

# MIGRATION: KEY FUNDAMENTAL RIGHTS CONCERNS

1.11.2018 → 31.12.2018

QUARTERLY BULLETIN

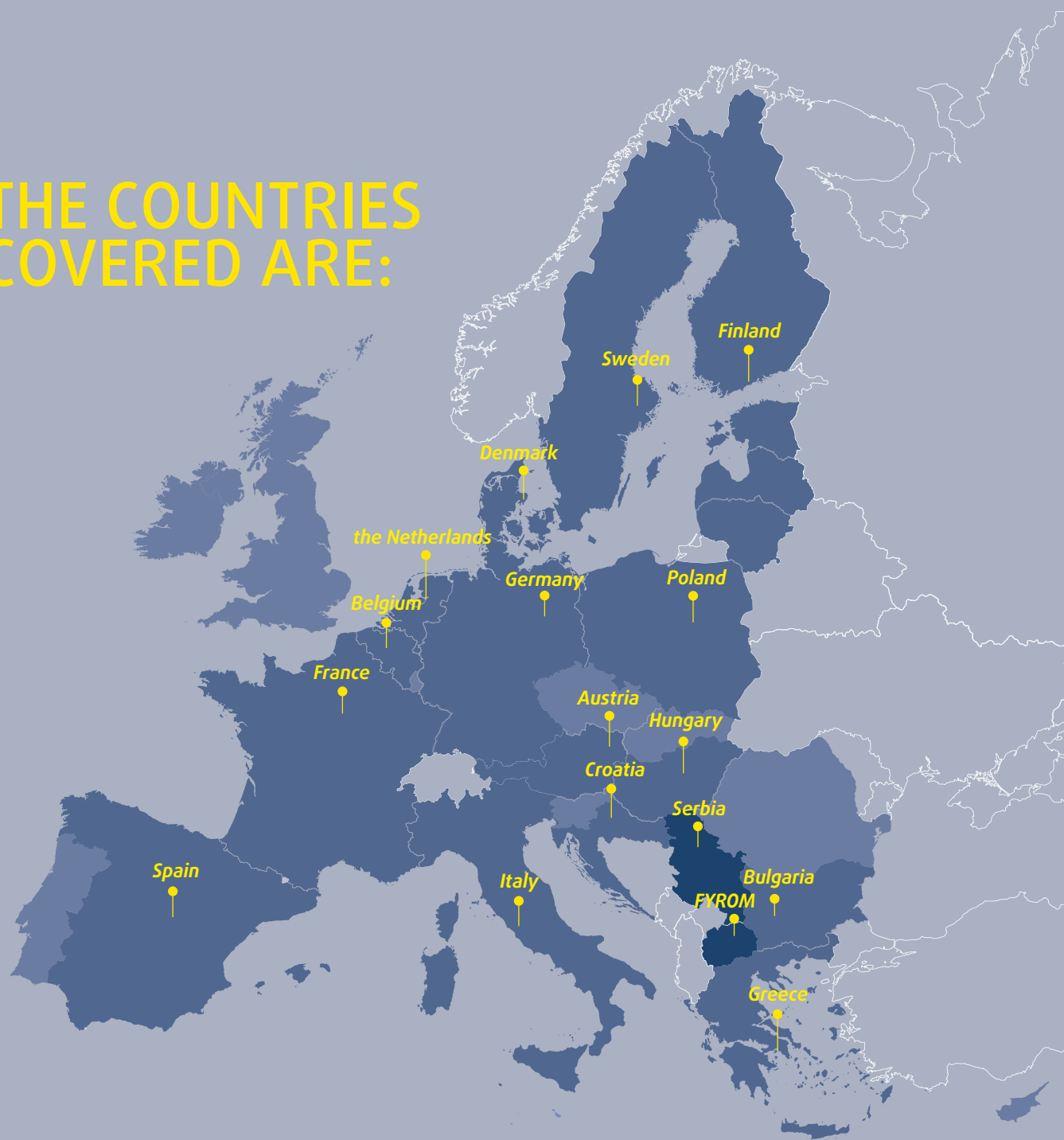
- 3 Key fundamental rights concerns
- 7 Situation at the border
- 11 Asylum procedure
- 14 Reception
- 16 Child protection
- 21 Immigration detention
- 23 Return
- 25 Legal responses
- 27 Policy responses
- 28 Responses by civil society, local and political actors
- 29 Hate speech and violent crime
- 32 ANNEX – Stakeholders interviewed in January 2019



DISCLAIMER: The European Union Agency for Fundamental Rights (FRA) commissioned these reports under contract. The content was prepared by FRA's contracted research network, FRANET. The reports contain descriptive data that were based on interviews and desk research, and do not include analyses or conclusions. They are made publicly available for information and transparency purposes only, and do not constitute legal advice or legal opinion. The reports do not necessarily reflect the views or official position of FRA.

The EU Agency for Fundamental Rights has been regularly collecting data on migration since November 2015. This report focuses on the fundamental rights situation of people arriving in Member States and EU candidate countries particularly affected by large migration movements. It addresses fundamental rights concerns between 1 November and 31 December 2018.

## THE COUNTRIES COVERED ARE:



## Key fundamental rights concerns

### Key emerging fundamental rights concerns

The **Italian** Parliament approved **Law No. 132 of 1 December 2018**, which substantially reforms international protection, immigration and public security. For example, the law abolishes the humanitarian residence permit and replaces it with more specific and temporary protection permits, such as for special healthcare needs, natural disaster or risk of torture in the country of origin, or for acts of civil merit. The law further envisages a list of ‘safe countries of origin’. The reform also increased the number of criminal offences that – in case of final judgment – lead to the withdrawal of international protection or to the rejection of the asylum application. The law further transforms the Italian approach to reception. The Central Service for National Asylum-Seekers and Refugees Protection System (*Servizio centrale del sistema di protezione per richiedenti asilo e rifugiati, SPRAR*) – often highlighted as a promising practice – will only be accessible to protection-status holders. Asylum applicants will be hosted in the lower quality first-level reception facilities or special reception centres (*centri di accoglienza straordinaria, CAS*). Moreover, the law limits the rights of asylum seekers to access local public services, such as vocational training. Several NGOs expressed their concerns about the reform and several Italian mayors declared their intention not to implement parts of the legislation.

**Austria** presented a legislative proposal to significantly cut social welfare benefits. The law, once in force, will particularly affect refugees and beneficiaries of subsidiary protection who do not speak sufficient German, as the benefit will depend on a person’s employability. Employability is assumed if a person can prove at least language level B1 (German) or C1 (English), has completed vocational qualification measures, and has completed a ‘values and orientation’ course. According to a press release of UNHCR, with this new law, refugees and beneficiaries of subsidiary protection will risk to fall below the poverty line in Austria.

In **Croatia**, a new By-law on the Rules Regarding Detention in the Reception Centre for Foreigners restricts access to detainees for NGOs, lawyers and staff of the Ombudsperson. Lawyers are treated like all other visitors, making access to legal aid difficult.

Living conditions deteriorated in some reception centres for asylum seekers in Sofia, **Bulgaria**. With the arrival of winter and falling temperatures, asylum applicants started to voice concern about the lack of heating, caused by frequent interruptions of the heat supply; small fire incidents; as well as sewage and problems with leaks caused by broken water pipes, the Bulgarian Red Cross reported in an interview.

In **Poland**, a new practice emerged. Authorities, applying administrative procedural law, classified as “secret” files in a number of cases on residence permits and asylum. This allows authorities to deny applicants’ and their legal representatives’ access to these documents both in the administrative and judicial-review phases, the Ombudsman, the Rule of Law Institute Foundation, and the Association for Legal Intervention reported in interviews.

## Note on sources

The evidence presented in this report is based on interviews with institutions and other organisations as indicated in the Annex. In addition, where sources of information are available in the public domain, hyperlinks are embedded to these sources of information throughout the text.



With more than 65,000 arrivals to **Spain** in 2018 – a 130 % increase compared to the year before – it replaced Italy and Greece as the main country of arrival on the EU’s external border last year, according to UNHCR. In reaction to the high number of arrivals, according to media reports, **the government has forbidden Maritime Rescue (Salvamento Marítimo) to publish the numbers of people arriving and being rescued at sea.** Maritime Rescue is responsible for maritime safety in Spanish waters and reports to the Ministry of Development. They rescued 1,718 small boats and 34,295 persons between January and September 2018; and 1,212 small boats and 17,666 persons in 2017, according to a **government’s response** to a parliamentary question. The numbers of deaths and missing persons trying to reach Spain increased exponentially in 2018: 784 persons, compared to 202 persons in 2017 – marking a 288 % increase, according to **UNHCR.**

An emerging concern in **France** is the restrictive practice regarding residence permits for migrants with serious health issues, according to a **report published by the Office of Immigration and Integration.** The report revealed that, in the past two years, the number of residence permits issued for medical reasons has dropped by almost 40 %, and is **the lowest it has been in the past ten years.** The ‘**Observatory of the right to health for foreigners**’, a group of NGOs promoting foreigners’ right to healthcare, maintains that this is mainly due to the legislative reform of March 2016, which transferred the responsibility for providing medical opinions on individuals’ state of health from regional health agencies under the Ministry of Health to doctors attached to the Ministry of the Interior.

The ministers of the New Flemish Alliance (N-VA) forming the largest party in the **Belgian government resigned due to their opposition to the signature of the UN Global Compact** for Safe, Orderly and Regular Migration. On 19 December, **the Prime Minister also resigned due to tensions within the government over support of the UN Global Compact.** The King requested the Prime Minister to remain the leader of a caretaker government until the next elections, to be held in May 2019.

In some cities in **Sweden** (Stockholm, Gothenburg and Uppsala), criminal gangs have been recruiting unaccompanied asylum-seeking children or children whose asylum applications have been rejected – in particular young Afghan men – to sell drugs, **the police reported in radio interviews.** Criminal gangs usually force them to join by using threats and violence. Many of such children involved in drug dealing live on the streets, making them even more vulnerable and exposed to recruitment, **social workers and NGOs pointed out.**

Another persisting issue in **Sweden** is cumbersome access to housing for those who have been granted international protection. Municipalities face difficulties in finding housing for them, and have started to engage in the unlawful practice of not recognising such people’s right to continue living in a given municipality beyond the two-year introduction period, according to the National Board of Health and Welfare. Since newly arrived beneficiaries of international protection often lack a large network and/or the funds to buy or rent a house, they are most severely affected by the housing shortage.

As of November 2018, 14,776 unauthorised border crossings into **the former Yugoslav Republic of Macedonia** had been prevented in 2018; this is four-and-a-half times higher than during the same period the year before, according to an interview with the Ministry of the Interior. The parliament **decided to extend until 30 June 2019 the “state of crisis”** on the southern and northern borders due to the increased number of entries and transits of migrants. The first decision for proclaiming a “state of crisis” was adopted in August 2015, initially for one month, and then continuously extended. The decision allows for additional resources and the involvement of the army to protect the border.

## Legal corner

The **Third Act Amending the Asylum Law** in **Germany** will lead to a considerable reduction of protection standards for unaccompanied children and young adults, the Federal Association for Unaccompanied Minors stated. The new legislation obliges beneficiaries of international protection to cooperate with the authorities in repeal and withdrawal procedures concerning their protection status, such as by providing **supporting documentation regarding identity and age.** UNHCR fears the law will trigger an administrative backlog because it increases the administrative steps in withdrawal procedures.

## Key persisting fundamental rights concerns

Rescue boats deployed by civil society organisations continue to face serious difficulties to dock, significantly delaying the disembarkation of migrants. On 9 January, **Malta allowed the disembarkation of two German NGO vessels** – named ‘Sea-Eye’ and ‘Sea Watch 3’ – that had been stuck in the Mediterranean for 12 and 18 days under inadequate living standards. The boats had rescued 49 migrants, including women and children, media reported. **Italy, Spain, Germany and the Netherlands** – and initially Malta – had refused to authorise the boats to disembark. The migrants will be distributed among eight EU Member States.

On 29 January, the ECtHR **granted an interim measure** under Rule 39 of its Rules of Procedure concerning the ‘Sea Watch 3’ vessel when it had 47 migrants on board outside of Syracuse, Sicily, **Italy**. The ship was not allowed to enter the harbour and the applicants complained that they were detained on board without legal basis, suffering inhuman and degrading treatment. 15 unaccompanied children among them lodged a subsequent request. The court requested the Italian government to “take all necessary measures, as soon as possible, to provide all the applicants with adequate medical care, food, water and basic supplies as necessary”. As far as the unaccompanied children are concerned, the court requested the government to provide adequate legal assistance (e.g. legal guardianship) and to keep the court regularly informed of developments regarding the applicants’ situation.

