in [Figure 6.2](#), some 2,299 people are estimated to have died or gone missing at sea in 2018 while crossing the sea to reach Europe to escape war or persecution or to pursue a better life.⁷ This is on average more than six people per day.

Figure 6.2: Estimated fatalities at sea in West, Central and East Mediterranean regions, 2018



Note: Total number of estimated fatalities in 2018: 2,299 persons.

Source: International Organization for Migration, 2019

Huc pauci vestris adnavimus oris.

Quod genus hoc hominum? Quaeve hunc tam barbara morem

permittit patria? Hospitio prohibemur harenae;

bella cient primaque vetant consistere terra.

Si genus humanum et mortalia temnitis arma,

at sperate deos memores fandi atque nefandi

Virgil: Aeneid I, 538-543

'Those few you see escap'd the storm, and fear,
Unless you interpose, a shipwreck here.
What men, what monsters, what inhuman race,
What laws, what barb'rous customs of the place,
Shut up a desert shore to drowning men,

And drive us to the cruel seas again?
If our hard fortune no compassion draws, Nor hospitable
rights, nor human laws, The gods are just, and will
revenge our cause.'

[Translation made available by [The Project Gutenberg](http://www.gutenberg.org).]

With international support, the Libyan authorities increased their capacity to coordinate and carry out rescue operations. In 2018, the Libyan Coast Guard rescued or intercepted almost 15,000 refugees and migrants at sea, according to UNHCR,⁸ which is more than

the approximately 13,000 persons who left Libya and reached **Italy**.⁹ The change of disembarkation policies also affected commercial vessels: for the first time in the recent past, in July 2018, an Italian commercial vessel ('Asso 28') brought some 108 migrants rescued at sea back to Libya following instructions given by the Libyan Coast Guard who coordinated the operation after having been informed by the Italian authorities.¹⁰ Rescued migrants and refugees who are brought back to Libya face indefinite detention, frequent torture, and other forms of ill-treatment in centres unfit for humans.¹¹ In spite of this, the European Council underlined that all vessels operating in the Mediterranean must not obstruct operations of the Libyan Coast Guard.¹² **Italy** offered vessels, funds and expertise to enhance Libya's rescue capacity.¹³

Before mid-2017, most rescued migrants disembarked in **Italy**, many after having been rescued by civil society vessels deployed with a humanitarian mandate to reduce fatalities and bring rescued migrants to safety.¹⁴ In 2018, some authorities viewed civil society-deployed rescue vessels with hostility. They seized rescue vessels – for example, the 'Iuventa' and 'Open Arms' in Italy – arrested crew members, and initiated legal procedures against them. In some cases, rescue vessels were blocked in harbours due to flag issues (e.g. the 'Lifeline', 'The Sea Eye' and 'Sea Watch' in **Malta**).¹⁵

FRA ACTIVITY

Eye on civil society contribution to search-and-rescue operations

In October 2018, FRA published a note entitled “Fundamental rights considerations: NGO ships involved in search and rescue in the Mediterranean and criminal investigations”. The note draws attention to the recent trend of initiating criminal proceedings against non-governmental organisations (NGOs) or other private entities deploying rescue vessels. This includes seizing rescue vessels; denying them permission to leave the ports due to purported registration issues in the flag State; as well as arresting crew members, in some EU Member States. These actions resulted in most NGOs stopping their operations by the end of the year. Most court cases initiated, however, ended in acquittals or were discontinued due to a lack of evidence.

The note is available on FRA's website.

Delays in disembarkation put at risk the safety and physical integrity of rescued migrants and refugees. As showed in Table 6.1, FRA identified at least 16 cases where migrants and refugees had to remain at sea – in nine cases for a week or more – until the national authorities allowed the rescue ship to dock. In most cases, migrants were only allowed to disembark after some EU Member States agreed among themselves to accept shares of the arriving migrants. These incidents do show that solidarity between EU Member States is in principle possible – but its implementation outside a legal framework also creates challenges. For example, a few of the migrants who disembarked in Pozzallo in July 2018 were still waiting for their transfer to Germany in mid-March 2019.

Table 6.1: Vessels that were not immediately allowed to disembark migrants in 2018

Ship	No. of migrants		Days spent at sea	Date and place of disembarkation	EU Member State that pledged to relocate some of the migrants
	Total	Children			
'Diciotti' (state vessel)*	520	14 AC 103 UAC	Up to 8 days	20 June 2018 Pozzallo (Italy)	No
'Aquarius' (NGO vessel)	629	130 UAC	10 days	17 June 2018 Valencia (Spain)	France
'Alexander Maersk' (cargo vessel)	113	3 AC 13 UAC	4 days	26 June 2018 Pozzallo (Italy)	No
'Lifeline' (NGO vessel)	234	8 UAC	6 days	27 June 2018 Malta	Belgium, France, Ireland, Italy, Luxembourg, the Netherlands, Portugal and Norway.
'Open Arms' (NGO vessel)	60	2 AC, 3 UAC	4 days	4 July 2018 Barcelona (Spain)	No
'Vos Thalassa'	67	4 AC 3 UAC	6 days	12 July 2018 Trapani (Italy)	No
'Protector' and 'Monte Sperone' (state vessels)	378 (out of a total of 447 rescued)	18 AC, 113 UAC	4 days	16 July 2018, Pozzallo (Italy); rest were medically evacuated	Germany, France, Ireland, Malta, Portugal Spain
'Open Arms' (NGO vessel)	87	2 AC, 9 UAC	7 days	9 August 2018 Algeciras (Spain)	France
Armed Forces of Malta OPV P61	114	1 AC	1 day	13 August 2018 Malta	Germany, France, Spain, Portugal
'Aquarius' (NGO vessel)	141	4 AC 19 UAC	4 days	15 August 2018 Malta	France, Germany, Portugal, Spain and Luxembourg

Ship	No. of migrants		Days spent at sea	Date and place of disembarkation	EU Member State that pledged to relocate some of the migrants
	Total	Children			
'Diciotti' (state vessel)	150	29 UAC	10	26 August 2018 Catania (Italy) 13 persons evacuated to Lampedusa	Ireland and Albania
'Aquarius' (NGO vessel)	58	1 UAC	7 - 10 days (two rescue operations)	30 September 2018 Malta	France, Germany, Portugal, Spain
'Nuestra Madre de Loreto' (fishing vessel)	9	2	10 days	2 December 2018 Malta	Spain
'Open Arms' (NGO vessel)	311	15 AC 123 UAC	7 days	28 December 2018 Algeciras (Spain)	No
'Sea Watch 3' (NGO vessel)	32		18 days	9 January 2019 Malta	France, Portugal, Netherlands, Italy, Romania, Luxembourg, Germany, Ireland and Slovenia
MV 'Professor Albrecht Penck' (NGO vessel)	17	3 AC 1 UAC	12 days		

Notes: AC = accompanied children; UAC = unaccompanied children; number of children is approximate. Date of disembarkation corresponds to day of completion of the operation, when available.

