



European  
Commission



# Annual Report on Migration and Asylum 2018

European  
Migration Network

May 2019



## Disclaimer

This Synthesis Report has been produced by the European Migration Network (EMN), which comprises the European Commission, its Service Provider (ICF) and EMN National Contact Points (EMN NCPs). The report does not necessarily reflect the opinions and views of the European Commission, EMN Service Provider (ICF) or the EMN NCPs, nor are they bound by its conclusions. Similarly, the European Commission, ICF and the EMN NCPs are in no way responsible for any use made of the information provided.

## Explanatory note

This Synthesis Report was prepared on the basis of National Contributions from 27 EMN NCPs (**Austria, Belgium, Bulgaria, Croatia, Czech Republic, Cyprus, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom and Norway**) according to a **Common Template developed by the EMN and followed by EMN NCPs to ensure, to the extent possible, comparability.**

The Annual Reports on Migration and Asylum provided by EMN NCPs aimed at describing the migration and asylum situation and developments in the (Member) State and Norway as well as statistical data specifically for the year 2018. National contributions were largely based on desk analysis of existing legislation and policy documents, reports, academic literature, internet resources and reports and information from national authorities and practitioners. Statistics were mainly sourced from Eurostat, national authorities and other (national) databases. It is important to note that the information contained in this Report refers to the situation in the abovementioned Member States and Norway during 2018 and specifically the contributions from their EMN National Contact Points. More detailed information on the topics addressed here may be found in the available EMN 2018 National Policy Reports and it is strongly recommended that these are consulted as well.

# CONTENTS

<b>EXECUTIVE SUMMARY</b>	<b>5</b>	4.2. Integration of third-country nationals	42
Legal Migration and mobility	5	4.3. Non-discrimination	46
International protection including asylum	6	4.4. Promoting integration at local level and cooperation, consultation and coordination of local stakeholders	46
Unaccompanied minors and other vulnerable groups	6	4.5. Awareness raising on migration in the host state	46
Integration	7	4.6. Integration measures in the countries of origin and/or involving diaspora communities	47
Citizenship and statelessness	7		
Borders, visa and Schengen	8	<b>5. CITIZENSHIP AND STATELESSNESS</b>	<b>48</b>
Irregular migration including migrant smuggling	8	5.1. Developments at EU level	48
Trafficking in human beings	8	5.2. Citizenship	49
Return and readmission	9	5.3. Statelessness	51
<b>1. LEGAL MIGRATION AND MOBILITY</b>	<b>10</b>	<b>6. BORDERS, VISA AND SCHENGEN</b>	<b>53</b>
1.1. Developments at European Union (EU) level	10	6.1. Developments at EU level	53
1.2. Transposition of EU legislation on legal migration	10	6.2. Border control measures/management	53
1.3. Economic migration measures at national level	12	6.3. Visa policy	56
1.4. Students and researchers	16	6.4. Schengen governance	56
1.5. Family reunification and family formation	17	<b>7. IRREGULAR MIGRATION INCLUDING MIGRANT SMUGGLING</b>	<b>58</b>
1.6. Information on routes to and conditions of legal migration	18	7.1. Developments at EU level	58
1.7. Other measures regarding legal migration	20	7.2. Preventing and tackling the misuse of legal migration channels	59
<b>2. INTERNATIONAL PROTECTION INCLUDING ASYLUM</b>	<b>21</b>	7.3. The fight against facilitation of irregular migration ('smuggling') and prevention of irregular stay	61
2.1. Implementation of the Common European Asylum System (CEAS) and EU related policy developments	21	<b>8. TRAFFICKING IN HUMAN BEINGS</b>	<b>64</b>
2.2. Relocation and resettlement programmes	28	8.1. Developments at EU level	64
<b>3. UNACCOMPANIED MINORS AND OTHER VULNERABLE GROUPS</b>	<b>32</b>	8.2. National strategic policy developments	65
3.1. Developments at EU level	32	8.3. Improving identification of and provision of information to third-country national victims of trafficking in human beings	65
3.2. Unaccompanied minors applying for asylum	32	<b>9. RETURN AND READMISSION</b>	<b>69</b>
3.3. Other vulnerable groups applying for asylum	36	9.1. Developments at EU level	69
3.4. Unaccompanied minors not applying for asylum	38	9.2. Main national developments in the field of return	73
3.5. Other vulnerable groups not applying for asylum	39	9.3. Strengthening cooperation with third countries of origin and transit on return and reintegration management	76
<b>4. INTEGRATION</b>	<b>41</b>		
4.1. Developments at EU level	41		



# EXECUTIVE SUMMARY



## LEGAL MIGRATION AND MOBILITY

### **What were the main developments in legal migration at EU level in 2018?**

A number of new developments took place at EU level; the European Commission adopted a Communication on “Enhancing legal pathways to Europe” in September 2018, prepared the Fitness Check on Legal Migration (published in March 2019) and led the “contact group on legal migration” as a forum for discussion with Member States on the legal migration Directives. In the framework of the new Communication, the European Commission coordinated the development of pilot projects by Member States with selected African countries to promote legal migration schemes.

Furthermore, the European Commission continued to monitor the transposition of the main EU legislation on legal migration. Most significantly, the deadline for transposition of the recast Students and Researchers Directive (EU)2016/801 passed on 23 May 2018, and infringement procedures for non-transposition were launched against 17 Member States.

### **What is the transposition status of EU Legislation on legal migration?**

By the end of 2018, most Member States had transposed the main recent EU legislative instruments in the area of legal migration, i.e. Seasonal Workers Directive (2014/36/EU), Intra-corporate transfers Directive (ICT) (2014/66/EU) and the recast Students and Researchers Directive, although six Member States were still in the process of transposing the latter at the end of the year.

### **What were the main developments in the area of economic migration at the national level?**

Various measures were taken by Member States to facilitate the admission of specific groups of legal migrants. More than half of the Member States reported on legislative or policy changes concerning highly-skilled workers, which mainly related to simplifying procedures to obtain a residence and/or work permit or to attract workers to fill shortage occupations. With regard to intra-corporate transferees, besides changes related to the transposition of the ICT Directive, some Member States made changes to their admission procedures in line with national priorities. For seasonal workers, next to taking actions to transpose the Seasonal Workers Directive,

eleven Member States adopted legal changes to facilitate or streamline the application procedure, introduced caps on seasonal work permits or clarified national laws on seasonal work. Four Member States reported on developments in policy or practice, which related to the maximum period of stay allowed for seasonal workers. Entrepreneurs and investors were also targeted by legislative and policy changes in Member States, opening up new paths to attract them or improving the monitoring of their entry and stay. In terms of trainees, au-pairs and volunteers, some Member States introduced definitions for trainees and volunteers to better determine their rights and obligations, while others simplified the application procedures or clarified which documents were required to grant residence permits.

### **What measures were taken to satisfy labour market needs?**

Nine Member States introduced legal or policy changes to better respond to labour market needs, adopting changes to streamline or facilitate the procedures and reduce the associated administrative burden, or changing their regimes to attract and retain foreign workers. In some cases, these measures targeted specific third countries or sectors.

### **How did Member States address social dumping and labour exploitation?**

Seventeen Member States and Norway introduced new legislation, policies or practices aimed at combatting labour exploitation. Some of these pertained to the status, working conditions and better integration of the worker, while others improved the monitoring system or increased work inspections to detect and prevent irregular work.

### **What measures were implemented to facilitate admission and stay for international students and researchers?**

More than half of the Member States introduced legislative changes, policies or practices to facilitate the admission and stay of international students and researchers. These mainly included provisions to encourage their mobility in line with the EU acquis, facilitated labour market access or revised tuition fees for international students. Most of the reported policies and practices related to international students specifically.

### What were the main developments in the area of family reunification?

More than a third of Member States introduced legislative or policy changes in the field of family reunification. These changes can be broadly categorised as: revisions of the material requirements or waiting period

for exercising the right to family reunification; introducing or revising the right to family reunification for specific groups of migrants; and improving access to rights for sponsors or family members. European and national case law influenced the practices of three Member States, specifically with regard to refugees, beneficiaries of subsidiary protection and unaccompanied minors.



## INTERNATIONAL PROTECTION INCLUDING ASYLUM

### What developments took place in the area of asylum at EU level?

In 2018, a total number of 634 700 asylum applications were lodged in the Member States and Norway, similar to those lodged in 2014 before the 2015 peak of the migration influx. One in three first instance decisions (34%) on asylum applications was positive, compared to a recognition rate of 40% in 2017. The total number of first-instance decisions taken was 593 500 first-instance decisions, marking a 40% decrease compared to 2018. In terms of legislation, the procedures on the proposals for a reform of the Common European Asylum System (CEAS) were ongoing in 2018. By June 2018, partial or preliminary political agreements were reached on five out of seven CEAS proposals.

### How have asylum policies changed at the national level?

The vast majority of Member States and Norway introduced changes to their national asylum procedures, reception conditions and to the rights and obligations of persons seeking international protection. In terms of (access to) asylum procedures, legal changes *inter alia* made it possible for authorities to seize and analyse data storage media (e.g. smart phones) from asylum seekers, and increased the applicants' duty to cooperate. A trend was observed in some Member States towards improving accessibility to legal counselling for applicants of international protection. Multiple Member States reported on the resumption of transfers of non-vulnerable individuals to Greece under the Dublin Regulation, as well as on expanding lists of safe countries of origin. With regard to reception conditions, several Member States initiated legislative

changes *inter alia* to reduce reception costs for the public, while policy changes mostly aimed at better managing capacity in the face of fluctuating numbers of applicants. The rights and obligations of beneficiaries of international protection were also subject to legal changes in a few member States, relating particularly to labour market access and access to public benefits and services.

### Which institutional reforms were introduced in national asylum systems?

Several Member States adopted institutional and organisational changes to their respective asylum systems, usually as a response to legislative changes or the shift of policy priorities. These changes *inter alia* related to the creation of new entities or the restructuring of existing ones, the transfer of competences, as well as adjustments to the number of staff. Particularly in the latter case, these adjustments were made in correspondence with recent trends in the number of asylum applications.

### How are relocation and resettlement activities being implemented?

Member States and Norway continued to carry out relocation and resettlement activities throughout 2018. A total of eight Member States reported on the relocation of applicants for international protection from Italy and Greece under the intra-EU relocation mechanism, while five organised relocation activities under national schemes. In terms of resettlement, refugees were resettled to several Member States, either in the framework of EU Joint Resettlement Programmes, national schemes or private sponsorship schemes. Syrian nationals were among the most frequently resettled persons.



## UNACCOMPANIED MINORS AND OTHER VULNERABLE GROUPS

### What developments took place concerning unaccompanied minors at EU level?

Despite a significant decrease when compared to 2017, the number of unaccompanied minors arriving in the EU remained high in 2018, and the European Commission continued to monitor progress made by Member States in the implementation of the 2017 Communication on the protection of children in migration. While progress was noted in several areas, further efforts were still needed to improve the protection offered to migrant children, especially regarding reception conditions and access to services.

### Which new measures were adopted at the national level concerning unaccompanied minors applying for asylum?

Most Member States made continuous efforts to train staff working with unaccompanied minors and to improve their protection and care. A few Member States also strengthened the systems of legal guardianship and/or foster care by providing new guidelines or adopting new legislative measures. As regards age assessment, just under a third of Member States reported changes to their approach, mostly in order to address uncertainties or inconsistencies of existing practices. Six Member States improved the provision of information for unaccompanied minors who apply for asylum, ranging from general

guidance to more specific information on legal aid or housing.

### **What new measures were adopted at the national level concerning other vulnerable groups?**

More than half of Member States took measures for other vulnerable groups applying for asylum, often to support their identification/referral, particularly for asylum-seeking girls and women who were victims of (or in danger of) female genital mutilation. Other measures modified the definition of vulnerability, for example to include additional examples of vulnerable groups or

provided training to case officers and other staff working with vulnerable individuals.

### **Which new measures were adopted concerning unaccompanied minors not applying for asylum?**

Over a third of Member States implemented changes at national level with regard to unaccompanied minors who were not applying for asylum, albeit to a varying degree. The training of staff was a commonly reported measure, in addition to improvements of the protection and care of unaccompanied minors, where Member States often aimed at ensuring more child-friendly environments.



## **INTEGRATION**

### **What new developments took place in integration at EU level?**

The European Commission continued its efforts to support Member States in the area of integration, through the activities of the European Integration Network and by developing cooperation with local and regional authorities. While the implementation of the 2016 Action Plan on the integration of third-country nationals was completed, the multi-stakeholder approach to foster specifically labour market integration continued. Under the proposed 2021-2027 Multiannual Financial Framework, the Asylum and Migration Fund was foreseen to support the early integration of third-country national legally residing in the EU.

### **What have been the main integration-related measures introduced at the national level?**

The integration of third-country nationals was an important focus area for Member States in 2018, and with the exception of one, all Member States adopted new or amended legislation, policies or practices. In about a third of Member States, overarching changes in the form of new or revised action plans/strategies were

reported. Many Member States followed the approach of broadening their offer of integration measures, while a few simultaneously increased mandatory participation in various language courses and integration training. Socio-economic integration measures were targeted either at third-country nationals themselves, commonly increasing the offer of language training and improving the access to education, or at teachers, local authorities and public employment services who work with third-country nationals. Thirteen Member States and Norway adopted new measures to foster civic integration, *inter alia* providing further opportunities for third-country nationals to become actively involved in the host society and increase their political participation. Around a third of the Member States and Norway made efforts to ensure non-discrimination of migrants by raising awareness of discriminatory practices and providing training to relevant staff members. Awareness-raising activities were implemented by more than half of Member States, usually entailing the publication and dissemination of information material. Integration at local level was further promoted in 12 Member States and Norway, for example through the development of policy recommendations or guides for municipalities.



## **CITIZENSHIP AND STATELESSNESS**

### **What were the developments at EU level in the area of citizenship and statelessness?**

Although all matters related to citizenship fall under the exclusive competence of Member States, a number of developments took place at EU level. For example, the European Parliament published a report on the acquisition and loss of citizenship in Member States, in response to which the European Commission conducted further research, looking particularly into citizenship and residence schemes designed specifically for investors seeking to come to the EU, and concluding that these had to be monitored in terms of compliance with EU law.

### **What developments took place at the national level related to citizenship?**

Around half of the Member States notified changes related to the acquisition of citizenship, which most commonly aimed at modifying the minimum duration

of legal residence required for citizenship applicants and setting new requirements for national language proficiency. A few developments regarding dual citizenship and the facilitation of citizenship procedures were also reported. The revocation of citizenship in light of national security concerns was also a topical issue, leading to legislative changes in several Member States.

New measures in the field of statelessness were less common and mainly included new legislation or practices to facilitate access to naturalisation and make related procedures more efficient. However, Member States remained committed to reduce statelessness in line with international conventions.



## BORDERS, VISA AND SCHENGEN

### What developments have occurred at EU level in the field of borders, visa and Schengen?

Throughout 2018, the EU continued to support Member States on the EU external borders in managing migration flows and improving border management, most significantly through the adoption of the Schengen Information System Regulation ((EU) 2018/1861). Efforts were also made to foster cooperation with third countries to prevent (irregular) departures towards Member States.

### Which measures were introduced to improve the management and effectiveness of border controls?

Increasing the effectiveness of border controls was a focus area of Member States, with most of them adopting measures in this regard in 2018. Measures mostly concerned the adoption of new strategies, the reinforcement of border staff or border forces, as well as fostering cooperation or joint initiatives with third countries. The cooperation with Frontex was also an important element of border management, whereby a number of Member States supported various operations, for example related to border surveillance in areas without checkpoints and migrant registration. Furthermore, technical

measures were taken to improve the management of external borders, often related to reinforcing or acquiring additional technical equipment for surveillance and detection purposes.

### What developments took place in relation to Member States' visa policies?

Most Member States reported new developments related to the implementation of the Visa Code and the Visa Information System, and some lifted national visa requirements for certain categories of applicants or introduced transit visas for specific nationalities. Moreover, several consular cooperation agreements were adopted by Member States, which *inter alia* entailed agreements of five Member States to be represented by other Member States in third countries.

### How did Member States improve the governance of Schengen?

Around half of all Member States reported on new developments in relation to Schengen governance during 2018, *inter alia* including new legislative measures to improve cooperation between competent police authorities and the re-introduction of border controls along some of the EU internal borders.



## IRREGULAR MIGRATION INCLUDING MIGRANT SMUGGLING

### What developments have taken place in irregular migration at EU level?

In 2018, around 150 000 irregular arrivals were detected at the EU external borders, marking the lowest level in five years. While the Western Mediterranean/ Atlantic route and the Eastern Mediterranean route saw significant increases of irregular arrivals, passages through the Central Mediterranean route decreased by 80%. In terms of policy developments, the EU enhanced its cooperation with partners in third countries, whereby African countries and Turkey played a pivotal role. Proposed measures to alleviate pressure on Member States included controlled centres and regional disembarkation arrangements. Efforts to fight the root causes of irregular migration also continued, as well as the fight against smuggling networks.

### What actions were taken at the national level to prevent the misuse of legal migration channels?

Following an overall increase in the number of asylum applications from visa-free countries, several

Member States undertook practical measures to address these largely unfounded applications, entailing an intensification of immigration checks at airports, for example. Policy and practical initiatives were implemented to combat the use of false travel documents, including the provision of trainings to police officers and border guards in several Member States, as well as the introduction of new technologies to better analyse travel documents.

### What measures were taken to combat the facilitation of irregular migration (smuggling)?

Efforts to fight migrant smuggling were intensified in about a third of Member States, although the actions taken differed widely depending on the particular challenges of each Member State. Awareness campaigns in third countries constituted a common measure to prevent irregular migration, and the cooperation with third countries also increased, with numerous projects launched specifically in relation to campaigns, the training of third country border guards and other multilateral or bilateral agreements.



## TRAFFICKING IN HUMAN BEINGS

### What developments have taken place on trafficking in human beings at EU level?

Most significantly, the European Commission launched the Second report on the progress made in

the fight against trafficking in human beings (THB) in December 2018. In this framework, Member States were encouraged to improve data collection, counter the culture of impunity, foster transnational law enforcement and



judicial cooperation, as well as ensure victims' access to justice.

### **What measures were adopted at the national level to fight against trafficking in human beings?**

The majority of Member States undertook legal and policy initiatives to revise their national strategic policy on THB, either ratifying key international conventions, revising the national legal framework, adopting new or

revised strategies or plans, or clarifying rules, for example related to labour exploitation. A large majority of Member States also carried out capacity-building exercises and training activities focussed on early detection and identification of victims. Furthermore, almost half of the Member States reported on developments to enhance cooperation with third countries, entailing capacity-building of institutions involved in combating THB, measures on policy cooperation, as well as awareness-raising and prevention initiatives.



## **RETURN AND READMISSION**

### **What developments have taken place in the field of return at EU level?**

With a view to enhancing the effectiveness of returns, the European Commission published a proposal for a recast of the 2008 Return Directive, *inter alia* proposing the revision of articles related to the risk of absconding, entry bans and detention. Furthermore, following the adoption of the Schengen Information System Regulation in November 2018, all Member States are now obliged to register return decisions and entry bans issued in application of return decisions. Frontex reported the continued support and coordination of various activities to implement returns efficiently and support Member States' return operations, with a focus on a digitalisation of the return process.

### **Which actions were taken at national level to ensure swifter and more effective returns?**

Several Member States considered swift and effective returns as a policy priority in 2018, for example by introducing legislative changes to facilitate or speed-up

the return, expanding the type of authorities competent to issue return decisions, as well as extending the grounds for issuing an entry ban. EU and national courts' rulings initiated additional changes to Member States' practices regarding the latter. Measures encouraging voluntary return among third-country nationals were also reported, including an increase of in-kind assistance for certain categories of minors or the implementation of outreach activities and other awareness-raising activities to advertise voluntary return possibilities. The use of (alternatives for) detention in return procedures was subject to change in about a third of Member States, with some increasing the length of detention or expanding the availability of alternatives to detention. Some Member States paid specific attention to safeguarding the best interest of the child, adopting relevant guidelines or anchoring this principle in legislation. Cooperation with third countries focussed on the organisation of identification missions for the purpose of issuing identity documents to ensure return travel.

# 1. LEGAL MIGRATION AND MOBILITY

This section looks at the new policies and measures adopted by Member States during 2018 on legal migration and mobility. The first section elaborates on the developments at EU level (section 1.1) while the following sections outline the transposition of EU legislation on legal migration (section 1.2); economic migration measures at

national level (1.3); measures on students and researchers (section 1.4); measures related to family reunification and family formation (section 1.5); information provided by Member States to third-country nationals on routes to and conditions of legal migration (section 1.6) and other measures on legal migration schemes (section 1.7).



## 1.1. DEVELOPMENTS AT EUROPEAN UNION (EU) LEVEL

The deadline for transposition of the recast Students and Researchers Directive (EU) 2016/801 was reached on 23 May 2018. While a number of Member States transposed the Directive on time, the Commission launched infringement procedures against 17 Member States for non-transposition in July.

In September 2018, the Commission adopted a Communication on “Enhancing legal pathways to Europe: an indispensable part of a balanced and comprehensive migration policy”.<sup>1</sup> The Communication recalled the importance of the EU Blue Card Directive to attract the highly-skilled third-country workers the EU needs. However, in 2018, the inter-institutional negotiations on the reformed EU Blue Card Directive stalled, since, it has not been possible to bridge the gap between the Council’s and the European Parliament’s (EP) position.

In addition, the Commission pointed out in its Communication that it has been coordinating the development by Member States of pilot projects with selected African countries, promoting legal migration schemes for labour or traineeship purposes, with EU financial support.

The Commission prepared the Fitness Check on Legal Migration, which analysed the relevance, coherence, effectiveness, efficiency and added value of the legal migration Directives, with a view to identify possible gaps and inconsistencies and to consider the potential for simplification of the current EU framework on legal migration. The outcome of the Fitness Check will be published in the first half of 2019.

Throughout the year, the Commission led the “Contact Group on legal migration”, providing a forum for discussion with Member States on legal issues related to the transposition and application of the legal migration Directives. In 2018, the European Court of Justice provided judgements on four preliminary references on the Family Reunification Directive (2003/86/EC): one clarifying the situation of minors (case C-550-16), two clarifying the rules on autonomous permits and integration tests (cases C-257/17 and C-484/17) and one interpreting the provisions on family reunification for beneficiaries of international protection (C-380/17).



## 1.2. TRANSPOSITION OF EU LEGISLATION ON LEGAL MIGRATION

Most Member States have transposed the main EU legislation on legal migration.<sup>2</sup> Six Member States<sup>3</sup> stated that they were still in the process of transposing the recast Students and Researchers Directive (EU) 2016/801,<sup>4</sup> one

Member State<sup>5</sup> had not transposed the Seasonal Workers Directive (2014/36/EU)<sup>6</sup> and the ICT Directive (2014/66/EU).<sup>7</sup> See Table 1.1.

1 European Commission, Communication from the Commission to the European Parliament and the Council (COM(2018) 635 final), Enhancing legal pathways to Europe: an indispensable part of a balanced and comprehensive migration policy.

2 (Denmark), Ireland and United Kingdom do not participate in these instruments

3 BE, CY, CZ, PL, SE, SI.

4 Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing, OJ L 132.

5 BE.

6 Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, OJ L 94/375.

7 Directive 2014/66/EU on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer, OJ L 157.

**Table 1.1 – Status of the transposition of the EU legislation on legal migration**

EU legislation	Status			
	In force	Passed but not in force	In progress	Not applicable
Directive on the conditions of entry and residence of third-country nationals for the purpose of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (23 May 2018)	AT, BG, DE, EE, ES, FI, HR, HU, IT, LT, LV, LU, MT, NL, PT, SK	FR	BE, CY, CZ, EL, PL, SE, SI	IE, NO, UK
Directive on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers (30 September 2016)	AT, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK	N/A	BE	IE, UK, NO
Directive on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer (29 November 2016)	AT, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK	N/A	BE	IE, UK, NO



## 1.3. ECONOMIC MIGRATION MEASURES AT NATIONAL LEVEL

### 1.3.1. Admission policies of specific categories of third-country nationals

This section reviews developments in the Member States which facilitated admission for specific groups of legal migrants.

#### 1.3.1.1. Highly qualified workers

Half of the Member States introduced legislative changes concerning highly-skilled workers.<sup>8</sup>

Seven Member States<sup>9</sup> introduced changes which aimed to simplify procedures to obtain a residence and/or work permit, ranging from either simplifying the documents required to apply (Lithuania no longer requires a criminal record certificate) or streamlining the procedure by combining work and residence permit procedures (Belgium and the United Kingdom have introduced new systems to that effect). Another example of the simplification of the procedures is Lithuania's amendment which allowed third-country nationals to change the title of their function within the same organisation, without needing to apply for a new residence permit.

Four Member States introduced legislative changes to attract workers to fill their shortage occupations. These ranged from facilitating procedures in Austria and Latvia, making additional occupations eligible for employment permits in Ireland, to excluding them from visa caps (for instance, the United Kingdom lifted restrictions on the

numbers of doctors and nurses who can be employed through the Tier 2 visa route). Estonia excluded top specialists from the immigration quota cap.

From the remaining Member States who introduced legislative changes, some increased or lowered the maximum number of visas granted to highly-qualified third-country nationals (Poland for instance). Similarly, the limitation on the share of foreign workers in Bulgaria increased (from 10%) to 20% overall, and to 35% for small and medium-size enterprises. Poland introduced a salary threshold for highly-skilled permits, and introduced an independent mechanism for updating the threshold without need of a specific legal change. Similarly, Belgium lowered the salary threshold in Flanders for highly skilled persons below the age of 30 years, as well as for nurses if they were employed by a Belgian employer.

Policy changes were introduced by six Member States;<sup>10</sup> four States introduced measures to facilitate the entry and application procedures, including fast-track or single procedures for applying for work and residence permits. France extended its multi-year residence permit called the "talent passport" to foreigners likely to participate to France's economic, social international and environmental development and reputation.

In terms of practice changes, five Member States<sup>11</sup> reported new developments. Lithuania implemented a single procedure for residence and work permit applications (the United Kingdom is planning to implement a similar system shortly), while Finland introduced services designed

8 AT, BE, BG, CZ, EE, EL, FI, FR, IE, LT, LU, LV, PL, SK, UK.

9 EL, FI, IE, LT, LV, LU, PL.

10 CZ, FR, IT, LU, MT, PT.

11 ES, FI, LT, NL, UK.

to attract and retain highly-skilled workers (through talent hubs to connect with companies, for example). France encouraged the arrival of highly qualified foreign nationals through simplified procedures and dedicated arrival facilities. The Netherlands started inspection visits to monitor recognised sponsors by making sure they fulfilled all the necessary conditions and obligations.

### International Spouse Career Counselling service in Estonia

As of June 2018, 'Work in Estonia' together with the Public Employment Office is offering International Spouse Career Counselling service. The International Spouse Career Counselling service is a specific and specialised service aimed to help the spouses and partners of newly arrived international specialists to Estonia, where a group of six career counsellors focus on the most relevant topics and needs for those that accompany their wives or husbands to Estonia.

#### 1.3.1.2. Intra-Corporate Transferees (ICTs)

Some Member States stated that they had transposed the ICT Directive (see Table 1.1 above). The remaining Member States (those that have yet to transpose it) made legal changes pertaining to the procedure (for example, Portugal introduced changes to the documents required for relocating companies). Three Member States<sup>12</sup> introduced policy changes either to boost partnerships with the private sector (Italy signed a Memorandum of Understanding with industrial partners to favour ICTs), or to facilitate procedures (Malta allowed a Maltese organisation focusing on migration issues to issue residence permits for ICTs), and France changed the conditions for issuing the "ICT intern" and "ICT employee" temporary residence permit. Ireland, which does not participate in the Directive, no longer applied the 'Ineligible Categories of Employment' list to applications for ICT employment permits.