The Reception and Identification Centres on the Aegean islands in **Greece** (‘hotspots’) **remained severely overcrowded**, with the exception of the hotspot in Leros. More than 12,500 people were still living in tents and containers unsuitable for winter in the five hotspots – two times as many as their capacity, a **coalition of NGOs reported**. **UNHCR pointed out** that asylum applicants’ living conditions on the islands of Samos and Lesbos were particularly poor, and urged the government to accelerate transfers to the mainland for those who are eligible to go (some 4,000 people). In a report published after her visit to the Greek hotspots in June 2018, the **Council of Europe Commissioner for Human Rights expressed serious concerns** about alleged cases of sexual and gender-based violence, the deteriorating conditions for unaccompanied children, the lack of social support, as well as substandard reception conditions, coupled with increasing tension amongst the applicants.

Human smuggling remained a concern in **Hungary**. According to the police, in November and December, the **authorities placed into custody 19 alleged human smugglers**. In several cases, people were smuggled in the cargo space of trucks or minivans crossing the borders from Serbia.

According to the Croatian Law Centre, some applicants for international protection in **Croatia** wait more than 18 months for their decision. Access to specialised healthcare for asylum seekers and refugees remained a persistent issue. Access to education for children over 15 years of age who lack primary education, and accommodation of unaccompanied children, also remained issues. Some asylum seekers still have difficulties accessing the Croatian Employment Service because their tax numbers are invalid, the Rehabilitation Centre for Stress and Trauma reported in an interview.

Most previously identified major persistent fundamental rights concerns remained unaddressed in **Bulgaria**. These include the ineffective integration of beneficiaries of international protection due to the lack of funding for municipalities; and the inadequate legal representation of unaccompanied children given the insufficient capacity of municipalities’ staff to perform this task, the Ombudsman and NGOs

## FRA activity

In October 2018, FRA published an online note entitled “**Fundamental rights considerations: NGO ships involved in search and rescue in the Mediterranean and criminal investigations**”. This note draws attention to the recent trend of criminalising search-and-rescue operations carried out by non-governmental organisations (NGOs) or other private entities in the Mediterranean Sea. This includes seizing rescue vessels; forbidding them to leave ports due to alleged registration issues in the flag State; and, in some EU Member States, arresting crew members. These actions prompted most NGOs to stop their operations by the end of the year. Most court cases opened against them, however, resulted in acquittals or were discontinued due to a lack of evidence.

reported in interviews. The recurring practice of accommodating beneficiaries of international protection in reception centres, however, was largely tackled: by the end of December, only ten such individuals were still placed in these reception facilities, according to the **data of the Ministry of the Interior**.

In **Poland**, refusing entry to asylum seekers at the land-border crossing points with Belarus – mainly at Terespol, where in practice only one family per day is allowed to apply for asylum – and with the Ukraine – primarily at Medyka – remained a major concern, UNHCR, the Ombudsman and NGOs reported in interviews. Furthermore, many asylum seekers and other migrants continued to end up in immigration detention as a result of poorly functioning identification and referral procedures. This occurred despite the fact that the detention of victims of violence is prohibited under Polish **immigration and asylum law**, UNHCR, the Ombudsman and NGOs reported in interviews. Mainly private entities (e.g. medical companies) and NGOs provide assistance to victims of violence, given that there is no rehabilitation centre for foreigners in the country, according to the **National Prevention Mechanism** established under the Optional Protocol to the UN Convention against Torture and NGOs.

In June 2018, the Conference of Ministers of the Interior introduced restrictions to so-called ‘church asylum’ in **Germany** – a development deemed a key persisting fundamental rights concern by the Migration Commission of the German Bishops Conference and the Refugee Councils of Bavaria and Berlin. Church asylum is a form of temporary sanctuary offered by religious institutions to people facing removal, mostly under the Dublin Regulation, to protect them from undue hardship. The maximum period for the implementation of a Dublin transfer can be extended from 6 to 18 months if an applicant has “absconded”. Under the new rules, such an extension can be ordered, for example, where church asylum is not notified on the day it is provided; the file is not transmitted to the BAMF within a four-week period to justify grounds of hardship; or church asylum was only provided after a negative decision from the BAMF.

According to the *Servicio Jesuita a Migrantes’* report “The way out of the Labyrinth” (“*Sacar del Laberinto*”), in 2018, key concerns in Melilla, **Spain** included summary returns, restriction of movement, the situation of unaccompanied children and young people, and delays in the asylum procedure. Stakeholders reported that it can take up to two years to receive a first-instance decision.

In **France**, persistent problems included informal camps in the North of France and in Paris, and the further deterioration of living conditions for people staying there; summary returns and the denial of access to the asylum procedure at the alpine border between France and Italy, also affecting children; as well as the widespread use of immigration detention, including for children, and the lack of alternatives to detention in practice, several NGOs and the Public Defender of Rights pointed out in interviews.

In **Belgium**, several NGOs initiated proceedings before the Constitutional Court in relation to two laws that entered into force in March 2018, and which had been enacted to implement EU asylum directives. Among others, the new laws were criticised because they extend the use of accelerated procedures and because they allow the asylum authorities to request asylum seekers’ mobiles and personal computers. The cases were still pending at time of publication.

In **the Netherlands**, the administrative judge and president of the Dutch Association for the Judiciary stated **during a television interview** that the staff shortage at the Immigration Naturalisation Service remains an issue – prolonging the waiting time between the registration and actual start of the procedure for

asylum seekers and leading to overcrowded reception centres. **The Dutch Council for Refugees observed that the waiting period increased** from eight weeks in the beginning of 2017 to one year by December 2018. According to the newspaper *de Volkskrant*, the Immigration and Naturalisation Service has been ordered to pay civil penalties amounting to more than one million euros to asylum seekers because of these delays.

Most applicants for international protection in **the former Yugoslav Republic of Macedonia**, including unaccompanied children, leave the country in irregular ways shortly after lodging an application. For the few who stay, the asylum procedure is ineffective and rarely results in positive decisions, according to the NGO Legis, the Macedonian Young Lawyers Association and the Helsinki Committee of Human Rights of the Republic of Macedonia. There were four positive decisions in 2018, all of them granting subsidiary protection. Collective expulsions to Greece and Serbia continued, according to several interviewed stakeholders, including the Macedonian Young Lawyers Association, the Helsinki Committee of Human Rights of the Republic of Macedonia, the NGO Legis and the Ombudsperson.

## Situation at the border

IOM estimates that at least 2,297 persons lost their lives in the Mediterranean Sea in 2018, compared to 3,139 in 2017.

The **European Commission** made available an additional € 305 million in emergency assistance to support migration and border management in **Greece, Italy, Cyprus and Croatia**.

An Afghan migrant died in the hospital of Ancona (Marche), **Italy** after being run over by a truck, probably while hiding under it in an attempt to irregularly cross the Italian border, according to *Corriere della Sera*.

According to the **data of the Ministry of Interior of Bulgaria**, 698 persons were apprehended at the borders and within the territory in the reporting period; the majority of them originated from Afghanistan. This represents a decrease compared to the previous two months (757 persons in September and October), but more than during the same period last year (some 300 people). Over two thirds of persons were apprehended within the country's territory; the rest were stopped at the borders with Greece and Serbia, respectively.

Malta allowed 11 migrants rescued by the Spanish fishing vessel '*Nuestra Madre Loreto*' off the coast of Libya and stranded on the boat for more than a week to disembark. The president of the **Spanish** government stated that the migrants should be returned to Libya, as it was the nearest point of safety, **El Pais reported**. The **Maltese government said the migrants will eventually be transferred to Spain**, after medical checks are carried out.

In **the former Yugoslav Republic of Macedonia**, as of November 2018, 53 cases of migrant smuggling were reported in 2018, the Ministry of the Interior reported. In 2017, the police detected 19 cases of migrant smuggling, involving 36 perpetrators trying to smuggle 212 migrants, according to the **Annual report of the Ministry of the Interior for 2017**.

# RISK OF REFOULEMENT





## Risk of refoulement

Migrants attempting to reach Albania, **Bulgaria**, **Croatia**, **Greece**, **Hungary**, Kosovo, Romania, **Serbia**, and **the former Yugoslav Republic of Macedonia** in order to apply for asylum were often violently pushed back across borders, **Save the Children** reported.

In **Greece**, following regular allegations of pushbacks at the border along the Evros river, **the National Commission for Human Rights** published a statement urging the competent authorities to investigate these complaints and bring to justice the responsible people. It also called on the government to take all necessary steps to prevent *refoulement*. A report published by a group of NGOs, based on 39 testimonies, similarly reveals a practice of pushbacks along the Evros river. The NGOs signing the report also urged the authorities to investigate the incidents without delay. **Human Rights Watch** also documented such pushbacks in the same region, following interviews with 26 migrants who were summarily returned to Turkey. The people interviewed – including families with children – alleged violence by the police, indicating that they also often confiscated and destroyed their belongings.

The police in **Hungary** apprehended some 1,043 migrants in an irregular situation during the reporting period (close to the border with Serbia in all cases). According to the data of the National Headquarters of the Police, these persons were escorted back to the outer side of the fence at the Hungarian-Serbian border. Authorities do not register and fingerprint these people prior to escorting them to the southern border, nor do they count them as new arrivals in official statistics.

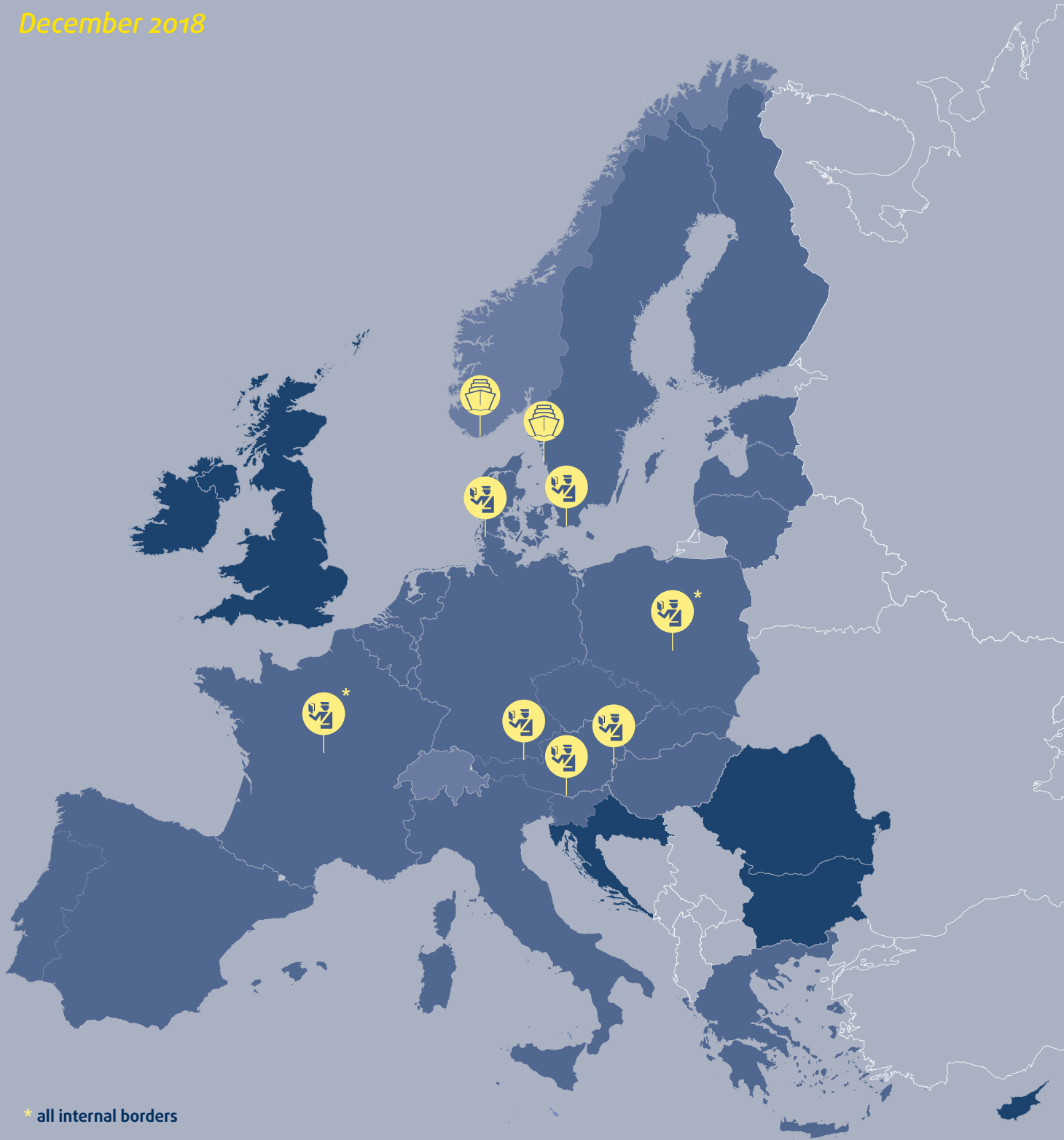
The police in **Hungary** also prevented 192 people from crossing the border into Hungary via the border fence (a slight decrease compared to the previous period), the National Headquarters of the Police reported.