* One search-and-rescue operation conducted by 'Diciotti' and three transshipments (two cargo ships, and the US Navy vessel Trenton). People departed from Libya on 11-12 and 13-14 June.

Source: FRA, 2019 [based on various sources, including NGOs, state authorities and international organisations]

In June, the European Council¹⁶ suggested exploring the establishment of "regional disembarkation platforms" outside EU territory in close cooperation with third countries as well as UNHCR and IOM. These two organisations proposed a mechanism for predictable disembarkation of persons rescued in international waters which, however, also envisaged disembarkations in EU Member States' territory.¹⁷ Practical obstacles – no agreement on what to do with the rescued persons and the absence of any volunteering third countries – as well as legal questions on how to ensure fair individual processing and respect for the principle of *non-refoulement*, have so far hindered implementation of the European Council proposal.

Migrants and refugees who die when crossing the sea in unseaworthy boats to reach Europe and those who are left at sea while Member States disagree on a safe port highlight an alarming and unresolved gap in the EU's protection of fundamental rights.

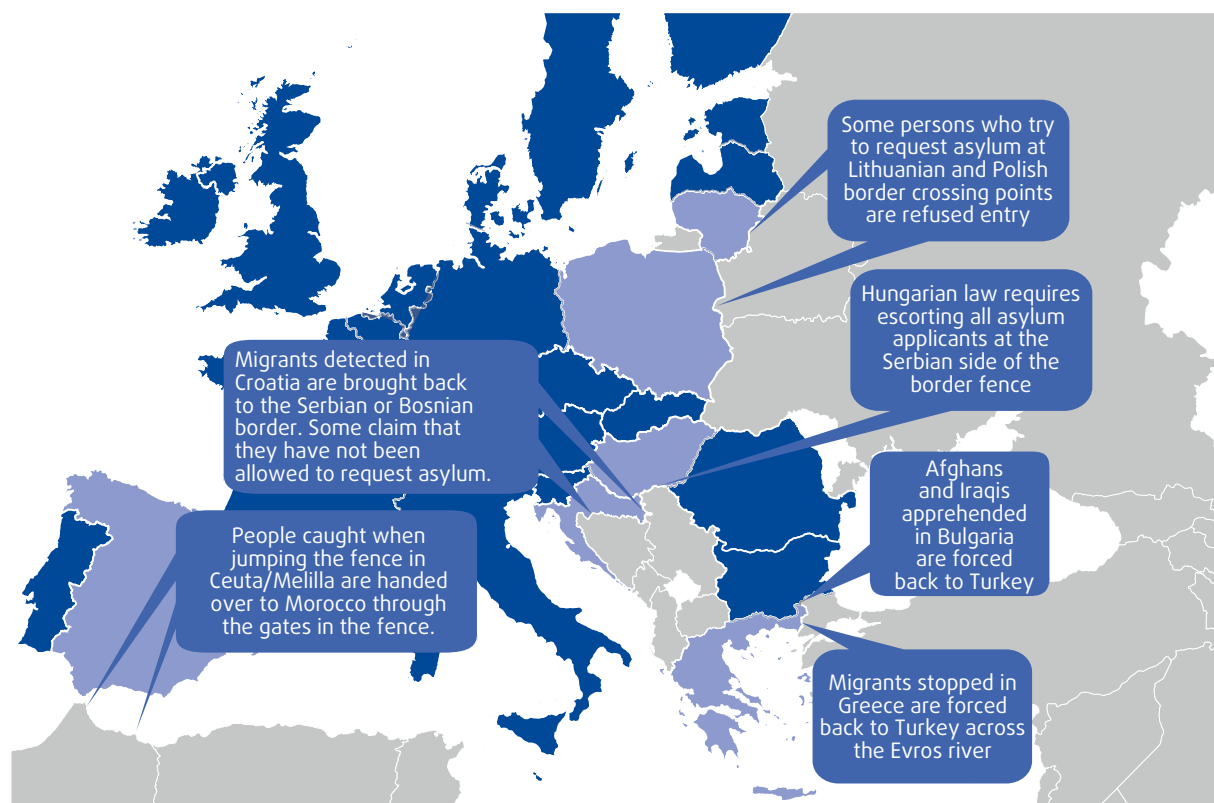
6.1.2. Allegations of *refoulement* at EU's external borders increase

International refugee and human rights law prohibit the return to a risk of persecution and the return to a risk of torture, inhuman or other degrading treatment or punishment. EU primary law reflects

such prohibition of *refoulement* in Article 78 (1) of the Treaty on the Functioning of the EU (TFEU) and in Articles 18 and 19 of the EU Charter of Fundamental Rights. The principle of *non-refoulement* also applies when authorities turn back people who have reached the EU's external borders or at high seas.¹⁸

In 2018, international organisations, national human rights institutions and civil society organisations reported allegations of violations of the principle of *non-refoulement* from different sections of the EU's external land and sea border. Figure 6.3 lists the Member States' borders where the alleged incidents happened. In **Bulgaria**, **Croatia** and **Greece**, cases relate to migrants and refugees apprehended after having crossed the border outside official border crossing points.¹⁹ **Hungarian** law entitles the authorities to escort all migrants in an irregular situation apprehended in Hungary to the outer side of the border fence, whereas they are obliged to do so with those who express the intention to apply for asylum.²⁰ In **Poland** and **Lithuania**, court cases concerned individuals who tried unsuccessfully to seek international protection at land border crossing points.²¹ In **Spain**, applicable law allows the "rejection at the border" of any third-country national detected when entering the enclaves of Ceuta and Melilla in an irregular manner;²² in practice, this means that these persons are apprehended and handed over by

Figure 6.3: Allegations of *refoulement* at the EU's external land and sea borders



Note: Allegations of *refoulement* at airports and at the EU's internal borders are not included.