#### 1.3.1.3. Seasonal Workers

Most Member States participating in the Seasonal Workers Directive, stated that they had transposed it (see Table 1.1 above). Four Member States<sup>13</sup> introduced legal changes to either facilitate the application procedure or to streamline it. Austria introduced caps on seasonal work permits. Finally, Greece, Finland and Portugal clarified the laws pertaining to seasonal work by adding activities to the list of seasonal work sectors with labour shortages, or refined the law pertaining to fees for employers of seasonal workers. Latvia amended laws pertaining to seasonal work by adding activities to the list of seasonal work in the area of agriculture and amending salary criteria for seasonal workers. Luxembourg further introduced a non-discrimination law between indigenous and other workers, and the Czech Republic implemented a migration

project with Ukraine to attract seasonal workers. Cyprus and Italy introduced new policy developments: Cyprus established the maximum stay per year for a seasonal worker at eight months, and Italy fixed the quota of visas for third-country nationals arriving for seasonal work at 18 000 per year.

Regarding changes in practice, Lithuania simplified the application procedure (shorter timelines and the requirement of certain documents was waived), while the United Kingdom implemented a pilot project to attract third-country seasonal workers for farm labour where there were shortages.

#### 1.3.1.4. Low and medium skilled workers (other than seasonal workers)

Seven Member States<sup>14</sup> introduced legislative changes regarding other categories of low and medium-skilled workers. Most of these changes were introduced to facilitate the application procedure and hiring of low and medium skilled workers, in response to labour market needs. These changes included establishing lists of occupations with shortages and facilitating application procedures for workers and employers.<sup>15</sup> Additionally, the Czech Republic increased the quota for these work permits, while Lithuania, Spain and Portugal clarified application procedures.<sup>16</sup> In terms of policy changes, Malta, the Slovak Republic and the Czech Republic adopted new approaches to simplify procedures to attract or retain these categories of workers, either by streamlining procedures or alleviating the burden to provide documents,<sup>17</sup> or by reinforcing campaigns and projects to attract workers, including workers from Serbia, Mongolia and the Philippines.<sup>18</sup> Estonia decided to maintain its immigration quota, which was fulfilled already in January 2019. Additionally, Ireland conducted a review of economic migration policy to ensure that the employment permits system remained responsive to labour market needs.

In terms of practice, efforts to attract the workforce were increased by facilitating procedures; for example, Lithuania now allows for electronic submissions of applications, or to book an appointment with the Migration Department online.

#### 1.3.1.5. Entrepreneurs and investors

New legislative changes were introduced by Member States to open up new pathways to attract entrepreneurs and investment, for example the United Kingdom announced a new start up visa to be implemented shortly and Finland introduced a new residence permit for start-up entrepreneurs, while Italy allowed third-country national investors to enter the territory outside of the quotas established. On the other hand, Lithuania, Latvia, Poland and Portugal introduced legal amendments to better monitor the entry and stay of third-country nationals aiming to invest or create businesses; these measures included minimum remuneration requirements,<sup>19</sup> stronger

12 IT, MT, NL.

13 BG, ES, PT, SK.

14 BE (Flanders), EE, ES, FI, IE, PL, SK.

15 For example, Finland proposed to abandon the labour market test requirement for workers wishing to change fields; Estonia prolonged the stay for short term employment, while Poland and the Slovak Republic simplified their procedures.

16 Portugal did so in terms of the required documents to apply, while Lithuania established that applications could only be done in diplomatic and consular missions to control the flow of incoming workers.

17 MT, SK.

18 CZ.

19 PL.

examination of criteria,<sup>20</sup> stronger burden of proof that their business would provide full time work for at least two workers<sup>21</sup> and a clarification of the documents required.<sup>22</sup>

In terms of policy developments, Ireland and Luxembourg have both continued their efforts to attract investors, Ireland with the Immigrant Investor Programme and Luxembourg with a government coalition agreement that this was a priority, whilst France extended its multi-year residence permit, the so-called “talent passport”, to employees of innovative businesses recognised by a public body.

In terms of new practice developments, Ireland published updated guidelines relating to its Start Up Entrepreneur Programme Portugal introduced a new Start Up Visa programme for entrepreneurs which is governed by its own rules and Spain continued boosting its ‘Rising Start-up Spain’ Programme to continue attracting international entrepreneurs.

#### 1.3.1.6. Trainees, au-pairs and volunteers

More than half of the Member States transposed the Students and Researchers Directive (see Table 1.1 above) which also applies to trainees and volunteers and may be applied to au-pairs.<sup>23</sup> In terms of legal changes, some Member States introduced definitions for trainees and volunteers to better determine their rights and obligations, for example, Croatia and Latvia. Austria, Finland, France, the Slovak Republic, Spain and Norway introduced residence titles or work permits for trainees, au-pairs or volunteers. Estonia stipulated the conditions for short-term employment and residence permits for trainees and au-pairs. Bulgaria, Luxembourg and Portugal either simplified the application procedures, by reducing the burden for the employer to hire trainees in the case of Bulgaria, or set specific conditions (for example, au-pairs in Luxembourg cannot have familial connections with the families hiring them, must be paid the minimum wage and a maximum number of working hours was also established). Some Member States clarified which documents were required to grant residence permits to trainees and volunteers, as in the case for Portugal.

In terms of practice, the Netherlands reported a new practice of submitting recognised sponsors of trainees to inspection visits (which also applied to recognised sponsorship in relation to students and researchers in section 1.4). Ireland introduced immigration preclearance schemes for ministers of religion and volunteers.

#### 1.3.1.7. Other remunerated workers

Nine Member States<sup>24</sup> introduced legal changes concerning other remunerated workers. These changes included exemptions for workers from specific countries resulting from bilateral agreements,<sup>25</sup> aimed to facilitate

procedures,<sup>26</sup> or to alleviate the administrative burden for specific types of occupations.<sup>27</sup> Portugal defined more clearly which documents were necessary in order to apply for work.

### 1.3.2. Satisfying labour market needs - admission policies

Eleven Member States<sup>28</sup> introduced legal changes to better respond to labour market needs. Seven of these Member States<sup>29</sup> introduced changes which streamlined or facilitated the procedural burden by shortening the assessment period, reducing the number of required documents or simplifying the assessment procedure. Other Member States such as Belgium (Flanders), Estonia and Greece changed their regimes to attract and retain foreign workers, by, respectively, including more professions in the list of occupations with shortages, extending the period for short-term employment, or even leaving them out of the quota calculations. Spain has launched a pilot project of job searching visas aimed at children and grandchildren of Spanish people in Argentina for 2019.

In terms of policies, the Czech Republic, Finland and Luxembourg launched or strengthened programmes and campaigns to attract and retain foreign workers, in some cases in cooperation with specific third countries,<sup>30</sup> or by implementing attractive measures like fiscal regimes in due time or internal bonus systems.<sup>31</sup> Malta and the Slovak Republic simplified the procedures to apply for work/ residence permits. Furthermore, the Slovak Republic approved its first Strategy for Labour Mobility of Foreigners in the Slovak Republic.

Concerning practice, Estonia and Finland implemented measures to boost recruitment. In Estonia this was done concerning specific sectors (information and communication technology). In Finland shortage occupational sectors were determined regionally and the labour market test was waived in certain regions for the specific occupational fields in which the availability of labour had declined. Poland renovated the buildings of the Department of National and Foreign affairs to improve the quality of customer service.

### 1.3.3. ‘Social dumping’ and labour exploitation

Nine Member States plus Norway<sup>32</sup> introduced legal changes concerning labour exploitation, and all made such changes in order to prevent and detect illegal and exploitative employment. In the case of three Member States, these changes pertained directly to the status, working conditions and better integration of the worker; for example, Belgium changed the status of all diplomatic mission employees and Norway passed legislation improving the general working conditions of the worker;

20 LV.

21 LT.

22 PT.

23 Ireland does not participate in this Directive.

24 CZ, ES, HR, LT, LU, PL, PT, SK, UK.

25 LU, UK.

26 CZ, LT, PL, SK.

27 HU.

28 BE, CZ, EE, EL, ES, FI, HR, LT, PL, PT, SK.

29 CZ, FI, HR, LT, PL, PT, SK.

30 CZ (Mongolia, Philippines and Serbia).

31 LU.

32 BE, BG, EE, EL, FI, HR, IT, PL, SK, NO.

while Greece facilitated labour market registration of workers to prevent exploitation and also monitored unaccompanied minors more closely to make sure that they were not submitted to illegal or exploitative working conditions.

On the other hand, six Member States<sup>33</sup> looked towards monitoring employers more effectively through inspections to prevent abuses,<sup>34</sup> information-sharing with possible refusals to grant residence permits,<sup>35</sup> tax evasion measures thorough monitoring, heavier fines and even contract annulments.<sup>36</sup> The Slovak Republic introduced an obligation for employers to accommodate their foreign employees for up to six weeks during their training period. Italy introduced a protocol to detect and prevent illegal and exploitative work which was to be signed by many stakeholders, public and private. Finally, Estonia approved the Illegal employment prevention and prohibiting Action Plan and France implemented specific provisions aiming at defining a balanced regulation which does not create obstacles to non-fraudulent business as well as facilitating inspection methods, sanctions, communication and access to documents for inspectors.

Relevant policy changes introduced by Member States included a range of new measures to combat labour exploitation: the United Kingdom launched a strategy aimed at detecting and preventing labour exploitation, through strengthened inspection activities for example; Belgium strengthened the information-sharing capacities between several of its agencies to detect labour exploitation more effectively; Cyprus amended its work contract to better protect migrant workers' rights and therefore limit labour exploitation; Ireland conducted a review of the Economic Migration Policy and published recommendations, including in relation to employment rights; Norway called for further cooperation on the matter between Member States; and Italy funded local initiatives thanks to the sum allocated to it via the EU Asylum, Migration and Integration Fund (AMIF). Spain approved the Strategic Plan for Inspection of Labour and Social Security for the 2018-2020 and the 2018-2020 Management Plan for Decent Work, which promoted the integration of migrant workers, via monitoring campaigns.

The main practice changes consisted of increased work inspections by competent authorities, as reported in Ireland, Lithuania, Luxembourg and the Slovak Republic. Additionally, Austria and the Czech Republic continued to fund relevant projects pertaining to promoting the rights of migrant workers and promoting their integration. Ireland also implemented awareness-raising campaigns, while Finland strengthened the cooperation between its relevant agencies. Cyprus required that a signed contract between worker and employer be presented to the authorities before the entry of the worker into Cyprus.

### 1.3.4. Circular migration

Three Member States<sup>37</sup> introduced legal changes pertaining to circular migration including Italy which

provided bilateral agreements with third countries to promote circular migration through the Flows Decree.<sup>38</sup> In Spain, a wide range of measures have been launched to improve the labour and personal conditions of workers taking part in a circular migration project with Morocco. As an example, a specific protocol has been signed by the companies involved and a mentoring programme which will help migrants to better integrate in Spain during their stay in the country has been established. In terms of practice, Ireland began developing a pilot circular migration project with selected third countries as part of the wider EU pilot projects on legal migration. The project has the dual aim of creating regular migration pathways and helping to reduce the labour deficit within the agri-food sectors in Ireland. The project will aim to support the migrant through vocational training and skills enhancement

Additionally, Belgium, Tunisia and the International Organization for Migration (IOM) implemented a project to provide traineeships for recent Tunisian graduates in Belgium in sectors relevant to Tunisia (see Box below). The United Kingdom further developed a new programme to improve the information that the government produces to include data pertaining to circular migration. With the aim of facilitating circular migration, Belgium, Croatia and Estonia entered into agreements with third countries, which concerned regular labour migration permits, work experience exchanges, double taxation to avoid fiscal evasion and social insurance.

Finally, two new agreements on the "holiday employment" programme and one on the exchange of young workers entered into force in France. Sweden concluded a new working holiday agreement with Uruguay.

#### CIRCULAR MIGRATION PROJECT BETWEEN BELGIUM AND TUNISIA<sup>39</sup>

In 2018, Belgium launched a circular migration project in collaboration with IOM where young Tunisian adults who have already obtained a degree or who are students at a university have the chance to do an internship in a Belgian company involved in similar activities as a comparable company in Tunisia. After the internships, some of the students can obtain a work contract in a company in Tunisia, whilst others will be able to attend an additional internship and are entitled to receive further support. The project aims to introduce young students to corporate life and to gain work experience.

#### CIRCULAR MIGRATION FOR FORMER THIRD COUNTRY STUDENTS HOLDING A MASTER'S OR EQUIVALENT DIPLOMA IN FRANCE

Former students who performed their studies in France and hold a qualification at least equivalent to a Master's degree from an accredited national higher education establishment and who are returning to their country

33 CZ, EE, ES, FI, HR, PL.

34 CZ, EE.

35 HU.

36 EE, FI, PL.

37 CZ, HR, IT.

38 The Flows Decree (*Decreto Flussi*) fixed quotas of third-country citizens who can access the national territory for working purposes have been established. Quotas are divided into paid employment and seasonal work, following a proposal of working assumption made by an Italian or a foreign employer regularly staying in Italy.

39 Collaboration by the Flemish employment service VDAB, organisations of employers and IOM, more information available in De Standaard, "VDAB en werkgevers zoeken informatici in Marokko", 14 January 2019, [http://www.standaard.be/cnt/dmf20190113\\_04099390](http://www.standaard.be/cnt/dmf20190113_04099390).

of origin may return to France for the purposes of seeking employment or creating a company up to four years after having obtained their qualification and can access the new “seeking employment or creating a company” residence permit (valid for one year).

### 1.3.5. Other developments in economic migration

Other legal changes in the field of economic migration introduced by Member States were quite varied, reflecting national priorities. The Czech Republic and Estonia made legal proposals to be examined in the coming months: Estonia proposed the introduction of a special visa for ‘digital nomads’ (web-based work), and the Czech Republic proposed an amendment to shorten the length of time for authorities to publish a job vacancy to be available for Czech citizens (labour market test). Afterwards the job vacancy will be open also for foreign nationals (which can be filled by an employee card holder or an EU Blue Card holder).

Croatia implemented a regulation on how to assess the level of resources needed to maintain a third-country

national in the country which prescribed the proven resource level required by a third-country national to apply for a temporary or permanent residence permit.

Concerning policy changes, Lithuania proposed new measures to improve migration procedures, by facilitating them as well as by tightening the control of the authorities on them. In Luxembourg, the new coalition agreement aimed to consolidate the competitiveness of the financial centre to keep attracting foreign investment, especially in view of Brexit.

Concerning changes in practice, Belgium developed a pilot project to attract Moroccan IT experts to work on a temporary basis for Flemish employers. Sweden’s Migration Agency further developed its certification system for trusted employers, which contributes to shorter processing times for labour migrants to obtain a residence permit for work with certified employers. Spain designed a pilot project to foster mobility with Morocco for student reasons, giving the migrants the opportunity to receive a specific amount of money to start up a business once they come back to Morocco.



## 1.4. STUDENTS AND RESEARCHERS

More than half of the Member States introduced legislative changes facilitating the admission and residence of students<sup>40</sup> and researchers,<sup>41</sup> mainly provisions that encourage their mobility in accordance with the EU *acquis*. Some of the legislative changes included: revised terms of eligibility for a residence title, for example reduced documentary requirements;<sup>42</sup> wider scope of authorisation of stay, for example specific groups of students and/ or researchers, such as African students holding a French higher education qualification in France;<sup>46</sup> extended duration of the residence permit, followed by a longer job-seeking period in some cases;<sup>43</sup> right to work without a work permit.<sup>44</sup> Estonia, Luxembourg, France and Spain allowed students and researchers a longer stay after their studies/ contracts came to an end in order to build a business, as well as to look for work. Additionally, conditions for ending students’ stay were introduced in some Member States, for example in Belgium students must provide information confirming sufficient progress has been made in their studies (e.g. evidence of credits completed), otherwise their right to stay may be terminated.

In Spain, a number of measures were approved to facilitate the procedures for students: requesting authorisation for stays for the purpose of study can be processed from Spain, whereas previously this was only possible from abroad; allowing visa applications through representation

(and not only in person, thus students who live far from the consular office no longer have to travel); and enabling a channel which allows the higher education institution to request authorisation for their international students.

Just under one third of Member States<sup>45</sup> introduced changes in their national policies concerning students. The most important changes included revised tuition fees or exemptions from some university fees depending on the student’s nationality,<sup>46</sup> and new or ongoing programmes for scholarships for foreign students.<sup>47</sup> Some Member States examined the quality of the international education they were providing,<sup>48</sup> reporting plans to introduce an International Education Mark,<sup>49</sup> or to address issues with likely impact on quality, particularly housing (see Box below).<sup>50</sup>

### National Student Housing Action Plan in the Netherlands

As a result of the shortage of housing for international and other students, the Netherlands adopted the National Student Housing Action Plan 2018-2021 (*Landelijk Actieplan Studentshuisvesting 2018-2021*) which was published on 5 October 2018 and sent to the House of Representatives.<sup>51</sup> This action plan was signed by the De G4<sup>52</sup>, Netherlands Knowledge

40 AT, BE, BG, EE, ES, FI, FR, HR, HU, IT, LT, LU, LV, PL, PT, SK, UK.

41 AT, BE, BG, EE, ES, FI, FR, HR, HU, LT, LU, LV, PT, SK, UK.

42 AT, SK, UK.

43 AT, BE (still in planning stage), ES, FI, FR, HR, LU.

44 BE, BG, HR, SK.

45 BE, CZ, ES, IE, NL, SK, UK.

46 French-speaking BE, FR.

47 CZ, IT, SK.

48 IE, NL.

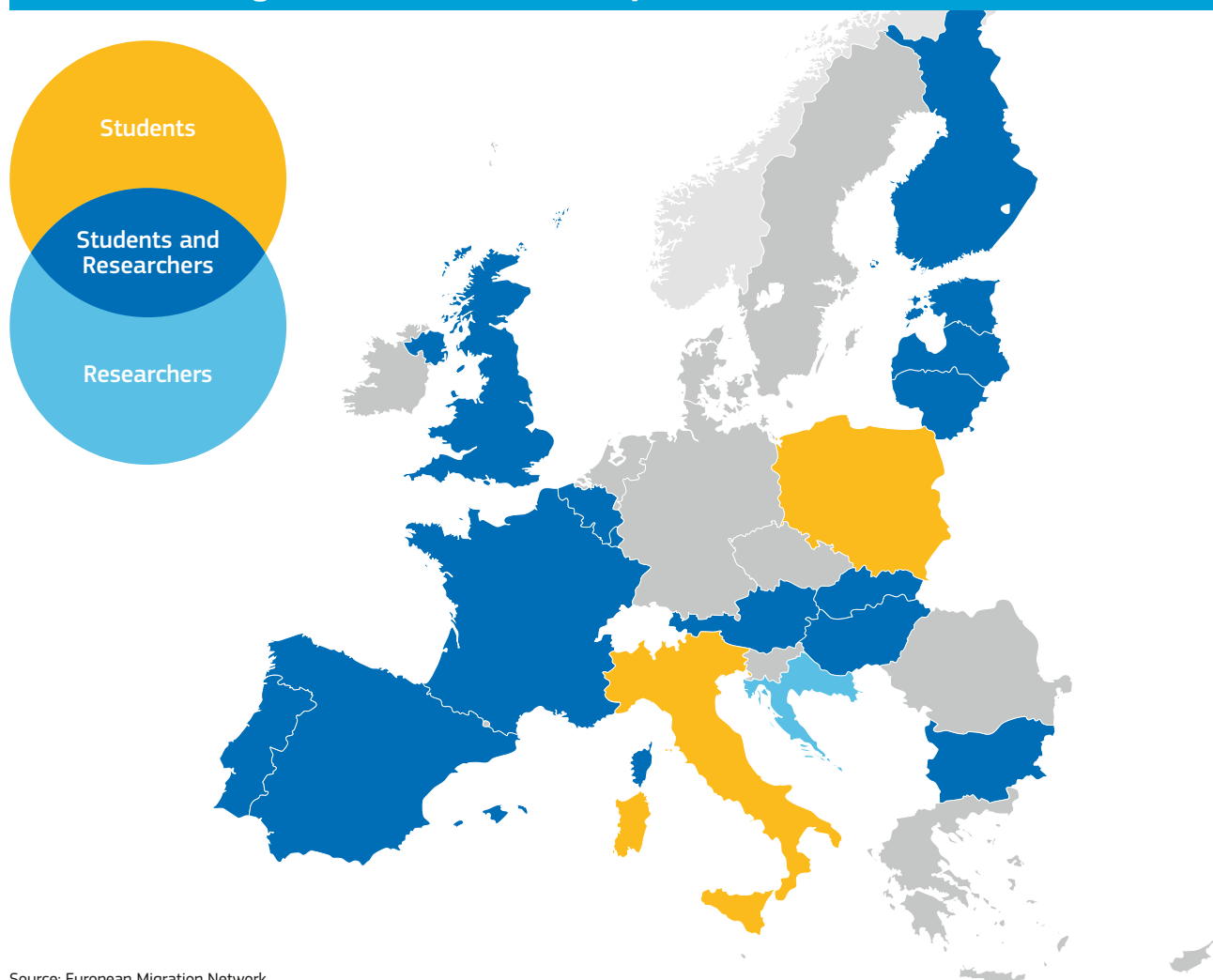
49 IE.

50 NL.

51 *Parliamentary Papers (Kamerstukken) II*, 2018-2019, 33104, no. 20. (in Dutch).

52 These are the four municipalities in the Netherlands with more than 250 000 residents: Amsterdam, Utrecht, The Hague and Rotterdam.

## Figure 1.2 – Member States introducing legislative changes facilitating the admission and stay of students and researchers



Source: European Migration Network

City Network (*Netwerk Kennissteden Nederland*)<sup>53</sup>, Association of Universities in the Netherlands (VSNU), Association of Universities of Applied Sciences (*Vereniging Hogescholen*), Sector organisation for student housing (*Kences*), Association of private property investors (*Vastgoed Belang*), LSVb, Nuffic, the Ministry of Education, Culture and Science (OCW) and the Ministry of the Interior and Kingdom Relations (BZK). These parties agreed this action plan in order to find a long-term solution for the shortage of rooms, paying special attention to international students (including EU/EEA students). This plan is intended to build local cooperation over the next three years to ensure that there will be a local balance between supply and demand within ten years.<sup>54</sup> This will be achieved by improving understanding of the supply and demand economics of student housing, agreements between local parties and enhancing the availability of information to students.

No Member State reported developments in policies regarding researchers, except for France where researchers holding the 'research' talent passport are also eligible for the new 'seeking employment or company creation' residence permit (as are students and researchers when they are involved in mobility programmes (Erasmus Mundus, Marie Curie, etc.).

### A new strategy to attract international students to France

The objective of this new strategy is to welcome 500 000 international students to France by 2027. The new strategy launched on 19 November 2018 is built on six pillars: simplification of the visa policy, doubling the number of students of English and French as a foreign language (FLE), creation of a label to improve reception provisions, application of different registration fees and tripling study grants, increasing the reputation of France abroad, and renewing Government communication on the image of France abroad. This strategy will be implemented gradually in 2019.

53 The Dutch Knowledge Cities Network (*Netwerk Kennissteden Nederland*) was established in 2009 and comprises the cities and universities of Amsterdam, Delft, Eindhoven, Enschede, Groningen, Leiden, Maastricht, Nijmegen, Rotterdam, Tilburg, Utrecht and Wageningen, VSNU, Vereniging Hogescholen and Kences.

54 National Government (2018). *Actieplan studentshuisvesting 2018-2021*. <https://www.rijksoverheid.nl/documenten/publicaties/2018/10/05/actieplan-studentshuisvesting-2018-2021>. Consulted on 5 October 2018.



Just under a third of Member States introduced practice changes regarding students (an example is provided below).<sup>55</sup> Two Member States introduced new practices with regard to researchers, France where the ‘researcher - talent passport’ can be extended to children of the couple in order to enable them to bring members of their family to France; and the Netherlands, by submitting sponsors to inspection visits (as noted in section 1.3.1.2).

### Finnish application centres for study and work-based residence permits in the US and Canada

Finland has opened application centres in the US and Canada to ease the application process for study and employment-based residence permit applications. In the US, the biometric data (facial photo and fingerprints) for the applications can currently be submitted in Chicago, Houston, Los Angeles, New York, San Francisco, and Washington D.C. The residents of the state of Washington can also submit their biometric data for residence permit applications in Vancouver, Canada. The other application centres in Canada are located in Ottawa and Toronto. Early next year, Finland is looking to expand to Montreal, Edmonton and Halifax in Canada.



## 1.5. FAMILY REUNIFICATION AND FAMILY FORMATION

More than a third of Member States<sup>56</sup> introduced legislative changes in the field of family reunification and family formation. These fell into the following broad categories: introduction or reformation of the right to family reunification with specific provisions for certain categories of migrants;<sup>57</sup> revision of the material requirements or waiting period for exercising the right to family reunification;<sup>58</sup> clarification of rules on the submission and examination of the application for family reunification;<sup>59</sup> and improved access to rights for sponsors<sup>60</sup> or family members,<sup>61</sup> for example, access to the labour market without a work permit.<sup>62</sup>

Three Member States<sup>63</sup> and Norway introduced changes to their national policies on family reunification and/or family formation. For example, to clarify existing legislation, the United Kingdom changed its Immigration Rules to confirm that an adopted child with limited leave under the family immigration rules and who is aged 18 years or above must meet a Knowledge of Language and Life requirement<sup>64</sup> before being eligible to apply for settlement.<sup>65</sup> In Spain, although there are no new elements in this area, work was carried out on a set of instructions aimed at the foreign persons’ offices indicating the terms

under which family regrouping will be carried out. These instructions aim to address elements highlighted by the Ombudsman as well as by different judicial decisions. The aspects addressed include: family ties regarding the parents of Spanish minors from outside the EU or EU citizens residing in Spain; the facilitation of family regrouping; as well as addressing specific barriers. Norway introduced the right to appeal a decision refusing the applications for residence cards from third-country family members of EU/EEA citizens.

Furthermore, European and national case law influenced the practices of three Member States with regard to family reunification and family formation.<sup>66</sup> In Belgium and Sweden (in Sweden family reunification was suspended since a temporary law in 2016), the right of refugees and beneficiaries of subsidiary protection, including unaccompanied minors to reunite with family was respectively strengthened and restored. In Belgium<sup>67</sup> and Finland, for example, unaccompanied minors who attained the age of majority during the asylum procedure retained their right to family reunification as minors, i.e. benefitting from the more favourable conditions for refugee minors prescribed by EU law.



## 1.6. INFORMATION ON ROUTES TO AND CONDITIONS OF LEGAL MIGRATION

Only two Member States adopted new legislative<sup>68</sup> and policy<sup>69</sup> developments to improve the provision of information on routes to and conditions of legal

migration; however, almost half of Member States<sup>70</sup> adopted new practical measures. Such measures most often included: information and awareness raising

55 ES, FI, IT, MT, NL, SK, UK.

56 DE, EL, FI, FR, HR, HU, IT, LU, PL, SK.

57 DE (beneficiaries of subsidiary protection), FI (unaccompanied minors), FR (children of the couple whose one spouse holds the researcher talent passport residence permit), LU (researchers).

58 IT, LU, MT.

59 EL, HU.

60 FI.

61 BE, FR (recognition of spousal violence for renewal of residence permit issued as part of family reunification), HR.

62 BE, HR (applies to researchers), SK (applies to researchers).

63 EL, ES, UK.

64 UK Government, Guidance on the Knowledge of language and life in the United Kingdom requirement, <https://www.gov.uk/government/publications/knowledge-of-life-and-language-in-the-uk>

65 Home Office, Statement of Changes in Immigration Rules, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/716677/CCS207\\_CCS0618810832-2\\_HC1154\\_Statement\\_of\\_Changes\\_in\\_Immigration\\_Rules\\_Web\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/716677/CCS207_CCS0618810832-2_HC1154_Statement_of_Changes_in_Immigration_Rules_Web_Accessible.pdf)

66 BE, EE, FI, SE.

67 Provided that the application for family reunification is filed within three months of the date on which the minor is recognised as a refugee.