Asylum requests are being ignored and people, including children, continue to be pushed back from **Croatia**, NGOs and individuals reported to the Ombudsperson's Office. According to **Save the Children**, the largest number of pushbacks involving children in 2018 was reported at the border between Serbia and Croatia (274). **News about police violence** against refugees appears on a daily basis. A **Guardian** video showed asylum seekers from Algeria, Syria and Pakistan being brutally beaten and sent back after being captured by the Croatian police while attempting to cross the Bosnia-Croatia border. The NGO **No Name Kitchen** reports regularly about police violence. The Centre for Peace Studies has filed criminal charges against unidentified Croatian police officers for unlawful acts against refugees and migrants at Croatia's border with Bosnia and Herzegovina. **Border Violence Monitoring – a Serbian non-profit database – published video footage** of pushbacks of migrants including children and has collected more than 150 push-back reports from the Bosnian-Croatian border. The Centre for Peace Studies reported cases of the police destroying migrants' mobile phones and confiscating their money – in one case € 5,000.

*Refoulement* practices at the border between **France** and **Italy**, in particular in the French Department of Alpes-Maritimes, persisted, the NGOs 'GISTI' and 'ANAFÉ' reported in interviews. In addition, the situation at the **French-Spanish** border remained challenging, especially because many people from West Africa and Northern Africa cross **Spain to reach France**. Authorities of the two countries decided to **step up their cooperation in the border area** to fight against irregular migration and to reinforce the joint management of the common border, including by carrying out joint patrolling and summary readmissions.

# THE SCHENGEN AREA

December 2018



\* all internal borders

- Schengen EU Member States
- Non-Schengen EU Member States
- Schengen Non-EU Member States



Controls at land-border crossing points



Controls at ports

## Temporary reintroduction of border controls

**Austria, Denmark, France, Germany,** and **Sweden** prolonged internal border controls in the Schengen area. **Poland** reintroduced controls at all internal borders from 22 November 2018 to 16 December 2018 – for the global climate conference.

The number of smugglers detected at the internal borders of **Austria** remained low, according to several governmental responses to parliamentary questions. For example, during random checks at **32 border crossings with Slovenia**, 19 human smugglers were detected between January 2017 and September in 2018. During the same period, no such cases were identified at **the border with Hungary**. The maintenance of internal border controls thus prompted **harsh criticism by the opposition**.

## Asylum procedure

### Figures and trends

According to **EASO**, over 56,300 applications were lodged in November in the EU, Norway and Switzerland (EU+). This represents the second-highest number in 2018 after October, when more than 60,500 applications were recorded. Between January and November 2018, some 578,650 applications were lodged in the EU+, a decrease of 12 % compared to the same period in 2017.

**51 vulnerable migrants** were resettled from Niger to **Italy**. UNHCR had previously removed them from detention in Libya and evacuated them to Niger.

The number of **asylum applications in Austria** in 2018 remained at a low level of around 1,000 applications per month – a 46 % decrease compared to 2017.

In November 2018, **Germany** issued 18,644 asylum decisions; 58,538 decisions were still pending. Between January and November 2018, 174,040 persons applied for asylum in Germany – a decrease of 16 % compared to the same period in 2017, according to the **German Federal Office for Migration and Refugees**.

More than 10,000 asylum applications, mainly from Venezuela and Colombia, were submitted in **Spain** in November and December 2018, according to the **Asylum and Refugee Office**.

According to **Eurostat data**, during the first nine months of 2018, more than 85,000 asylum applications – including 16,000 by children – were submitted in **France**. This represents a 20 % increase over the previous year.

Arrivals remained at a low level in **Finland**. The number of applications was 435 in November and 465 in December. Some 50 % were subsequent applications, according to the **Finnish Immigration Service**. According to the **Finnish Immigration Service**, 4,548 asylum applications were submitted in 2018 (compared to 5,046 in 2017); of these, 2,139 were subsequent applications (47 %).

In **the former Yugoslav Republic of Macedonia**, 14 people sought asylum in November and five in December, according to the Ministry of the Interior. In 2018, 284 people applied for asylum – compared to 162 persons in 2017, according to the **Annual Report of the Helsinki Committee for Human Rights of the Republic of Macedonia**.





Between 1 January and 30 November 2018, 7,651 persons expressed their intention to seek asylum and to submit an asylum application in **Serbia**. This is an increase compared to the same period in 2017, when 5,702 persons intending to seek asylum were registered, according to the Belgrade Centre for Human Rights. However, in the first eleven months of 2018, only 292 persons actually submitted asylum applications. Out of these 292 applications, refugee status was granted in ten cases, and subsidiary protection was granted in 14 cases.

## Access to asylum procedures

The new asylum law in **Italy** might affect the right to family unity. **Law No. 132 of 1 December 2018** introduced the possibility for asylum seekers to be detained in adequate facilities within the hotspots for a maximum of 30 days. This legislative provision might have a crucial impact on accompanied children, if their parents are detained under the new provisions. As children cannot be detained under Italian law, they would be placed in reception facilities for unaccompanied children, waiting to be reunified with their parents.

According to the data provided by the Office of Immigration and Asylum in interviews, roughly one person per working day was admitted to each transit zone in **Hungary**. The data continue to show that daily access to asylum in Hungary is extremely limited, which **has been the case since the end of January 2018**. In the country, people in need of international protection can only lodge asylum applications in the transit zones.

In **Bulgaria**, the State Agency for Refugees continued to experience problems with recruiting interpreters. A **new vacancy notice for interpreters** in Turkish, Russian, Arabic, Kurdish, Pashto and Dari was published in November 2018.

In **Austria**, the court of second instance overturned 43 % of the decisions issued by the Federal Office for Immigration and Asylum between February 2017 and July 2018, according to a **response to a parliamentary question**.

UNHCR raised concerns in an interview about the **proposed legislation of Germany** to include Algeria, Georgia, Morocco and Tunisia on a list of safe countries of origin. In particular, they consider problematic the criterion “no *systematic* human rights violations” to establish whether a country is safe, as the **EU Asylum Procedures Directive** does not require violations to be “systematic”.

In **Poland**, the lack of legal assistance available to asylum seekers in detention centres and open reception facilities remained an issue of grave concern, the Ombudsman, UNHCR, and multiple NGOs pointed out in interviews. This deficiency is due to funding gaps, since the Ministry of the Interior and Administration has still not announced calls for more than a year, under their national programme of the EU Asylum, Migration and Integration Fund. The NGO Rule of Law Institute Foundation stated that, due to this situation, they will stop providing legal assistance to asylum applicants and returnees free of charge as of February 2019.

UNHCR highlighted continued delays in **Spain’s** asylum procedure. For example, at the police station in Aluche, only 99 applications are accepted per day. This policy has forced up to 200 people – including pregnant women, children and persons with medical conditions – to wait outside the station and sleep on the street for several days while waiting for their appointment. After obtaining access to the police station and receiving a “Certificate of intention to apply for asylum”, some were informed that they must wait until December 2020 for their official **appointment**, **El Pais reported**. The *Servicio Jesuita a Migrantes’* report “The way out of the Labyrinth” (“**Sacar del Laberinto**”) also referred to delays in asylum procedure.

The overall length of asylum procedures continued to decrease in **France**, from more than eight months on average in 2017 to 100 days by the end of last year, according to the **Office for the Protection of Refugees and Stateless Persons**. However, in the northern Calais area, practical obstacles to accessing asylum remain: due to the absence of first-reception centres in the area, people wishing to submit an asylum application need to go to towns located more than 100 km away (e.g. Lille or Arras), **according to the Public Defender of Rights** and an interview with the NGO 'La Cimade'.

The State Secretary for Asylum and Migration in **Belgium** decided to limit the number of registrations of asylum seekers to 50 per day due to a constant increase in the number of asylum applications since July. **Several NGOs challenged the decision**, as unregistered asylum seekers are not allowed to legally stay in the territory and do not have access to reception services. In December, the Council of State **suspended the order** as the decision brought into question compliance with the fundamental right to seek asylum under the 1951 Geneva Convention.

In **the Netherlands**, according to a **study of the Vrij Universiteit van Amsterdam**, the **Administrative Jurisdiction Division of the Council of State** failed to conduct a comprehensive factual and legal examination of first-instance decisions of the Immigration and Naturalisation Service between 2001 and 2015.

In **Finland**, a **government proposal** to amend the Aliens Act to streamline the processing of subsequent applications was submitted to parliament. The proposed amendments aim to reduce potential misuse of the asylum procedure and to encourage asylum seekers to present all relevant information during the first procedure. The proposal also includes amendments concerning work permits, as well as a provision on the seizure of travel documents. **UNHCR** criticised that new grounds that have not been previously presented are deemed inadmissible unless the applicant was unable to present these.

A **study, commissioned by the Ministry of the Justice in Finland** and carried out by the independent Migration Institute of Finland, shows that the quality of the services vary a lot depending on the individual service providers. Good and bad practices were identified among all groups of legal aid providers, public as well as private. The study found that some counsels cannot be reached, do not have time and do not meet their clients. Many of the asylum seekers were unaware of the possibility to receive legal aid during the asylum procedure, and the shortened appeal periods pose a risk to the right of access to justice.

The **Helsinki Committee for Human Rights of the Republic of Macedonia's Annual Report** noted that, in 2018, legal assistance and adequate information were promptly provided to those wishing to apply for asylum in **the former Yugoslav Republic of Macedonia**. However, the country remains unattractive for asylum seekers, according to all interviewed stakeholders. As a result, most of them leave the country before receiving a final decision. Still, the Helsinki Committee of Human Rights of the Republic of Macedonia and the Macedonian Young Lawyers Association, who provide free legal aid to asylum seekers, noted that explanations for rejections are very general, without proper references to international organisations' reports on the countries of origin. Moreover, the court procedures used to challenge asylum decisions are ineffective. The NGO 'Legis' stated in an interview that the main reasons given for rejections are "danger to the national security" and "protection of public order and national security". The Ministry of the Interior and the Ombudsperson indicated that there is a lack of human resources for translation and interpretation.

Access to interpreters during the asylum procedure in **Serbia** is limited, according to the Belgrade Centre for Human Rights.

## Bright spots

In **Sweden**, an **internal audit evaluating the quality of asylum procedures** at the Swedish Migration Agency covered 400 cases. It found that their overall quality had improved and that, in more than 90 % of the cases, the agency reached the correct decision.

However, whether or not child-impact assessments are conducted still varies across regions.

# Reception

## Reception capacity

Sufficient reception capacity was available in **Austria, Bulgaria, Croatia, Germany, Finland, Denmark, Hungary, Poland** and **the former Yugoslav Republic of Macedonia**.

Reception centres remained overcrowded in **Belgium; France; Greece**, particularly in the hotspots; **the Netherlands; Spain**; and **Serbia**.

The number of asylum seekers in **Poland** to whom the asylum authority grants social assistance (e.g. housing and information on health care) continued to decrease. More than 50 % of all asylum applicants (some 1,620 persons) received funds to live outside of open reception centres (in private accommodation), the Polish Office for Foreigners stated. However, the sum provided by law (**€ 180 per month**) is too low compared to living costs and thus needs to be increased, NGOs pointed out in interviews.

The *Servicio Jesuita a Migrantes'* report "The way out of the Labyrinth" ("*Sacar del Laberinto*") highlights problems with overcrowding in Migrant Temporary Stay Centres (CETI) in Melilla, **Spain**. These host people during what can amount to long waiting periods, but vulnerable groups such as families with young children, religious minorities, and LGBTI people cannot be protected adequately in these centres.

The reception system's capacity in **France** remained unable to provide accommodation for all asylum seekers in the country, the Public Defender of Rights and various NGOs reported in interviews. **According to a survey carried out by 'La Cimade'**, the total number of asylum applicants increased to 135,000 people, while the reception system altogether has some 90,500 places. Those excluded from the official reception system are entitled to financial support of € 7.40 per day for accommodation.

The reception capacity was insufficient in **Belgium**, despite **the government's efforts to provide 1,300 additional places**. The new State Secretary for Asylum and Migration decided to open additional reception facilities to ensure a reception place for all asylum applicants.