Source: FRA, 2019

the Civil Guard to the Moroccan authorities through the gates that separate the enclaves from Morocco. There are asylum offices at the border-crossing points with Morocco, but these are only accessible for nationals from North Africa and the Middle East, as other nationalities are intercepted by Moroccan authorities before they reach the border.²³

The principle of *non-refoulement* is the core element of refugee protection. Not admitting or returning persons who express a wish to request asylum without first examining if they are in need of international protection is a serious violation of EU law.

6.1.3. Keeping asylum applicants at borders raises serious issues

In the last few years, the EU and some Member States explored ways to rationalise the processing of asylum applications by persons who were stopped at the border, intercepted or rescued at sea. FRA observes an emerging trend of processing applications for international protection while applicants are kept at the external land or sea border.

Greece, Hungary, and recently Italy enacted legislation to enable the authorities to examine asylum applications at the border while asylum applicants are obliged to remain there (either restricted to a geographical area as in Greece or confined to the transit zone, as in Hungary). In the past, similar border procedures existed only in some Member States to process abusive or manifestly unfounded applications for international protection submitted at airports.

Such approach could under certain conditions be an effective way to deal with abusive, manifestly unfounded or manifestly well-founded applications. However, the practices in Greece and Hungary show that it is very challenging to set up processing centres at land or sea borders that respect the rights protected by the EU Charter of Fundamental Rights.

In 2018, **Hungary** continued to implement its policy of processing asylum applications in the two transit zones at the border fence with Serbia.²⁴ Individuals in an irregular situation who are apprehended anywhere inside the country and wish to request international protection are escorted to the outer

side of the border fence. From there, they need to seek admission into the transit zone to lodge an application for international protection. The infringement procedure initiated by the European Commission against Hungary asserts that several aspects of this approach do not comply with the EU asylum and return *acquis*. These include the failure to provide effective access to asylum procedures and the indefinite detention of asylum applicants in transit zones without respecting the applicable procedural guarantees under EU asylum law.²⁵ In December 2018, the European Commission referred the case of Hungary to the CJEU.²⁶

Assisted by the European Asylum Support Office, the **Greek** Asylum Services continued to process certain categories of asylum applications in the “hotspots” established on the Eastern Aegean islands. This practice started in 2016, after the EU-Turkey statement.²⁷ In 2018, four of the five Greek hotspots were overcrowded, particularly in the second half of the year.²⁸ The reception conditions in the severely overcrowded hotspots on the islands of Samos and Lesbos were well below the minimum standards required by the Reception Conditions Directive (2013/33/EU).²⁹ This made a fundamental rights-compliant treatment of asylum applicants very challenging.³⁰ One of the reasons for the overcrowding is asylum applicants’ extended stay on the islands while they wait for their cases to be reviewed.

In contrast to Greece, hotspots established in **Italy** are used for fingerprinting, first registration, and security-screening purposes as well as for medical checks and identification of vulnerabilities.³¹ People usually stay in the Italian hotspots for one or two days before they are transferred, though longer stays of weeks sometimes occur. Legislative reforms adopted in 2018 will make it possible to confine migrants for up to 30 days in special facilities within the hotspots to establish the person’s identity or nationality as the authorities carry out accelerated asylum procedures.³²

In June 2018, the European Council suggested the creation of “controlled centres” for persons intercepted or rescued at sea.³³ The centres should enable the implementation of security checks and of rapid procedures for asylum and return, and be run by Member States on a voluntary basis. The European Border and Coast Guard Agency, the European Asylum Support Office and Europol as well as other relevant EU agencies – although FRA is not explicitly mentioned – would provide operational support and expertise.³⁴ The term “controlled” suggests some forms of deprivation or restriction of liberty which remain undefined.³⁵

6.1.4. Allegations of mistreatment at borders continue

Last year, FRA reported an increase in alleged mistreatment of migrants and refugees who crossed borders by circumventing border controls. This trend continued in 2018. Allegations of abusive behaviour by police or border guards concerned, in particular, Belgium, Croatia, France, Greece, and Italy.

In Croatia and Greece, allegations involved persons who crossed the EU’s external border, and were mistreated and pushed back across the border. Concerning **Croatia**, Save the Children reported that more than 1,350 children were pushed back across the EU’s borders between January and November 2018, involving violence in almost one third of cases.³⁶ When the Croatian Ombudswoman investigated the allegations, she was refused access to records on the treatment of migrants at a police station,³⁷ even though Article 5 of the Law on National Preventive Mechanisms grants the office access to all information about the manner in which persons deprived of liberty are treated.³⁸ In September, the Council of Europe’s Commissioner for Human Rights addressed a letter to the Croatian authorities, requesting them to investigate, among other things, alleged incidents of violence and theft by law enforcement authorities.³⁹ In **Greece**, the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) reported credible allegations of summary returns to Turkey via the Evros river, sometimes involving violence.⁴⁰ Civil society organisations published testimonies of people who entered Greece by land from Turkey in the Evros Region, several of whom said they were beaten and forced back to Turkey across the river in underwear after being stripped of their clothes.⁴¹

In **Belgium** and **France**, the alleged mistreatment involved people who intended to travel to the United Kingdom without authorisation. In Belgium, *Médecins du Monde* surveyed 440 persons; 51 of them presented credible allegations of police violence – inflicted, for example, when they refused to give their fingerprints.⁴² In Calais, civil society organisations reported police violence and the excessive use of tear gas or other sprays to avoid the establishment of informal camps.⁴³ According to the French authorities, investigations by the police and the public prosecutors were still ongoing based on a number of complaints. The French *Défenseur des Droits* criticised the police measures taken to disperse people to avoid the creation of “*points de fixation*”, noting, for example, that the police in Quistrehem regularly throw migrants’ firewood in the nearby canal.⁴⁴ At the French-Italian border in Ventimiglia,

Médecins sans Frontières Italy spoke to migrants whom France returned to Italy: 14 migrants said that they had suffered violence from the **Italian** police and nine from the **French** gendarmerie.⁴⁵ However, neither the French nor the Italian authorities received formal complaints on these allegations.