68 HR.

69 NL.

70 DE, EE, ES, FI, FR, HR, IE, IT, LT, LV, PL, SE, SK.

campaigns, materials<sup>71</sup> or (sub) websites<sup>72</sup>, often translated in the main languages of third-country nationals;<sup>73</sup> specific information centres, points or services;<sup>74</sup> better equipped premises where information to third-country nationals can be provided;<sup>75</sup> production of audio-video material on the risks of irregular migration, legal pathways to migration, or other relevant topics;<sup>76</sup> and cooperation with/ in third countries.<sup>77</sup>

Some interesting practices are provided below:

### Information campaigns/ websites

In Germany, the Federal Foreign Office launched the website [www.rumoursaboutgermany.info](http://www.rumoursaboutgermany.info) in Dari, Farsi, Tigrinya and Urdu. The Office undertakes continuous development of the content in all website languages (languages mentioned above plus Arabic, English and French), and production and dissemination of infomercials for the website on social media.

In November 2018, a new and improved website [www.studyinestonia.ee](http://www.studyinestonia.ee) was finalised. The website provides comprehensive information on studying opportunities in Estonia.

The Education in Ireland website at [www.educationinireland.com](http://www.educationinireland.com) promotes third-level education opportunities for international students, including third-country national students, in Ireland. For third-country national students, the website includes information on immigration requirements.

Since August 2018, the new online portal [www.workinginsweden.se](http://www.workinginsweden.se) provides information about the Swedish labour market in a clear and easily accessible digital format. The portal was developed by the Swedish Institute and constitutes a collection of information from several public authorities and agencies for those who wish to go to Sweden for work or run a business.

The Danube Compass international website [www.danubecompass.org](http://www.danubecompass.org) was launched in 2018. It provides foreigners with information on work, arrival and residence, education, everyday life, health and local language courses in the Czech Republic, Croatia, Hungary, Germany, Austria, Slovak Republic, Slovenia and Serbia. The section for Slovakia is available in Slovak, English, Ukrainian, Serbian and Vietnamese.

### Information centres and other combined services

In November 2018, the one-stop-shop service centre called 'International House of Estonia' was opened in Ülemiste City. The aim of the service centre is to provide consultation and facilitate public services for international newcomers in Estonia and local employers. The services of the International House are aimed at internationals (mainly highly-skilled migrants), who

have come to Estonia to work or study, but also for their spouses and for companies that hire internationally.

In 2018, the migration advisor services offered by the Estonian Police and Border Guard Board continued to be popular. During the year, the advisors gave 14 984 consultations, including 67 trainings. Advisors' main purpose is to support foreigners settling in Estonia, offer legal advice and to be a partner to employers, entrepreneurs, educational institutions and others who invite foreigners to Estonia.

In spring 2018, the Finnish Immigration Service started using a virtual customer service agent that utilises artificial intelligence. The Kamu chatbot can be found on all pages of the [www.migri.fi](http://www.migri.fi) website. Questions can be entered in the chatbot in Finnish or English. In autumn 2018, a pilot project was launched to test cooperation among the chatbots of the Finnish Immigration Service, the Finnish Tax Administration and the Finnish Patent and Registration Office. Chatbots cooperate in advising foreign entrepreneurs. Chatbots can provide general advice about, for example, the setting up of a company in Finland, the types of residence permits entrepreneurs need for themselves or for their employees or taxes that entrepreneurs must pay in Finland. The new service can be tested at [www.startingupsmoothly.fi](http://www.startingupsmoothly.fi).

Owing to funds obtained from the Asylum, Migration and Integration Fund (AMIF), Poland launched an information point for third-country nationals in the Zachodniopomorskie Voivodeship Office in Szczecin with the participation of Caritas Poland.

### Information materials, including audio-video products

In 2018, the Czech Ministry of Interior continued to support the implementation and update of pre-departure packages called "Next Stop the Czech Republic" for non-EU nationals, which was launched in 2013. The project is aimed at third-country nationals who are considering a long-term stay in the Czech Republic. It was developed in cooperation with the NGO Slovo 21 which was founded by immigrants, other responsible Ministries, Integration Centres, IOM and other relevant partners (mainly NGOs).

In November, the new Relocation Guide handbook<sup>78</sup> came out to help newcomers settle in smoothly in Estonia. The handbook covers the following topics: moving to Estonia, housing, working, healthcare, taxes and social benefits, education, transport, everyday life. This online book is also a useful tool for all employers looking to hire foreign specialists. It covers all essential subjects, from formalities to free time.

In Germany, the Federal Foreign Office produced infomercials. They promote Germany's website [www.rumoursaboutgermany.info/](http://www.rumoursaboutgermany.info/) and inform about the legal pathways and the risks of irregular migration. Different

71 SK.

72 SK.

73 BE, DE, EE, ES, IE, LV, SE.

74 EE, FI, LT, PL.

75 SK.

76 DE, ES (work is being carried out on a specific audio-visual campaign for 2019), LV.

77 DE, EE, ES, IE, SK.

78 See <https://www.workinestonia.com/wp-content/uploads/2018/11/Relocation-Guide.pdf>.

infomercials have been produced and disseminated to reach African target groups (transmission during Premier League Games and on Ethiopian TV) and to reach potential migrants in Afghanistan and Pakistan (transmission on radio and TV).

In Latvia, the Office of Citizenship and Migration Affairs prepared information materials on the conditions for applying for a Schengen visa – Information for obtaining a visa; Visa quality requirements for facial image and fingerprints; Visa processing for seasonal workers. Information materials for visa applicants show the procedure for applying for a visa in a structured manner.

The Slovak Republic's Ministry of Labour, Social Affairs and Family published an information leaflet in several languages for the citizens of Serbia, Ukraine, Vietnam, North Macedonia and Bosnia and Herzegovina in the "Labour Mobility for Foreigners" section of their website.<sup>79</sup> The leaflet contains, among others, basic information on whom the foreigners can approach if their employers do not adhere to regulations concerning work contracts or labour legislation.

### Cooperation with/ in third countries

In Germany, the Federal Foreign Office implemented nearly 50 communication projects in third countries in cooperation with NGOs and IOs. Projects aim at informing potential migrants and refugees about i) the risks of irregular migration and/ or ii) legal ways and/ or iii) voluntary and forced return and/ or iv) Germany's commitment to the protection of refugees and to the fight against root causes of forced displacement and migration and/ or v) support organisations and multipliers who are mediating in conflicts in order

to contribute to the fight against root causes of forced displacement and migration by effective communication.

The Police and Border Guard Board started cooperation with the Estonian Embassy in Kyiv in order to inform the Ukrainian public about the conditions to commence working in Estonia. Information about the conditions was uploaded on the website in Ukrainian language. The aim was to raise awareness and prevent traveling to Estonia on false grounds (e.g. arriving as a tourist with the aim to start employment).

Education in Ireland and participating colleges and universities continued to participate in international education fairs throughout 2018, including in Malaysia, Hong Kong, Mexico, Sri Lanka, India, Nigeria and the United States (Salt Lake City).<sup>80</sup>

The Office of the Spanish Ministry of Labour, Migrations and Social Security in Senegal participated in the Dakar Migration Forum, organised by the

National Agency of Youth Employment (ANPEJ), a type of proto-public employment service) and partially financed by an EU programme on migration and professional mobility. The Forum had several parts: 1) panels: one on regular migration (the State of Senegal committing to publicly combatting irregular emigration) and another on voluntary return, films and testimonials; 2) stands of countries and organisations; 3) stands of returned emigrants outside the complex displaying their business initiatives, products, etc.; and 4) a scientific conference in the Women's Museum on emigration. At this Forum, the Office distributed informative leaflets providing information on regular migration requirements and the dangers of irregular migration.

## 1.7. OTHER MEASURES REGARDING LEGAL MIGRATION

Nearly half of the Member States<sup>81</sup> took additional legislative measures to facilitate legal migration. In many cases the new provisions established more flexible residence permit procedures,<sup>82</sup> for example, the possibility for certain categories of third-country nationals to apply for a residence permit abroad,<sup>83</sup> or to apply for an extension of the permit online,<sup>84</sup> options to provide relevant documentation after application (and not prior),<sup>85</sup> and shorter processing times.<sup>86</sup>

Three Member States<sup>87</sup> looked into the specific status of UK nationals after Brexit, while the United Kingdom rolled out ePassport gates for additional countries in preparation for a new global immigration system as it leaves the EU.

Less than a third of Member States<sup>88</sup> implemented further changes to their national policies on legal

migration. Some Member States,<sup>89</sup> notably Greece and the Netherlands adjusted the application fees for the issue or renewal of residence permits downward. The Netherlands further streamlined the procedure for applying for (extension of) residence permits, by abolishing the notification requirement (which required third-country nationals to present all relevant information before the application could be submitted), and by changing the time for submission of applications to three months before the date on which the current residence permit expires.<sup>90</sup>

Other Member States such as Ireland and the Netherlands introduced or clarified immigration schemes and related conditions for the stay of third-country nationals under these arrangements, including the pre-clearance scheme for Ministers of Religion and Volunteers in Ireland, and the Working Holiday Scheme (WHS) for young people in

79 <https://www.employment.gov.sk/en/information-foreigners/employment/>.

80 See [www.educationinireland.com/news](http://www.educationinireland.com/news).

81 BG, EL, ES, FI, FR, HR, LT, LU, LV, PL, PT, SK, UK.

82 BG, EL, FI, HR, LT, LV.

83 HR.

84 FI.

85 LV.

86 BG.

87 CZ, ES, SK.

88 AT, EL, ES, FR, IE, NL, UK.

89 EL, FI, NL.

90 This only concerns extension applications and applications for a permanent regular residence permit.

the Netherlands. Finally, France implemented a couple of measures dedicated to the proof of level of French knowledge (increase in the level of French proficiency for the issuance of residence permits and opening of a site to authenticate the French language test).

### **Reduced fees for residence permit applications in the Netherlands**

Since 3 May 2018 the fees for applying for several residence permits have been adjusted downward. For example, the fee for applying for a residence permit for work as knowledge migrant was reduced from €938 to €582, for a residence permit for seasonal work purposes from €802 to €570 and residence permit for educational purposes from €321 to €192.

The starting point for charging fees is that they must be cost-effective as far as possible. The rates applicable before May 2018 were charged before the working process of the Immigration and Naturalisation Service (IND) had been radically changed as a result of the Modern Migration Policy Act. A new calculation showed that most fee cost prices could be adjusted downward. This is due to factors including accelerated application by way of digitisation.

A third of Member States<sup>91</sup> made additional changes to their practices on legal migration, such as digitisation of applications for (extensions) of residence permits,<sup>92</sup> or measures to address problems with and to improve the vonline registration/ appointment system.<sup>93</sup> The possibility for digitalisation of internal processes, for example the transfer of foreign migration data between relevant institutions in the Slovak Republic was also discussed.

91 EE, ES, FI, FR, IE, NL, PL, SK.

92 ES, FI.

93 ES, IE.

# 2. INTERNATIONAL PROTECTION INCLUDING ASYLUM

This section looks at the new policies and measures adopted by Member States and Norway during 2018, on international protection including asylum. The first section elaborates on the implementation of the Common European Asylum System (CEAS) and related policy

developments (section 2.1) while the following sections outline the main developments in Member States and Norway. The section also describes the Relocation and Re-settlement programmes implemented by Member States and Norway (section 2.2).



## 2.1. IMPLEMENTATION OF THE COMMON EUROPEAN ASYLUM SYSTEM (CEAS) AND EU RELATED POLICY DEVELOPMENTS

The legislative procedures on the proposals for a reform of the CEAS are currently ongoing. In December 2017, the European Council set a target to reach a position on an overall reform of the CEAS by June 2018. However, Member States were *inter alia* linking the conditional confirmation as a step towards adoption of some of the files to discussions on the Dublin Regulation and the Asylum Procedure Regulation that have not yet come to a conclusion within the Council.

Several Member States,<sup>94</sup> however, reported changes as a result of the transposition of the Asylum Procedures or the Reception Conditions Directive during the reference period. In Belgium and Finland, legal modifications made in 2017, or rather 2016 in the case of Finland, to finalise the transposition of the Asylum Procedures Directive came into force in 2018.

In France, the transposition of the Directives resulted in the adoption of a new law, that consolidated the right of residence for beneficiaries of international protection and their family members, reduced the time frame for asylum applications, and aimed to distribute applicants more evenly across the country, as well as changed material reception conditions. Greece made changes to its legislation concerning the demands for the reception of asylum-seekers resulting from its transposition of the Reception Conditions Directive and in Ireland, which opted into the Directive, the transposition led to applicants for international protection being given access to the labour market after nine months from the date their application was lodged if they had not received a first instance recommendation from the International Protection Office and they had cooperated with the process.

### 2.1.1. Changes in legislation, policies and practices

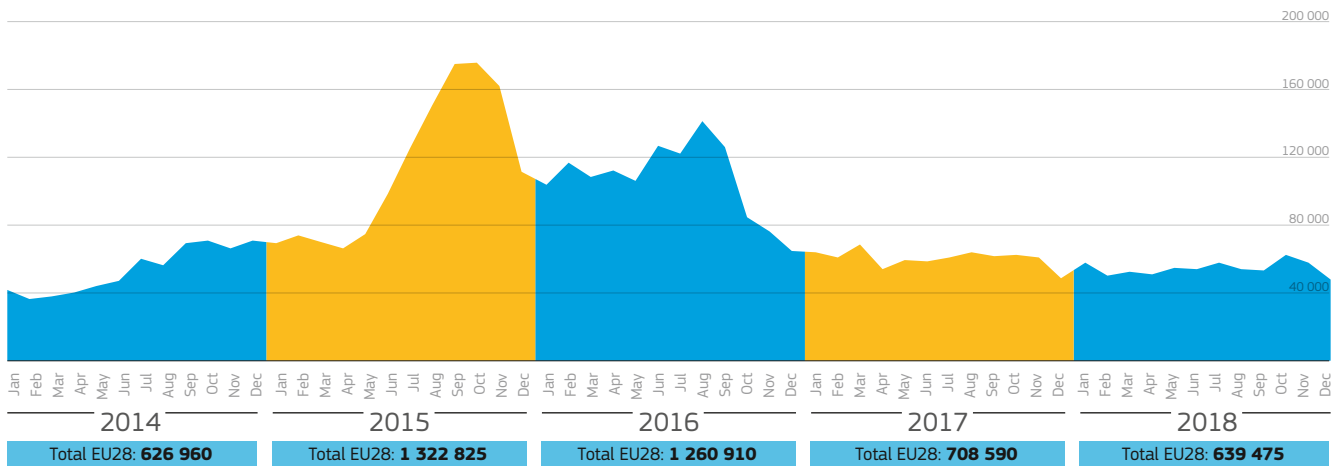
#### 2.1.1.1. Access to the asylum procedure

Six Member States<sup>95</sup> made legal changes to access the asylum procedure in 2018. Austria, as part of its Act Amending the Aliens Law 2018, made it, amongst other legal changes, possible for the authorities to seize and analyse data storage media (e.g. smart phones) in the possession of asylum seekers to help to establish their identity and travel routes. Another legal change was that an application for international protection made in Austria by a third-country national also applies to every minor child of that person and each child that is subsequently born in Austria. In Belgium, as well as legal modifications made in 2017 to transpose the Asylum Procedures Directive, other legal changes were introduced in connection with applicants' duty to cooperate (i.e. withholding information that can establish identity can lead to the rejection of the application due to credibility issues). A decision to limit the number of applications that may be registered per day (from 60 to 50) was implemented in November and subsequently overturned. The Netherlands made a ruling with regard to the starting point of repeated asylum applications, that an applicant should be entitled to all services available to asylum seekers from first declaring an intention to apply for international protection by submitting an official notification form.

There were several developments in practices reported in the Member States. In Belgium, all applications for international protection not made at the external border or in a closed facility, must now be registered in a newly opened arrival centre to ensure the same procedure for all applicants. In Cyprus, applicants are provided with a

94 BE, EL, FI, FR, IE, SK.  
95 AT, BE, EL, FR, NL, PL.

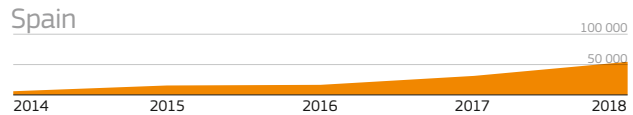
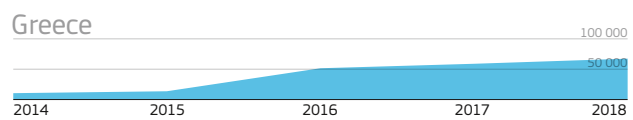
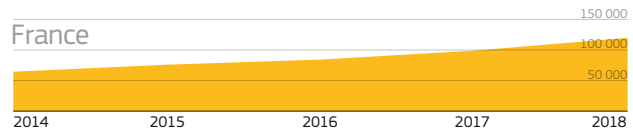
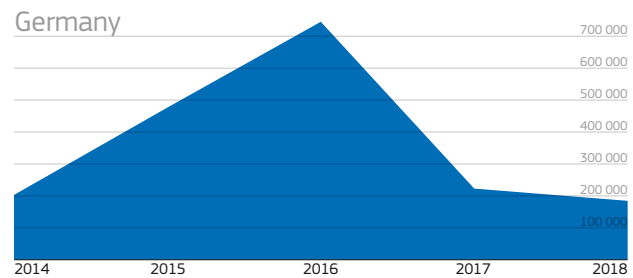
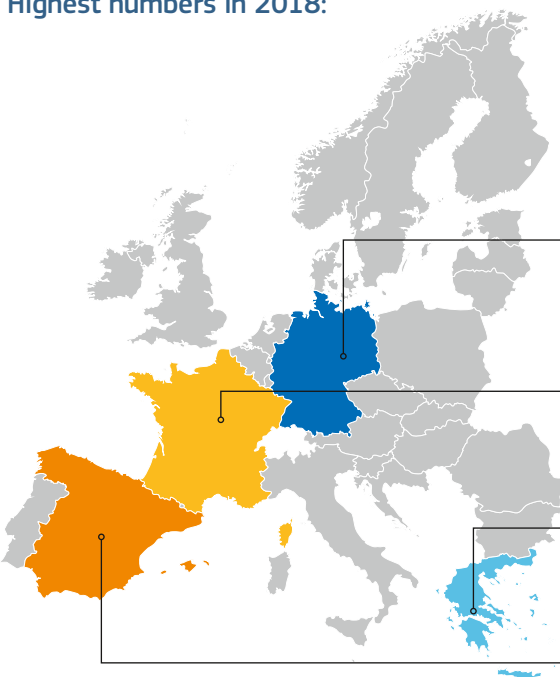
**Figure 2.1 – Asylum applications in the EU 28: January 2014 – December 2018**



Source: Eurostat (migr\_asyappctzm), extracted on 6 April 2019

**Figure 2.2 – Overview of Asylum Applications in Member States and Norway: 2014 – 2018**

Highest numbers in 2018:



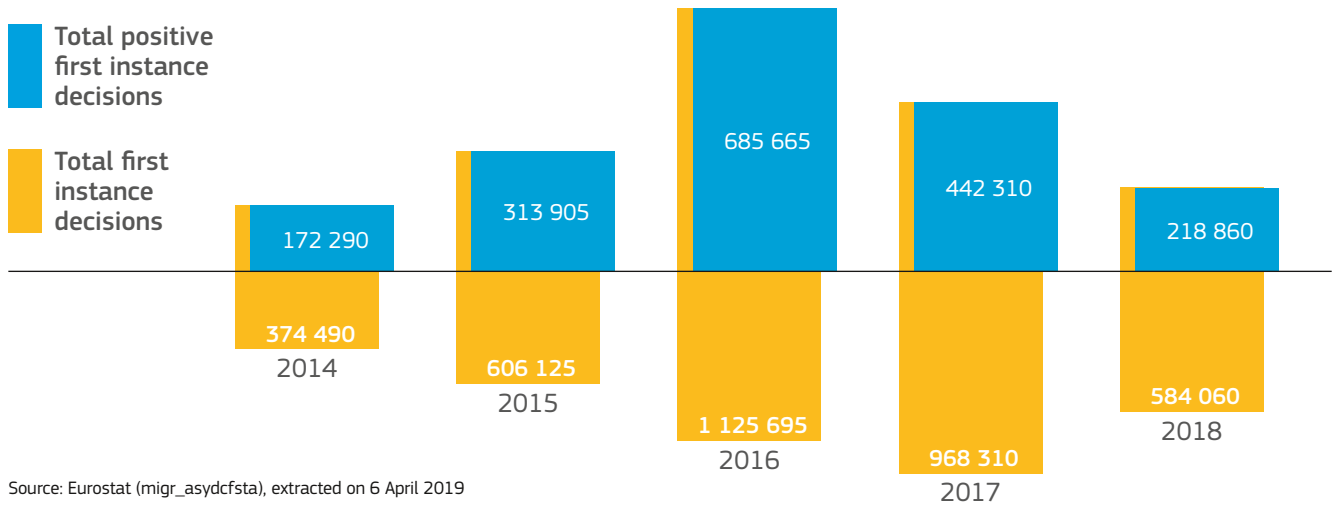
Entire list:

	2014	2015	2016	2017	2018
DE	202 645	476 510	745 155	222 560	184 180
FR	64 310	76 165	84 270	99 330	120 425
EL	9 430	13 205	51 110	58 650	66 970
ES	5 615	14 780	15 755	31 120	54 050
IT	64 625	83 540	122 960	128 850	53 705
UK	32 785	40 160	39 735	33 780	37 735
NL	24 495	44 970	20 945	18 210	24 030
BE	22 710	44 660	18 280	18 340	22 530
SE	81 180	162 450	28 790	26 325	21 560
AT	28 035	88 160	42 255	24 715	13 385
CY	1 745	2 265	2 940	4 600	7 760
FI	3 620	32 345	5 605	4 990	4 500
PL	8 020	12 190	12 305	5 045	4 125
IE	1 450	3 275	2 245	2 930	3 665

	2014	2015	2016	2017	2018
DK	14 680	20 935	6 180	3 220	3 565
SI	385	275	1 310	1 475	2 870
NO	11 415	31 110	3 485	3 520	2 660
BG	11 080	20 365	19 420	3 695	2 530
LU	1 150	2 505	2 160	2 430	2 340
RO	1 545	1 260	1 880	4 815	2 145
MT	1 350	1 845	1 930	1 840	2 120
CZ	1 145	1 515	1 475	1 445	1 690
PT	440	895	1 460	1 750	1 285
HE	450	210	2 225	975	805
HU	42 775	177 135	29 430	3 390	675
LT	440	315	430	495	405
LV	375	330	350	355	185
SK	330	330	145	160	170
EE	155	230	175	190	95

Source: Eurostat (migr\_asyappctzm), extracted on 5 April 2019

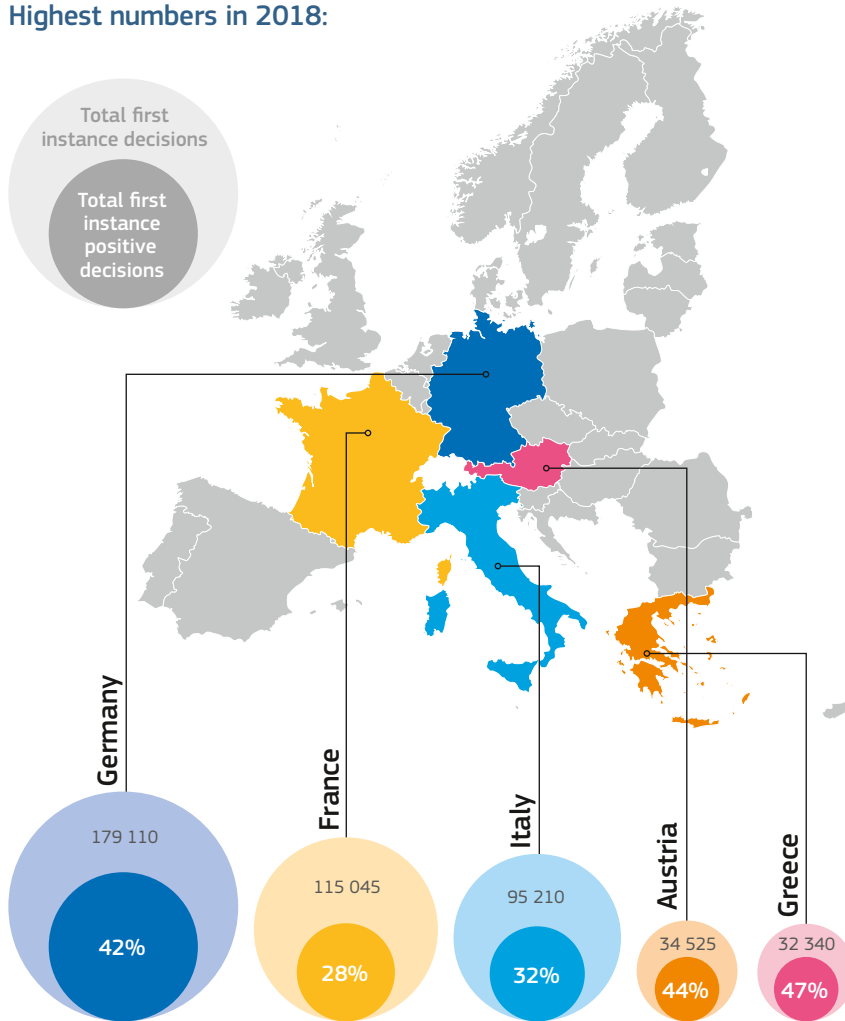
**Figure 2.3 – Total first instance decisions on asylum applications and total positive decisions in first instance in Member States and Norway: 2014 – 2018**



Source: Eurostat (migr\_asycdfsta), extracted on 6 April 2019

**Figure 2.4 – Total first instance positive decisions on asylum applications and total positive decisions in first instance in 2018**

Highest numbers in 2018:



Entire list:

	Total first instance decisions	Total first instance positive decisions
Belgium	19 020	9 675
Bulgaria	2 110	740
Czechia	1 385	155
Denmark	2 625	1 315
Germany	179 110	75 940
Estonia	75	20
Ireland	1 175	1 005
Greece	32 340	15 210
Spain	11 875	2 895
France	115 045	32 725
Croatia	435	135
Italy	95 210	30 670
Cyprus	2 475	1 215
Latvia	125	30
Lithuania	270	135
Luxembourg	1 390	1 000
Hungary	960	365
Malta	1 500	645
Netherlands	10 285	3 620
Austria	34 525	15 020
Poland	2 735	375
Portugal	1 045	625
Romania	1 295	595
Slovenia	235	100
Slovakia	80	45
Finland	4 440	2 405
Sweden	31 320	10 640
United Kingdom	28 860	10 100
Norway	2 115	1 460

Source: Eurostat (migr\_asycdfsta), extracted on 6 April 2019

confirmation of having made their application to ensure their rights are provided for under refugee law. This change was introduced to meet the challenges associated with an increased number of applications in some centres. France introduced the use of video-conference and the use of telephone communication for the interview in different cases. It also implemented several measures to reduce the registration timeframe of asylum applications in one-stop shops. In Spain, a Protocol has been created on disembarking after Life-Saving operations, coordinating the action of the different Ministries involved. Work has been carried out on the decentralisation and access to the procedure in the foreign persons' offices and police stations.