In **the Netherlands**, the Central Agency for the Reception of Asylum Seekers announced that it is immediately **looking for 5,000 additional places**.

In **Denmark**, the Immigration Service will close three reception centres in the course of 2019 given the very low number of new arrivals.

In **Serbia**, according to the Belgrade Centre for Human Rights, the reception/transit centres in Adaševci and Principovac were overcrowded (operating at 126 % and 134 % of their capacity, respectively).

## Reception conditions

In **Greece**, the humanitarian association '*Médecins Sans Frontières*' (MSF) **extended its operation** at the Reception and Identification Centre in Fylakio, in the Evros region, until the end of December 2018. MSF noted that medical services did not meet the necessary standards and called for an urgent launch of an organised and reliable transfer of vulnerable people from the reception centre to the nearest hospital. It also highlighted that unaccompanied children have been detained at the reception facility for a prolonged period and in unsuitable conditions.

The Municipality of Lodi (Lombardy), **Italy**, required third-country nationals applying for social benefits – such as school meals for their children – to declare their income in Italy and in their country of origin. The **Ordinary Court of Milan** accepted to hear a complaint filed by two associations – the Association for Legal Studies on Immigration (ASGI) and the NGO 'Naga' (a non-profit volunteer association providing healthcare support, legal counselling, and social assistance to foreign citizens, whether regular or irregular) – against this decision. The **Ordinary Court of Bergamo** (Lombardy) issued an injunction against a similar decision by the Municipality of Palazzago (Lombardy).

The Centre for Peace Studies in **Croatia** raised concern in a **press conference**, noting that it is no longer allowed to enter reception centres to provide support.

In **Bulgaria**, a reception centre in Sofia was temporarily closed. All asylum applicants staying there were moved to another centre in the capital (in the Ovcha Kupel neighbourhood), which accommodated some 170 people at the end of the reporting period. With winter season beginning and temperatures falling, people accommodated in this reception centre started voicing concern about the lack of heating, small fire incidents, problems with sewage and pipe leaks, as well as bedbugs, the Bulgarian Red Cross reported.

The **Spanish** Refugee Aid Commission (CEAR) launched a campaign called “Put them in your house” (“*Mételos en tu casa*”), which supports refugees in finding housing by encouraging Spaniards to provide accommodation.

Informal camps persist in **France**, with some 600 migrants, including women and children, living in Calais in makeshift structures, NGOs reported in interviews. A **report published by the Public Defender of Rights** in December noted serious shortcomings, such as persisting obstacles to access to asylum in this region; a lack of information for asylum seekers; and sub-standard living conditions leading to an “unprecedented deterioration of the health of the migrants”, with cases of tuberculosis and scabies.

In **Germany**, the Bavarian Refugee Council and the Federal Association for Unaccompanied Minors reiterated their concern that, with so-called anchor centres (Arrival, Decision and Return Centres), the German government is moving back to accommodating asylum seekers in large, isolated camps. There are no plans to establish more centres than the nine centres that are already running, according to **ZEIT ONLINE**. The Refugee Council of Berlin in an interview highlighted an increase in complaints concerning staff of a reception facility who enter rooms without requesting permission. According to the Bavarian Refugee Council, people in reception facilities are constrained in their mobility, their access to health care services, their private sphere but also their choice of food and access to legal advice. For example, people are not permitted to bring their own food inside the facility or keep electronic devices, such as kettles, in their rooms and they cannot lock their rooms.

In **the former Yugoslav Republic of Macedonia**, at the two transit reception centres on the southern border with Greece (RTC Vinograd) and near the border with Serbia (RTC Tabanovce), conditions have improved. The centres cover people's essential needs, providing food, primary healthcare, cultural mediators, legal assistance, psycho-social counselling, as well as a range of activities – such as internet access, language classes, and outdoor playgrounds for children. However, appropriate winter clothing is lacking, according to the NGO Legis. **The transit zones were established in September 2015** to better organise the registration and transit of incoming migrants and provide humanitarian assistance. After the closure of the “Balkan route” in March 2016, around 1,500 migrants remained in TC Tabanovce and 130 remained in TC Vinograd under sub-standard conditions, some of them sleeping in the mud under the open sky. Within a few months, the number of refugees in Tabanovce slowly reduced and conditions slowly improved.

## Bright spots

The Immigration Service and the Police University College in **Finland** produced, together with migrants and asylum seekers, **videos to inform asylum seekers of fundamental rights, criminal law and sanctions**. They will be used at reception centres as part of the training offered to new asylum seekers. The materials cover eleven themes, including the crimes of sexual abuse of children, honour-related violence and domestic violence. The videos are available on the Immigration Service's website in 11 languages.

In **Serbia**, accommodation conditions in asylum centres and reception/transit centres vary considerably, according to the Belgrade Centre for Human Rights. In most facilities, asylum applicants have the right to material reception conditions, including accommodation, food, clothing and a cash allowance.

## Vulnerable persons

The situation of vulnerable asylum seekers in **Austria** has not improved. There are still no specific procedures in place to identify vulnerable persons and no specialised care facilities and support services for victims of torture and/or trauma. General psychological care, however, is provided in all accommodations, according to the Federal Ministry of the Interior.

The Jesuit Refugee Service in **Germany** again raised the lack of systematic identification procedures for especially vulnerable persons and the risk that traumatised persons may be accommodated in large reception facilities where their needs are not recognised.

The Safe House, a reception centre for vulnerable migrants in **the former Yugoslav Republic of Macedonia**, provides all necessary support services to vulnerable asylum seekers, including by providing for their basic food and hygiene needs, psychosocial support and medical support, according to the Ministry of Labour and Social Policy and the NGO Legis. However, the language barrier remains an issue, as does the lack of specialised shelters for vulnerable migrants based on the type of vulnerability.

## Child protection

### Figures and trends

As of 31 December 2018, according to the **National Centre for Social Solidarity (EKKA)**, 3,741 unaccompanied children were estimated to be in **Greece**. The majority of them were boys between 14 and 18 years old, primarily originating from Afghanistan, Pakistan and Syria. Only 981 were in appropriate and long-term accommodation (shelters and semi-independent living apartments); 777 were in temporary accommodation ('safe zones' and emergency hotels); 701 stayed in Reception and Identification Centres; 86 in 'protective custody', mainly at police stations; 183 in open temporary accommodation facilities; 552 were reported as homeless; 258 stayed in informal housing arrangements; and for 203, no location was reported. The total number of available long-term accommodation places for unaccompanied children in all of Greece is 1,064; for temporary accommodation, that number is 895.

The high numbers of children arriving to **Spain** (some 7,000 in 2018) have challenged the protection system for foreign children in the country. As a result, the early identification and adequate treatment of children upon arrival; access to rights, including asylum procedures; and the identification of international protection needs are of concern, UNHCR stated in an interview.

No unaccompanied children were at the reception centres in **the former Yugoslav Republic of Macedonia**, according to the Ministry of the Interior and Labour and Social Policy. Most unaccompanied children transiting through the country are 14+ years old. In December 2018, the Ministry of the Interior granted subsidiary protection to one unaccompanied child; however, the child had already left the Safe House to which he had been assigned.



## Reception conditions for children

In **Hungary**, two members of parliament who visited the Tompa transit zone at the end of November indicated that, for around 40 children, an outdoor area not bigger than a basketball court is the only place provided for activities. Children complained about boredom and depression due to the limited number of activities available, and about the presence of armed guards everywhere in the transit zone. The members of parliament also met an autistic boy who had been staying in the transit zone with his family for months, without access to proper care as he was not allowed to be taken out of the facility.

The Governor of Lower **Austria** closed a special centre for “suspicious, notoriously trouble-making” unaccompanied children following a report by the Lower Austria Ombudsoffice for Children and Youth, criticising the poor hygienic conditions; the fence with barbed wire surrounding the accommodation; children being allowed to leave only for limited time periods and only if accompanied by security guards; as well as the lack of daily activities and adequate care.

In **Bulgaria**, civil society organisations continued to support asylum-seeking children and those children who are international protection status holders. For instance, the Council of Refugee Women ran a donation campaign entitled “Give Warmth” to collect winter clothes and shoes for asylum applicants, especially children. Similarly, in the framework of the “We Play and Learn” project, Caritas Sofia continued to provide Bulgarian-language, geography, biology and art classes to asylum-seeking children, and to assist them in preparing their homework.

In **Spain**, almost 200 municipalities met in Oviedo (Asturias) for the Fifth National Meeting of Child and Adolescent Participation Councils, with the aim of establishing friendly spaces for refugee children and privacy for their families. For example, in Rivas Vaciamadrid, the City Hall provided apartments for refugee families with children and Save the Children opened two safe points for children at the borders (Melilla and Algeciras).

According to the *Servicio Jesuita a Migrantes’* report “The way out of the Labyrinth” (“*Sacar del Laberinto*”), unaccompanied children encounter specific difficulties in Melilla, **Spain**. In some cases, a lack of documents or inaccurate medical tests used for age determination mean they are not recognised as children; even for those recognised as children, deficiencies in care have been found in child protection centres. The report also notes that the period for which families can be separated from their children while identity checks are carried out is excessively long.

Several shortcomings persisted in the child protection system for migrant children in **France**, the Public Defender of Rights and the NGO ‘La Cimade’ pointed out in interviews. These include significant delays in access to care; the lack of objective indicators in age-assessment procedures (expert opinions referring only to the “maturity and physical appearance” of the persons concerned and heavily relying on bone tests); as well as inadequate reception conditions (with many children accommodated in “social hotels” in geographically remote areas, without age-specific support services).

In **Germany**, the Refugee Councils of Bavaria and Berlin and the Federal Association for Unaccompanied Minor Refugees stressed that children living in reception centres – in particular in the so-called anchor centres (Arrival, Decision and Return Centres) – often do not have access to regular schools. They attend German-language classes inside the facility, which are often not separated into different age groups.

## Bright spots

The **Bulgarian** Red Cross reported in an interview that a wing in the reception centre in Sofia’s Voenna Rampa neighbourhood was designated for accommodating unaccompanied children. It has a capacity of 90 places, has been renovated, and is expected to open in the spring of 2019.

The United Nations Committee against Torture expressed its concern about the increase of unaccompanied asylum-seeking children placed in detention in 2015-2017 in **the Netherlands**. The Committee's periodic report also points out the lack of assistance provided to unaccompanied children, including legal aid, throughout the asylum procedure. An evaluation of the model for the reception of unaccompanied children put in place in 2016 shows that **two out of the three intended goals have been reached, as all unaccompanied children reside in small-scale reception centres** and those with residence permits reside at different locations than unaccompanied children without permits. The third goal – keeping children in the same region until they turn 18 – could not be assessed, as the relocation movements of unaccompanied children are not monitored.

In **Sweden**, the asylum authority (the Swedish Migration Agency) started **implementing a new model for distributing unaccompanied asylum-seeking children between municipalities** in January 2019. The new model allows the municipalities to allocate children between themselves at the regional level, which is supposed to make regional collaboration easier when the number of unaccompanied children decreases.

As the number of migrants in reception and transit centres are very low in **the former Yugoslav Republic of Macedonia**, there are sufficient capacities to provide separate accommodation facilities for families as well as child-friendly spaces, according to the Helsinki Committee of Human Rights of the Republic Macedonia.

## Guardianship for unaccompanied children

In **Hungary**, due to **legislative changes** introduced at the end of March 2017, the authorities continued to assign guardians only to unaccompanied children under the age of 14, who are placed in a children's home close to Budapest (in Fót). Unaccompanied children over 14 years of age are still placed in the Röszke transit zone until their asylum claims are decided upon. Under **Hungarian law**, they are considered to have full legal capacity as soon as they are 14 years of age, so they are assigned a formal legal representative only for the asylum procedure (an "ad hoc guardian"). Given their low numbers, such ad hoc guardians are only able to meet the children sporadically, and their consent is not required if a child decides to leave the transit zone through the one-way exit towards Serbia.

In **Bulgaria**, problems with the representation of unaccompanied children persist, mainly due to the lack of capacity of municipalities to appoint a sufficient number of guardians, despite the drop in the number of new arrivals, the Ombudsman reported in an interview.

In interviews, the Ombudsman for Children in **Poland** and the NGO 'Association for Legal intervention' highlighted a number of persistent shortcomings in the guardianship system. For instance, the guardian's powers only last for the duration of the asylum procedure, and there are no criteria set out in law to appoint guardians for unaccompanied children. In practice, appointing a guardian is extremely burdensome, because it is only allowed under Polish law **once parents are officially deprived of parental authority**. The guardianship system is still based on the voluntary work of NGO staff, who are often appointed as ad hoc guardians.