6.1.5. People helping migrants face intimidation

In its 2018 Fundamental Rights Report, FRA expressed serious concern about the intimidation of humanitarian workers and volunteers who support migrants in an irregular situation.⁴⁶ Authorities continued to use intimidation techniques targeting not only civil society rescue vessels deployed in the Mediterranean (see [Section 6.1.1](#)), but also volunteers and NGOs active in the EU.

For example, in **Belgium**, two journalists, a social worker, and a fourth person faced trial because they had given shelter or otherwise supported migrants. The fourth person spent eight months in pre-trial detention; the social worker spent two months there, having to stop breastfeeding her new-born son.⁴⁷ In **Italy**, a man was given a suspended nine-month imprisonment sentence and a suspended fine for unknowingly driving migrants in an irregular situation from France to Italy through a car-sharing service.⁴⁸ **French** human rights institutions noted increasing penalisation of humanitarian activities that support migrants, particularly those operating near Calais or in proximity of the Italian border.⁴⁹ The case of a French farmer who helped migrants and asylum seekers who had crossed into France from Italy prompted the Constitutional Council to rule that the freedom to help others out of humanitarian considerations can be inferred from the constitutional “principle of fraternity”.⁵⁰

In addition to pursuing criminal proceedings for migrant smuggling (see [Section 6.1.1](#)), authorities increasingly utilised other means to discourage humanitarian action. This follows a trend that already started in 2016, when, for example, the mayor of Ventimiglia, the Italian border town to France, used food-hygiene concerns to prohibit food distribution to migrants.⁵¹ **Italian** authorities ordered the *in absentia* seizure of the rescue vessels ‘*Aquarius*’ and

‘*Vos Prudence*’ for illegally disposing infectious waste because they discarded clothing, food leftovers and medical waste in a number of ports in Italy.⁵² In April 2018, the **Croatian** police brought a misdemeanour charge for facilitating irregular entry against a volunteer of the civil society organisation ‘Are you Syrious?’ as he accompanied a group of persons who had crossed the border to the police to request asylum.⁵³ The person was convicted in first instance; the appeal was pending as of March 2019.

In **France**, humanitarian workers were accused of infringing urban planning rules for helping to build a makeshift shelter.⁵⁴ In **Hungary**, a legislative package called “Stop Soros”,⁵⁵ amending the Aliens, Asylum and Police Acts as well as the Criminal Code, introduced various measures mostly affecting NGOs. These include ‘border security restraining orders’ (*határbiztosítási távoltartás*), a new measure entailing prohibition of entry and stay of individuals subject to certain criminal proceedings in a designated area of the country (in the 8-km-wide zone from the border), which also affects civil society representatives; and the criminalisation of “aiding and supporting illegal migration” with custodial arrest or, in aggravated circumstances, imprisonment up to one year for certain conduct, such as providing material support to migrants in an irregular situation; organisations or individuals operating within the 8-km zone near the border; or providing assistance on a regular basis. The European Commission initiated infringement procedures against certain provisions of the “Stop Soros” legislation.⁵⁶ Hungary also enacted a “special tax related to migration”, primarily affecting NGOs, which amounts to 25 % of the donations and financial support they receive for their activities, irrespective of the origin of the funds.⁵⁷

6.1.6. Preventing unauthorised onward movements within the EU: its effects

The unauthorised onward movement of asylum applicants and migrants in an irregular situation from one EU Member State to another remains an issue of major concern for EU Member States. Noting that it risks jeopardising the integrity of the Common European Asylum System and the



Schengen *acquis*, the European Council called upon Member States to take all necessary measures to counter such movements.⁵⁸ Measures to counter such “secondary movements” affect fundamental rights in different ways.

Five EU Member States (**Austria, Denmark, France, Germany** and **Sweden**) as well as Norway continue to check people crossing internal borders within the Schengen area, as exceptionally allowed by the Schengen Borders Code (Regulation (EU) No. 2016/399).⁵⁹ Such controls may negatively affect the exercise of different Charter rights, such as the freedom to conduct a business (Article 16), the right to respect for private and family life (Article 7), or citizens’ right to free movement under Article 45 of the Charter.⁶⁰

Increasingly, Member States return asylum applicants apprehended in connection with their unauthorised border crossing to the Member State they came from on the basis of bilateral readmission agreements. Under EU law, every request for international protection must be examined individually and an eventual transfer to another EU Member State must respect the procedures and safeguards of the Dublin Regulation, Regulation (EU) No. 604/2013. National human rights institutions as well as civil society organisations raised concern over denied access to asylum in **France** and documented child rights violations during returns of migrants who were apprehended after having crossed the border near Menton or in the French Alps.⁶¹ Reports of similar practices of not allowing apprehended migrants to request international protection also emerged from other locations – for example, at the **Italian-Slovenian** border and at the **Slovenian-Croatian** border, although in both cases the authorities stated that asylum applicants are referred to the relevant procedures,⁶² and there is no conclusive evidence showing the contrary.⁶³ Meanwhile, **Germany** agreed with Greece and Spain on a simplified procedure for the return of persons who seek international protection after being apprehended during temporary border controls when trying to enter Germany at the German-Austrian border, and who have previously requested asylum in

Greece or Spain. Germany had returned eight people to Greece on this basis as of 31 January 2019.⁶⁴

6.2. EU IT systems further expand

Information technology systems (IT systems) support border control. In 2018, the EU continued to develop its large-scale IT systems. Four new regulations were adopted, three to strengthen the operational effectiveness of the Schengen Information System and one to establish the European Travel Information and Authorisation System (ETIAS).⁶⁵ The European Commission tabled three new proposals, two adjusting past proposals on interoperability⁶⁶ and a proposal significantly expanding the scope of the Visa Information System.⁶⁷ In addition, the EU revised the founding regulation of eu-LISA, the EU Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice.⁶⁸ Table 6.2 provides an overview of legislative developments, indicating also where EU institutions have requested FRA to submit an opinion.