### 2.1.1.2. Reception of asylum applicants

Several Member States<sup>96</sup> initiated or implemented changes in legislation regarding the reception of asylum applicants. Following its decision to opt into the recast Reception Conditions Directive, Ireland transposed the Directive via Regulations which came into effect from 30 June 2018. New legal changes focussed on decreasing reception costs for the public (Austria and Italy) and improving reception facilities for some vulnerable applicants (Hungary). Austria, for example, introduced legal changes in its Federal Basic Care and Federal Office for Immigration Procedures Acts that allowed authorities to seize a limited amount in cash in possession of new asylum applicants to contribute to the costs of material reception. Italy introduced substantial changes to its asylum and reception system in December 2018. New asylum seekers will no longer be hosted in SPRAR centres in municipalities, but in centres of first reception - centres for accommodation of asylum-seekers (CARA) - and temporary reception centres (CAS) until their status is decided. SPRAR centres, where residents have access to a much wider range of services, will now be reserved for beneficiaries of international protection and unaccompanied minors. Therefore, these centres were renamed SIPROIMI (Italian System of Protection for Beneficiaries of International Protection and Unaccompanied Minors).<sup>97</sup>

### Changes for LGBTQI asylum-seekers in Hungary

Hungary introduced new legislation in January 2018, stipulating that asylum-seekers' gender identity needs to be taken into account when housing them in reception facilities and special attention needs to be given to LGBTQI and vulnerable asylum seekers. Hungary also increased the rations given out to vulnerable groups.

In several Member States,<sup>98</sup> policy changes were introduced to better manage capacity in the face of fluctuating numbers of applicants. Given the fact that the number of new arrivals has decreased significantly in some Member States, reception capacities were adjusted. In Finland, the number of reception centres were reduced, which was also the case in Sweden where a number of accommodation facilities were discontinued.

This was not the case in all Member States, however; in the Czech Republic, reception places reached almost full capacity, and new additional places had to be established within the current premises. Measures were also taken in Bulgaria, Cyprus, Croatia, Spain and Lithuania, to improve or increase reception capacities. Croatia worked on improving and increasing capacities and in Lithuania, reception conditions at border crossing points were improved and new facilities built with the support of AMIF. In Spain, given a 75% increase of applicants for international protection in 2018, an increase in reception capacities was required, as well as a restructuring of the available resources at the Spanish Asylum Office (OAR).

There are also cases where plans to reduce reception capacity caused problems. In Belgium the government decided to reduce reception capacity and closed some temporary reception centres; however, this measure resulted in a rise in occupancy rates and increasing pressure when the number of new applications rose again. As a consequence, the resettlement programme was temporarily suspended and the planned closure of some temporary reception centres postponed until 2019, as well as additional buffer places approved. In France, given the ongoing high level of demand for asylum, the Government decided on an increase in accommodation capacity and improved reception conditions for the most vulnerable. Moreover, the Law of 10 September 2018 aims to increase the obligations upon asylum applicants and to more evenly distribute them across the country. Pressure on accommodation supply for protection applicants was also reported as an ongoing problem in Ireland. One factor which impacted on this was the number of persons who have been granted status who stay on in accommodation centres for some time while they source accommodation in the community.

### 2.1.1.3. Detention during the asylum procedure

Several countries have also changed their legal provisions with regard to detention during the asylum procedure. Austria implemented a legal change that became effective in September 2018 to make it possible to detain asylum seekers pending removal whose stay represents a potential danger for public order or safety when there is a risk of absconding and detention is a proportionate measure. The change resulted from a ruling by the Supreme Administrative Court that found that the previous legal situation did not conform to the requirements for detaining individuals during international protection procedures as set out in Union law. The Netherlands also reported that a legal proposal has been put forward to provide a legal basis for stopping and questioning asylum seekers or individuals awaiting their transfer (and therefore not staying illegally in the Netherlands) for the purpose of remand in custody, to determine whether they should be put in detention as a precautionary measure. France extended the maximum duration of detention to 90 days, in cases where the applicant has already been issued a removal order or is in detention (or under house arrest).

Detention capacities were increased in some Member States. This was the case for the Czech Republic, Finland and Sweden. Due to the opening of a new detention

96 AT, BE, EL, FR, HU, IE, IT, LT, LU, NL.

97 By the Italian Law n. 132/2018

98 BE, BG, CY, CZ, ES, FI, FR, HR, LT, SE.



centre with improved conditions, the detention capacities in Estonia also increased.

#### 2.1.1.4. Asylum procedures

Member States reported numerous legislative changes with regard to their asylum procedures. With regard to legal counselling there seemed to have been a trend in some Member States<sup>99</sup> towards making it more accessible for applicants for international protection. The reported legal changes pertained to the funding of legal aid (Bulgaria, Czech Republic) or the representation of asylum-seekers in administrative proceedings (France, Slovak Republic). In the Czech Republic, asylum-seekers with insufficient income can now ask the Czech Bar Association for free legal counselling; while in detention, free legal advice is provided to all persons placed in the detention facilities, without any limitations. In the Slovak Republic, an amendment to the Act on Asylum allows NGOs to represent asylum-seekers, their legal representative(s) or guardian(s) in administrative proceedings, provided they fulfil certain requirements. Similar developments were reported by Bulgaria, where a new agreement between the National Bureau for Legal Aid and the State Agency for Refugees aimed to increase vulnerable groups' access to legal aid through a project funded by the European Commission. Changes in practice were reported with regard to the introduction of (pilot) counselling schemes in reception centres in Estonia, Finland and Germany. Germany's Federal Migration Office started a pilot project in which applicants have access to collective procedural information before the application and individual counselling during the procedure until after the decision in nine field offices. Estonia introduced advisers that provide procedural, legal and settlement-related counsel to applicants to international protection, one at the detention and one at the accommodation centre. Finland developed general legal counselling in reception centres through a project co-funded by AMIF. In France, the law introduced the support from a third party during interview and the identification of the language of the proceedings when the application is registered.

Regarding procedures under the Dublin Regulation, multiple Member States and Norway<sup>100</sup> reported the resumption of transfers of non-vulnerable individuals to Greece. Although many countries resumed sending requests, only a small number of cases could actually be transferred successfully, with several Member States reporting the low number of positive responses as an issue. The United Kingdom, however, explicitly mentioned that its position regarding transfers to Greece remained unchanged and it had not made any requests in 2018. The Netherlands reported that Dublin requests to Hungary were suspended, a change from its previous practice of making requests, but not organising transfers. There were also several general legal changes concerning the Dublin Regulation: France implemented new provisions for detention of persons under the Dublin procedure (to combat secondary movements) and adopted the Law of 20 March 2018 for the correct application of the Dublin regulation. In Ireland, the European Union (Dublin System) Regulations came into force, giving further effect to the Dublin III Regulation and in Luxembourg, it was agreed that the existing legislation

regarding appeals in the Dublin procedure should be modified to increase its effectiveness.

Changes relating to special procedures primarily related to the introduction of accelerated procedures in cases of suspected misuse. Cyprus introduced an accelerated procedure policy for cases that seemed abusive at first screening. Italy and France also reported the introduction of simplified and accelerated procedures for suspected abusive cases.<sup>101</sup> In Finland an amendment has been proposed to reduce possibilities of misusing subsequent application procedures and make sure applicants present all the facts and grounds relevant to their case.

Developments regarding safe countries mostly concerned the expansion of countries considered to be safe; Austria, Ireland and the Netherlands amended their legislation regarding their list of safe countries. While in the former two, the list was expanded, the Netherlands suspended Togo from its list of safe countries in December because it will be subjected to an intensive reassessment. In Hungary, applications became inadmissible if applicants had passed through a country where there was no risk of persecution or serious harm, which was contested by the European Commission in the context of an ongoing infringement procedure. Similar developments were reported by Croatia, which applied the safe third-country concept to international protection applicants that irregularly entered from Serbia, whose requests were all rejected.

Changes regarding the procedures at first instance mostly concerned the timeframe of applications. In Austria the temporarily expanded time to decide on asylum applications was reduced from 15 back to its previous six months. In the Slovak Republic, a similar six-month period for decisions in asylum procedures was introduced under certain conditions. Greece also reduced the processing times of asylum procedures from 90 days to 20 and from 60 to 40, for first- and second-degree asylum applications respectively. Sweden launched a pilot project in the fall of 2018 to handle cases within 30 days, with the aim of speeding up and increasing the efficiency of the asylum procedure. France also reduced the processing timeframe for asylum applications through several measures. In Spain, the decentralisation of access to the procedure is currently being applied at the level of police stations, thereby allowing the Spanish Asylum Office to focus on more substantial aspects. Additionally, the practice of retaining the passport of asylum seekers is no longer applicable once the person has presented the documentation before the Spanish Asylum Office or the police.

Timeframe issues also concerned the appeal/judicial review process. In Austria, rulings on appeals must now be handed down within six months, when previously the timeframe had been 12 months. In Sweden, a legal amendment opened the possibility for migration courts in Sweden to submit open appeal cases to other administrative courts, which led to a higher number of court hearings in the reference year. In France, in order to speed up the processing of asylum applications and to discourage applications that may appear to be unconnected to a need of protection, the Law of 10 September 2018 removed the "automatic" suspensive nature of appeals to

99 BG, CZ, EE, FI, FR, DE, SK.

100 BE, FI, HR, MT, PL, SE, NO.

101 Accelerated procedures are applied in those cases when the asylum application can be retained unfounded. They are applied in both border and transit areas.

the National Court of Asylum (CNDA) for certain categories of foreign nationals under the accelerated procedure. Moreover, several measures related to the use of video-conferencing, extension of the competence of the single judge and inadmissibility of legal aid application after a period of 15 days were implemented. In Spain, coordination between the OAR and the State's Legal Counsel has been improved in cases which involve appeals against administrative decisions on asylum.

#### **2.1.1.5. Residence/entry documents and rights/obligations of beneficiaries of international protection**

There have been legislative changes regarding the rights and obligations of beneficiaries of international protection in a few Member States. Some of these changes concerned access to the labour market, which generally seemed to move in a more liberal direction. In Cyprus, applicants for international protection have been given the right to access (specific sectors of) the labour market one month instead of the previous six months after submitting their application and in Norway, an amendment to immigration regulations gave asylum seekers access to temporary work permits under certain criteria. In France, access to the labour market for asylum seekers is possible six months after filing the asylum applications (instead of nine months previously).

Apart from labour issues, there were also legal developments regarding access to public benefits and services. In the Slovak Republic, persons with subsidiary protection were given access to individual financial benefits to compensate for serious physical disability. On the other hand, a new act on responsibility for integration and establishment of newly arrived migrants entered into force at the beginning of 2018 in Sweden, in which some regulations regarding labour market access for new arrivals were harmonised to correspond to those applying to regular (domestic) job-seekers. In France, the law consolidated the right of residence for beneficiaries of international protection and stateless people as well as their family members and accelerated their eligibility to claim state support on the grounds of family composition.

#### **2.1.1.6. Provision of information on residence/entry documents and rights/obligations of beneficiaries of international protection**

There were no legal changes reported regarding the provision of information. Developments mostly concerned the drafting, revision or publication of new information leaflets or online material for beneficiaries of international protection (Croatia, Estonia, France, Latvia, the Slovak Republic and Sweden), or the introduction of training courses on culture and values (Norway). In Estonia and Latvia, new information leaflets were prepared for individuals in the asylum procedure and/or with international protection, while the new/revised information guides published in Croatia, the Slovak Republic and Sweden were meant to support the integration of persons that have already been granted international protection. France published information videos in several languages on local travel, living and legal conditions for Sub-Saharan refugees resettled to France. Norway introduced 50 hours

training course for asylum seekers on Norwegian culture and values.

In addition to the above-mentioned developments, the Slovenian government ran projects in cooperation with NGOs, targeting the support and care of applicants of international protection in the Asylum Centre, as well as providing information on their rights and social integration possibilities (Slovenia). In Spain, the Directorate General for Integration and Humanitarian Attention of the General Secretariat for Immigration and Emigration established a framework for action to assist applicants and beneficiaries of international protection. In this framework, instructions are given on the content of the translation and interpretation activities that can be provided in the area of international protection and is part of the annual calls for grants that support NGOs specialised in international protection. Each NGO establishes its own protocol of action although they are usually very similar.

#### **More information provided to asylum seekers in Sweden**

The Swedish Migration Agency has revised the information it provides to asylum seekers. The information now includes more details on what kind of help asylum seekers can get if they have experienced physical or sexual violence. Moreover, information has also been included concerning the fact that female genital mutilation is a crime in Sweden. Information has also been added about the right of asylum-seeking boys and girls to sexual education and contraception counselling. Finally, information has been included about the obligation to seek health care if a person believes that he or she has a venereal disease.

#### **2.1.1.7. Withdrawal of international protection**

Regarding the withdrawal of international protection, there were only a few Member States<sup>102</sup> that reported legislative developments, and these pointed towards introducing more restrictions. The reported changes include fast track procedures to withdraw asylum status if there are indications the beneficiary has re-availed themselves to the protection of their country of origin (Austria) or the introduction of four new reasons for the withdrawal/cessation of asylum and subsidiary protection status in the Slovak Republic (among others, if the person granted international protection obtains citizenship of another Member State or if another Member State grants asylum to the person based on persecution or subsidiary protection based on serious harm). Other legal changes pertained to the withdrawal of asylum in connection with criminal activity (France, Greece, Italy), whilst Germany introduced the obligation for persons entitled to protection to cooperate in proceedings to revoke or withdraw international protection. If beneficiaries fail to comply, administrative enforcement measures may be taken or the case can be decided based on available information. Greece adopted a Circular on withdrawal of international protection concerning the commitment of serious crimes and its consequences on the provision and withdrawal of international protection, while Italy expanded the list of crimes, for which the refugee status can be revoked.

102 AT, EL, DE, FR, IT, SK

### 2.1.1.8. Cooperation with third countries

Cooperation with third countries mostly happened in the form of financial assistance or the participation of experts to specific programmes, especially in areas that are considered areas of origin or transition for refugees and migrants. The Czech Republic reported financial assistance to countries in the Middle East, West Balkans, North Africa and Sahel to assist refugees in regions of origin and prevent large migration flows. The Slovak Republic approved five humanitarian aid projects in Syria and neighbouring Near and Middle East countries. Through ODA, the Slovak Republic also supported educational courses and entrepreneurship trainings for refugees and local the community, opened near the Kakuma refugee camp in the Kenyan Turkana region. Finland participated in capacity building activities in Georgia and for Belarusian authorities. Latvia and Sweden, together with Austria, Belgium and Poland participated in a Twinning Programme with Kosovo led by the Netherlands.<sup>103</sup>

## 2.1.2. Institutional changes in the national asylum system

Throughout 2018, several Member States introduced institutional and organisational changes to their respective asylum systems. These changes related to the creation of new entities or the restructuring of existing ones, the transfer of competences, the introduction of new competencies, as well adjustments made to the number of staff. In general, they were introduced in response to legislative changes or the shift of policy priorities.

### 2.1.2.1. Creation/restructuring of entities

Several Member States created new entities or restructured existing ones. In particular, five Member States<sup>104</sup> established new units or departments within their asylum authorities.

In Austria, it was announced that the unit within the Federal Ministry of Interior responsible for handling issues related to international asylum and alien law would be restructured as of January 2019. As a result of the reorganisation, resources and expertise in matters relating to border protection, aliens police, asylum, material reception conditions, residence, citizenship and return will be concentrated in one new directorate, supporting the Federal Office for Immigration and Asylum in operations and analysis. In Germany, the challenges faced with regard to the reception of asylum applicants and the processing of asylum applications resulted in major changes to existing processes, management and organisational structures at the Federal Office for Migration and Refugees (BAMF) which continued also in 2018. In Estonia, a new Citizenship and International Protection Bureau was established in 2018. France established 11 specialised regional Dublin hubs with exclusive competence to conduct Dublin procedures initiated following the registration of the asylum application. In Spain, a new Directorate General for Integration and Humanitarian Assistance has been created within the Secretary of State for Migration, whose priority is adequately attending to both beneficiaries and applicants of international protection. Additionally, a shock

plan has been approved to provide more human and technical resources to the Asylum Office of the Ministry of the Interior and to enhance the humanitarian assistance resources of the Ministry of Labour, Migration and Social Security

### 2.1.2.2. Transfer of competences

Three Member States<sup>105</sup> transferred competences related to international protection from one unit, department or authority to another. In Italy, for instance, it was decided that the authority in charge to determine the Member State responsible for the examination of an application for international protection, will not only be the Dublin unit, working within the Department for Civil Liberties and Immigration of the Ministry of the Interior, but also its territorial articulations, by working with the Prefectures, under the decree of the Ministry of the Interior. In Luxembourg, the most significant institutional change following the formation of the new government in 2018 was that the competency for the reception of applicants for international protection was moved from the Minister of Family and Integration to the Minister of Immigration and Asylum. In Malta, the operational part of the Dublin Regulation shifted from the Immigration Police to the newly set up Dublin Unit within the Office of the Refugee Commissioner, the Maltese Determining Authority.

### 2.1.2.3. Adjusting the number of staff

Adjustments to the number of staff were made in correspondence with recent trends in the number of asylum applications, in line with the adjustments to capacity reported in Section 2.1.1.1. While Croatia, France, Germany, Lithuania, the Netherlands, Malta and Spain increased the number of staff of their entities responsible for asylum-related matters, in Sweden, the Migration Agency significantly downsized its operations and reduced the number of branch offices as well as the number of employees. In Ireland, although there have not been institutional changes as such, in order to support the Irish Naturalisation and Immigration Service and the International Protection Office in carrying out their functions and to assist with processing caseloads, it was decided to further expand the Case Processing Panel of Legal Graduates, and recruitment for additional panel members was advertised.

## 2.1.3. Efficiency and quality of the national asylum system

With a view to increasing the efficiency of the processing of (first) applications and appeals, Member States also introduced new technologies. For instance, Germany conducted a pilot for a new search engine to find files related to the applicant faster and also considering variations in spelling of the name.

In order to reduce pending applications, Cyprus made use of experts who assisted the Asylum Service to examine applications of international protection. In Sweden, a pilot was launched in the fall of 2018 in order to handle asylum cases in a flow within 30 days. The United Kingdom further developed asylum policy guidance and

<sup>103</sup> Twinning Programme Reference No. KS 14 IB JH 04.

<sup>104</sup> AT, DE, EE, ES, FR.

<sup>105</sup> IT, LU, MT.

letter templates for use by caseworkers, on an ongoing basis. Germany introduced several tools to clarify aspects regarding the identity of the asylum applicants and their country of origin, such as biometric language analysis and facial recognition. Finland started a new project aiming at developing co-operation between migration and security authorities. Spain increased significantly its personnel, who received training on general aspects of the international protection system.

Several Member States<sup>106</sup> also sought to further improve the quality of their national asylum procedures. This was *inter alia* done through the development of new tools and guidelines to improve the processing of applications and by carrying out studies and evaluations. For instance: Austria carried out a comprehensive evaluation involving all regional organisational units of the Federal Office for Immigration and Asylum and put in place various quality-related measures to improve quality management along with related action to ensure implementation. In Germany, a multi-level quality assurance system was introduced for asylum decisions, comprising quality assurance checks by using checklists. Sweden conducted a national audit with a regional perspective, with the aim to look into the quality of asylum decisions. Spain is updating the database to improve the applicant profile details.

One Member State, Hungary, introduced a new ground of inadmissibility in the asylum legislation, which is contested by the European Commission in the context of an ongoing infringement procedure.

Finland introduced measures to ensure the interpretation quality of interviews and decisions made by its staff. Belgium further developed tools to ensure in a more systematic way the quality of the processing of applications for international protection and made use of the new leadership programme for management and middle management.

The Netherlands reported that the assessment of the credibility of LGBTQI persons and converts in an asylum procedure was changed by decreasing the emphasis on the awareness process and self-acceptance of LGBTQI persons. Thus, the working instructions have been adapted in such a way that the emphasis is placed more on an authentic story, whereby several open questions are asked about personal experiences and taking into account the educational level of the asylum seeker. More training courses will also be provided for INS staff members in the assessment of the aforementioned asylum applications.

In order to ensure the proper application of the asylum procedure, several Member States<sup>107</sup> provided training to relevant staff. For example: in Austria and Estonia, training focussed on enhancing the competencies of staff in various stages of the asylum procedures. Croatia provided training on the topic of exclusion from international protection. In Cyprus training focussed on improving the detection of age fraud. In Spain, training on equality is provided to all newly incorporated personnel.



## 2.2. RELOCATION AND RESETTLEMENT PROGRAMMES

### 2.2.1. Relocation<sup>108</sup>

#### 2.2.1.1. Intra-EU relocation mechanism

Several Member States<sup>109</sup> reported on the relocation of applicants for international protection from Italy and Greece, as agreed by the adoption of the 2015 Emergency relocation mechanism to relocate 40 000 asylum seekers from Italy and Greece<sup>110</sup> and the subsequent agreement on an Emergency relocation mechanism to relocate 120 000 asylum seekers from Italy and Greece.

A few Member States reported changes and challenges in national practices with regard to applicants relocated under the intra-EU relocation mechanism in 2018. For instance:

Austria, which focussed on relocating unaccompanied minors in 2018, faced challenges related to the relocation when arranging the security clearance interviews: applicants were housed in accommodations throughout Italy, which made the organisation of such interviews very time-consuming.

Croatia reported that it did not receive any request for relocation from Greece to pledges since 2017.

Germany reported that the applicants underwent extended security checks, including security interrogations, at the end of the relocation procedure. The purpose was to increase the level of security in the relocation procedure and generate practical experience for potential future procedures.

Malta and the Netherlands carried out voluntary relocations to different Member States, following the European Commission's Guidance Note according to which Member States were encouraged to utilise unspent funds on voluntary relocations from their territory to other Member States.

#### 2.2.1.2. National relocation mechanisms

Several Member States reported actions undertaken in 2018 with regard to relocation activities organised under national schemes.

Belgium, Luxemburg, Ireland and Norway reported that they participated in the action to relocate migrants who

<sup>106</sup> AT, BE, DE, ES, FI, FR, MT, NL, SE.

<sup>107</sup> AT, BE, CY, EE, ES, FR, HR, LT, MT, SK.

<sup>108</sup> Relocation: The transfer of persons having a status defined by the Geneva Refugee Convention and Protocol or subsidiary protection within the meaning of Directive 2011/95/EU (Recast Qualification Directive) from the EU Member State which granted them international protection to another EU Member State where they will be granted similar protection, and of persons having applied for international protection from the EU Member State which is responsible for examining their application to another EU Member State where their applications for international protection will be examined. In the context of the EU emergency relocation programme, the transfer of persons in clear need of international protection, as defined in Council Decision 2015/1601 and 2016/1754, having applied for international protection from the EU Member State, Switzerland or Norway which is responsible for examining their application to another EU Member State, Switzerland or Norway where their application for international protection will be examined. (see [EMN Glossary V6](#) online).

<sup>109</sup> AT, BE, DE, ES, FR, HR, IE, MT, NL, SE, SI.

<sup>110</sup> Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece.

disembarked from the vessel 'Lifeline' in Malta on 27 June 2018. Germany pledged to admit migrants who were rescued at sea in Italy and disembarked on a preliminary basis in Malta. France also welcomed people in need of protection from Malta.

Several disembarkation operations took place in Spanish ports after SAR operations which comprised 776 people. France participated in the relocation of 103 of these, in a voluntary and intergovernmental manner.

The United Kingdom reported its efforts to relocate over 220 unaccompanied children under the national Immigration Act 2016 and reported that transfers are currently ongoing.

## 2.2.2. Resettlement and humanitarian admission programmes<sup>111</sup>

### 2.2.2.1. EU Joint Resettlement Programmes

Several Member States<sup>112</sup> reported on activities related to:

- the 'one-for-one' resettlement scheme, as set out in the EU-Turkey Statement of 18 March 2016; and
- the "50 000 Scheme", based on the Commission Recommendation of 27 September 2017 on enhancing legal pathways for persons in need of international protection.

Belgium reported that the number of refugees resettled to Belgium increased significantly in 2018, when a total of 880 refugees, mostly of Syrian nationality, from Lebanon and Turkey were resettled under the "50 000 scheme". In October 2018, however, the former State Secretary decided to put the resettlement programme temporarily on hold due to the considerable increase of spontaneous applications for international protection in Belgium since July 2018 (mainly the result of secondary migration movements within the EU), which led to a saturation of the reception network.

In 2018, Germany admitted 2 557 refugees, mostly of Syrian nationality, from Turkey (humanitarian admission programme) and 276 refugees, mostly Eritrean and Somali nationality, from Libya via UNHCR Emergency Transfer Mechanism (resettlement programme), while Finland and Croatia admitted 361 and 112 Syrian refugees from Turkey respectively, the former under the one-for-one scheme and the latter under the scheme from 2015. Sweden and Finland reported that they resettled 3 943 and 1 670 persons respectively under the "50 000 scheme".

On 1 January 2018 the Netherlands implemented the commitments it made in relation to the current EU resettlement programme for the resettlement of 50 000 refugees up to and including October 2019 (European Commission Recommendation of 27 September 2017). The Netherlands committed itself for the entire period from 2018 up to and including October 2019 to resettle 1

250 refugees under the national policy framework and 1 750 on the basis of European migration agreements.

Overall, almost 21 000 individuals had been resettled to the EU by the end of 2018 under the "50 000 scheme".

In France, the Law of 10 September 2018 permanently enshrines resettlement missions in law. Between 1 December 2017, the start date of the commitment, and 31 December 2018, 5 403 resettled people effectively arrived in France (including 851 from Niger and Chad, and 4 323 from Turkey and Lebanon), representing 54% of the President's commitment at the halfway point in the reporting period. 5 157 resettled refugees arrived in 2018 alone. Additional measures aimed at an increased number of missions in third countries; a smoother flow of arrivals of Syrians, made possible by the creation of transit centres; a new collective reception system established to meet the specific needs of people from Chad and Niger and an extension of the operators involved and strengthening regional management. Under the "50 000 scheme" in Spain around 800 refugees from Jordan and Turkey have received protection already, and the process of transfer is ongoing, with a target of 1 000 persons

In terms of challenges, Croatia reported some drop outs from resettlement to Croatia before the selection missions and after cultural orientation was conducted.

### 2.2.2.2. National Resettlement Programmes

#### National resettlement programme

Some Member States operated national resettlement programmes outside the scope of the EU resettlement schemes. The resettlements under these national programmes are hence not counted under the EU resettlement schemes, but are in addition. Several Member States<sup>113</sup> reported on these programmes.

For example: the Swedish government instructed the Migration Agency to implement a resettlement programme comprising of 5 000 places, an increase by 47% compared to 2017. A total of 5 003 persons were transferred to Sweden under the national resettlement programme in 2018. Both Finland and the Netherlands announced the decision to establish the resettled refugee quota in 2018 for a total of 750 resettled refugees each year. The Netherlands also reported that resettlement missions had taken place to countries including Lebanon, Jordan, Egypt and Uganda, and the Emergency Transit Mechanism in Niger. France signed a framework agreement with UNHCR in 2008 and each year around 100 cases of vulnerable refugees are submitted for proposed resettlement. In Ireland, a total of 338 persons were resettled under the national resettlement programme in 2018, while Sweden admitted a total of 5 003 persons under the same scheme. In Italy, the first resettlement from Niger took place in November 2018, within the UNHCR "Emergency Transit Mechanism". The program aimed to evacuate, by air, people trapped in Libyan detention centres, by working with refugees who arrived in Niger by land, escaping from the violence they suffered in Libya.

<sup>111</sup> Resettlement: In the EU context, the transfer, on a request from the United Nations High Commissioner for Refugees (UNHCR) and based on their need for international protection, of a third-country national or stateless person from a third-country to an EU Member State, where they are permitted to reside with one of the following statuses: (i) refugee status within the meaning of Art. 2(d) of Directive 2011/95/EU (Recast Qualification Directive); (ii) a status which offers the same rights and benefits under national and EU law as refugee status. (see EMN Glossary Version 6).

<sup>112</sup> BE, BG, DE, EE, ES, FI, FR, HR, IT, SE, SI.

<sup>113</sup> EE, ES, FI, FR, IE, IT, NL, SE, UK, NO.

The United Kingdom informed that it operates four resettlement schemes: a) “Gateway” for the resettlement of UNHCR recognised refugees, b) “Mandate” which resettles recognised refugees who have a close family member in the United Kingdom who is willing to accommodate them, c) the Vulnerable Persons Resettlement Scheme (VPRS) and d) the Vulnerable Children’s Resettlement Scheme (VCRS). In the year ending September 2018, 5 994 people were provided protection under these resettlement schemes.