According to the Danish Red Cross, 71 unaccompanied children arrived in **Denmark** in the reporting period. The low number of arrivals increased the availability of volunteer guardians, giving the opportunity to the Danish Red Cross the opportunity to train them and teach them how to build a network.

## Safeguards and specific support measures

The recently approved reform in **Italy** will have an impact on unaccompanied children's transition phase to adult age, according to **ASGI and INTERSOS**. Before the reform, unaccompanied children were usually granted humanitarian protection, which could be converted into a residence permit for study or work purposes upon turning 18. With the elimination of the humanitarian residence permit, it will be more difficult for unaccompanied children to regularise their administrative status.

In **Greece**, *Médecins Sans Frontières* conducted vaccination campaigns for children under 16 on the islands of Lesbos and Samos, in collaboration with the Greek authorities, as reported in interviews.

According to the Jesuit Refugee Service, unaccompanied children in **Croatia** are accommodated in structures that are not meant for them, but for children with behavioural problems or who have committed minor crimes. Social workers and legal guardians are neither properly paid nor properly trained.

In **Sweden**, many asylum-seeking unaccompanied children and young adults, as well as rejected asylum seekers who are homeless, are difficult to reach. As a result, they rarely get access to any support services – even where they are officially entitled to it, Save the Children reported in an interview.

Also in **Sweden**, the **National Board of Health and Welfare** conducted a survey on the municipalities' contingency plans for providing housing to those unaccompanied children and young adults who have been granted temporary residence permits to finish studies at upper secondary level. The survey showed that most municipalities had in place contingency plans meeting the needs of these young people, at least when it comes to schooling. However, a legal gap continues to exist, meaning that neither the Swedish Migration Agency nor the municipalities are responsible for providing housing to these young individuals, these authorities confirmed in interviews.

Three scientists from two Dutch universities published a memorandum outlining the consequences of the removal of well-rooted children who do not qualify for child amnesty in **the Netherlands**. According to the memo, years of fearing a forced return threaten their development and may impair their brain functions in a way that extremely undermines their chances of recovering and adapting to life in their country of origin. The memo was endorsed by 37 professors from different Dutch universities in the fields of neuropsychology, developmental psychology, psychology, psychiatry, orthopedagogy, and by the professional association for doctors in youth health services.

Unaccompanied and separated children in **Serbia** face diverse challenges during the asylum procedure, primarily due to insufficient coordination between the various state authorities, ministries and institutions, and the insufficient capacities of different stakeholders in the protection system, according to the Belgrade Centre for Human Rights.

## Age assessment

The UN Committee on the Rights of the Child declared that **Spain** violated the principle of the best interests of the child when assessing the age of an Ivorian asylum applicant with the so-called "Greulich & Pyle" method. The Committee deemed this method, which is based on an assessment of bone maturity of the hand and wrist, inappropriate and unreliable for determining the age of a child.

## Missing children

As of 1 December 2018, 497 missing children with non-EU-citizenship were registered in SIS II in **Austria**, and as of 1 January 2019, this number was 452, according to the Federal Ministry of the Interior.

In **Sweden**, 140 asylum-seeking and migrant children went missing during the reporting period, according to the Swedish Migration Agency.

A report from the **Dutch** National Rapporteur on Trafficking in Human Beings and Sexual Violence against children **showed that 294 unaccompanied children went missing in 2016 and that 360 children went missing in 2017**. The number has increased for the third year in a row. The report attributes the rise of missing children from safe countries to their low chances of being granted asylum. Almost half of the missing children are 13-16 years old and forty percent of them are 17 years old.

## Family reunification

By the end of 2018, only 3,500 persons were able to reunite with their family members under subsidiary protection in **Germany**, compared to 5,000 who would have been allowed according to the quota system, **ZEIT ONLINE** reports. The **provisions on family reunification for persons under subsidiary protection**, which came into force in August 2018, foresee a quota of 1,000 persons per month to be reunited with their family members who have subsidiary protection. The Migration Commission of the German Bishops Conference, the Jesuit Refugee Service, staff of the City of Chemnitz, the Federal Association for Unaccompanied Minors and UNHCR raised concerns about plans to stop the practice that if the monthly quota was not met, the difference would be transferred to the next month. Staff of the City of Chemnitz reported that a great number of reunifications of unaccompanied children with a relative other than a parent living in **Germany** did not succeed because municipalities could not agree on who covers the costs.

In **Finland**, a **government proposal** includes amendments to meet the requirements of the judgment of the **Court of Justice of the European Union in the case of A, S v. Staatssecretaris van Veiligheid en Justitie (C-550/16)** concerning family reunifications of unaccompanied children who reach maturity during the asylum process.

According to the Danish institute for Human Rights, **the Danish government has proposed** a draft bill that allows immigration authorities to postpone the processing of family reunification cases for up to four months in case of a sudden increase of requests. The draft bill also intends to reduce the integration allowance as an incentive for refugees to work and to make Denmark a less compelling destination for foreigners.

In the fall of 2016, the **Danish** immigration authorities started to review cases of Somali nationals, as the situation in South and Central Somalia had allegedly improved, leading to withdrawals of residence permits. They have since reviewed 1,200 cases. According to the Danish Refugee Council, the Immigration Service set up departure dates for family members of Somali nationals before the Refugee Appeal Board had taken a final decision on the residence permit of the sponsor. As public criticism rose, the Immigration Appeals Board announced that it would stop this practice.

In **the former Yugoslav Republic of Macedonia**, UNHCR reiterated its concerns about the **Law on Temporary Protection**, which limits the right to family unity and family reunification for refugees and beneficiaries of subsidiary protection.

The law requires family members to meet the requirements for a protection status themselves, which is at odds with the country's international obligations, according to UNHCR. Beneficiaries of subsidiary protection have the right to family reunification two years after their status recognition.

## Immigration detention

### Detention capacity

The total number of people held in immigration-related detention in **Greece**, islands included, was 4,987 at the end of December; of these, 2,821 were asylum seekers and 159 were unaccompanied children, according to the data of the Hellenic Police Headquarters. All this represents a slight decrease since the previous months. The majority of detainees originated from Afghanistan, Bangladesh and Pakistan.

In **Hungary**, 54 people were placed in pre-removal detention during the reporting period (a slight increase compared to the previous period), according to the data of the Office of Immigration and Asylum and the National Headquarters of the Police. Meanwhile, asylum detention (in facilities other than the transit zones) was applied to only one Dublin transferee, according to the data of the Office of Immigration and Asylum. Given that the transit zones at the border with Serbia remain the only location to lodge an asylum application and all migrants in an irregular situation who have been apprehended on Hungarian soil are escorted back to the other side of the border fence, the designated pre-removal and asylum detention centres continued to be almost empty, according to the Office of Immigration and Asylum.

In **Austria**, the number of people in immigration detention increased exponentially over the past five years, according to the **Federal Minister of the Interior**. In 2014, 1,882 persons were held in such facilities; by 2018, this had increased to 4,005 persons.

According to the **data of the Ministry of the Interior**, the number of people placed in pre-removal detention in **Bulgaria** decreased slightly (with 289 new detainees in the reporting period); the majority of them came from Afghanistan.

In **Sweden**, 500 migrants in an irregular situation, including 32 women, were in pre-removal detention at the end of the reporting period, according to the data of the Swedish Migration Agency.

### Conditions of detention

In **Italy**, shortly after **Law No. 132 of 1 December 2018** came into force, **ASGI** published a **press release about protests** against unacceptable living conditions in the regional repatriation centres (*centri di permanenza per il rimpatrio*, CPR) of Bari (Apulia) and Potenza (Basilicata). The **Lazio Authority for the Protection of Detainees' Rights** (*Garante dei Detenuti del Lazio*) expressed its disappointment about the Ministry of the Interior's decision not to authorise the arrangement of leisure activities for women detained in the CPR facility of Ponte Galeria (Rome).

A delegation of the United Nations Working Group on Arbitrary Detention (UN WGAD) went to visit the transit zones in **Hungary** in November, an effort triggered by a number of reports concerning the lack of safeguards against arbitrary detention. However, the **Hungarian authorities denied the delegation**

access to the transit zones without any reasoning – even though, under the terms of reference of UN special procedures mandate holders, such as the UN WGAD, governments are required to guarantee “confidential and unsupervised contacts with persons deprived of their liberty”. On the suspension of the visit, UN WGAD stated that “there can be no doubt that holding migrants in the transit zones constitutes deprivation of liberty in accordance with international law”.

The Croatian Law Centre reported that there are no alternatives to detention in **Croatia** and access to detention centres for NGOs and lawyers remains limited. According to the new **By-law on the Rules Regarding Detention in the Reception Centre for Foreigners to the Ministry of Interior**, lawyers need to announce their visit two days in advance (same as regular visitors) and police officials are present throughout the visit.

Pre-removal detention of families with children and unaccompanied children aged 15-18 years persisted in **Poland**, the Ombudsman for Children and the NGO ‘Association for Legal Intervention’ reported in interviews. UNHCR prepared a report (not available online) on the application of the best interests of the child principle and alternatives to children’s detention in Poland. According to the report, in the vast majority of the cases analysed, the district courts did not examine the best interests of the child, nor did they take this principle into consideration when deciding on the detention of children, instead only regularly assessing the situation of the parents, UNHCR pointed out in an interview.

Immigration detention remained widespread in **France**, including for families with children, the Public Defender of Rights and several NGOs reported in interviews. The **Controller General of Detention Facilities issued reports** in December on its visits to a number of pre-removal detention centres (in the Departments of Ille-et-Vilaine, Nord, Alpes-Maritimes and in Paris). The reports found persistent shortcomings, such as dirty cells, the lack of furniture, and no leisure activities offered to detainees – coupled with heightened tensions and violence between the detainees, but also between them and the guards.

Also in **France**, authorities regularly placed apprehended migrants in an irregular situation in prefabricated buildings attached to police stations along the alpine border with Italy, NGOs reported in interviews.

Following legislative changes in July 2018, families with children can be detained in **Belgium**. The UN Committee on the Rights of the Child ordered the suspension of the detention of children on 25 September, but to date, the government has not responded to this order. In December, the fourth family with at least one child was placed in pre-removal detention, despite the Committee’s interim measure.

A judge at the Federal Supreme Court in **Germany** revealed in a **response to a parliamentary question** that between 85 % and 90 % of all cases concerning immigration detention examined by the court were found unlawful – for instance due to procedural irregularities or incorrect legal reasoning. In an interview, an asylum lawyer said that, out of the 1,675 clients he had represented since 2001, the courts found that 832 were unlawfully held in detention pending removal.

According to the seventh periodic report of the United Nations Committee against Torture, in **the Netherlands**, migrant detainees are held in heavily guarded institutions, often together with common criminals and in solitary confinement. They have limited access to legal aid and healthcare services. The report draws attention to the bill for the Return and Aliens Detention Act, currently under review by the Senate. This Act will implement a more restrictive regime for all newly arriving migrants. The report also points out the situation of Venezuelan asylum seekers detained in closed facilities in Curaçao, where they are subject to ill-treatment and sexual assault by police and immigration officers.

In two cases, asylum seekers were not allowed to leave the Reception Centre for Foreigners in Gazi Baba, **the former Yugoslav Republic of Macedonia** – one on the ground of protection of national security and in the other case to check the person's identity. The possibility to limit asylum seekers' freedom of movement for up to six months in exceptional circumstances was introduced by the **Law on International and Temporary Protection in April 2018**. In interviews, NGOs, UNHCR and the Ombudsperson raised concern about the lack of safeguards against arbitrary implementation of the law. Although conditions have improved overall due to the reduced number of migrants, inappropriate infrastructure, insufficient staff and lack of interpreters remain concerns, according to NGOs and the Ombudsperson.

## Return

The police in **Greece** carried out some 774 removals in the reporting period, including 51 readmissions in application of the EU-Turkey Statement. The vast majority of returnees were from Albania and Turkey, who were sent back to their home country. As reported in interviews, IOM Greece conducted 881 assisted voluntary returns, including almost 80 children with families, primarily to Iraq, Iran, Georgia and Pakistan.

In **Italy**, the Authority for the Protection of People who are Detained or Deprived of their Personal Freedom released a report addressed to the Ministry of the Interior. It outlines the results and recommendations emerging from its monitoring activity of return flights aimed at repatriating irregular foreign citizens, operated between December 2017 and June 2018. Concerns include the fact that personnel in charge of preparatory activities for return operations were not specifically trained, used systematically coercive measures (velcro handcuffs) and did not wear uniforms, making it impossible for returnees to distinguish between health assistants and police officers.