In recent years, the EU extended the original purposes of processing personal data in IT systems, so that national authorities and relevant EU agencies could also use the data stored to combat irregular migration as well as to fight serious crime and terrorism. To pursue this new purpose effectively, the European Commission proposed to make existing IT systems interoperable. Interoperability would allow searching data concerning an individual across the different systems. Using fingerprints and/or facial images for the search would make it possible to discover persons with different identities. Presented as an important tool to enhance internal security,⁶⁹ the proposed Interoperability Regulations also affect fundamental rights.⁷⁰ It can enhance protection – for example, by supporting the detection of missing children – but also creates many challenges that result from the weak position of the individuals whose data are stored in IT systems and who often lack knowledge of their rights and do not speak the language of the Member State.

Table 6.2: Large-scale EU IT systems in the field of migration and security

IT system	IT system – full name	Main purpose/subject matter	State of play end 2018	FRA Opinion
Eurodac	European dactylography	Determine the Member State responsible to examine an application for international protection New purpose: assist with the control of irregular immigration and secondary movements	Negotiations on proposal for revision of COM(2016) 270 final continued; text almost agreed	✓
VIS	Visa Information System	Facilitate the exchange of data between Schengen Member States on visa applications	Proposal for revision COM(2018) 302 final , 16 May 2018	✓
SIS II – police	Schengen Information System – police	Enter and process alerts for arrest, missing persons, discreet and specific checks, objects, etc., to safeguard security in the EU and Schengen Member States	Adopted by Regulation (EU) 2018/1862 , 28 November 2018	
SIS II – borders	Schengen Information System – borders	Enter and process alerts for the purpose of refusing entry into or stay in the Schengen Member States to support implementation of policies on border checks and immigration	Adopted by Regulation (EU) 2018/1861 , 28 November 2018	
SIS II – return	Schengen Information System – return	Enter and process alerts for third-country nationals subject to a return decision to support implementation of policies on border checks and immigration	Adopted by Regulation (EU) 2018/1860 , 28 November 2018	
EES	Entry-Exit System	Calculating and monitoring the duration of authorised stay of third-country nationals admitted and identify over-stayers	Adopted by Regulation (EU) 2017/2226 , 30 November 2017	*
ETIAS	European Travel Information and Authorisation System	Assess if a third-country national who does not need a visa poses a security, irregular migration or public health risk	Adopted by Regulation (EU) 2018/1240 , 12 September 2018	✓
ECRIS-TCN	European Criminal Records Information System for Third-Country Nationals	Share information on previous convictions of third-country nationals	Negotiation on proposal COM/2017/0344 final advanced	✓
Interoperability		Establish a framework for interoperability between EES, VIS, ETIAS, Eurodac, SIS II and ECRIS-TCN	Negotiation on COM proposals (amended proposal COM/2018/478 final 13 June 2018 (border and visa) and COM/2018/ 480 final (police and judicial cooperation, asylum and migration) advanced	✓

Note: * FRA surveyed over 1,200 passengers at border crossing points (see FRA, *Do travellers to the EU trust fingerprinting?*, 14 December 2015).

Source: FRA, 2019



6.2.1. Processing of biometric data increases

The current trend in IT systems is to process more biometric data. All European-wide IT systems except for ETIAS will process a person's fingerprints and facial image. In addition, in April 2018, the European Commission proposed to include fingerprints and facial images in identity cards Member States issue to their own nationals and in residence cards they deliver to third-country national family members of EU citizens who have exercised free movement rights.⁷¹

Under the EU data protection *acquis*, biometrics are sensitive personal data and their processing, when exceptionally allowed, requires special protection.

FRA ACTIVITY

Analysing the fundamental rights implications of processing biometric data in EU IT systems in the field of visas, borders and asylum

The use of IT systems entails both risks and opportunities for fundamental rights. IT systems can offer more robust and timely protection – for example, for missing children and victims and witnesses of crime – and can help prevent identity fraud and identity theft. At the same time, the weak position of the individuals whose data are stored in large-scale IT systems creates many fundamental rights challenges. They range from respect of human dignity when taking fingerprints and challenges in correcting or deleting inaccurate or unlawfully stored data to the risk of unlawful use and sharing of personal data with third parties. Based on socio-legal research carried out in 2015-2016, the report presents suggestions – aimed at the EU and its Member States – on how to reduce the risk of IT systems undermining fundamental rights.

See FRA (2018) *Under watchful eyes – biometrics, EU IT systems and fundamental rights*, Luxembourg, Publications Office.



Biometric data help to establish a person's identity, particularly when an individual uses different names. Using biometrics is generally the most reliable way to identify a person. However, biometric matching is not immune to mistakes. The reliability of fingerprint matches decreases over time, in particular for children below the age of 13. For persons older than 70 years, dry skin also affects the reliability of a match.⁷² There are no studies on the minimum age at which face

recognition of children reaches the same reliability as face recognition of adults.⁷³ False matches can have serious consequences for the individual. For example, the police may arrest a person or border guards may not let a person cross the border. The high degree of credibility attached to biometric matches makes it difficult for persons concerned to rebut errors – for example, in case the wrong biometric data have been attached to a person in the IT system – and prove, for example, that a biometric match was incorrectly generated.

6.2.2. Data of every foreigner in the Schengen area soon to be stored in an EU-wide system

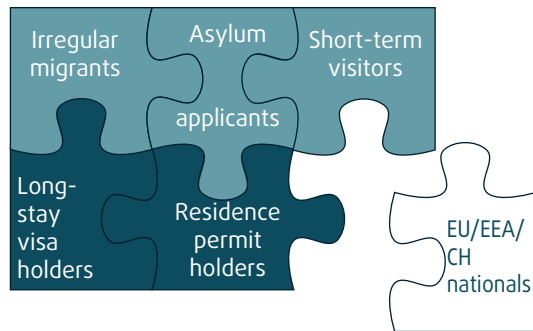
EU-wide systems currently store information on only a portion of third-country nationals who come to or are staying in the EU. In particular, data on holders of long-stay visas and national residence permits are not stored EU-wide. The ancillary purpose of combatting irregular migration as well as fighting serious crime and terrorism, which is being included in all legal instruments establishing EU-wide IT systems, called for covering all third-country nationals coming to or staying in the EU in an EU-wide system.