In Norway, a total of 2 484 resettled refugees mostly of Congolese and Syrian nationality arrived in the country from Uganda, Lebanon and Libya under this scheme.

In Spain, the annual Agreements of the Council of Ministers constitute the key piece of the Spanish resettlement system. Spain has proposed the resettlement of 2 250 people in the 2018-2019 period, within the initiative of the European Commission for resettling 50 000 people in two years. These resettlements have been carried out in the framework of National Resettlement Programmes. The latest committed to resettling 1 000 people in 2018.

### **National Humanitarian Admission Programme**

Four Member States<sup>114</sup> also resettled refugees in the framework of various humanitarian admission programmes, which are operated under slightly different conditions than resettlement programmes.

Although it does not have a formal humanitarian admission programme, Belgium informed that the Minister or State Secretary for Asylum Policy and Migration has a discretionary competence to grant visas on humanitarian grounds in exceptional circumstances (the so-called “humanitarian visas”). In 2018, 1 294 humanitarian visas (the visa granted for resettlement excluded) were granted, the vast majority to Syrians. France issued asylum visas to Syrian and Iraqi refugees persecuted or threatened in their country. (Since 2012, 6 612 visas have been granted to Syrian nationals, 998 of them in 2018; since 2014, 7 151 visas have been issued for asylum for Iraqi nationals and in 2018, 1 013 people benefited from this agreement). Moreover, the Office for the Protection of Refugees and Stateless Persons (OFPRA) carried out a humanitarian mission to Erbil in December 2018 which aimed at identifying 80 Yazidi women and children in need of protection.

In Ireland, the first call for applications under the Irish Refugee Protection Programme Humanitarian Admission Programme 2 (IHAP) opened on 14 May 2018 and the call remained open until 30 June 2018. The Programme provided for up to 530 eligible family members (‘beneficiaries’) of Irish citizens, persons with Convention refugee or subsidiary protection status and persons with programme refugee status (the ‘proposer’), to be admitted to Ireland over two years. On 21 December 2018, the Minister of State at the Department of Justice and Equality announced the first approvals of eighty beneficiaries from Syria, Afghanistan, Sudan, Democratic Republic of Congo, Somalia and Eritrea.

In Spain, numerous negative asylum applications were appealed by citizens of this nationality and overturned

in humanitarian admission, which led to a renewable one-year residence permit at a judicial level (National Audience). However, jurisprudence lacks homogeneity in this approach and it has been framed in the context of Venezuelan citizens

### **Private sponsorship programme/scheme**

In parallel, some Member States also resettled refugees in the framework of private sponsorship schemes. For example:

In Belgium, which had signed in 2017 an agreement with religious communities to allow 150 Syrian refugees from Turkey and Lebanon to be granted humanitarian visas to come to Belgium in the framework of an ad-hoc special programme, the quota of 150 was fully filled in the course of 2018. Most of the 150 persons applied for international protection shortly after arrival, with various local parishes and communities taking care of their housing and other assistance.

A memorandum of understanding for the implementation of a solidarity operation to receive 500 refugees from Lebanon over a period of 18 months was signed on 14 March 2017 between the French Government and five NGOs.<sup>115</sup> Since 2017, 294 people have been admitted to France under this programme, including 183 in 2018. The programme was extended to allow the initial objective to be achieved.

In Germany, in January 2018, the Federal Ministry of Interior announced a pilot project for a community sponsorship program for 500 vulnerable refugees.

In the framework of the commitments adopted due to the Global Compact on Refugees, Spain has developed refugee sponsorship programmes which encourage participation in civil society. In this context, in July 2018 the State Secretary for Migration signed a joint declaration with the competent ministries of Canada, the United Kingdom, Argentina and New Zealand supporting refugee sponsorship programmes and the work being carried out in this regard by the Canadian Global Community Sponsorship Initiative.

Thus, in collaboration with UNHCR and the Basque Government, a pilot project has been implemented for Community Sponsorship for the Reception and Integration of Refugees. The Community Sponsorship Programmes will complement the state system for reception and strengthen the role of civil society and local communities. Community Sponsorship is a model for reception and integration of refugees in which the initiative and responsibility is assumed jointly by public administrations and private actors (individuals, businesses, non-profit entities, etc.), offering citizens the opportunity to directly participate in the assistance work in their integration process.

The United Kingdom admitted 96 refugees through the Community Sponsorship scheme.

### **Ad-hoc special programmes (e.g. national initiatives, and/or international initiatives)**

Several Member States set up special programmes to resettle families or individuals. For example France set up a specific reception operation for persecuted Yazidi

<sup>114</sup> BE, ES, FR, IE.

<sup>115</sup> *Communauté de Sant'Egidio*, the *Fédération protestante de France*, the *Fédération de l'entraide protestante*, the *Conférence des évêques de France* and the *Secours catholique-Caritas France*.

minorities, and Luxembourg intends to resettle 200 individuals from Niger over the next two years.

### **Reception Operation for persecuted Yazidi minorities**

In France, in the context of the advance of the Islamic State in Iraq for four years and Yazidi women and their families kept in slavery, on 25 October 2018, the French President made a commitment to 2018 Nobel Peace Prize winner, Nadia Murad, defender of the rights of the Yazidi minority, to engage in a specific reception operation. This operation should benefit 100 single women or women accompanied by their children, whose have a proven need of protection and who are particularly vulnerable due to the trauma they have suffered. The first 16 families (83 people) arrived on 20 December 2018. These families are housed and receive enhanced comprehensive support (healthcare, access to rights, schooling, language training, vocational training, employment support, etc.) for 12 months by NGOs who are already recognised by the Ministry of the Interior in the field of asylum.

In Italy during 2018, the memorandum of understanding signed in 2017 (between the Ministry of Foreign Affairs and International Cooperation, Ministry of Interior and some religious communities) has been renewed. The project - called "*apertura di corridoi umanitari*" (opening of humanitarian corridors) - is aimed to resettle, during the period 2018-2019, 1 000 potential beneficiaries of international protection (mainly from Lebanon). In 2018, 781 refugees have been received.

In the United Kingdom, under the Immigration Act 2016, a new form of leave was created for children, which will ensure that those who do not qualify for refugee or humanitarian protection leave will still be able to remain in the United Kingdom long term.

# 3. UNACCOMPANIED MINORS AND OTHER VULNERABLE GROUPS

This section looks at the new policies and measures adopted by Member States and Norway during 2018, targeting unaccompanied minors (UAMs) and other vulnerable groups. The first section elaborates on the developments at EU level (section 3.1) while the following sections outline the main developments in Member States and Norway. Notably, this section looks at measures

introduced at national level targeting UAMs applying for asylum (section 3.2); measures targeting other vulnerable groups applying for asylum (section 3.3) and finally, it describes measures targeting UAMs not applying for asylum (section 3.4) and other vulnerable groups not applying for asylum (section 3.5).



## 3.1. DEVELOPMENTS AT EU LEVEL

The number of migrant children arriving unaccompanied to Europe remained high in 2018. Between January and September, about 25 000 refugee and migrant children arrived in Europe through the Mediterranean migration routes, mostly to Greece and Spain. As of December 2018, the Spanish authorities estimated that approximately 13 500 unaccompanied minors were present in Spain. In Greece, the total number of unaccompanied and separated children present at the end of 2018 was 3 741,<sup>116</sup> and in Italy, 10 707.

In 2018, the European Commission's Directorates-General for Migration and Home Affairs (DG HOME) and for Justice and Consumers (DG JUST) continued to monitor progress made by the Member States in the implementation of the Communication on the protection of children in migration of April 2017,<sup>117</sup> and to support the Member States (including with funding) to achieve these objectives. Two joint expert workshops were organised by the DGs, on 1

June 2018 and 3 December 2018, to discuss progress made to date and the challenges ahead in specific areas covered by the Communication. The agenda and minutes of the meetings are published online.<sup>118</sup> The Commission also published the results of the online surveys carried out in the Member States as regards progress in the implementation of the Communication,<sup>119</sup> as well as a table summarising the main actions undertaken at the level of the Commission services and the EU Agencies to support the implementation of the Communication in the Member States.<sup>120</sup>

Progress has been achieved in several areas identified in the Communication; however, further efforts are needed to improve the protection offered to migrant children, especially as regards reception conditions and access to specific services, in the frontline Member States, but also in the countries of transit and of destination.



## 3.2. UNACCOMPANIED MINORS APPLYING FOR ASYLUM

Overall, in 2018, just less than a third of Member States introduced new legislative or policy changes with regard to unaccompanied minors applying for asylum. The developments reported thus mostly represent changes to Member States' practices with regard to this group of children.

### 3.2.1. Increase/ Decrease of human resources and training of staff

Most Member States<sup>121</sup> did not report or incur any significant increases or decreases of staff working with asylum-seeking unaccompanied minors, though Belgium reported minor variations in the number of staff working across the Immigration Office, the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) and the Federal Agency for the reception

116 Includes 283 separated children. Situation Update: Unaccompanied minors in Greece, <https://bit.ly/2GzqiWR>.

117 European Commission, Communication from the Commission to the European Parliament and the Council (COM(2017) 211 final), The protection of children in migration.

118 <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3564&news=1>

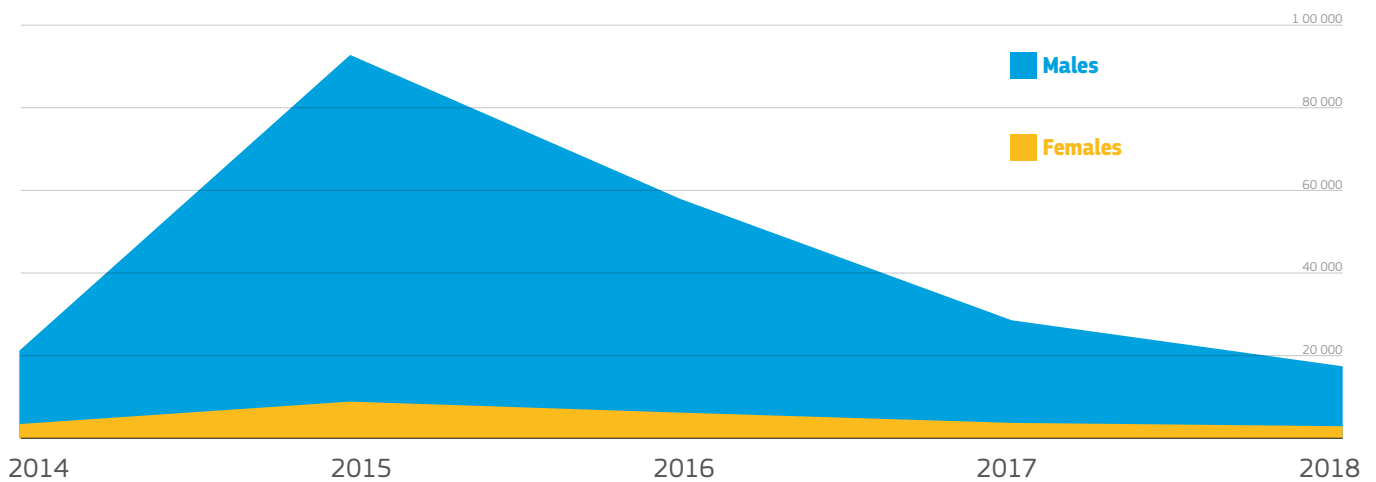
119 [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/rights-child/children-migration\\_en#documents](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/rights-child/children-migration_en#documents).

120 Ibid.

121 AT, BG, CZ, DE, EE, FI, FR, HR, IT, LT, LV, SE, SK, UK.

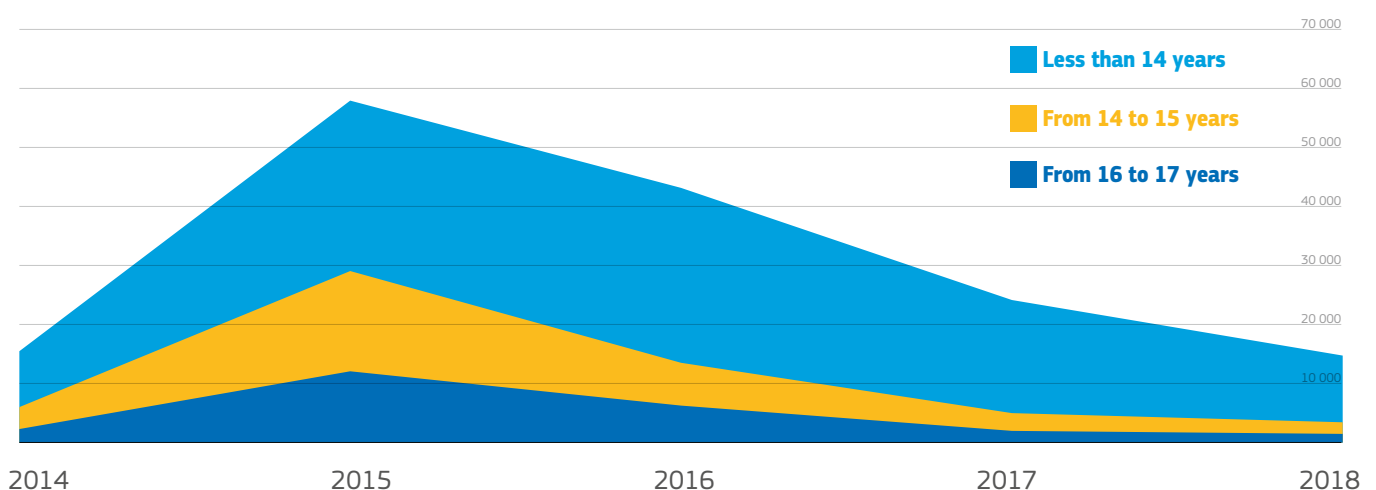


**Figure 3.1 – Number of UAMs seeking asylum in Member States and Norway by gender: 2014 – 2018**



Source: Eurostat (migr\_asyunaa), extracted on 6 April 2019

**Figure 3.2 – Number of UAMs seeking asylum in Member States and Norway by age: 2014 – 2018**



Source: Eurostat (migr\_asyunaa), extracted on 6 April 2019

of asylum-seekers (Fedasil) during the year; and Greece experienced a minor increase in staff in the 'safe zones' of the 'hotspots' with jurisdiction to look after unaccompanied minors.

Most Member States were committed to the continuous training of staff, in the following areas: identification of unaccompanied minors;<sup>122</sup> interviewing minors;<sup>123</sup> reception and protection of minors, including dealing with aggression, handling conflicts, etc.;<sup>124</sup> age assessment;<sup>125</sup> assessment of the best interests of the child;<sup>126</sup> forced/child marriages;<sup>127</sup> and sexual and gender-based violence

(SGBV),<sup>128</sup> in particular female genital mutilation (FGM). Other interesting examples of training provided by Member States included the training of guardians in Belgium (see Box below), teacher training on integration of foreign pupils in the classroom in the Czech Republic, and training of social workers on intercultural awareness in Lithuania.

In France, the support provided by prefects has been reinforced. Staff from the three pilot prefectures have been trained in the new age assessment support system (to be implemented in 2019), which includes the use of software to enable biometric and biographical data of persons who

122 BG, FR, LV.

123 AT, BE, DE, FR, HR, LV, MT, SK.

124 BE, IT, SK.

125 FR, MT.

126 BG.

127 FI.

128 BG, FI.

present as minors to be recorded. Officers in the three pilot prefectures also underwent awareness raising training on dealing with minors and vulnerable people. Moreover in 2018, the OFPRA reference group on minors organised three training sessions for law enforcement officers to clear them to deal with asylum applications from minors, including unaccompanied minors. By the end of 2018, about 100 protection officers had received this clearance.

### Training and coaching of guardians in Belgium

In 2018, some 70 new guardians were recruited in Belgium, bringing the total number of guardians to 592 (of which 343 were Dutch-speaking and 249 French-speaking guardians). They received a five-day training which covered the following essential information: role and tasks of the guardian; residence procedures, reception, education, psychological well-being, trauma; building a relationship of trust with the minor; and social rights. In addition, the following courses were organised within the framework of permanent training of guardians: the special residence procedure for unaccompanied minors, the procedure for international protection and family reunification.

In 2018, the coaching programme for French-speaking guardians, funded by the Guardianship Service, was extended to their Dutch-speaking counterparts. Within this programme, professional guardians employed by Caritas International and the Red Cross Flanders supported private guardians (self-employed guardians as a main or secondary occupation, as well as voluntary guardians) by means of (i) a helpdesk that can be contacted by telephone or e-mail; (ii) individual support for challenging cases of guardianship; (iii) a coaching trajectory for new guardians consisting of regular meetings to discuss various aspects of guardianship; and (iv) advanced training for guardians, both during and outside office hours.

## 3.2.2. Improvement of protection and care of unaccompanied minors, including reception facilities

Nearly half of all Member States reported developments to improve the protection and care of unaccompanied minors, mostly within legislation and practice.<sup>129</sup> Importantly, Bulgaria introduced a new procedure for the referral of unaccompanied minors (see also Box below), and Croatia introduced a new protocol for the treatment of unaccompanied minors overall.

A number of Member States took measures to improve the reception of unaccompanied minors, for example: the Flemish and French Communities in Belgium signed new agreements with Fedasil on the protection of young unaccompanied minors, especially minors less than 15 years, those older than 15 years but found to be vulnerable, or siblings where at least one is less than 15 years. The creation or closure of special reception units or facilities

during the year was reported by Belgium, Bulgaria, Lithuania and Slovenia. These Member States also made efforts to improve material and living conditions<sup>130</sup> and/ or offer additional services, for example psychosocial care,<sup>131</sup> free school transport,<sup>132</sup> etc.

Important developments also included the creation of special interview rooms for (unaccompanied) children in Bulgaria and Belgium. Last but not least, the United Kingdom adopted provisions to bring unaccompanied and separated children back into the scope of legal aid for immigration matters.<sup>133</sup>

### New referral mechanism for unaccompanied minors in Bulgaria

With the amendments to the Regulations on the implementation of the Act on Foreigners Bulgaria, a new Chapter 2b was introduced which defines the procedure for bringing proceedings for unaccompanied minors, determining the competent authorities/ institutions and their responsibilities in identifying unaccompanied children and their interaction with the Child Units of the Social Assistance Directorates (SAD) of the Ministry of Labour and Social Policy. In the administrative procedure under the Act on Foreigners in Bulgaria, unaccompanied minors (and other minors) are represented by the SAD at their place of residence. Standard forms for a notification letter and handing over protocol for an unaccompanied minor from a police body to the SAD are also regulated.

With the new amendments when a police body identifies an unaccompanied minor, they should report to the SAD on the child's place of residence and hand the minor immediately to a SAD staff member for emergency accommodation outside the family. When finding out that an unaccompanied minor is accommodated in the special homes for temporary accommodation of foreigners, the migration authorities are obliged to notify the social assistance authorities and to hand over the child immediately to a competent employee. If an unaccompanied minor decides to apply for international protection in Bulgaria, upon registration of the application by the body that has identified the minor, the child should be handed over to the head of the Registration and Reception Centre (RRC) of the State Agency for Refugees (SAR), or to a person authorised by him/ her.

The new provisions also regulate cases when an unaccompanied child has not applied for international protection. Within a short time period after the order for emergency accommodation outside the family, or for accommodation in a social service (resident type or a specialised institution), the migration authorities hold an interview with the child. The purpose of the interview among others is to clarify facts and circumstances regarding the whereabouts of the parents or other persons responsible for the child. The social authorities designate a representative of the child who is present

<sup>129</sup> BE, BG, CZ, EL, ES, FR, HR, IT, LT, LU, NL, SE, SI, SK, UK.

<sup>130</sup> BG, LT, SI.

<sup>131</sup> BE, LT, SI.

<sup>132</sup> BG.

<sup>133</sup> UK Ministry of Justice, Legal aid for immigration matters for unaccompanied children, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/730684/legal-aid-for-immigration-matters-unaccompanied-children.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/730684/legal-aid-for-immigration-matters-unaccompanied-children.pdf).

at the interview and expresses an opinion. During the interview, the child is entitled to a translator from a language he/ she understands, as well as legal assistance, in the event of a compulsory or precautionary administrative measure. This change in the legislation reflects recommendations made by the European Commission, the UNHCR and the Bulgarian Helsinki Committee.

### Subsidies for Autonomous Communities in Spain for care and protection of unaccompanied minors

In Spain, the constant increase of arrivals of unaccompanied minors has had a significant impact on the means and resources of public entities available for the protection of minors in Autonomous Communities and the Autonomous Cities of Ceuta and Melilla. In order to attend to the needs of the minors which arrived in 2018, the General State Administration directly granted subsidies for Autonomous Communities and the cities of Ceuta and Melilla amounting to a total of €40 million (Royal Decree 1340/2018). This has been a significant budget increase for these territorial administrations, which in previous years had to be reduced. The actions foresee guaranteeing the maintenance and improvement of care and reception services, information, social assistance and training of unaccompanied minors through the development of the immediate attention and reception of these minors, as determined by the Framework Protocol on certain actions in relation to unaccompanied foreign minors.<sup>134</sup> Likewise, the information, guidance and psychosocial support of the minor, their schooling or their training and professional insertion will be duly addressed by qualified personnel.

### 3.2.3. Guardianship and foster care

Just under a third of Member States<sup>135</sup> implemented changes strengthening the systems of guardianship and/ or foster care. On guardianship, new protocols/ guidelines on ensuring representation of unaccompanied minors were developed in Croatia and Latvia. On foster care, some Member States adopted laws or amendments (to existing laws), for example, the new Law on Foster Care in Croatia which is being implemented in 2019; and in Poland, the possibility to apply for a placement in foster care immediately after the receipt of the minor's intention to apply for international protection (and not after the receipt of his/ her protection application).

Other Member States (those with more established systems) focused on improving current practices, such as through the introduction of quality standards for foster families and guardians in Germany, or of methods to monitor legal guardians, as well as follow-up cases of challenging guardianships in Belgium.

### 3.2.4. Age assessment

Less than a third of Member States<sup>136</sup> reported changes to approaches to age assessment for unaccompanied minors who apply for asylum. Some Member States revised their existing practice on assessing the age of these applicants due to uncertainties or inconsistencies, notably Belgium and Sweden. In Belgium, where a substantial increase in age assessment was registered (1 090, a huge increase when compared with the 697 assessments undertaken in 2017), the Guardianship Service had to abandon its practice to assign a new fictitious date of birth deduced from the result of the age assessment test of the unaccompanied minor. The Council of State judged that the only aim of the age assessment was to determine if the foreigner was a minor. Sweden revised the probability scale of medical age assessment for female applicants.

Other Member States such as the Czech Republic reported plans to roll out non-medical age assessment (based on the interview conducted with the minor made by two psychologists and the interpreter with the relevant knowledge of culture and background in the relevant country of origin); or dedicated age assessment teams such as those employed across hotspots in Italy.

In the United Kingdom, updated guidance was published for UK Visas and Immigration staff to make decisions when an asylum applicant claims to be a child with little or no evidence.<sup>137</sup>

France prepared throughout 2018 the implementation of a new age assessment support system (to be implemented as of 1 February 2019) including the use of software to enable biometric and biographical data of persons who present as minors to be recorded. The aim of this new system was to provide better child protection by reducing the load upon overcrowding child welfare services, to ensure it was reserved for those who really needed it. The system is expected to enable faster and more reliable assessments, combat fraud and procedural misuse and thus contribute to provide a more uniform and reliable response. At the same time, the Government is also committed to revising the national assessment framework.

### 3.2.5. Procedural safeguards

Only four Member States<sup>138</sup> noted new developments around the procedural safeguards for unaccompanied minors seeking asylum. Notably, legislative changes in Belgium aimed at identifying the procedural needs of applicants more systematically and as early as possible, through a new detailed questionnaire on procedural needs, to be filled out at the Immigration Office, in addition to detection of special needs at reception facilities. As well, legislative changes in Germany clarified that when taking an unaccompanied minor into care, the youth welfare office is authorised and effectively obligated to lodge an asylum application immediately if there is reason to believe that the child or young person needs international protection. In such cases, the child or young person is to be consulted.<sup>139</sup>

<sup>134</sup> Available at <https://www.boe.es/buscar/doc.php?id=BOE-A-2014-10515>

<sup>135</sup> BE, CZ, DE, EL, HR, LU, LV, PL.

<sup>136</sup> BE, CZ, IT, NL, SE, UK.

<sup>137</sup> Home Office, Assessing Age, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/746532/assessing-age-v2.0ext.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/746532/assessing-age-v2.0ext.pdf).

<sup>138</sup> BE, DE, FR, SE.

<sup>139</sup> This applies only if the personal situation of the unaccompanied minor allows for the initiation of the asylum procedure.

### 3.2.6. Provision of information

Eight Member States<sup>140</sup> made attempts to improve the provision of information for unaccompanied minors who apply for asylum. Examples ranged from updated general guidance for asylum-seekers, including unaccompanied minors in the Slovak Republic; to more specific guidance on legal aid or housing of these children in Belgium and the United Kingdom; to child-friendly information (for example, coloured posters, pictograms, etc.) around the asylum/ registration process in Belgium, or around who's who, hygiene, daily regime, and safety in reception centres in Bulgaria and the Netherlands.

Translation and interpretation of the oral and written information provided to unaccompanied minors applying for asylum was explicitly mentioned by some Member States.<sup>141</sup> For example, the Czech Republic rolled out the School Adaptation Coordinator Service in Czech schools as a support to foreign children/ pupils during the first two weeks of instruction after they join the school; as well, the Interpreting and Translation Service for Schools facilitates communication with foreign children/ pupils at schools and familiarisation with the necessary information about the school.

### 3.2.7. Other

Ten Member States<sup>142</sup> implemented additional measures which aimed to enhance the protection of unaccompanied minors who seek asylum. For example, to ensure the best interests of the child when it comes to family reunification, Belgium conducted interviews with adult family members in the context of the Dublin III Regulation; similarly, Greece developed an evaluation form for the child's best interest as a new tool supporting family reunification.<sup>143</sup> As well, in June 2018, the Swedish Parliament approved a new law that made it possible for young unaccompanied asylum-seekers, whose asylum applications were rejected following long waiting times, to

apply for a residence permit for studies at upper secondary schools (see Box below).

#### Right to residence for young unaccompanied minors in Sweden

In June 2018, the Swedish Parliament approved a new law that aimed at making it possible for young unaccompanied asylum seekers, whose asylum applications had been rejected, to apply for a residence permit for studies at upper secondary schools. This temporary law was intended to regularise the legal situation of several thousand young migrants who had come to Sweden as unaccompanied minors in 2015 or earlier and had their asylum applications rejected following long waiting times.

The opportunity to receive a residence permit for upper secondary studies was only available to unaccompanied individuals who had applied for asylum before 24 November 2015, who had been waiting for an asylum decision for at least 15 months, and who were still in Sweden, in addition to other conditions and requirements.

By the end of 2018, more than 5 000 young unaccompanied asylum seekers received a residence permit under this exceptional law.

#### Relocation of unaccompanied minors to in Ireland

In 2018, Ireland completed the special project to accept unaccompanied minors from the former migrant camp in Calais to Ireland, and a total of 41 unaccompanied minors were brought to Ireland under the project. Ireland also agreed with Greece to accept up to 36 unaccompanied minors in need of international protection from Greece during 2019, under the Irish Refugee Protection Programme.



## 3.3. OTHER VULNERABLE GROUPS APPLYING FOR ASYLUM

More than half of the Member States<sup>144</sup> introduced changes in their national legislation, policy or practice with regard to other vulnerable groups applying for asylum, albeit to a varying degree with respect to the areas covered below.