The border police at the airport of Milan in **Italy** returned two women from Cuba and Senegal to their countries of origin after detaining them in the airport's transit zone for three and five days, respectively. The two women, who had regular residence permits, had left Italy some weeks earlier to visit their home countries. When they came back to Italy, they were informed that their residence permits had been, respectively, revoked and not renewed. None of these measures had been authorised by judicial authorities, and the two women were not given the possibility of legally assistance by a lawyer, according to the **Association for Legal Studies on Immigration (ASGI)**.

In **Hungary**, rejected asylum seekers subject to a return decision (which is combined with the negative asylum decision) either remained in the transit zones or were transferred to closed detention centres pending their removal – at the Budapest International Airport in case of removal by air and otherwise in the facilities at Nyírbátor and Békéscsaba, the Ministry of the Interior stated in an interview.

From January to November 2018, the Federal Ministry of the Interior in **Austria** reported 5,101 voluntary returns and 6,422 forced removals; 12,529 asylum applications were filed in Austria during this time.

In **Austria**, the intended forced removal – at five o'clock in the morning – of a well-integrated family in Vorarlberg, including a three-year-old child and a pregnant woman, sparked a political debate, **die Presse** reported. The removal could not take place as it led to medical complications for the pregnant woman, who had to be brought to a hospital. The case prompted governors of the provinces of Vorarlberg and Carinthia to demand having a say in return decisions and the right

---

## In numbers

In **Italy**, Law No. 132 of 1 December 2018 increased the financial resources earmarked for the Repatriation Fund (*Fondo Rimpatri*) by € 500,000 in 2018, by € 1,500,000 for 2019, and by € 1,500,000 for 2020.

---

to stay for humanitarian reasons, which the Minister of the Interior refused to grant. Following a parliamentary inquiry into the incident, the **Federal Minister of the Interior stated** that the best interests of the child have to be in the foreground for all measures concerning children and that removals of families are only conducted by specialised officers in civilian clothing, and in the presence of female officers.

In **Bulgaria**, the number of returnees was 140 (mostly Iraqi nationals) in the reporting period. They either returned voluntarily or under assisted voluntary return programmes – or were subject to removal, including readmission procedures.

At an expert meeting in **Bulgaria**, NGOs involved in forced-return monitoring complained that, in some cases, they were informed about upcoming return operations at very short notice and thus had not been able to provide their monitors with all the necessary documents, including visas. The Ombudsman, who is the other designated body monitoring forced returns, reported that there is a lack of funding for forced-return monitoring.

In **France**, the NGO 'La Cimade' observed that in two pre-removal detention centres in Île-de-France, a number of detainees were returned while their asylum procedures or judicial review of their detention were still ongoing – in clear violation of EU and international refugee law.

In **Germany**, in response to a parliamentary question, the federal government pointed out that, on 30 September 2018, 35,192 persons were undergoing return procedures; and that 125,268 persons held short-term 'tolerance permits' (*Duldung*), for instance based on the recommendation of a Hardship Case Commission. Most of the individuals remaining in Germany were from Afghanistan (3,452), Iraq (2,613), Albania (2,148) or Nigeria (2,088). Moreover, 383,826 persons who had applied for asylum in Germany since 2013 were no longer in Germany. Between January and September 2018, 16,103 persons were returned to a third country, and 7,208 Dublin transfers took place.

Also in **Germany**, the Refugee Councils of Bavaria and Berlin alleged in interviews that police officers have engaged in violent assaults during return operations. According to the Refugee Council Berlin, returns are not sufficiently monitored and cases of assault cannot be investigated after a person's removal.

In **Sweden**, according to the data of the Swedish Migration Agency, the number of voluntary returns was 910, including 200 children, in the reporting period. Some 166 people returned voluntarily to Afghanistan. In the same period, the Swedish authorities carried out some 470 forced removals, including 28 children and 70 removals to Afghanistan (the latter represents a more than two-time increase compared to the previous period). Save the Children, as reported in an interview, detected a number of problematic issues in the Swedish return practice. For instance, rejected asylum seekers subject to removal are not regularly informed about their right to complaint and the modalities of exercising this right, and official interpretation is rarely provided in the process – though both are required under the Return Directive (2008/115/EC). Beyond that, returnees are seldom involved in pre-return preparatory discussions.

The **Danish** Immigration Council announced that it would no longer transfer vulnerable asylum seekers to Italy under the Dublin Regulation due to the Italian Parliament's approval of **Law No. 132 of 1 December 2018**. This new law might limit the access of vulnerable asylum seekers to reception facilities adapted to their needs. The **UN Human Rights Committee** had found that Denmark did not fulfil its obligations under the UN Covenant on Civil and Political Rights when transferring two vulnerable asylum seekers to Italy without ensuring that reception conditions were appropriate and that they would be able to access the assistance they need.



In the five largest municipalities in the **Netherlands**, a new system of shelters – the National Aliens Provisions – will replace the current “bed-bath-bread” arrangement that entitled rejected asylum seekers who exhausted all legal remedies to a temporary shelter. The Ministry for Justice and Security and the Association of Netherlands Municipalities **reached an agreement on a pilot over three years (2019-2021), which will be subsidised by the national government and the EU**. In order to benefit from the shelters, migrants must cooperate with the authorities in finding a lasting solution, which can mean a return to the country of origin. According to the NGO Stichting LOS, this initiative does not support Dublin claimants; people from safe countries; and people who are studying, working or volunteering.

The United Nations Committee against Torture identified five points of concern regarding *non-refoulement* in its concluding observations in **the Netherlands’ periodic report on the implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**. The committee found that the fast-track procedure for asylum seekers from “safe” countries may not allow a thorough assessment of their special circumstances. Furthermore, the Netherlands might have denied refugee status to Afghans who previously worked for the security service Khad/Wad by applying the exclusion clauses of the Refugee Convention. The Netherlands also did not provide sufficient information regarding compliance with the principle of *non-refoulement* by its armed forces operating overseas.

## Legal responses

### Case law

#### Court of Justice of the European Union (CJEU)

In a preliminary ruling initiated by the Regional Administrative Court of Upper Austria, the CJEU **ruled** that EU law precludes national legislation from granting fewer social benefits to refugees with a temporary right of residence than to nationals or refugees with a permanent right of residence.

Following a request for a preliminary ruling by the Federal Administrative Court in **Germany**, the CJEU **held** that the Schengen Borders Code precludes the issuing of orders that require every coach transport that provides regular cross-border service within the Schengen Area to check the passports and residence permits of passengers crossing an internal border.

In a **preliminary ruling** initiated by the Dutch Council of State, the CJEU held that requiring individuals who apply for family reunification to pass an integration and language exam and pay EUR 460 for this, can make the exercise of this right impossible or excessively difficult. In two subsequent preliminary rulings involving **applicants who had resided in the Netherlands for more than five years** by virtue of family reunification, the court **ruled** that failing a civic integration test on the language and society can constitute a ground for rejecting an application for an autonomous residence permit.

Following a preliminary ruling request by the District Court of The Hague, **the Netherlands**, the CJEU **held** that Member States must endeavour to reply to a re-examination request under the Dublin Regulation within two weeks. If the Member State does not reply within the two-week period, the additional re-examination procedure terminates and, as a result, the requesting Member State – in this case, the Netherlands – is responsible for the examination of an international-protection application.

## Case law of the European Court of Human Rights

Acting under Rule 39 of its Rules of Procedure, the ECtHR granted an interim measure in December to a detained mother and her four-month-old daughter, placed in an immigration detention centre in the Department of Loir-et-Cher (France), to prevent their transfer to Italy. The court also ordered their release from detention.

The ECtHR delivered a judgment concerning a Chechen family of seven who, after leaving Chechnya, unsuccessfully tried, on three occasions, to seek asylum at the Lithuanian border and were returned to Belarus. The court held that there had been a violation of Article 3 (prohibition of torture and inhuman or degrading treatment) and Article 13 (right to an effective remedy) of the ECHR. The court found in particular that, contrary to the government's arguments, the applicants had indeed sought asylum on each of the three occasions they had tried to cross the border. It also held that the Lithuanian authorities had refused to accept the applicants' asylum requests and forward them to competent authorities for examination of whether they faced a risk of torture or other forms of ill-treatment, if they were returned to Belarus and subsequently to Chechnya. The same applicants were allegedly also pushed back at Poland's land border at Terespol, and their application before the ECtHR related to this alleged push-back was still pending.

## National case law

A judgment by the Superior Court of Madrid noted that, according to the Spanish Constitution, asylum seekers in Melilla are entitled to the right to freedom of movement to the Spanish peninsula, provided that they have the so-called "red card", a certificate proving the submission of their asylum application. The same court also ruled that asylum seekers who have been returned to Spain under the Dublin Regulation will be able to re-enter the Spanish reception system. Before this ruling, families returned to Spain sometimes lived in the streets in Madrid.

The Dutch Council of State ruled that the State Secretary had to issue a new decision regarding the asylum applications of three women, two from Afghanistan and one from Somalia, who had adopted a western lifestyle and whose asylum applications were rejected in first instance. The court of appeal had previously reached the same conclusion. Furthermore, the Council of State ruled that a western lifestyle is not a religious or political conviction constituting a ground for seeking protection. Nevertheless, it is a ground to qualify for international protection, when the western behaviour is based on a developed political or religious conviction. Moreover, when it does not stem from a religious or political conviction, a woman who has adopted a western lifestyle may also qualify for international protection if she can prove that she will be persecuted for her personal characteristics, which cannot be concealed.

In Sweden, the Migration Court of Appeal held that denying family reunification in cases involving children, in application of the law imposing temporary restrictions on granting residence permits to refugees and limiting family reunification until the end of 2019, is in breach of both the UN Convention on the Rights of the Child and the ECHR. The case concerned an unaccompanied eight-year-old boy who was denied family reunification with his parents and siblings. The court held that denying family reunification was not proportionate in light of the overall purpose of the law, which is to limit the number of asylum seekers for some time. Particular attention must be given to the principle of the best interests of the child, which need to enjoy priority when examining whether a restriction on the right to respect for family life under Article 8 of the ECHR is reasonable in the case at hand.

In a case involving a third application by an Iraqi asylum seeker on the new ground of conversion to Christianity, the **Supreme Administrative Court in Finland** held that the best way to assess the credibility of a purported conversion is an interview. The court remanded the case to the Finnish Immigration Service, which had declared the application inadmissible without having arranged a new interview.

## National legislation

**Greece** adopted a new law (Act No. 4587/2018) on the “urgent regulatory framework of the Ministry for Migration Policy”. The law amends existing provisions to address administrative shortcomings, but also extends until the end of 2019 the special fast-track asylum procedure at the border.

In December 2018, a **new draft law on social services** was submitted to the parliament in **Bulgaria**. It aims to improve access to social services for persons seeking international protection. The draft law envisages an overall reform of the provision of social services, including for asylum seekers and beneficiaries of international protection. The proposal also seeks to change the system of social services available to children by replacing institutionalised arrangements with foster care and residential social services, based on individual needs assessments.

In **France**, a government decree was in the making to set up a **national biometric database for unaccompanied children** (storing their fingerprints and facial images), implementing the new law “for controlled immigration, an effective right to asylum and successful integration”, which entered into force in January 2019. The aim of the database is “to better guarantee the protection of children and to fight against irregular entry and stay”. **Several NGOs** and the **Public Defender of Rights** voiced concerns about the serious interferences of this biometric database with children’s fundamental rights, including their privacy and their right to protection.

**The former Yugoslav Republic of Macedonia** adopted a “Rulebook on the right to limit the freedom of movement of applicants for international and temporary protection”.

## Policy responses

To step up the fight against boat thefts and the increasing number of attempts to cross the Channel to reach the United Kingdom, the interior ministers of **France** and the United Kingdom agreed, at the end of December, on a ‘**reinforced action plan**’. The action plan includes the intensification of surveillance patrols, regular actions to dismantle traffickers’ networks, and awareness raising among migrants about the dangers of crossing the Channel. These measures are to be implemented by the French-British Coordination and Information Centre located in Coquelles, near Calais.

In **Poland**, the Head of the Office for Foreigners announced that a **Migration Analytical Centre was going to be established** within the office, which is implemented as part of a joint project of the **Visegrad Group** (Czech Republic, Hungary, Poland and Slovakia).

The **European Commission stepped up its infringement procedure** against **Bulgaria** for failing to comply with the requirements stemming from the Asylum Procedures Directive (2013/32/EU) and the Reception Conditions Directive (2013/33/EU), alongside Article 24 (rights of the child) and Article 47 (right to an effective remedy and a fair trial) of the EU Charter of Fundamental Rights.