As illustrated in Figure 6.4, if the changes proposed in 2018 to the Visa Information System are adopted, this will lead to the EU-wide storage of personal data, including biometrics, of virtually all non-nationals staying in the EU Member States, except for mobile EU citizens and nationals of the European Economic Area and Switzerland. Pursuant to Recital (5) of the proposal, the expansion of the personal scope of VIS to include holders of long-stay visas and residence permits responds to the need to “fill the current information gaps for border management and law enforcement”.⁷⁴ Once this is filled, the “information gap” that remains will concern EU nationals, and nationals of the European Economic Area (Iceland, Norway, Liechtenstein) as well as Switzerland.

The inclusion of long-stay visa holders and residence permit holders in VIS would significantly expand the number of persons whose data are processed in an EU-wide system. Overall, in 2017, there were more than 20 million third-country nationals in the EU-28, representing some 4 % of the total EU population.⁷⁵ Some 12.6 million held long-term residence permits,⁷⁶ thus having strong links with their EU Member State of residence. Many holders of residence permits were born in the EU.

The situation of long-term residents is, generally speaking, closer to that of EU citizens than that of short-term visitors, such as tourists, students,

Figure 6.4: People in the EU regarding whom data are stored in an EU-wide information system



Notes: ■ = EU-wide storage
 ■ = planned EU-wide storage
 □ = no EU-wide storage planned
 EEA: European Economic Area; CH: Switzerland
 Source: FRA, 2019

researchers or business travellers. They should, therefore, be treated accordingly.

6.3. Working out refugee integration

About seven in ten Europeans recognise the integration of migrants as a necessary long-run investment for both the individuals concerned and receiving countries, according to a Eurostat survey.⁷⁷ The Gender Equality Strategy, which the Council of Europe endorsed in April 2018, supports the systematic implementation of integration policies and measures with a gender-equality dimension as a means to protect the human rights and fundamental freedoms of all migrants, refugees and asylum seekers.⁷⁸ Given that over 2.5 million persons applied for asylum in the 28 EU Member States in 2015 and 2016, discussions on integration focused primarily on the integration of Syrians and other refugee groups who arrived during this time.

Over 1.9 million persons applied for asylum in 2015 and 2016 in just six EU Member States: **Austria, France, Germany, Greece, Italy** and **Sweden**. Applicants included a large number of children and young people.⁷⁹ Between 2015 and 2017, more than 1.4 million persons received international protection, almost 90 % of them (1.2 million) in the above-mentioned six EU Member States.⁸⁰

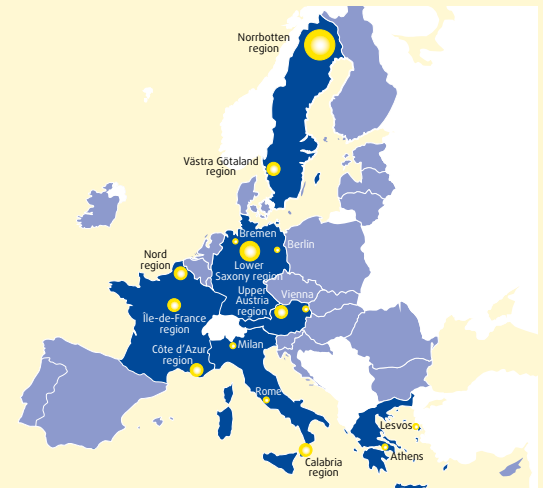
The following sections draw on FRA’s research on responses to the arrival of a large number of asylum applicants in six Member States, focussing on asylum and residence procedures and housing.

FRA ACTIVITY

Examining the long-term impact of policy responses to 2015-2016 arrivals: a focus on young people

FRA examined the long-term impact of policy responses on the integration of 16 to 24-year-old persons in need of international protection in six EU Member States, interviewing nearly 200 refugees and other persons in need of international protection and more than 400 experts, including authorities and other professionals in 15 geographical locations (see Figure 6.5). FRA assessed the impact of policies in the following fields: asylum and residence permit procedures, family reunification, education, housing and social assistance.

Figure 6.5: EU Member States and locations of FRA’s research on refugee integration



Notes: Small dots show cities the research covered, whereas larger dots show regions covered.
 Source: FRA, 2019

6.3.1. Long procedures hinder integration

As long as people do not know whether or not they will be allowed to stay, it is difficult for them to integrate into the host society. Many of the rights that promote integration are granted once applicants receive international protection, and examining the large number of applications takes time.

As illustrated in Table 6.3, according to experts, in 2016, reaching a first-instance decision on asylum took between six months and two years in the six most affected EU Member States covered by FRA’s research. That time period becomes significantly longer when protection is granted only at the appeal stage, when courts overturn the decision by the administration. In

Table 6.3: Duration of asylum and residence permit procedures in the researched locations

		AT*	DE	EL	FR	IT	SE*
2016	Asylum (first decision)	1,5 - 2 years	1-2 years	6-8 months	>6 months	>1 year	1,5-2 years
	Residence permit		6-9 months	1-1,5 months	>1 year	4-5 months	
2018	Asylum (first decision)	16 months	>7 months	6 months	4 months	>10 months	1,5 years
	Residence permit		not available	6-8 months	5-6 months	Several months	

Notes: The lengths of procedures refer to the geographical locations FRA researched.

* Residence permits are issued automatically with a positive asylum decision.

The information on first-instance asylum decisions in 2018 is based on the following sources: Minister of Interior in response to a parliamentary request, [Anfragenbeantwortung 3183/AB-BR/2018](#), 5 April 2018; Germany: Federal government response to a parliamentary request, [Bundesdrucksache 19/3861](#), 17 August 2018; Greece: AIDA, country report Greece, [Information provided by the Greek Asylum Service](#), 15 February 2018; France: OFPRA (Office français de protection des réfugiés et apatrides), [Données de l'asile 2018](#), 15 January 2019; Italy: Doctors without Borders, [Insediamenti Informali marginalità sociale, ostacoli all'accesso alle cure e ai beni essenziali per migranti e rifugiati - Secondo Rapporto](#), 1 February 2018; Sweden: Swedish Migration Agency (Migrationsverket), [Asylum decisions 2018](#), 1 January 2019.