### 3.3.1. Measures clarifying the definition of vulnerable groups

Three Member States<sup>145</sup> reported developments around the definition of vulnerability. Belgium introduced legislative amendments on this in accordance with EU law, particularly in the Reception Act where the previous non-exhaustive list of who can be considered

vulnerable was adapted to include additional examples, including: persons with serious illnesses, persons with mental disorders and persons who have been raped or have been subjected to other serious forms of psychological, physical or sexual violence, such as victims of FGM. Greece and Sweden modified their practices in this regard: Greece held consultations between the Asylum Service and the European Asylum Support Office (EASO) within the framework of an agreement on a tool for the evaluation/ definition of vulnerable, involving other relevant authorities as well; while Sweden modified the Swedish Migration Agency's database for initial reception in a way that makes it easier to identify asylum-seekers with special needs, to document their needs earlier in the

140 BE, BG, CZ, FR, HR, NL, SK, UK.

141 BE, CZ, HR.

142 BE, CZ, DE, EE, EL, IE, IT, NL, SE, UK.

143 <http://asylo.gov.gr/?p=7056>.

144 BE, BG, CY, EL, FI, FR, HR, HU, LU, LV, NL, PL, SE, SK, UK.

145 BE, EL, SE.

asylum process, as well as what action has been taken in response to such needs.

### 3.3.2. Special reception facilities for vulnerable groups

Special reception facilities for vulnerable persons applying for asylum, or new provisions/ guidance regarding their housing were reported by five Member States.<sup>146</sup> For example, in July 2018, Cyprus launched a Call for proposals for the development and operation of a new centre for vulnerable applicants for international protection under AMIF. In France, wheelchair accessible places for people with disabilities and specialised accommodation places for women victims of violence or trafficking in human beings were created; and in Hungary, a legislative amendment provided for authorities housing asylum-seekers in reception facilities to consider the applicant's gender identity, and to pay special attention to LGBTQI persons. As well, asylum-seekers with special needs placed in accommodation facilities, including children, pregnant women and mothers with new-born babies will receive five meals per day going forward (previously this was the case for children under 14 years only).

### 3.3.3. Identification mechanisms/ referrals

Measures supporting the identification/ referral of other vulnerable persons were reported by six Member States.<sup>147</sup> Belgium, Luxembourg and Sweden all implemented initiatives/ measures aimed at documenting, supporting or referring asylum-seeking girls and women who are victims (or in danger of becoming victims) of sexual and gender-based violence (SGBV), in particular FGM. Belgium further developed an early screening tool for vulnerable applicants with specific reception needs, which aimed to match applicants with reception facilities that best correspond to their needs. Finally, Finland increased the share of university-trained social workers in reception centres to conduct better and more comprehensive service needs assessments for applicants.

#### Development of an early screening tool for applicants with specific needs in Belgium

In 2018, the Study and Policy Unit of Fedasil developed a tool which will allow social workers of the Arrival Centre to make initial identification of vulnerable applicants for international protection with specific reception needs. It consists of a computerised list with a series of vulnerability and resilience indicators to be completed during a first interview with the applicant. On the basis of this identification, a reception facility that best corresponds to the reception needs of the person concerned can be sought and the centre can begin to prepare the most appropriate support in advance of the arrival of the applicant. At the end of 2018, the tool was in testing

phase, and its integration into Fedasil's management application "Match-it" was being examined.

### Working Groups on identification of vulnerabilities in France

In France since September 2018, the Directorate for Asylum within the Ministry of the Interior has been working in partnership with the Office for the Protection of Refugees and Stateless Persons (OFPRA), the French Office for Immigration and Integration (OFII), the Ministry for Health, the Interministerial Delegation in charge of the fight against racism, antisemitism and anti-LGBTQI hatred (DILCRAH) and NGOs to improve how the vulnerabilities of asylum seekers and refugees are identified and managed throughout the procedure, by creating three thematic working groups, bringing together public and NGO stakeholders, dedicated to people with disabilities, serious illnesses and victims of psychological traumas; women who are victims of violence and/ or victims of trafficking in human beings; and people in vulnerable situations due to their sexual orientation.

### 3.3.4. Applicable procedural safeguards

Three Member States<sup>148</sup> reported developments regarding applicable procedural safeguards for vulnerable persons: notably, legislative changes in Belgium aimed at identifying the procedural needs of applicants more systematically and as early as possible, through a new detailed questionnaire on procedural needs to be filled out at the Immigration Office. (This is in addition to the detection of special needs in the reception facilities mentioned above). The new legislative provisions further defined the assessment of the best interests of the child in Belgium and established explicitly the right of accompanied children to be interviewed individually and/ or to lodge a separate asylum application. The latter would help in situations where the parents pose a threat to the minor, or when the minor cannot express his/ her asylum reasons in the presence of his/ her parents. As well, France simplified asylum applications filed by minors exposed to the risk of genital mutilation and implemented a provision for asylum-seekers with a disability allowing them to be accompanied (by the health professional who usually treats them or a representative of NGOs providing assistance to people with disabilities). Finally, a new standard for registering asylum applications of new-born babies was developed in Sweden, which clarifies among others if the child must be present at the time of application.

### 3.3.5. Other

A third of Member States<sup>149</sup> also reported other developments that addressed vulnerable groups. In many cases this included training of case officers and other relevant staff (e.g. interpreters in Belgium),<sup>150</sup> or updating of legislation, policy or practice on dealing with specific

<sup>146</sup> BG, CY, EL, FR, HU.

<sup>147</sup> BE, FI, FR, HR, LU, SE.

<sup>148</sup> BE, FR, SE.

<sup>149</sup> BE, BG, FI, FR, LV, NL, PL, SE, SK, UK.

<sup>150</sup> BE, FI, FR, LU, NL, SI.

groups or issues during the asylum procedure, particularly transgender applicants,<sup>151</sup> LGBTQI applicants,<sup>152</sup> and the issue of SGBV/ FGM.<sup>153</sup> Finally, Poland took measures to prevent cases of child abuse within the system of Border Guard centres.

### Training sessions for CGRS interpreters and protection officers in Belgium

In 2018, instructions were drafted by the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) to take account of the specificity of transgender people during the asylum procedure. These instructions include for the protection officer to adapt, during the interview, to the gender identity invoked by the person (using the appropriate title); to inform the applicant of the administrative peculiarities that may arise in the course of the procedure and the reasons for these particularities; and to inform the applicant (orally, or through leaflets) of the possibilities for him/ her to change the mention of his/ her sex and first name, in case of recognition of the refugee status in Belgium.

Since June 2018, protection officers may inform applicants for international protection (who are or appear to be) concerned with SGBV about the

possibilities for help and support in Belgium, and/ or provide them with various information leaflets on help and support available for victims of domestic violence, sexual violence, forced marriage, for girls and women (potentially) affected by FGM, for victims of transphobic discrimination (i.e. against transgender people).

### Intervention measures against abuse of children in guarded centres in Poland

In Poland, within the framework of a recent policy aimed at protecting children in guarded centres against abuse, intervention procedures in the case of abuse of the children began in 2018. These procedures constitute an algorithm of proceedings in the case of identifying a suspicion of child abuse in a guarded centre. This algorithm provides for all the possible scenarios, including cases of child abuse by parents/ guardians, peers and the centre's staff members. It foresees the manner of response both in cases of identifying abuse of a child in the form of failure to perform some activities (e.g. leaving a small child unattended), and disclosing the most extreme forms of violence against a child (including in particular sexual abuse).



## 3.4. UNACCOMPANIED MINORS NOT APPLYING FOR ASYLUM

Over a third of Member States<sup>154</sup> implemented changes to their national legislation, policy or practice with regard to unaccompanied minors who do not apply for asylum, albeit to a varying degree as well. This is partly due to the fact that many Member States (e.g. the Czech Republic, Germany, Italy, Spain, Sweden, etc.) do not distinguish between provisions for unaccompanied minors, i.e. measures apply to *all* unaccompanied minors regardless of their status (as asylum-seekers or otherwise).

### 3.4.1. Increase/ Decrease of human resources and training of staff

Three Member States<sup>155</sup> reported on relevant human resource issues, in particular the training of staff. Belgium and Poland organised training sessions focusing on victims of trafficking in human beings, in terms of interviewing and identifying these unaccompanied minors respectively, and the specific procedures that apply to minors who do not apply for asylum. The trainings targeted immigration officials and guardians in Belgium, and border guards in Poland and also aimed at increased the general awareness on trafficking in human beings. The training of guardians in Belgium, which was implemented together with professional guardians from Caritas International-Belgium, is expected to continue in 2019.

### 3.4.2. Improvement of protection and care of unaccompanied minors, including reception facilities

On protection of unaccompanied minors not seeking asylum, the most significant change took place in the United Kingdom which introduced a new form of leave for children under section 67 of the Immigration Act 2016 (the Dubs amendment), which came into effect in July 2018. This ensures that children who do not qualify for refugee or humanitarian protection leave are still able to remain in the United Kingdom long term. Those who qualify for this new form of leave will be able to study, work, access public funds and healthcare and apply for settlement after 5 years, without paying a fee.

Other measures to improve the protection and care of these minors<sup>156</sup> included, for example: the child-friendly settings for interviewing unaccompanied minors who are young and vulnerable in Belgium (see section 3.1); and the Slovak Republic's legislative amendments which transformed foster homes, crisis centres and resocialisation facilities into Children and Family Centres for unaccompanied minors in general, including those not applying for asylum. Luxembourg also expressed a commitment to put in place specific reception facilities for unaccompanied

151 BE.

152 BE, NL.

153 BG, BE, FI.

154 BE, BG, CY, EE, EL, HR, LT, LU, MT, PL, SK.

155 BE, IT, PL.

156 BE, HR, LT, LU, MT, SK.

minors in an irregular situation, and thereby to improve immediate and adequate care.<sup>157</sup>

### 3.4.3. Legal guardianship and foster care

Only one Member State, Bulgaria, reported new measures in the field of legal guardianship that apply to unaccompanied minors not seeking asylum. This was a result of the legislative amendments in Bulgaria mentioned previously, which also aimed to guarantee the rights of unaccompanied minors in cases where no application for international protection had been filed (see section 3.2). In particular, when an unaccompanied minor not seeking asylum is identified in Bulgaria, he/ she is swiftly interviewed by migration officials. At the interview, the child is accompanied by a representative who can express an opinion, and is also entitled to legal assistance – which was not the case in practice before these changes.

### 3.4.4. Procedural safeguards

Only one Member State, Bulgaria, implemented changes to the procedural safeguards for unaccompanied minors who do not apply for asylum, by introducing the possibility of granting a right to residence to unaccompanied minors who have not sought protection in Bulgaria, as well as for their representation in proceedings.

### 3.4.5. Provision of information

Measures strengthening the provision of information were rare or not specific to unaccompanied minors not seeking asylum, with the exception of Belgium which reported plans to produce child-friendly information (brochures or videos) on the specific procedure for unaccompanied minors who do not apply for asylum. Furthermore, Belgium produced a leaflet concerning services provided by the non-profit organisation ‘SOS Jeunes’ to minor migrants in transit.



## 3.5. OTHER VULNERABLE GROUPS NOT APPLYING FOR ASYLUM

Less than a third of Member States<sup>158</sup> reported developments in the national legislation, policy or practice with respect to other vulnerable groups not applying for asylum. As above, this partly reflects the fact that some Member States do not apply different provisions to vulnerable persons on the basis of their status (as asylum-seekers or not).

### 3.5.1. Measures clarifying the definition of vulnerable groups

One Member State, France, reported developments around the definition of vulnerability for applicants for residence permits for health reasons: if the prefect intends to depart from the mandatory opinion given on the applicant's health state and effective access to healthcare in his/ her country of origin, he has to provide special justification for this decision. In addition, the law of 10 September 2018 increased protection for people holding a protection order who are threatened with forced marriage. Moreover the “long-term EU residence permit” is now open to third-country national victims of trafficking in human beings or procurement after five years of regular and uninterrupted residence.

### 3.5.2. Identification mechanisms/ referrals

Three Member States<sup>159</sup> implemented measures strengthening the identification/ referral of vulnerable persons not seeking asylum. For example, in Belgium, the Immigration Office and Fedasil made a commitment to pay special attention to the phenomenon of underage marriages, to ensure better cooperation in the detection and reporting of cases, and to ultimately protect children.

### 3.5.3. Applicable procedural safeguards

Only one Member State, Slovenia reported a review of the applicable procedural safeguards for vulnerable persons.

### 3.5.4. Other

Four Member States<sup>160</sup> implemented other changes, including: the creation of separate family units in Belgium intended for the detention of irregularly staying families with underage children in view of their return (see Box below); the long-term EU residence permit in France which is now open to foreign nationals who are victims of trafficking in human beings after five years of regular and uninterrupted residence; the criminalisation of FGM in Luxembourg; and a number of legislative amendments applicable to victims of trafficking in human beings residing in Poland, in particular the removal of the requirement for cooperation with the competent authorities in order to obtain a residence permit when this involves a minor.

#### Family units for stay of families with underage children prior to return from Belgium

In Belgium, separate family units intended for the detention of families with underage children in view of their return were opened in August. There are four family units at the detention centre 127bis, two of which can accommodate a family of six people, and another two for a family of eight people.

The family units are only used as a last resort when other alternatives to detention have failed, and for a maximum period of two weeks (that can be renewed

157 DP, LSAP and *déi gréng*, 4 December 2018, *Accord de coalition 2018-2023*, p.231. URL: <https://gouvernement.lu/en/publications/accord-coalition/2018-2023.html>.

158 BE, EL, ES, FR, LU, PL, SI.

159 BE, LU, SI.

160 BE, FR, LU, PL.

for another two weeks). Nonetheless, the measure met widespread resistance by NGOs and other organisations fighting against detention of children.

As of 31 December 2018, four families, with respectively five, four, two and three children were detained in the family units in the 127bis centre; all four families returned to their country of origin.

### **The Istanbul Convention in Luxembourg**

In Luxembourg, a new law entered into force in August making female genital mutilation (FGM) a criminal offence.<sup>161</sup> The law introduced higher criminal sanctions if the victim of FGM is a minor or a particularly vulnerable person (imprisonment of 10 to 15 years and a fine of €1 000 to €25 000).

Furthermore, the law enables victims of forced marriages coerced into leaving the territory to recover their residence permit, and victims of domestic violence – to apply for authorisation of stay for private reasons.

<sup>161</sup> In accordance with the provisions of the Council of Europe Convention on preventing and combating violence and domestic violence, <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210>.



# 4. INTEGRATION

This section looks at the new legislative measures, policies and practices adopted by Member States and Norway during 2018 on the integration of third-country nationals. The first section elaborates on the developments at EU level (section 4.1) while the following section outlines the main developments in Member States and Norway

(section 4.2), including non-discrimination measures (section 4.3), cooperation and coordination to promote integration at local level (section 4.4) and awareness raising measures on migration in the hosting Member State and Norway (section 4.5).



## 4.1. DEVELOPMENTS AT EU LEVEL

In 2018, the Commission completed the implementation of the Action Plan on the integration of third-country nationals<sup>162</sup> including pre-departure actions and measures in the areas of education, labour market and vocational training, access to basic services, active participation and social inclusion, as well as enhanced coordination and funding.<sup>163</sup> The priority areas of the Action Plan remained valid and the Commission continued its multi-stakeholder approach to foster integration in the labour market, in particular through the implementation of the 'European Partnership for Integration'<sup>164</sup> with economic and social partners. The Commission continued to monitor the integration and inclusion challenges experienced by people with a migration background in the framework of the European Semester of policy coordination and proposed recommendations<sup>165</sup> to address the labour market and education situation of people with a migrant background to several Member States. The EU leaders endorsed the recommendations at the June European Council. The Commission organised the 4<sup>th</sup> European Migration Forum on the topic of integration in the labour market, together with the European Economic and Social Committee.

The Commission further developed cooperation with local and regional authorities, including by continuing to coordinate together with the City of Amsterdam the Partnership on the inclusion of migrants and refugees under the Urban Agenda for the EU and prolonging it by an additional year. In the framework of the Partnership, an Urban Academy on integration was launched to promote learning and exchange for policy makers from the local and the national levels. The Partnership also put in place an Advisory Board composed of migrants to provide advice

on integration activities at both the local and the EU level. The Commission launched a call for proposals under the Asylum, Migration and Integration Fund (AMIF) to finance transnational projects setting-up networks of regions and cities to work together on integration. These projects, to be implemented over a relatively long time-scale (up to 3 years), will allow transfer of knowledge, exchange of practices and experiences at local and regional level across Member States.

The Commission continued to support Member States in their integration efforts, in particular through the work and activities of the European Integration Network (EIN) and through funding. In addition to the regular meetings of the EIN, two study-visits took place to study the integration system in Portugal and its "one-stop-shop system" offering all early integration services (education, health, employment, social security, residence permits, legal advice, entrepreneurship etc.) to migrants, and a visit to Norway there with a focus on skills and labour market integration. A specific EIN meeting on the integration of migrant women also took place in 2018, as well as a mutual learning activity involving three Member States on the topic of integration through sport.

The Commission made a proposal for the next Multiannual Financial Framework for the period 2021-2027. The Asylum and Migration Fund<sup>166</sup> is able to support the early integration of third-country nationals legally staying in the EU and help Member States in developing horizontal measures such as capacity building, exchanges with the host society, awareness raising campaigns or cooperation and mutual learning between Member States on the integration of third-country nationals. It will also support actions by national governments, local and regional

<sup>162</sup> COM (2016) 377 final.

<sup>163</sup> For more details on the implementation of the action plan, please see here: <https://ec.europa.eu/migrant-integration/news/europe-brand-new-tool-to-monitor-eu-actions-for-integration>.

<sup>164</sup> [http://europa.eu/rapid/press-release\\_IP-17-5352\\_en.htm](http://europa.eu/rapid/press-release_IP-17-5352_en.htm).

<sup>165</sup> [https://ec.europa.eu/info/publications/2018-european-semester-country-specific-recommendations-commission-recommendations\\_en](https://ec.europa.eu/info/publications/2018-european-semester-country-specific-recommendations-commission-recommendations_en).

<sup>166</sup> Proposal for a Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund, see [https://ec.europa.eu/commission/sites/beta-political/files/budget-may2018-asylum-migration-fund-regulation\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/budget-may2018-asylum-migration-fund-regulation_en.pdf).

authorities and civil society organisations. The Cohesion Policy Funds and European Social Fund + (ESF+) in particular are able to provide support to facilitate the medium and long-term integration of third-country nationals.

The European Commission contributed to the monitoring of integration outcomes of third-country immigrants by

publishing jointly with the OECD the ‘Settling In 2018’ report.<sup>167</sup> It also supported monitoring of integration by publishing statistics on integration outcomes at regional level and by level of urbanisation on the Eurostat website,<sup>168</sup> as recommended by Inclusion of migrants and refugees Partnership.<sup>169</sup>



## 4.2. INTEGRATION OF THIRD-COUNTRY NATIONALS

The integration of third-country nationals was an important focus area for Member States in 2018. With the exception of Hungary, all Member States adopted new or amended legislation, policies or practices in this area. Such developments did not only include individual measures in specific integration areas, but also more overarching changes in the Member States’ approaches to integration, with five Member States and Norway either having adopted a new or revised integration action plan or strategy in 2018,<sup>170</sup> or having initiated the process for doing so in the near future.<sup>171</sup>

The new or revised integration action plans or strategies generally came as a response to the need to intensify efforts on long-term integration and consolidate efforts of all stakeholders involved. Germany adopted a revised action plan and Greece a revised strategy as a consequence of the strong increase in the number of immigrants in recent years. Germany’s action plan now covers all immigration groups and defines the guiding principles of Germany’s integration policy. One main guiding principle is that of offering support to immigrants and requiring effort in return (*fördern und fordern*). While not necessarily stated in the same way, a few other Member States appear to have followed a similar approach, with some of the new reported measures providing more support to third-country nationals to facilitate their integration efforts, while at the same time working to increase their participation in various integration and language classes, for example by making it mandatory to participate in an integration programme (see below section 4.2.1.1).

A common element of all of the new or revised action plans is their emphasis on language training, integration into the national education system and the labour market, as well as on fighting discrimination. In France an ambitious reform for the integration of newly arrived foreign nationals was prepared throughout 2018, aiming to strengthen the personalised integration pathway and the French Integration Contract (*Contrat d’intégration républicaine*, CIR), through a series of practical measures which will apply from March 2019, enabling newly-arrived foreign nationals to play an active role in society. Luxembourg established a multiannual national action plan on integration in 2018. This strategic document provided the framework for programmes and tools for social cohesion between Luxembourg nationals and non-Luxembourg nationals.

### 4.2.1. Integration through socio-economic participation

Similar to the focus areas of the above-mentioned action plans and strategies, the new legislative developments, policies and practices reported on by Member States particularly related to enhancing the language skills of third-country nationals, improving their access to education and their chances of successful integration into the labour market. The vast majority of these measures thus followed a rationale of broadening the availability of integration support measures to third-country nationals. One notable exception was found in Italy, where a new law abolished integration measures targeted at asylum seekers with pending applications, focusing the investments on integration on those applicants who already received the refugee status.

#### 4.2.1.1. Measures to enhance language skills

A total of 18 Member States and Norway<sup>172</sup> adopted measures related to the enhancement of language skills. Most of the reported measures were targeted at third-country nationals in general, although six Member States and Norway<sup>173</sup> also implemented measures related to specific groups such as asylum seekers and beneficiaries of international protection. In general, the measures aimed at increasing the offer of language courses available; however, in a few cases, Member States raised their demands towards third-country nationals in terms of the level of language proficiency attained or participation in mandatory language courses. The promotion of language training (as well as education and vocational training) of non-nationals is one of the five priority domains of Luxembourg’s multiannual national integration plan.

Eight Member States<sup>174</sup> introduced legislative changes concerning integration measures applicable to third-country nationals in general. Finland reported on legislative amendments to provide additional language classes specifically at the beginning of the integration period, and the teaching of reading and writing skills is now included in the basic education for adult immigrants, which was previously arranged as part of the integration training. In Austria, the adopted legislative amendment provides for the set-up of separate remedial German classes at general compulsory schools. In France, the hours for language

167 OECD/EU (2018), Settling In 2018: Indicators of Immigrant Integration, OECD Publishing, Paris/European Union, Brussels. <https://doi.org/10.1787/9789264307216-en>. See more information here: [https://ec.europa.eu/home-affairs/news/settling-2018-joint-eu-oecd-report-integration-migrants\\_en](https://ec.europa.eu/home-affairs/news/settling-2018-joint-eu-oecd-report-integration-migrants_en)

168 See regional series on Eurostat portal on immigrants integration: <https://ec.europa.eu/eurostat/web/migrant-integration/data/database> and Statistics Explained articles.

169 <https://ec.europa.eu/futurium/en/inclusion-of-migrants-and-refugees>

170 DE, EL, FR, LU, UK, NO.

171 CY, CZ, EE, ES, FI, NL.

172 AT, BE, CY, CZ, DE, EE, ES, EL, FI, FR, LT, LV, LU, MT, NL, PL, PT, UK, NO.

173 AT, CY, EE, EL, LV, PL, NO.

174 AT, BE, CZ, DE, EE, EL, FI, FR.

training were doubled and a specific 600-hour module for non-readers and non-writers was introduced. Belgium (Wallonia) significantly increased the duration of language courses of the mandatory integration training, while the German-speaking community introduced a mandatory integration programme for certain groups of third-country nationals, including language classes. Germany and the German-speaking community in Belgium expanded specifically the offer of job-related language training. The Czech Republic and Estonia reported on developments related to the minimum language proficiency requirements for obtaining residence permits, which in the case of the former is intended to be increased from A1 to A2 proficiency level, while in the latter, third-country nationals who have resided in Estonia for a minimum of five years and wish to extend their temporary residence permit for employment are now required to prove their language proficiency (minimum A2 level).<sup>175</sup>

In terms of developments related to policies and practices, six Member States made available additional resources for language training.<sup>176</sup> Four Member States and Norway focussed specifically on strengthening the competences of teachers and mentors conducting these language courses.<sup>177</sup> In the Netherlands, this came in the form of a newly developed app to support professionals and volunteers in communicating with beneficiaries of international protection, allowing the user of the app to connect with a professional interpreter from one of 144 different languages within 40 seconds. Three Member States developed new digital tools to support third-country nationals in their language learning;<sup>178</sup> Estonia, for example, developed an e-course to support language learning up to B1.

Three Member States and Norway<sup>179</sup> put in place measures targeted at specific groups of third-country nationals. The most common target groups were asylum seekers and beneficiaries of international protection, who were granted additional languages courses. In Estonia, beneficiaries of international protection can now acquire Estonian proficiency in A2 level (in 300 hours). Earlier only 100 hours were granted and A1 was the target. Latvia's Language Agency prepared digital learning materials for refugees and asylum seekers of different age groups. A new Regulation in Poland foresees the organisation of language courses for repatriates returning to Poland.

#### 4.2.1.2. Measures to improve attainment in schooling and the education system

Thirteen Member States and Norway<sup>180</sup> adopted measures to improve the educational attainment of third-country nationals and more broadly children with an immigrant background. These were mostly targeted at all categories of migrants, with the exception of a small number of measures in Slovenia and Sweden. The measures belonging to the first group can generally be

divided into two types, namely those aimed at increasing the accessibility of and participation in education,<sup>181</sup> and those focussing on providing further guidance and training to teachers and mentors working with third-country nationals. Belgium, Estonia, Finland and Norway aimed specifically at increasing early-childhood/pre-school participation of the children of third-country nationals and adopted policy changes to that effect. For example, the Finnish government launched in autumn 2018 a pilot project offering free part-time early childhood education and care for five-year old children. France provided for the doubling of workshops for parents of foreign pupils, to strengthen their integration and of French as a foreign language programmes for students wishing to pursue their studies in France. In Spain, assistance for foreign students is encompassed in all autonomous communities. All educational centres sustained with public funds must have a reception protocol. In Luxembourg, a mediation service was established and institutes a mediator who is in charge of issues related to the schooling of children of immigrant background, related to specific schooling needs and school dropout. As part of the measures providing guidance and training to teachers and mentors, some Member States specifically focussed on the educational attainment of third-country nationals<sup>182</sup> or increased support to schools in general.<sup>183</sup> For example, the Ministry of Education, Science and Sport in Lithuania introduced a new policy whereby a teaching assistant would be placed in every school that had children with an immigrant background among its students. Finland adopted a new Act on vocational training, which provides a wide range of support to the vocational study paths of students with an immigrant background, such as a personal competence development plan.

Three Member States<sup>184</sup> reported on new policies and practices targeted at specific groups of third-country nationals, namely adults, beneficiaries of international protection and women with low skills. As an example of the latter, ten Swedish study associations were granted government funding for outreach- and motivation initiatives, to inform foreign-born women with a low skills level about possible paths to further education and an increase in the skills level.

#### 4.2.1.3. Measures to improve access to social security, social assistance, healthcare, housing and other basic services

Fifteen Member States and Norway<sup>185</sup> reported on new developments in 2018 with regard to improving the access to social security, social assistance, healthcare, housing and other basic services. General and targeted measures were almost equally common.

Six Member States<sup>186</sup> focussed on improving access to healthcare. Cyprus, for example, co-funded a project to cover the medical costs of third-country nationals

<sup>175</sup> This requirement does not apply to third-country nationals who are applying for the extension of temporary residence permit for employment with the purpose of research activities, the EU Blue Card, for an intra-corporate transferee or for employment as a lecturer in Estonia in an educational institution.

<sup>176</sup> BE, CY, FI, MT, SI, UK.

<sup>177</sup> EE, EL, LV, NL, NO.

<sup>178</sup> EE, LT (planned measure), NL.

<sup>179</sup> AT, EE, LV, NO.

<sup>180</sup> BE, EE, EL, FI, FR, IE, LT, LU, MT, NL, SE, SI, UK, NO.

<sup>181</sup> BE, EE, EL, ES, FI, UK, NO.