## Bright spots

In **France**, in accordance with **legislative changes** in effect since January 2019, the Office of Immigration and Integration (OFII) is now also **allowed to promote assisted voluntary return** for rejected asylum seekers who were subsequently detained pending removal. Such assistance consists of € 650, given in the form of a bank card that is activated once the returnee lands in the country of origin. OFII has set a target of 3,000 such assisted voluntary returns for 2019.

The European Commission sent its letter of formal notice, which represents the second phase of the proceedings, to the Bulgarian government in early November.

**Sweden** decided to receive 5,000 refugees selected by UNHCR for resettlement in the country in 2019.

In **the former Yugoslav Republic of Macedonia**, a new Strategy on Integration of Refugees and Foreigners (2017-2027) and the National Action Plan for its implementation were still pending government adoption, due to the political situation in the country, the Helsinki Committee of Human Rights of the Republic Macedonia reported.

## Responses by civil society, local and political actors

In **Hungary**, the NGO 'Migration Aid Foundation' transformed itself into a political party to be exempted from the 'special tax related to migration' introduced earlier last year, imposed on civil society organisations carrying out 'migration supporting/promoting activities'. In November, the Hungarian governing party requested the Office of the Chief Prosecutor to investigate whether this newly formed party (called 'Night's Watch') only aims to circumvent Hungarian law, according to **media reports**. Investigations were still ongoing.

Also in **Hungary**, a member of parliament (from the right-wing party 'Our Land') **proposed new legislation prohibiting the wearing of a burqa**. The proposal seeks to amend the **Act on misdemeanours** by introducing the new offence of 'falsifying face recognition', to be sanctioned with a fine. Under the proposal, individuals would only be allowed to wear clothing that makes facial recognition difficult at cultural, spiritual or sport activities in public venues if this is justified by their health condition or professional occupation. The relevant parliamentary committee supported the proposal; however, **members from opposition parties had left the session** prior to voting. Discussions on the proposal in the plenary session were still ongoing.

In **Bulgaria**, the NGO 'Centre for Legal Aid Voice' published a **guide to immigration detention** for detainees. The English-language brochure aims to help detainees quickly find answers to pressing questions, such as 'Where am I?', 'What are my options?', 'Why am I here?' and 'How long will I be here?'. The guide will also be available in French, Arabic, Farsi, Kurdish, Turkish and Urdu.

The two initially non-public agreements, signed in mid-August 2018 between **Germany and Greece** and **Germany and Spain**, became public due to pressure from NGOs. The **agreement with Greece** foresees a simplified procedure for the return of persons to Greece seeking international protection who are apprehended during temporary border controls at the German-Austrian border. The agreement with Spain applies a similar logic of summary returns. The **NGOs 'ProAsyl' and 'Refugee Support Aegean'** claim that this bilateral instrument is a vehicle for fast-track implementation of return procedures instead of Dublin transfers, hence it circumvents applicable safeguards under the EU asylum *acquis*.

In **France**, a member of the Senate voiced criticism, in a budget opinion, about the increasing use of pre-removal detention by authorities and the still low rates of effective returns. As such, more than one in two detainees placed in closed pre-removal facilities were not removed, which questions the legitimacy of excessive detention practices, including from a financial perspective.

In **the Netherlands**, campaigns continue to call for a more lenient implementation of the 'Children's Amnesty'. In two weeks, a **petition started by a TV presenter collected more than 250,000 signatures**. The government reiterated that it has **no intention to change** the legal framework of the Children's Amnesty.

From 26 October 2018 until 30 January 2019, a **non-stop service took place in a church in the Netherlands** to prevent the deportation of an Armenian family. According to the law, **police may not disrupt a church service** to make arrests. The **State Secretary indicated on 21 December that he would not use his discretionary power** to grant asylum to the family.

Amnesty International, Doctors of the World and *Stichting LOS* also published a memorandum about the **Dutch bill for the Return and Aliens Detention Act**, identifying several far-reaching restrictions of freedom. The bill will allow the isolation of children over 13 years of age; will allow strip searching; will not apply the legal standards for isolation on medical grounds as they apply in the mental health care system; and will subject all migrants to the restrictive detention regime upon arrival, and for up to two weeks.

Two NGOs in **Sweden** asked the European Commission to initiate an infringement procedure against the Swedish government because of the extremely long processing time of family reunification cases under **Directive 2003/86/EC**, **media sources reported**.

## Hate speech and violent crime

In December, a **Bangladeshi man was beaten up with a crowbar by a local** outside a supermarket in Mytilene on the island of Lesbos, in **Greece**. The incident occurred after the victim, who had been working there collecting shopping trolleys for years, had asked the perpetrator not to park his car in a space reserved for people with disabilities. The local police arrested the perpetrator and brought him before a public prosecutor on serious charges of assault, the Racist Violence Recording Network reported in an interview.

Between 1 November 2018 and 31 December 2018, the Anti-discrimination Office of Styria, **Austria**, documented 14 hate crime abuses and insults (4 of these included bodily attacks); five incidents of Swastika graffiti; and 179 hate postings. Out of these, 154 postings targeted the respective person's origin or religion; 103 were racist; 51 were islamophobic; and the rest were related to antisemitism, national socialism or homophobia.

In **Croatia**, a TV show called "Bujica" broadcasted a report entitled "Croatia, huge wave of migrants arriving" ("*Hrvatska na udaru migranata*"). In it, the host said that "these savages came from the East and rape"; one of the guests referred to migrants as **a group of people bringing diseases to Croatia** (AIDS, hepatitis, tuberculosis), stating that this can create a serious threat to public health. The Council for Electronic Media has opened a procedure against the TV show. Meanwhile, the premises of the NGO Are You Syrious? **were vandalised again**. Police confirmed that, for the first time, **a man was charged for spreading panic and fear of refugees**. More than 1,080 people from 70 different organisations signed or supported a **public statement** condemning the increase of hatred against refugees channelled through the media and social discussions. From 5 November to 14 December 2018, the Centre for Peace Studies reported 96 cases of hate crime on social media networks, 25 of them related to anti-migrant hatred and 13 related to anti-Muslim hatred. The rest of the content expressed ethnic hatred and was related to sexual orientation, gender identity and expression.

# REPORTED RACIST VIOLENCE



 Reported incidents of hate speech and hate crime against migrants, refugees or asylum seekers

As the Plenipotentiary for Human Rights of the National Police Headquarters in **Poland** reported in an interview, racist, xenophobic and related incidents against migrants and asylum seekers are easy for the police to resolve. Such hate crimes are usually incidental and perpetrators are often under the influence of alcohol or drugs. However, according to the Ombudsman's Office, the actual scale of hate crimes against foreigners can be much greater than what is shown in official data. The Ombudsman's Office research shows that **only 5 % of crimes motivated by hatred are reported to the police**. In addition, victims of such crimes often complain about the cooperation with the police; and migrant and asylum-seeking children are more exposed to hate-driven and racist incidents, the Ombudsman and the NGO 'Association for Legal Intervention' added in interviews.

The **Amadeu Antonio Foundation and Pro Asyl** registered a total of 756 attacks on asylum seekers and their homes in 2018 in **Germany**; 199 of these resulted in bodily injuries on the part of the asylum seeker. A **government's response to a parliamentary question** revealed that 17 demonstrations of right-wing extremists took place in Germany between August and October 2018, with up to 3,500 participants per demonstration, and including **violent attacks against migrants**.

Hundreds of people demonstrated in Madrid, **Spain**, to protest against "institutional violence" and the "racist structures of the state", **Statewatch** reported.

According to the **Police University College annual report on hate crimes in Finland**, the number of hate crimes has stabilised after the peak in growth in 2015. The number of hate crimes in 2017 was, however, eight percent higher than in 2016, and is still higher than before 2015. A total of 1,165 reports classified as suspected hate crimes were recorded in 2017. The majority (70 %) of the reported hate crimes included features related to ethnic or national background (813), which was 18 percent less than during 2016. The majority of these cases were directed against a member of a minority by a member of the majority. Assaults were the most common type of alleged crime. The number of hate crimes based on religion, belief or conviction (235) increased by 58 %. Of these crimes, 63 % targeted Muslims.

In **Sweden**, the Svea Court of Appeal sentenced a 40-year-old woman to protective supervision for "agitation against an ethnic or national group", **media sources** reported. Last January, after having entered a reception centre for unaccompanied children, she called out various racial insults and let her dogs loose on the children.

The **Ministry of Interior of the former Yugoslav Republic of Macedonia** pressed **criminal charges** against a Macedonian citizen for publishing racist and xenophobic material on Twitter. The Sector for Internal Affairs in Tetovo (part of the police), in partnership with the local self-government and the OSCE, started the preventive-educational project "**Stop Hate Speech**", targeting 2,500 high-school students.

COUNTRY	STAKEHOLDERS INTERVIEWED
AUSTRIA	<ul style="list-style-type: none"> <li>→ Federal Ministry of the Interior, Department III/9 (<i>Bundesministerium für Inneres, Abteilung III/9 Grundversorgung und Bundesbetreuung</i>);</li> <li>→ Federal Ministry of the Interior, Department III/5 (<i>Bundesministerium für Inneres, Abteilung III/5 Asyl und Fremdenwesen</i>);</li> <li>→ Federal Ministry of the Interior, Criminal Intelligence Service, Competence Centre for Missing Children (<i>Bundesministerium für Inneres, Bundeskriminalamt, Kompetenzzentrum für Abgängige Personen</i>);</li> <li>→ Antidiscrimination Office Styria (<i>Antidiskriminierungsstelle Steiermark</i>);</li> <li>→ Red Cross Austria (<i>Rotes Kreuz Österreich</i>);</li> <li>→ Caritas Vienna (<i>Caritas Wien</i>);</li> <li>→ Caritas Styria (<i>Caritas Steiermark</i>).</li> </ul>
BELGIUM	<ul style="list-style-type: none"> <li>→ Immigration Office (<i>Dienst Vreemdelingenzaken/Office des Etrangers</i>);</li> <li>→ Office of the Commissioner General for Refugees and Stateless Persons (<i>CGVS - CGRA Commissariaat-generaal voor de Vluchtelingen en de Staatlozen - Commissariat General aux refugies et aux apatrides</i>);</li> <li>→ MYRIA - Federal Migration centre (<i>Federaal Migratiecentrum/ Centre Fédéral Migration</i>);</li> <li>→ FEDASIL - Federal Agency for the Reception of Asylum Seekers (<i>Federaal agentschap voor de opvang van asielzoekers/ Agence Fédérale pour l'accueil des demandeurs d'asile</i>);</li> <li>→ UNIA - Interfederal Centre for Equal Opportunities (<i>Interfederaal Gelijkekansencentrum/ Centre interfédéral pour l'égalité des chances</i>);</li> <li>→ National Commission on the Rights of the Child (<i>Nationale Commissie voor de Rechten van het Kind/ Commission nationale pour les droits de l'enfant</i>);</li> <li>→ UNICEF;</li> <li>→ Cire NGO;</li> <li>→ Nansen NGO.</li> </ul>
BULGARIA	<ul style="list-style-type: none"> <li>→ State Agency for Refugees (SAR) (<i>Държавна агенция а бежанците, ДАБ</i>);</li> <li>→ Ministry of the Interior, Directorate General Border Police (MoI - DGBP) (<i>Министерство на вътрешните работи, Главна дирекция „Гранична полиция“, МВР - ГДГП</i>);</li> <li>→ Ombudsman of the Republic of Bulgaria, National Preventive Mechanism and Fundamental Human rights and Freedoms Directorate (<i>Омбудсман на Република България, Дирекция „Национален превантивен механизъм и основни права и свободи на човека“</i>);</li> <li>→ State Agency for Child Protection (SACP) (<i>Държавна агенция за закрила на детето, ДАЗД</i>);</li> <li>→ Ministry of the Interior, Directorate General National Police (MoI - DGNP) (<i>Министерство на вътрешните работи, Главна дирекция „Национална полиция“, МВР - ГДНП</i>);</li> <li>→ UNHCR Bulgaria ;</li> <li>→ Bulgarian Red Cross, Refugee Migrant Service (BRC - RMS) (<i>Български червен кръст, Бежанско-мигрантска служба, БЧК - БМС</i>);</li> <li>→ Center for Legal Aid Voice in Bulgaria (<i>Център за правна помощ - Глас в България</i>).</li> </ul>