Source: FRA, 2019 [based on expert interviews and sources noted above]

France, Germany, Greece and Italy, once persons are granted international protection, they also need to obtain a residence permit to enjoy some of their rights. Delays in processing asylum applications mainly resulted from the increased number of applications, complicated or lengthy procedures, and the lack of trained staff.

Lengthy asylum procedures affect refugees' daily life in different ways. Effects for young people include limited possibilities to work and enrol in education beyond compulsory schooling. Examples of other consequences include difficulties for unaccompanied children to reunite with their family (raised in particular in **Austria and Germany**),⁸¹ difficulties for people who turn 18 during the procedure to keep their apprenticeship contract (according to teachers in **France**); and difficulties to open a bank account (**Germany, Greece**). Extended waiting times in **France** have resulted in delayed language acquisition.

"It is a system that is extremely perverse: meaning that people are asked to integrate, but they are not given the opportunity to do so. [...] There is this compartmentalisation: there is the phase before where everything is blocked when they have requested asylum, as if it was an illness, and the phase after when anything is possible but you have got too far behind. When you have waited two years and done nothing during these two years, you have not given the person the ability to be able to do something."

Reception centre manager, France

Experts in all geographical locations mention a significant negative impact of lengthy procedures on mental health, including anxiety, sleeping disorders, and the deterioration of existing psychological and psychiatric problems. For example, the majority of

experts in **Sweden** described how the mental health status of young refugees deteriorated during the asylum procedure, making it difficult for them to learn or even attend school.

Experts in most locations further concur that the risks of exploitation or becoming involved in criminal activities are higher in case of long asylum procedures in combination with restricted possibilities to work or pursue education. A clear majority of all experts in the six Member States who had had experience with individuals of the target group who became offenders (62 experts out of 81) agreed that the uncertainty about the length of stay had increased the risk of individuals perpetrating crime.

Despite the general emphasis on negative effects of lengthy asylum procedures on integration, experts in several EU Member States also highlighted potential downsides of inadequately short procedures. Fast procedures may, for example, entail risks of not assessing individual cases in as much detail as required and compromise adequate preparation by the applicant for the asylum interview.

The effects of lengthy waiting times for obtaining or renewing residence permits are similar, delaying access to a range of rights and integration aspects. In **France**, for example, receipts provided to beneficiaries of international protection upon applying for a residence permit are not always recognised as leading to a residence permit. As they need to be renewed monthly, potential employers hesitate to offer a job, training centres refuse to accept students, and access to housing is difficult.

6.3.2. Bringing family members to the EU remains difficult

Family reunification is one of the key mechanisms for better integration of migrants, including beneficiaries of international protection. States reaffirmed the principle of family unity and committed themselves to facilitating family reunification in the UN Global Compact for Safe, Regular and Orderly Migration adopted in December.⁸²

Since 2015, some EU Member States have restricted the possibilities for family reunification to the extent possible pursuant to the Family Reunification Directive (2003/86/EC). **Germany**⁸³ and **Sweden**⁸⁴ suspended family reunification for beneficiaries of subsidiary protection. **Germany** made it subject to quotas as of 1 August 2018.⁸⁵ **Austria** introduced a waiting period of three years for beneficiaries of subsidiary protection,⁸⁶ and **Sweden** toughened maintenance requirements for refugees.

In the experience of experts as well as beneficiaries of international protection FRA interviewed, family reunification procedures are lengthy and cumbersome. Only few of the persons who arrived in 2015-2016 managed to bring their families to **France, Germany, Greece, and Italy**. They attribute this mainly to legal and practical obstacles. Refugees interviewed in **France, Italy** and **Sweden** also referred to a lack of information on this possibility. The length of family reunification procedures is also linked to problems accessing a diplomatic mission, waiting times for appointments, missing documents, application deadlines and costs. In **Germany**, the monthly quota of granting visas to 1,000 family members of beneficiaries of subsidiary protection introduced in August 2018 had not been filled by the end of the year. Instead of 5,000 visas, only 2,612 visas were granted between August and December 2018.⁸⁷

In **Greece**, lawyers FRA interviewed said that few refugee families were reunified on the basis of the Family Reunification Directive between January 2017 and mid-2018. In **Sweden**, tougher maintenance requirements, introduced by the law on temporary restrictions of residence permits, have made investigations on family reunification more complicated since case workers have to spend time verifying the evidence of sufficient funds or the prospects of a future permanent residence permit.

The difficulty of reunifying with family members has severely affected the emotional and mental constitution of young refugees due to concerns for their family's well-being and the lack of family life. Several interviews had to be aborted as the interviewees were unable to speak about the topic.

"I feel like I can watch them becoming old and grey and skinny. [...] And we know of [...] clients who went back [to Syria] because they said: 'I can no longer bear the separation.'"

Lawyer, Germany

6.3.3. Finding adequate accommodation poses challenges

Housing is a key dimension of integration. The location, conditions, size and stability of accommodation affect people's possibilities to attend and perform at schools, to follow vocational training or further education, to access social support and establish personal contact with the receiving society. However, for asylum seekers and international protection beneficiaries, having to change housing frequently is common. Each relocation may end up uprooting the person concerned, undermining the integration so far achieved.

Experts and refugees alike considered the transition to individual housing – as opposed to shared accommodation – an important step towards integration. They pointed out two main transitions as having affected their housing situation in ways that undermined their path to integration: the transition from child to adult, and from asylum applicant to beneficiary of international protection.

The transition from child to adult is a specific challenge as it ends the support from child protection services and usually entails a change in accommodation. In **France**, however, accommodation may be extended beyond the age of 18 if the child welfare services provide a Young Adult Contract (*Contrat Jeune Majeur*)⁸⁸ – although this has become increasingly difficult in the Bouches-du-Rhône and Nord regions, leading to increased homelessness of young people, for example in Lille. In **Sweden**, municipalities may agree to extend the provision of housing to children when they turn 18 so that they can finish school.

The transition from asylum applicant to beneficiary of international protection usually also entails a change of housing. As shown in [Table 6.4](#), soon after receiving international protection, persons are asked to leave the facility in which they had stayed as asylum applicants. Although extensions are possible in most cases where timeframes apply, experts generally considered the time available unrealistic for arranging private housing.