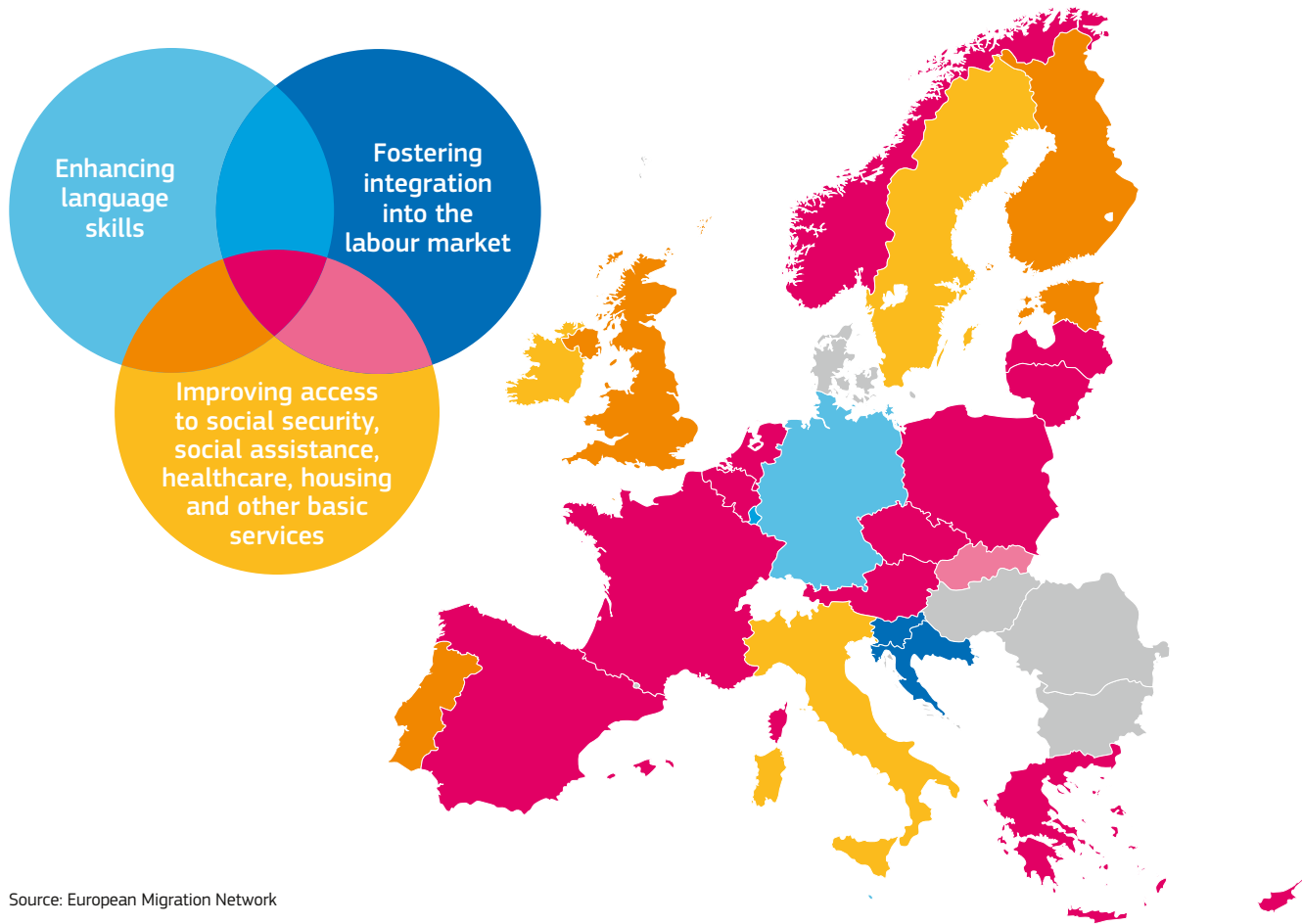
<sup>182</sup> BE, CZ, LT.

<sup>183</sup> CZ, IE, LT, LU.

<sup>184</sup> LU, SE, SI.

<sup>185</sup> AT, BE, CY, CZ, EL, ES, FR, HR, LT, LU, LV, NL, PL, SI, SK, NO.

<sup>186</sup> BE, CY, ES, IE, LT, SK.

**Figure 4.1 – Integration measures in the European Union and Norway**

Source: European Migration Network

(including asylum seekers), and the Slovak Republic implemented a project to create standard procedures for the prevention and response to disease outbreaks among third-country nationals, with specific attention paid to vulnerable groups. A Bulgarian AMIF project specifically focussed on the provision of healthcare and nursing services to asylum seekers and detainees in reception and detention centres. Latvia adopted a new law granting stateless persons with the right to receive state-funded minimum medical care assistance.

Spain approved the recovery of universal access to the National Health System, in the same conditions, for all people in Spain, regardless of their administrative situation. Given that the competences on healthcare are decentralised, the autonomous communities must establish the procedure by which foreign persons may obtain the certifying document accrediting their right to healthcare.

Three Member States<sup>187</sup> reported on legislative developments aimed at improving access to social services. In the case of Greece and the Slovak Republic, the scope of legislation concerning persons with disabilities and special needs was extended to now also allow for the provision of financial support to beneficiaries of humanitarian protection and beneficiaries of subsidiary protection respectively.

Boosting equality of women and girls with a migrant background in all areas of life is a particularly pressing goal of integration policy in Austria.

#### **4.2.1.4. Measures to improve integration into the labour market**

Next to measures related to the enhancement of language skills, those aimed at improving labour market integration of third-country nationals were most commonly reported, with 19 Member States and Norway<sup>188</sup> having implemented legislative measures, policies or practices in this regard in 2018. Compared to the developments reported in the areas above which most often addressed all third-country nationals, the measures related to labour market integration were more commonly geared towards specific target groups. These can further be divided into two broad categories, namely measures addressing third-country nationals directly and secondly, measures providing resources and tools to public employment services, local authorities or employers, for them to support the third-country national to integrate into the labour market.

General policy and practice measures belonging to the first category were implemented in seven Member States,<sup>189</sup> ranging from information sessions for newly-arrived job-seekers in Belgium to the publication of

187 EL, SI, SK.

188 AT, BE, CY, CZ, EE, EL, ES, FI, FR, IE, IT, LT, LV, NL, PL, PT, SE, SK, UK, NO.

189 BE, CY, EE, ES, FI, LU, SE.

a guide to facilitate the recognition of qualifications of foreign teachers in Finland. In Belgium and Sweden, new legislative measures were introduced in parallel with the policy changes. In the case of Sweden, a new regulatory framework for the Swedish Public Employment Service served to strengthen the pathways into employment for newly-arrived migrants. In Spain, the majority of the measures for improving employability were implemented in the framework of the 2018 Annual Employment Policy Plan, part of the 2017–2020 Spanish Activation Strategy for Employment. Finally, the Secretary of State for Migration facilitated social and labour inclusion of immigrants with subsidies amounting to €30.2 million.

Sweden also introduced an education and training obligation for newly arrived beneficiaries of international protection participating in the Public Employment Service's introduction programme as from 1 January 2018. This obligation means that newly arrived immigrants who are considered in need of education and/or training to find work, can be instructed to apply for, and undertake, suitable education and/or training. Further to this, Sweden reformed its system of subsidised employment and introduced a new supportive measure, so called "introductory jobs".

General policy and practice measures falling within the second category were reported by six Member States.<sup>190</sup> For example, in Latvia, a manual on integration in the workplace was developed, gathering good practices in creating inclusive work environments and integration support. In the United Kingdom, additional funding was provided to Jobcentre Plus to support more people from segregated communities into work. A further £19 million was also awarded to local authorities to help alleviate pressures on local services resulting from an increased number of migrants, which will *inter alia* be used to support people into work and employability.

In the context of measures aimed at specific groups of third-country nationals, beneficiaries of international protection were most frequently addressed.<sup>191</sup> Four Member States<sup>192</sup> implemented new policies and practices related to the provision of counselling and job-related training, while Latvia, Poland and Norway adopted new policies and practices aimed at bringing together employers and job-seeking beneficiaries of international protection with the corresponding skills set.<sup>193</sup> An exemplary practice is the launch of the 'RefuJobs' Platform in Portugal, which aims at building bridges between candidates looking for a job or traineeship with suitable employers. In the framework of this platform, the skills and qualifications of the candidate are verified to ensure that these meet the demands of the employer, and his/her legal status for professional activity is checked.

Other target groups of new labour market integration developments included asylum applicants,<sup>194</sup> vulnerable groups,<sup>195</sup> women<sup>196</sup> and (highly) skilled migrants.<sup>197</sup> An example of the latter can be found in Estonia, where an International House was opened in Tallinn, which offers consultations to skilled migrants and their partners regarding life in Estonia, language programmes and career counselling, and which provides employers with free consultation services on how to hire foreign experts. The measures aimed at women in Ireland and Sweden entailed the provision of additional government funding for relevant projects, for example for an initiative providing guidance about the Swedish labour market to female asylum applicants.

In France, the 'Programme for Integration through Language Learning (*parcours d'insertion par l'apprentissage de la langue*)' was launched in November 2018 for young people under the age of 26. This programme makes it possible to combine additional language training after the CIR, with the use of the public employment service's (PES) range of services, and the payment of a monthly allowance.

#### 4.2.2. Integration through civic participation

Next to the socio-economic integration of third-country nationals, Member States also made efforts to promote their civic integration during 2018. A total of 15 Member States and Norway established measures to this end,<sup>198</sup> including four Member States passing new legislation.<sup>199</sup> Five Member States<sup>200</sup> reported on practices aimed at providing opportunities for third-country nationals to become actively involved in the host society. For example, Estonia launched a web portal in English that provided instructions on how to establish a non-profit association<sup>201</sup>, and three cities in Slovenia set up intercultural dialogue centres to facilitate the local integration of third-country nationals.

Two Member States introduced new or revised civic integration- or orientation programmes: in Belgium, the region of Wallonia increased citizenship training from 20 to 60 hours and the German-speaking community made its integration programme mandatory for newly arrived third-country nationals above 18 years of age. Within one of Germany's AnKER centres,<sup>202</sup> a new type of orientation course was tested, consisting of 15 hours of training in the participants' native languages by cultural mediators. In three other AnKER centres, another type of orientation course was rolled out, consisting of 300 hours of training for asylum seekers whose chances of remaining in Germany were uncertain.<sup>203</sup> The Netherlands initiated plans to introduce a new civic integration system in 2021, which will *inter alia* include the establishment of a personal

190 BE, FR, LV, SE, SK, UK.

191 AT, CZ, EE, EL, LV, PT, SE, NO.

192 AT, CZ, EE, EL.

193 LV, PT, NO.

194 BE, EL, LT.

195 CZ, IT (unaccompanied minors).

196 IE, SE.

197 BE, EE, FI.

198 BE, CZ, DE, EE, ES, FI, FR, HR, IE, IT, LV, LU, NL, SI, UK, NO

199 BE, FR, IT, LU.

200 CZ, EE, ES, FI, SI.

201 EE (<https://www.makis.ee/en>).

202 AnKER is an acronym that stands for arrival, decision and return.

203 This target group entails those asylum seekers which neither originate from a third country with a high recognition rate nor from a country considered as "safe".

integration and participation plan (PIP) to be formulated by the municipalities

Two other Member States aimed specifically at fostering the political participation of third-country nationals. In Luxembourg, a change to the Electoral Law simplified the electoral procedure, following which foreigners with a right to vote were able to submit their registration and electoral roll electronically, or vote by correspondence, for local and European elections. In the framework of its

2017 Migrant Integration Strategy, Ireland implemented specific activities to promote the political engagement of third-country nationals, including an event which brought together over 100 migrant community leaders.

In Spain, the Forum for Social Integration of Immigrants was reactivated, entailing the organisation of two plenary meetings with representatives from Public Administrations, immigrants' associations and other union and business organisations.



### 4.3. NON-DISCRIMINATION

Around a third of Member States and Norway<sup>204</sup> implemented measures to combat discrimination, with two Member States and Norway<sup>205</sup> adopting new legislation related to non-discrimination. For example, in Belgium, a new Federal Law of January 2018 allowed social inspection services to carry out anonymous practical tests to detect discriminatory hiring practices of companies. In Norway, a new Equality and Anti-Discrimination Act entered into force and a new tribunal was established to handle complaints related to anti-discrimination. In Spain an institutional cooperation agreement was signed between the Government, the General Council of the Judiciary and the State Attorney General to combat racism, xenophobia, LGBTQI-phobia and other forms of intolerance. As regards the nature of the new policies and

practices, these are commonly aimed at raising awareness of discriminatory practices and providing training to those working with third-country nationals.<sup>206</sup> For example, the Netherlands developed a guide for municipalities to give further shape to local anti-discrimination policies, and in Croatia, information brochures were printed to address common fears and misconceptions about persons granted international protection. Two Member States reported non-discrimination actions targeting specific groups: Austria focussed its efforts specifically on anti-Semitism, holding a series of one-day workshops in 2018 aimed at training teachers and counselling centres' staff members who were faced with anti-Semitic behaviour in their daily work, whilst Ireland provided national funding for projects to promote Roma inclusion.



### 4.4. PROMOTING INTEGRATION AT LOCAL LEVEL AND COOPERATION, CONSULTATION AND COORDINATION OF LOCAL STAKEHOLDERS

While no new legislative measures were adopted to promote integration at the local level, thirteen Member States and Norway reported on policies and practices in this regard.<sup>207</sup> In seven cases, policy recommendations or guides were developed for municipalities or local authorities to support the integration of (specific groups of) third-country nationals.<sup>208</sup> For example, in the Slovak Republic, a 'City Integration Audit' toolkit was issued in Košice, containing tools for the self-assessment of the city and for recording progress made in relation to the integration of foreigners. Czech municipalities have been supported to create their own integration strategies through special projects financed by the Ministry of the

Interior. Two measures reported by the Czech Republic and Latvia followed a similar goal, whereby regional platforms were established to facilitate exchanges between stakeholders. In Latvia, this platform included representatives of public and local authorities, NGOs and private institutions involved in integration, with meetings taking place at least once a month.

In Spain, the Sectorial Conference on Immigration met for the first time since 2015 to bring together all autonomous communities and the general state administration. The Sectorial Conference highlighted that there must be joint, coordinated action between city councils, provincial councils, autonomous communities, NGOs and the state.



### 4.5. AWARENESS RAISING ON MIGRATION IN THE HOST STATE

More than half of Member States and Norway<sup>209</sup> reported on new policies and practices aimed at raising awareness and engaging the host community, to enhance

understanding of migration. The majority of measures entailed the publication of information material targeted at specific groups of the host community, ranging from

204 AT, BE, ES, HR, IE, LV, LU, MT, NL, NO.

205 BE, LU, NO.

206 AT, HR, LV, MT, NL.

207 AT, BE, CY, ES, FR, HR, IE, LV, LT, LU, MT, NL, PT, SK, NO.

208 BE, CZ, HR, LU, LV, NL, SK.

209 BE, BG, CY, CZ, EE, EL, FI, FR, HR, IT, LU, LV, NL, PL, PT, SK, NO.

primary and secondary schools,<sup>210</sup> authorities,<sup>211</sup> and journalists<sup>212</sup> to the wider population.<sup>213</sup> An example of a measure geared towards the wider population is the nation-wide awareness-raising media campaign carried out in Croatia via television, radio and online activities, as well as public fora at the municipality level. The Estonian Refugee Council rather targeted local communities, organising joint local events through its project “Let’s get to know each other”, particularly to increase the local communities’ awareness of forced migration and adaptation processes for migrants. The Czech Republic created the project “Young migrants in the Czech Republic with their own eyes”, based on testimonies of young YouTubers who are third-country nationals. Policies and practices addressed at authorities working with third-country nationals often entailed new guides and information material. For example, an official brief and toolkit for regional

counties in Finland emphasised the need to involve migrants and other minority groups in country decision-making processes and provided tools for doing so to promote integration through civic participation. In Spain work was being carried out on the Strategic Plan for Citizenship and Integration, with the objective of structuring integration policy, guaranteeing social cohesion and curbing discourse against immigration. This plan was aimed at all citizens and was based on the basic principles of equality, citizenship, interculturality and social inclusion.

In France, a second wave of the longitudinal study on the integration of newcomers, known as “ELIPA”, will be launched between 2019 and 2021 to gain a better understanding of the practical mechanisms of integration. This study will prioritise communication work which could be developed with the host community in France.



## 4.6. INTEGRATION MEASURES IN THE COUNTRIES OF ORIGIN AND/OR INVOLVING DIASPORA COMMUNITIES

Italy, France and the Netherlands reported on developments related to the involvement of the countries of origin and diaspora. In Italy, the Diaspora National Summit project 2018-2019, financed *inter alia* by the Italian Agency for Cooperation and Development was launched. The project aimed to emphasise the role of the diaspora within the field of development cooperation as a bridge for communications and economic growth between countries of destination and countries of origin. It implemented initiatives aimed at improving the knowledge and skills of the diaspora and at ensuring paths of inclusive representation in international cooperation.

In the Netherlands, the Ministry of Social Affairs and Employment provided funding for 2019-2020 for a support function to stimulate and advise the organisation of socially active people from African communities in implementing and contributing to promising social initiatives.

Since 2017, France has been supporting the *Alliance Française* Paris Île-de-France project, which consists of a collection of Massive Online Open Courses (MOOCs) dedicated to learning French, available on the France *Université Numérique* (FUN) platform. The A1 level MOOC was put online in 2018, allowing foreigners access information about French language and culture at any time in a highly accessible and mobile format from their country of origin.

210 BE, FR, LV, SK.

211 FI, NL, PL, PT.

212 IT, SK.

213 CZ, EE, EL, HR, LU, NL.

# 5. CITIZENSHIP AND STATELESSNESS

This section looks at the new policies and measures adopted by Member States and Norway during 2018, targeting citizenship and statelessness. Due to the growing importance of citizenship as a pathway to further integration, and the increasing policy focus on stateless people, it is the first time that the ARM

includes a dedicated section to these two phenomena. The first section elaborates on the developments at EU level (section 5.1) while the following sections outline the main developments in Member States and Norway regarding citizenship (section 5.2) and statelessness (section 5.3).



## 5.1. DEVELOPMENTS AT EU LEVEL

Member States are solely responsible for determining who can apply for citizenship and be recognised as a citizen; however, persons who are citizens of a Member State also enjoy the rights of EU citizenship,<sup>214</sup> including mobility across all Member States. Thus, the determination of citizenship by one Member State implies a responsibility to all others, meaning that in this sense citizenship has an important EU dimension.

A number of developments took place at EU level during 2018. The European Parliament (EP) produced a report<sup>215</sup> on the acquisition and loss of citizenship in Member States which identified a number of trends in citizenship laws across the Member States in response to priorities such as the (long term) integration of migrants. Responses were found to be in some cases more liberal (e.g. tolerating dual citizenship) and in others more restrictive (e.g. introducing integration clauses and citizenship tests). The report also noted that in response to security and terrorist risks, in some cases Member States were allowing citizenship to be revoked.

The EP report further highlighted the growing trend in the granting of citizenship, (a.k.a. the “golden passport”)<sup>216</sup> and residence permits (a.k.a. the “golden visa”) to investors, through schemes used by Member States to attract large investments and new businesses, which according to the report would need to be continuously monitored. The Commission

conducted further research on the topic during the year, which resulted in the report ‘Investor Citizenship and Residence Schemes in the European Union’, published on 23 January 2019.<sup>217</sup> The Commission report noted a number of potential risks (e.g. security, money laundering, corruption, circumvention of EU rules and tax evasion) and committed to further monitoring also in terms of compliance with EU law.

The international legal definition of a stateless person is “a person who is not considered as a national by any State under the operation of its law”. A person may be born stateless or may become stateless during their lifetime. The two most important international instruments that aim to address statelessness are the 1954 Convention relating to the Status of Stateless Persons<sup>218</sup> and the 1961 Convention on the Reduction of Statelessness.<sup>219</sup> The EU acknowledged<sup>220</sup> the importance of determining statelessness and strengthening the protection of stateless persons to reduce the risk of discrimination or unequal treatment and to ensure they enjoy core fundamental rights. Following the Council Conclusions of 2015, the Platform on Statelessness was established as part of the EMN on 20 May 2016. The Platform’s first findings on the topic were presented in 2016 through the EMN Inform ‘Statelessness in the EU’, and the first conference on this issue was held in 2017. Since then, the Platform has continued its work and has been active during 2018.

214 The Treaty of Maastricht established ‘Citizenship of the Union’ in 1991, an additional legal status enjoyed by persons holding the nationality of a Member State.

215 European Parliament, Acquisition and loss of citizenship in EU Member States, July 2018. Available at: [http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/G25116/EPRS\\_BRI\(2018\)G25116\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/G25116/EPRS_BRI(2018)G25116_EN.pdf).

216 “Golden passport” scheme or “Investor citizenship” scheme aims to attract investment by offering citizenship in return for a defined amount of money. The scheme is operated only by Bulgaria, Cyprus and Malta.

217 SWD (2019) 5 final: [https://ec.europa.eu/info/sites/info/files/com\\_2019\\_12\\_final\\_report.pdf](https://ec.europa.eu/info/sites/info/files/com_2019_12_final_report.pdf).

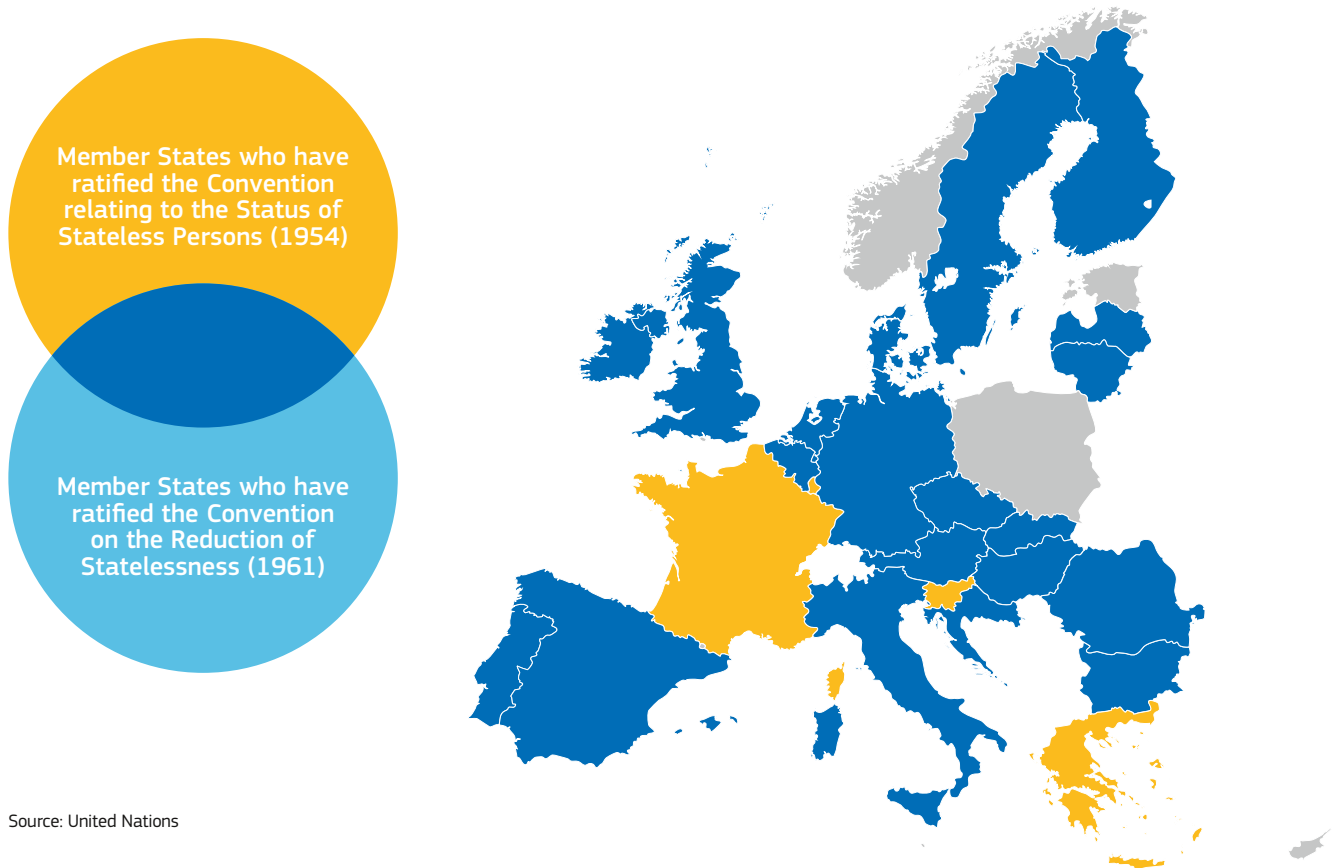
218 24 Member States are now State Parties to the 1954 Convention (AT, BE, BG, CZ, DE, DK, FI, FR, GR, HR, HU, IE, IT, LV, LT, LU, NL, PT, RO, SK, SI, ES, SE, UK).

219 20 Member States have acceded to the 1961 Convention (AT, BE, BG, CZ, DE, DK, ES, FI, HR, HU, IE, IT, LV, LT, NL, PT, RO, SK, SE, UK). FR signed this Convention but has not yet ratified it.

220 European Council Conclusions on Statelessness of 3 and 4 December 2015.



**Figure 5.1 – Status of the ratification of the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness**



Source: United Nations



## 5.2. CITIZENSHIP

### 5.2.1. Acquisition of citizenship

Just less than half of the Member States (11 Member States and Norway)<sup>221</sup> notified new developments in relation to the acquisition of citizenship for legally residing third-country nationals in 2018. Some of them introduced new legal measures, aimed in the main at modifying the minimum duration of legal residence required for citizenship applicants and at setting minimum requirements for national language proficiency. A few others tackled aspects such as allowing dual-citizenship, requiring proof of a clear criminal record as well as procedural simplification in their legal and policy changes.

With regard to the minimum duration of legal residence, in Austria, new legislation increased for persons granted asylum the minimum number of years of consecutive legal residence in the country required to be granted citizenship from six years to ten.<sup>222</sup> Greece also extended the duration of legal residence, from seven to twelve consecutive years, for holders of any type of residence permit except temporary ones.

Luxembourg decreased the minimum duration of residence required for applicants from seven to five years.

While this law dates back to 2017, the impact has been observed in 2018, during which the number of naturalisations increased significantly. More favourable conditions for some groups to obtain nationality were also introduced in Belgium. The Law of 18 June 2018 amended several provisions of the Civil Code;<sup>223</sup> the period of time between an application for international protection and recognition as a refugee, and between an application for a residence permit as a family member of an EU Citizen and obtaining a positive decision are now taken into account in the calculation of the period of residence.

Five Member States<sup>224</sup> changed the minimum requirements for national language proficiency of those applying for citizenship and the United Kingdom is currently in the process of doing so. This was set at language level B1 in Poland (if attested by an official certificate) similarly to Estonia, which in addition introduced a new legal measure allowing citizenship applicants to get a paid leave for studying Estonian. Applicants who have been legally residing in the country for five years can sign up for free language classes. In Italy, a new law dated from December 2018 requires individuals acquiring Italian citizenship to have a good knowledge of Italian language. Applicants

221 AT, BE, EL, FI, HR, IT, LT, LU, NL, PL, PT, NO.

222 FLG I No. 56/2018.

223 Law of 18 June 2018 containing various provisions on civil law and provisions with a view to promoting alternative forms of dispute settlement, BG, 2 July 2018.

224 EE, IT, LU, PL, UK.

must demonstrate their knowledge of the language by providing official certifications.<sup>225</sup> The new law also stipulates that the citizenship application has to be processed within 48 months. The United Kingdom proposed a series of reforms to British citizenship during the year, which also included raising the English language requirements for applicants. In contrast, under the above-mentioned law of 2017, Luxembourg maintained its linguistic requirements but ‘softened’ them;<sup>226</sup> consequently, 2018 saw a significant increase in the number of applicants enrolling in language classes and the share of candidates passing the language exam increased from 62% in 2016 to between 72-87% in 2018.