COUNTRY	STAKEHOLDERS INTERVIEWED
CROATIA	<ul style="list-style-type: none"> <li>→ Ministry of Interior (<i>Ministarstvo unutarnjih poslova</i>);</li> <li>→ Ministry of Demography, Family, Youth and Social Policy Ombudsperson's Office (<i>Ministarstvo za demografiju, obitelj, mlade i socijalnu politiku</i>);</li> <li>→ Croatian Government's Office for Human Rights and the Rights of National Minorities (<i>Ured za ljudska prava i prava nacionalnih manjina Vlade RH</i>);</li> <li>→ Croatian Law Centre (<i>Hrvatski pravni Centar</i>);</li> <li>→ Centre for Missing and Abused Children (<i>Centar Za nestalu i zlostavljanu djecu</i>);</li> <li>→ Rehabilitation centre for stress and trauma (<i>Rehabilitacijski centar za stres i traumu</i>);</li> <li>→ Centre for Peace Studies (<i>Centar za mirovne studije</i>);</li> <li>→ Welcome Initiative (<i>Inicijativa Dobrodošli!</i>);</li> <li>→ Jesuit Refugee Service (<i>Isusovačka služba za izbjeglice</i>);</li> <li>→ Doctors of the World (<i>Médecins du monde</i>).</li> </ul>
DENMARK	<ul style="list-style-type: none"> <li>→ Danish Ministry of Justice (<i>Justitsministeriet</i>), including the Danish National Police (<i>Rigspolitiet</i>);</li> <li>→ SOS against Racism (<i>SOS mod Rasim</i>);</li> <li>→ Danish Immigration Service (<i>Udlændingestyrelsen</i>), including the Statistical Unit, the Office for Finances and Accommodation, the Centre for Asylum and the Office for Accommodation Conditions;</li> <li>→ Danish Refugee Council (<i>Dansk Flygtningehjælp</i>);</li> <li>→ Danish Red Cross (<i>Dansk Røde Kors</i>).</li> </ul>
FINLAND	<ul style="list-style-type: none"> <li>→ Amnesty International Finnish Section;</li> <li>→ Central Union for Child Welfare (<i>Lastensuojelun keskusliitto/Centralförbundet för Barnskydd</i>);</li> <li>→ Finnish Human Rights Centre (<i>Ihmisoikeuskeskus/Människorättscentret</i>);</li> <li>→ Finnish Immigration Service (<i>Maahanmuuttovirasto/Immigrationsverket</i>);</li> <li>→ Finnish Refugee Advice Centre (<i>Pakolaisneuvonta/Flyktingrådgivningen</i>);</li> <li>→ National Police Board (<i>Poliisiylhallitus/Polisstyrelsen</i>);</li> <li>→ Ombudsman for Children (<i>Lapsiasiavaltuutettu/Barnombudsmannen</i>).</li> </ul>
FRANCE	<ul style="list-style-type: none"> <li>→ Ministry of the Interior (<i>Ministère de l'Intérieur</i>);</li> <li>→ Public Defender of Rights (<i>Le Défenseur des droits – DDD</i>), General authority and Department for the Protection of the Rights of the Child;</li> <li>→ Doctors of the World – France (<i>Médecins du Monde</i>);</li> <li>→ National Association of Border Assistance for Foreigners (ANAFÉ) (<i>Association nationale d'assistance aux frontières pour les étrangers</i>);</li> <li>→ La Cimade NGO (<i>Inter-Movement Committee for evacuees – Comité inter mouvements auprès des évacués</i>);</li> <li>→ The Immigrant Information and Support Group (<i>Groupe d'information et de soutien des immigrés – GISTI</i>);</li> <li>→ The Migrant's inn (<i>L'Auberge des migrants</i>).</li> </ul>

COUNTRY	STAKEHOLDERS INTERVIEWED
FORMER YUGOSLAV REPUBLIC OF MACEDONIA	<ul style="list-style-type: none"> <li>→ Ministry of Interior (Министерство за внатрешни работи);</li> <li>→ Ministry of Labor and Social Policy (Министерство за труд и социјална политика);</li> <li>→ Ombudsperson – (Народен Правобранител);</li> <li>→ Agency for Audio and Audio-Visual Services (Агенција за аудио и аудиовизуелни услуги);</li> <li>→ International Organisation for Migration IOM (Skopje Office);</li> <li>→ United Nations High Commissioner for Refugees (Skopje Office);</li> <li>→ Macedonian Young Lawyers Association (Македонско здружение на млади правници);</li> <li>→ Legis NGO (Легис);</li> <li>→ Helsinki Committee of Human Rights of the Republic of Macedonia (Хелсиншки Комитет за човекови права на Република Македонија);</li> <li>→ Open Gate - la Strada (Отворена Порта - Ла Страда).</li> </ul>
GERMANY	<ul style="list-style-type: none"> <li>→ Jesuit Refugee Service (<i>Jesuiten Flüchtlingsdienst – JRS</i>);</li> <li>→ German Red Cross (<i>Deutsches Rotes Kreuz</i>);</li> <li>→ City of Chemnitz (<i>Stadtverwaltung Chemnitz, Amt für Jugend und Familie</i>);</li> <li>→ Berlin refugee Council (<i>Berliner Refugee Council</i>);</li> <li>→ Bavarian Refugee Council (<i>Bavarian Refugee Council</i>);</li> <li>→ Federal Association for Unaccompanied Minor Refugees (<i>Bundesfachverband Unbegleitete Minderjährige Flüchtlinge e.V. – BumF</i>);</li> <li>→ United Nations High Commissioner for Refugees (UNHCR), Berlin Office;</li> <li>→ Migration Commission of the German Bishops Conference (<i>Migrationskommission, Deutsche Bischofskonferenz – DBK</i>);</li> <li>→ Immigration Lawyer (<i>Rechtsanwalt für Aufenthalts- und Asylrecht</i>).</li> </ul>
GREECE	<ul style="list-style-type: none"> <li>→ Greek Asylum Service (Υπηρεσία Ασύλου);</li> <li>→ Hellenic Police Headquarters (Αρχηγείο Ελληνικής Αστυνομίας);</li> <li>→ Racist Violence Recording Network (Δίκτυο Καταγραφής Ρατσιστικής Βίας);</li> <li>→ International Organisation for Migration (Διεθνής Οργανισμός Μετανάστευσης);</li> <li>→ Hellenic League for Human Rights (Ελληνική Ένωση για τα Δικαιώματα του Ανθρώπου);</li> <li>→ Doctors Without Borders Greece (Γιατροί Χωρίς Σύνορα-Ελληνικό Τμήμα);</li> <li>→ Greek Council for Refugees (Ελληνικό Συμβούλιο για τους Πρόσφυγες).</li> </ul>
HUNGARY	<ul style="list-style-type: none"> <li>→ Ministry of the Interior (<i>Belügyminisztérium</i>);</li> <li>→ Ministry of Human Capacities (<i>Emberi Erőforrások Minisztériuma</i>);</li> <li>→ National Headquarters of the Police (<i>Országos Rendőr-főkapitányság</i>);</li> <li>→ Immigration and Asylum Office (<i>Bevándorlási és Menekültügyi Hivatal</i>);</li> <li>→ Migration Aid;</li> <li>→ UNHCR Hungary;</li> <li>→ MigSzol;</li> <li>→ Hungarian Association for Migrants (<i>Menedék Migránsokat Segítő Egyesület</i>).</li> </ul>

COUNTRY	STAKEHOLDERS INTERVIEWED
ITALY	<ul style="list-style-type: none"> <li>→ Public Security Department of the Ministry of the Interior – Central Direction for Immigration and Border Police (<i>Ministero dell’Interno Dipartimento della Pubblica Sicurezza - Direzione Centrale dell’Immigrazione e della Polizia delle Frontiere</i>);</li> <li>→ Authority for the Protection of People who are Detained or Deprived of their Personal Freedom (<i>Garante nazionale per i diritti delle persone detenute o private della libertà personale</i>);</li> <li>→ Authority for the Protection of Childhood and Adolescence (<i>Autorità Garante per l’Infanzia e l’Adolescenza</i>);</li> <li>→ Association for Legal Studies on Immigration (<i>Associazione per gli studi giuridici sull’immigrazione, ASGI</i>);</li> <li>→ Italian Refugees Council (<i>Consiglio Italiano per i Rifugiati, CIR</i>);</li> <li>→ ARCI (<i>Italian Recreational and Cultural Association – Associazione Ricreativa e Culturale Italiana</i>);</li> <li>→ Lazio Authority for the Protection of Detainees’ Rights.</li> </ul>
NETHERLANDS	<ul style="list-style-type: none"> <li>→ Ministry for Justice and Security (<i>Ministerie van Justice en Veiligheid</i>) - central information point, providing information on behalf of: Immigration and Naturalisation Service, Aliens Police, Central Agency for the Reception of Asylum Seekers (all members of the so-called ‘Alien Chain’);</li> <li>→ Defence for Children the Netherlands;</li> <li>→ Dutch Council for Refugees (<i>Vluchtelingenwerk Nederland</i>);</li> <li>→ Amnesty International - Netherlands;</li> <li>→ Netherlands Institute for Human Rights (<i>College voor Rechten van de Mens</i>);</li> <li>→ Stichting LOS NGO;</li> <li>→ UNICEF the Netherlands;</li> <li>→ NIDOS (independent family guardian organization, fulfilling the guardianship task for Unaccompanied Minor Asylum Seekers);</li> <li>→ MiND- the Dutch Reporting Point for Discrimination.</li> </ul>
POLAND	<ul style="list-style-type: none"> <li>→ Association for Legal Intervention (<i>Stowarzyszenie Interwencji Prawnej, SIP</i>);</li> <li>→ United Nation High Commissioner for Refugees, Office in Poland (UNHCR);</li> <li>→ Ombudsman (<i>Rzecznik Praw Obywatelskich – RPO</i>);</li> <li>→ Head of the Office for Foreigners (<i>Szef Urzędu do spraw Cudzoziemców – UDSC</i>);</li> <li>→ Police, Police Headquarters (<i>Policja</i>);</li> <li>→ Border Guard, Border Guard Headquarters (<i>Straż Graniczna, SG</i>);</li> <li>→ Ombudsman for Children (<i>Rzecznik Praw Dziecka – RPD</i>);</li> <li>→ Rule of Law Institute Foundation (<i>Instytut na rzecz Państwa i Prawa, FIPP</i>).</li> </ul>

COUNTRY	STAKEHOLDERS INTERVIEWED
SPAIN	<ul style="list-style-type: none"><li>→ Asylum and Refugee Office of the Spanish Ministry of the Interior (<i>Oficina de Asilo y Refugio del Ministerio del Interior – OAR</i>);</li><li>→ Spanish Ombudsman (<i>Defensor del Pueblo</i>);</li><li>→ UNHCR (<i>Oficina de la Agencia de la ONU para los Refugiados en España – ACNUR</i>);</li><li>→ Spanish Committee of UNICEF (<i>Comité español de UNICEF</i>);</li><li>→ Jesuit Migrant Service (<i>Servicio Jesuita Migrantes, SJM</i>);</li><li>→ Spanish Refugee Aid Commission (<i>Comisión Española de Ayuda al Refugiado – CEAR</i>);</li><li>→ Save the Children NGO;</li><li>→ Cruz Roja NGO;</li><li>→ Chair of Refugees and Forced Migrants of Comillas ICAI-ICADE, INDITEX (<i>Cátedra de Refugiados y Migrantes Forzosos de Comillas ICAI-ICADE, INDITEX</i>).</li></ul>
SWEDEN	<ul style="list-style-type: none"><li>→ National Board of Health and Welfare (<i>Socialstyrelsen</i>);</li><li>→ Swedish Police (<i>Polisen</i>);</li><li>→ Swedish Migration Agency (<i>Migrationsverket</i>);</li><li>→ Save the Children Sweden (<i>Rädda barnen</i>);</li><li>→ Swedish Red Cross (<i>Röda korset</i>);</li><li>→ Children Rights' Agency (<i>Barnrättsbyrån</i>).</li></ul>



# HELPING TO MAKE FUNDAMENTAL RIGHTS A REALITY **FOR EVERYONE** IN THE EUROPEAN UNION —

For all of FRA's periodic reports on migration-related fundamental rights concerns, which date back to January 2015, see:


<https://fra.europa.eu/en/theme/asylum-migration-borders/overviews>

## FRA – EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

[fra.europa.eu](http://fra.europa.eu) – [info@fra.europa.eu](mailto:info@fra.europa.eu)

 [facebook.com/fundamentalrights](https://facebook.com/fundamentalrights)

 [twitter.com/EURightsAgency](https://twitter.com/EURightsAgency)

 [linkedin.com/company/eu-fundamental-rights-agency](https://linkedin.com/company/eu-fundamental-rights-agency)

© FRA, 2019

© Luxembourg: Publications Office of the European Union, 2019

ISSN 2599-8900

TK-AP-19-001-EN-N



Publications Office