Difficulties arise when asylum applicants, upon receiving a positive decision, have to leave the reception facility and lose the social support offered to them there. Experts in all geographical locations

Table 6.4: Legal timeframe for asylum seekers to leave their reception facility when they receive asylum

	AT	DE	EL	FR	IT	SE
Time-frame	4 months	No specific time limit	Issue not regulated; hence no specific time limit	3 months (possible extension to 6 months)	6 months	No specific time limit

Note: Extensions of stay are possible in individual cases, depending on the circumstances.

Source: FRA, 2019

referred to increased cases of homelessness among young refugees, including children, as a result of this transition. This also affects people's health as they find themselves in makeshift camps or living in very poor, abusive or exploitative conditions. Almost all experts who had experience with refugee victims of crime agreed that insecure or unsafe housing conditions increased their risk of victimisation.

Persons granted international protection encounter various challenges when trying to find (or keep) an apartment. Difficulties mentioned during FRA's research include limited assistance offered, the short duration of residence permits, prejudice against refugees, and insufficient language skills – in addition to obstacles that affect everyone, such as costs or the availability of housing in specific locations. In addition, finding individual housing requires time and may conflict with other priorities, such as language acquisition, education, or employment.

"Finding an apartment in Vienna without an employment contract is almost impossible. And then it often ends in a way that they are somehow illegally: without rental contract, in rooms where they pay several hundred Euros for a mattress in a mouldy room, where they share a room with other refugees, which is obviously not legal. But there is some black market in the area of housing."

Expert on unaccompanied children, Austria

At the same time, authorities do offer some support. For example, in Göttingen (**Germany**), the local housing authority grants building permission for large-scale construction projects only if 30 % of

the space is dedicated to social housing. NGOs and volunteers have also offered search and counselling services to find private housing. In **Sweden**, the municipality receiving a protection-status holder acts as the main tenant and sublets the apartment to the protection-status holder for at least two years.⁸⁹

Promising practice

"BENN" – neighbourhood integration project in Berlin

The regional administration of Berlin, in close cooperation with the respective administrative district, has set up "BENN" ("*Berlin entwickelt neue Nachbarschaften*", German for "Berlin creates new neighbourhoods"), an integration management effort at 20 locations with bigger refugee accommodation facilities in Berlin. The project runs between 2017 and 2021 and is financed by federal, regional and communal funds (within the framework of the investment pact "*Soziale Integration im Quartier*" and the urban development programme "*Soziale Stadt*"). The project aims at community building by promoting exchanges and dialogue between long-established and new residents; fosters active citizenship by empowering new residents to realise their ideas on shaping the neighbourhood; and connects individual volunteers with associations, institutions and public authorities. A local BENN-team organises participation processes and supports community work.

For more information, see the city of Berlin's webpage on the BENN programme.

FRA opinions

Articles 18 and 19 of the EU Charter of Fundamental Rights guarantee the right to asylum and prohibit *refoulement*. Article 6 enshrines the right to liberty and security. Under international law of the sea, people rescued at sea must be brought to a place of safety. 'Safety' also means protection from persecution or other serious harm. In 2018, disagreements between EU Member States on where rescue boats should dock resulted in migrants being left waiting at sea for days, sometimes weeks. Some Member States continued to maintain facilities at their borders, at which asylum applicants are held while authorities review their asylum claims. Meanwhile, reports of violations of the principle of non-*refoulement* increased, as did accounts of police violence at borders.

FRA opinion 6.1

The EU and its Member States should cooperate with relevant international organisations and third countries to ensure safe, swift and predictable disembarkation for migrants and refugees rescued at sea, in compliance with the principle of non-refoulement. Any processing centres established within the EU must fully comply with the right to liberty and security set out in Article 6 of the Charter and entail adequate safeguards to ensure that asylum and return procedures are fair. EU Member States should reinforce preventive measures against abusive behaviour by law enforcement and effectively investigate all credible allegations of refoulement and violence by law enforcement authorities at the borders.

In its previous Fundamental Rights Report, FRA expressed serious concern about the intimidation of humanitarian workers and volunteers who support migrants in an irregular situation. In addition to other actors, a number of National Human Rights Institutions spoke out against such practices, noting that they have a chilling effect on NGOs' work. This trend continued in 2018, targeting both rescue vessels deployed by civil society in the Mediterranean, as well as volunteers and non-governmental organisations active in the EU.

FRA opinion 6.2

EU Member States should avoid actions that directly or indirectly discourage humanitarian support that helps migrants and refugees in need, and should follow up on relevant recommendations issued by National Human Rights Institutions. Furthermore, EU Member States should remove restrictions imposed on civil society organisations that deploy rescue vessels in the Mediterranean Sea.

The EU plans the EU-wide storage of personal data – including biometric data – of all foreigners in the Visa Information System. This includes data of holders of long-term resident permits. Their data are currently only stored nationally by the Member States in which they are living. Storing in an EU-wide system the personal data of third-country nationals who have strong links to the EU amounts to treating them like third-country nationals who only come to the EU temporarily – for example, for tourism, studies, or business. This goes against the idea of an inclusive society conducive to genuinely integrating third-country nationals living in the EU. Many residence-permit holders have their centre of life in the EU, where they are residing on a permanent basis.

FRA opinion 6.3

The EU should avoid EU-wide processing in the Visa Information System of personal data of residence-permit holders who have their centre of life in the EU. Their data should be processed in national systems, in a manner similar to EU nationals.

About seven in ten Europeans consider the integration of migrants – including beneficiaries of international protection – as a necessary investment in the long-run for both the individuals concerned and the receiving country. Between 2015 and 2017, more than 1.4 million persons received international protection in the 28 EU Member States. Persons granted international protection are entitled to a set of rights laid down in the 1951 Convention Relating to the Status of Refugees (1951 Convention), which is enshrined both in EU primary and secondary law. According to FRA research, in six Member States, lengthy procedures for obtaining residence permits have made it difficult for refugees to access education and employment, negatively affected their mental health, and may increase their vulnerability to exploitation and crime. FRA's evidence also shows that refugees face risks of homelessness upon receiving international protection.

FRA opinion 6.4

EU Member States should reinforce their efforts to ensure that people granted international protection fully enjoy the rights to which they are entitled under the 1951 Convention, international human rights law, and relevant EU law, so as to foster their successful integration into the host society.

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