Some Member States also introduced changes with regard to those born from migrant parents. Luxembourg for example introduced the concept of *jus soli*, a simplified way to grant citizenship to a person born ‘on the territory’ and introduced new scenarios to avoid cases of statelessness. Portugal extended access to citizenship and naturalisation to individuals who were born on the Portuguese territory. In the same vein, the Belgian legislation reintroduced in 2018 an article that had been abolished in 2012 which gives individuals whose nationality has been contested but who have been treated as Belgians for the past 10 years by the Belgian authorities, the right to apply for Belgian nationality up to one year after their Belgian nationality was contested.

Other Member States<sup>227</sup> addressed citizenship of children born as part of a same sex marriage and adopted children. Through the adoption of a new Maternity Act in 2018, Finland set forth the right for a child of a same sex couple comprising a foreign national, to obtain Finnish citizenship, even in the case the birth mother is a foreign national. This new legal instrument enters into force on 1 April 2019.<sup>228</sup> Lithuania changed its Law on Citizenship which now specifies that a child adopted by a Lithuanian citizen automatically acquires citizenship. Likewise, a Lithuanian citizen who is adopted by foreigners is also entitled to retain Lithuanian citizenship.

Finally, a few Member States introduced developments regarding dual citizenship. In the Netherlands, the draft proposal for the modernisation of the naturalisation law, being discussed since September 2018, may offer the possibility for future first generation migrants to hold more than one nationality. However, there will be a compulsory time of choice for subsequent generations that should in practice lead to such persons having no more than one nationality. The Secretary of State is expected to start consultations on a draft legislative proposal in the first quarter of 2019. Norway amended its Nationality Act in December 2018 to allow dual citizenship.

Two Member States notified legislative changes that now require applicants, where relevant, to provide a copy of their criminal record. In Luxembourg, the Law of 20 July 2018 introduced a few technical adaptations to

the Nationality Law of 2017, which originally required applicants to present a copy of their criminal record from any foreign country they resided in from the age of 18 onwards and during the fifteen years immediately preceding the application. The new amendment includes a requirement to present a copy issued by the authorities of the country he/she holds the nationality from. In the Netherlands, the period for applying for Dutch citizenship after having committed a serious offence was increased from four to five years as of 1 May 2018. This means that if a third-country national wants to become a Dutch citizen, s/he must not have been convicted of any serious offences in the five years before the application.<sup>229</sup>

Three Member States<sup>230</sup> notified new policies and practices aimed at facilitating procedures. Belgium from 2018 onwards exceptionally allows citizenship applications from persons who first held Belgian nationality but then lost it, to be made from third countries via the consulate, and accepts birth attestations in place of birth certificates where applicants come from a restricted list of countries where obtaining such documents is known to be problematic, for example, Afghanistan, South Sudan, Somalia and Angola (Cabinda enclave only). France developed a new information system that will be piloted in 2019; the latter should allow for a simplified online application process and assessment of the applications. Similarly, people applying for work or study visas, settlement or citizenship from within the United Kingdom have the possibility since 2 November 2018 to make appointments using new, modernised and efficient service centres. In addition, it will now be possible, in most of cases, to bring digital copies of evidence.

Member States also focussed on raising awareness and clarifying the naturalisation process and the related requirements. In Croatia, a draft act on Croatian citizenship has been prepared in October 2018 and is currently being assessed as part of an open consultation. In Latvia, information days are organised to promote interest in acquiring Latvian citizenship through naturalisation. In addition, an information campaign was launched in 2018 with a view to promote the acquisition of Latvian citizenship for non-citizens born in Latvia and whose parents are non-citizens or stateless persons. Similarly, Greece developed guidelines (*How can I become a Greek citizen?*) aimed at facilitating the procedure.

Other Member States<sup>231</sup> worked on tests. Among the reforms proposed by the United Kingdom’s Home Secretary, the *Life in the UK* test was developed to promote greater prominence of British values and principles expected from those wishing to call the United Kingdom their permanent home, together with accompanying guidelines. A public consultation is supposed to be launched in 2019. During the above-mentioned information days in Latvia, people are also invited to check their knowledge of the country via a naturalisation test.

225 These entities must be recognized by the following Institutions: The Ministry for External Affairs and International Cooperation, the Ministry of the Interior and the Ministry of Education, Research and University.

226 For instance, it is now requested knowledge of the local language at least at the A2 level, while before it was required a B2 level.

227 FI, LT.

228 Citizenship unit of the Finnish Immigration Service, e-mail on 14 December 2018.

229 IND New Report (2018). *Termijn aanvraag Nederlanderschap na een misdrijf van vier naar vijf jaar*. To be consulted via: <https://ind.nl/nieuws/paginas/termijn-aanvraag-nederlanderschap-na-een-misdrijf-van-vier-naar-vijf-jaar.aspx> (in Dutch).

230 BE, FR, UK.

231 LV, UK.

## 5.2.2. Grounds for revocation of citizenship

While most Member States did not report any changes as to their policy and legal framework in place concerning grounds for revocation of citizenship, seven countries reported on new legislation to either strengthen citizenship<sup>232</sup> or reinforce national security.<sup>233</sup>

In Austria, the Constitutional Court, after reviewing a case in December 2018, ruled that the fact that an individual was included in a list of persons eligible to vote in Turkey did not qualify as evidence for concluding that this individual had acquired Turkish citizenship, and could therefore not be used as justification for revocation of Austrian citizenship. Since 18 June 2018, the conditions for revocation of Belgian nationality were adjusted and an exemption was added, making it no longer possible to revoke Belgian nationality when a Belgian individual born outside of Belgium and who somehow lost his/her nationality, applied for a Belgian passport or a Belgian identity card between the age of 18 and 28. Lithuania repealed Article 24 of its Law on citizenship, according to which an adopted individual with dual citizenship was under an obligation to choose between one of the two nationalities when turning 21 years old, and in the event of a failure to choose, could lose citizenship of the Republic of Lithuania.

In Finland, to improve national security, a legislative amendment was proposed to enable withdrawal of

Finnish citizenship if a person committed serious crimes against Finland's vital interests (such as treason, espionage or serious terrorist acts) punishable by at least five years of imprisonment. However, Finnish citizenship could not be withdrawn where such action would render persons stateless, and an assessment of persons' ties to the state where they are nationals, as well as the possible consequences for their family members, would also be considered before withdrawal of citizenship. As part of its efforts to combat radicalisation and violent extremism, Norway similarly amended the Nationality Act in March 2018, to introduce rules on revocation of citizenship in cases where dual citizens were convicted of an offence seriously prejudicial to the vital interests of the state. The decision to deprive a person of Norwegian citizenship should be made by the court as part of a criminal case. The amendments will take effect as of 1 January 2019. Likewise, the United Kingdom Home Secretary outlined in October 2018 that powers to deprive individuals of their British citizenship would be applied to individuals convicted of the most serious criminal offences, where it is in the public interest. As per the new Law of 4 October 2018, Italian citizenship may be revoked by a decree of the President of the Republic in cases where a foreigner has been convicted for crimes of terrorism and / or endangering constitutional and democratic order. The provision is addressed only to those citizenships which were obtained through marriage, long-term residence or following 18 years of regular residence during the period of minority.



## 5.3. STATELESSNESS

Seven Member States<sup>234</sup> introduced new legal, policy and / or practice changes around statelessness, whilst others did not report on any new developments in the year.

### 5.3.1. Statelessness determination

With regard to the ratification of international conventions on statelessness, Spain ratified the 1954 Convention relating to the status of stateless persons.

Greece prepared a preliminary draft law to regulate matters relating to the legal status of stateless persons. The latter envisages a procedure similar to the custody examinations of protection claims, providing the same rights and obligations as for asylum seekers.<sup>235</sup>

Several Member States<sup>236</sup> identified new (good) practices regarding stateless persons. In Belgium, the Council for Alien Law Litigation recently judged that the Immigration Office - when terminating the right of residence of a recognised stateless person - should assess both the interests of the individual and that of the community. The fact that individuals built a life in the country and the potential impacts on their private life in their home country or abroad henceforth have to be taken into consideration too.<sup>237</sup> In Bulgaria, the Ministry of Interior now cooperates

with the UNHCR with a view to protect the rights of those claiming the status of a stateless person, by providing information relevant to their specific rights in a format adapted to their nationality, age and specific needs. In 2018, the UNHCR organised a seminar on statelessness procedures in the country, examining practical aspects of the procedures for granting statelessness status. Regarding direct support to individuals, in Lithuania, the local police help stateless individuals applying for citizenship, with the preparation of the required documentation (if necessary, local authorities may also opt to pay the state's fee charged for the examination of applications for citizenship); whilst in France, a new decree sets forth the right for an applicant to present himself accompanied by a lawyer, or a representative of an association as from January 2019.<sup>238</sup> Naturalisation processes were also made easier and faster in Greece (based on three-year stay rather than seven; a €100 fee rather than €700, and no obligation to deposit documents) with the entry into force of Law 3838/2010.

### 5.3.2. Status and rights granted

Two Member States<sup>239</sup> introduced new legislation in 2018, the aim of which was to facilitate access to naturalisation. In France, the right to family reunification

232 AT, BE, LT.

233 FI, IT, LT, UK, NO.

234 BE, BG, EL, ES, FR, NL, SK.

235 Asylum Service.

236 BE, BG, FR, LT.

237 CALL, 8 June 2018, n° 205 101.

238 Under the conditions set out in the eighth and ninth paragraphs of Article L. 723-6 of the French Code of entry and residence of foreigners and asylum (*Code de l'entrée et du séjour des étrangers et du droit d'asile*, CESEDA).

239 FR and NL.

has been granted to stateless persons in the same way as beneficiaries of subsidiary protection. In addition, the right to residence for stateless persons was reinforced; providing the latter with a four-year residence permit for them and their family members, that can subsequently be replaced by a ten-year residence permit. In the Netherlands, the issue of stateless children is currently being examined as part of a legislative proposal. While stateless children born in the Netherlands can be granted Dutch nationality after three years of legal residence, the entry into force of this legislative proposal should allow stateless children born in the Netherlands without having legally resided in the country to become Dutch citizens. This legislative proposal would fill in the gap that currently exists in the Dutch procedure for determining statelessness.<sup>240</sup> In addition, a new policy targeting Palestinians from Syria, the Gaza Strip, the West Bank, Iraq, Jordan and Lebanon was established end of 2017 and became effective in 2018. As per this policy, stateless individuals from those regions are registered as such provided they submit the following documents: (i) an identity document, (ii) a birth certificate and (iii) a document from either the General Authority for Palestine Arab Refugees or the United Nation Relief and Works Agency. If the Palestinian third-country national can show at least one of these three documents, statelessness will then be assumed. Finally, Greece now applies *jus soli* to stateless individuals born in the Member State.

With regard to policy developments, Belgium introduced a new policy, to exempt stateless applicants from having to pay the fee charged for the residence permit. Two conditions need to be fulfilled: the stateless individuals must have unintentionally lost their nationality and be unable to obtain a residence permit in another country with which they have a connection. In Slovakia, from July 2018 stateless persons can be granted a five-year residence permit instead of a permanent residence permit for an indefinite period of time.

240 Advisory Report by ACVZ (2013). *Geen land te bekennen*. To be consulted via: <https://acvz.org/pubs/geen-land-te-bekennen> (in Dutch).

# 6. BORDERS, VISA AND SCHENGEN

This section looks at the new practice, policies and legislative measures adopted by Member States and Norway during 2018, regarding border control management, European Visa Policy as well as Schengen governance. The first section elaborates on the developments at EU level (section 6.1) while the following sections outline the main developments in Member States and Norway. Notably, this section analyses how Member States and

Norway pursued a more effective control and management of EU external borders (section 6.2); then it looks at developments in relation to the implementation of the Visa Code and the Visa Information System (VIS) or any other Visa related developments (section 6.3); and finally, it elaborates on latest changes and developments related to the Schengen governance (section 6.4).



## 6.1. DEVELOPMENTS AT EU LEVEL

In 2018, the European Union provided support to the Member States on the EU external border in handling migration flows and improving border management. Furthermore, the EU fostered cooperation with third countries with the view to preventing (irregular) departures towards Member States.

The Commission backed up Member States' efforts to enhance border control through the adaptation of new reforms, namely Regulation (EU) 2018/1861 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, which also amended the Convention implementing the Schengen Agreement, and amended and repealed Regulation (EC) No 1987/2006. This SIS, with its extant and planned information technology systems, is considered an essential tool for an effective border management.

In 18 July and 20 September respectively, the EU reached an agreement with North Macedonia and one with Serbia on operational cooperation. The agreements foresee that officers of the European Border and Coast Guard Agency (Frontex) will be deployed in the two EU bordering countries. These agreements aim to protect and enhance security at the EU's external borders while improving cooperation on migration with neighbouring countries.

In December 2018, the Commission published a communication about progress under the European agenda on migration underlining the next steps in the migration field. With regards to external border control and management, the communication restated the importance of an effective migration and border management policy as well as of the role played by the Frontex.



## 6.2. BORDER CONTROL MEASURES/MANAGEMENT

### 6.2.1. Developments in relation to border control measures/management

Member States and Norway worked towards the implementation of several technical measures taken at the external borders aiming to strengthen border control and management. This was done mainly by means of adopting new practices whereas a few Member States proceeded to introduce legislative<sup>241</sup> and/or policy<sup>242</sup> changes.

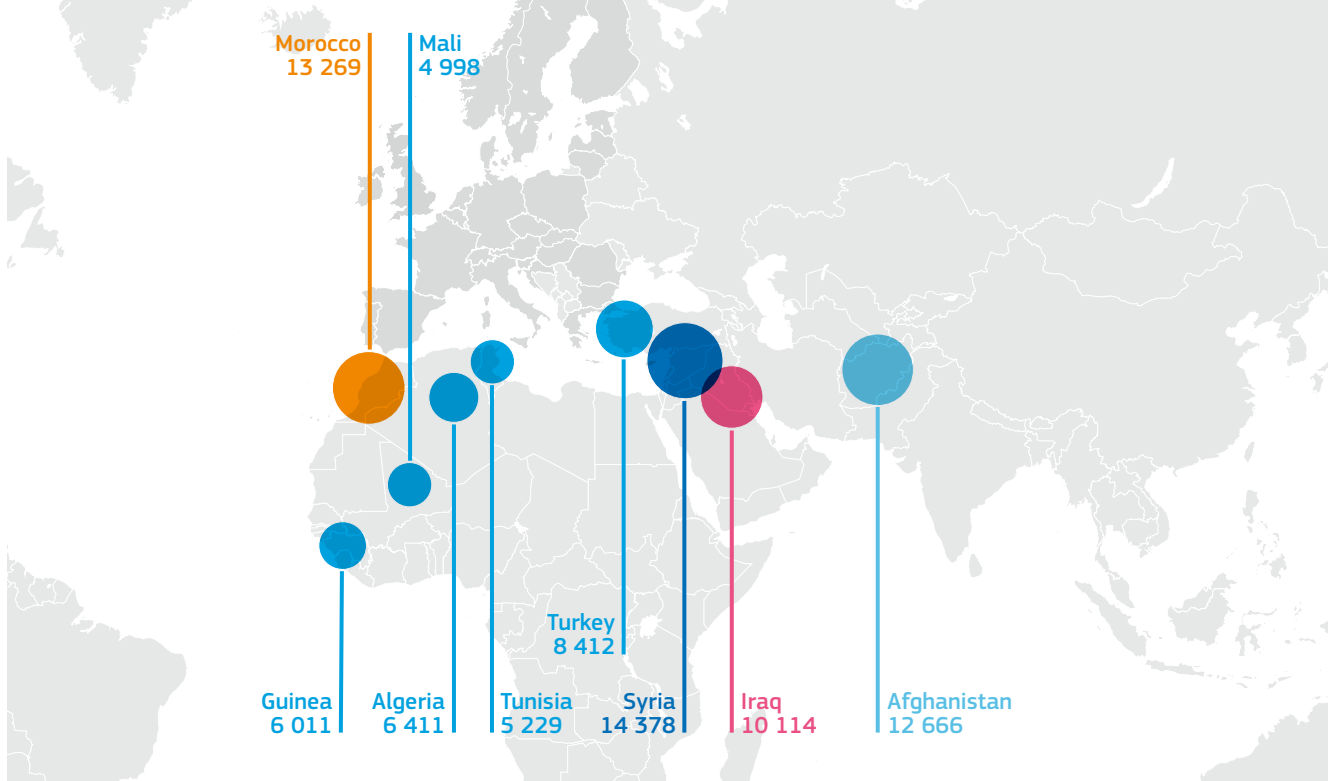
With regard to legal changes, in Portugal two legislative Decree-Laws further regulated sea border control. On the one hand, the National Maritime and Ship System was established to publicise and up-date information on vessels, seafarers and to allow information exchange among entities. On the other hand, the new Juridical Regime of Recreational Boating foresaw enhanced controls of recreational boats. In Ireland, as the EU Passenger Name Record Directive<sup>243</sup> was transposed into Irish law, the Irish Passenger Information Unit was established to carry out assessments of passengers prior to their scheduled journey. In Spain, the Coordination Authority was created

241 EE, ES, FR, IE, PT.  
242 EL, IE, LU.

243 Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime.

## Figure 6.1 – Detection of irregular border-crossing between border crossing points

Top nine nationalities detected at the external borders:



Source: Frontex Risk Analysis 2019

for actions to address irregular migration across the Strait of Gibraltar region, Alboran Sea and adjacent waters.

With regard to new practices, some Member States and Norway<sup>244</sup> enhanced border control by reinforcing or acquiring additional technical equipment. In Cyprus, Italy, Luxembourg, Spain and Norway, such equipment (e.g. e-gates, biometric ID checks, kiosks, Easy-Pass posts) was used to allow for more streamlined and efficient border checks through the scanning of documents and facial recognition mechanisms. In Lithuania and Poland, fixed border surveillance systems were installed at the EU external borders; particularly in Poland, where 25 observation towers were built. In Croatia, Lithuania and Malta, new patrol vehicles contributed to better surveillance. In Greece, the automated surveillance system at the Greek-Turkish borders was expanded and further equipment for detection (for instance, devices for heartbeat detection and thermal cameras) were also supplied; in the Slovak Republic, the project 'Addition and replacement of technical equipment for the performance of border surveillance at the external land border of the EU in the Slovak Republic' was implemented; whilst Estonia implemented a new technology to enhance more detailed and higher-standard document control capabilities to help investigate false travel documents.

A few Member States and Norway<sup>245</sup> focused on IT changes that facilitated border checks. Belgium established a

connection between 18 air carriers to an IT system that collected and processed passengers' data. 'Hits' generated through this automated process were successfully transmitted to the airport for further investigation to facilitate border control. In Estonia, a new visa system KOMET was developed, which will assist in selecting those persons who do not fulfil the automatic conditions for issuing visas and for whom the decision to issue a visa will be taken by the Estonian PBGB official. In Norway, a new mobile application for territorial border checks became available to police officers, and databases of the main border control authorities were upgraded.

### 6.2.2. Activities to improve the effectiveness of controls at external borders

With the exception of five Member States,<sup>246</sup> all others plus Norway reported efforts to ensure more effective controls at the external borders.

Across the European Union different approaches were adopted by Member States for the purpose of border control improvement. Some adopted new legislation or implemented a new national strategy for external border management, while others opted for more direct measures such as the allocation of larger financial resources or additional staff training.<sup>247</sup>

244 CY, EE, EL, ES, HR, IT, LT, LU, MT, PL, SI, SK, NO.

245 BE, CY, EE, EL, IE, NO.

246 CZ, DE, IE, PT.

247 Frontex Risk Analysis 2019. Available at: <https://frontex.europa.eu/publications/risk-analysis-for-2019-RPPmXE>

Five Member States<sup>248</sup> adopted legislative measures to improve the effectiveness of such controls. Notably, in the Netherlands, the Aliens Regulations 2 000 were amended.<sup>249</sup> The amendment required authorities to transmit information on threats to public order and national security to the head of the border crossing point via an electronic platform prior to disembarkation.

A few Member States adopted policy measures such as new strategies for border management<sup>250</sup> or reinforced border staff<sup>251</sup> or border forces.<sup>252</sup> In Lithuania, the government established the criteria to address an emergency of migration inflows and an exercise entitled “Mass influx of aliens” was carried out including participants from governmental and municipal institutions as well as non-governmental organisations. In the Netherlands, the budget for border controls was increased, other changes included the need for documents<sup>253</sup> to be registered in the SIS, and the procedure following the identification of an entry ban of a third-country national with residence status in another Member State was adjusted. The renovation of Spain’s hi-tech Integrated System of External Vigilance (SIVE) infrastructure was carried out along the Spanish coast, and included two new stations in Almería.

Practice measures included overall reinforcement of border staff through recruitment of new staff in six Member States and Norway.<sup>254</sup> In France, for example, the authorities recruited 150 new agents to posts across national airports. Staff trainings also took place, for example, on detection of false and falsified documents and stolen vehicles, human rights and trafficking in human beings.<sup>255</sup> In Greece and Croatia, additional trainings were held with the support of Frontex. In Spain, developments include a trainer training system for adaptation to the Entry Exit System and the EU Travel Information and Authorisation System (ETIAS).

In seven Member States,<sup>256</sup> efforts to enhance border control effectiveness were channelled towards fostering cooperation or joint initiatives with third countries. In Bulgaria, a joint operation with neighbouring Greece was carried out. In Latvia, a joint project with Lithuania and Estonia was implemented for the development of a common information exchange mechanism. Austria pledged support to Western Balkan states by strengthening police cooperation for protecting international borders.<sup>257</sup> France and the United Kingdom signed an eponymous treaty concerning the reinforcement of co-operation for the co-ordinated Management of their Shared Border to address illegal migration. As an important component of the Treaty, and as part of the ongoing co-operation between the France and the United Kingdom to tackle criminality at the border, a new France-United Kingdom Coordination and Information Centre opened in Calais, in November 2018.

A number of Member States<sup>258</sup> reported cooperation with Frontex in 2018. Specifically, Austrian police officers supported Frontex in various operations, and were deployed in a variety of roles, including border surveillance in areas without checkpoints, border control, plus migrant registration and interviews. In Bulgaria, the Ministry of the Interior (Border Police) hosted several joint operations with Frontex with a total of 1 060 foreign employees being deployed. Greece implemented Joint Operations coordinated by Frontex, providing personnel and technical equipment.

Luxembourg continued to participate in Frontex missions, for instance through the provision of human resources. For example, four agents from Luxembourg (Return Service of the Directorate of Immigration, Ministry of Foreign affairs) were deployed in Germany to support the operations of Frontex. These detachments represented missions lasting from ten to thirteen weeks. France also reported cooperation with the agency; for example, through its contribution to Triton and Poseidon operations, where 590 experts were deployed per month as part of joint operations as well as to the INDALO, MINERVA and HERA operations in order to provide assistance to the Spanish authorities during joint external border operations in the Central Mediterranean and in the Atlantic to control irregular migration flows towards the EU.

### 6.2.3. Reinforced cooperation with third countries in the area of border management

Cooperation with third countries proved to be paramount in order to improve the effectiveness of external border control.<sup>259</sup> Thirteen Member States and Norway reported the continuation of cooperation agreements with third countries in the area of border management while a few of them<sup>260</sup> reported new agreements and activities. Member States and Norway cooperated mainly with Balkan countries (Albania, North Macedonia, Serbia), Northern Africa (Maghreb region), and eastern countries at the EU external borders (Belarus, Moldova, Russian Federation, Turkey, Ukraine). Cooperation activities were mainly focused on the following: staff training or capacity-building to support border management; country support by assisting in border surveillance, equipment supply or joint operations; awareness campaigns to prevent irregular migration; agreements or action plans for cooperation to improve border control and combat irregular migration, as well as official meetings and visits.

248 AT, BE, IT, NL, SE.

249 The Aliens Regulations 2000 have been amended in the interests of the shipping companies, passengers and the Dutch border control authorities.

250 BE, SE, SK.

251 AT, FR.

252 IT.

253 This policy change refers to the documents of third-country nationals who have emigrated or have departed to an unknown destination from still being used as identity documents or as documents for entering the Netherlands.

254 EL, FI, FR, HR, HU, LV, NO.

255 CY, EL, ES, HR, IT, LV, SI, SK.

256 AT, BG, EE, EL, LT, LV, SK.

257 This happened within the Salzburg Forum, a Central European security partnership based on an initiative of the Austrian Federal Ministry of the Interior with nine Member States (Austria, Bulgaria, Croatia, the Czech Republic, Hungary, Poland, Romania, the Slovak Republic and Slovenia).

258 AT, BG, EE, EL, FR, HR, HU, LU, LV, NL.

259 Frontex Risk Analysis 2019. Available at: <https://frontex.europa.eu/publications/risk-analysis-for-2019-RPPmXE>

260 AT, EE, EL, FR, HU, LT, MT, PL, UK.

## Projects for third countries implemented by the Polish Border Guard

In 2018, Poland's Border Guard was involved in many cooperation projects, activities and agreements aimed at strengthening operational capacity in combatting irregular migration and controlling the EU external borders. Specifically, in April 2018, an agreement for cooperation in combatting organised crime with Ukraine was signed. Poland's Border Guard continued or initiated cooperation with third countries through their involvement in:

- seven projects implemented by the International Centre for Migration Policy Development the International Organization for Migration or the Technical Assistance and Information Exchange instrument of the European Commission
- three projects within the framework of the Polish development assistance 2018
- two twinning projects with Kosovo and Ukraine
- eleven cooperation projects or other activities (e.g. workshops, conferences, exercises).



## 6.3. VISA POLICY

Most Member States<sup>261</sup> reported new developments in relation to the implementation of the Visa Code and the Visa Information System (VIS) and other Visa related developments. Eight Member States and Norway<sup>262</sup> either implemented legislative changes or adopted visa-related policy or ad-hoc measures. In order to be better aligned with the EU Directive 2016/801, in Estonia, foreigners with a long-stay visa or a residence permit issued by another Member State, were able to reside there for studying or research for up to 360 days without having to apply for an Estonian visa or residence permit. In Greece, the VIS entered into force. Notably, in Poland an amendment to the Law on administrative court proceedings allowed foreigners who were denied a visa, or whose visa had been revoked or annulled, to apply for re-examination of the case.

Three Member States,<sup>263</sup> lifted visa requirements for specific groups of third-country nationals: Indian holders of diplomatic passports (Czech Republic), citizens of United Arab Emirates (Ireland) and Azerbaijan holders of service passports (Lithuania). The Czech Republic and the Netherlands decided to introduce transit visas for Cuban nationals; the reason for this was the sharp increase observed in the number of Cubans who, in transit to non-Schengen

countries via the Netherlands, had broken their journey at Schiphol airport and then submitted applications for international protection.

In Italy, the Ministry of Interior emanated an administrative act regarding the entry and stay of foreign investors. In particular, the Investor Visa Programme introduced by the Financial Law of 2017, aimed at facilitating the entry of foreign investors in Italy to promote foreign direct investments there, by granting the investor a 2-year visa with no annual limits of entry. The United Kingdom also announced plans for a new "start-up visa" for entrepreneurs and investors.

In 2018, several consular cooperation agreements were adopted within and beyond the EU in the form of a legislative change,<sup>264</sup> a policy,<sup>265</sup> or a practice.<sup>266</sup> Four Member States<sup>267</sup> agreed to be represented by other Member States in third countries. In Austria, several annexes to agreements stipulating mutual representation in procedures for granting visas were amended either in order to cease representation or to agree on further representation in third countries. For example, Austria agreed with Malta, Latvia and Slovenia to remove Caracas from the annex of the mutual representation agreement.



## 6.4. SCHENGEN GOVERNANCE

Nine Member States<sup>268</sup> reported new developments in relation to Schengen governance during 2018. Two Member States<sup>269</sup> adopted new legislative measures in relation to Schengen. Austria and Germany agreed on cooperation at the joint centre in Passau between the police authorities competent in combating criminal activities, in protecting public security and order, and in combating irregular migration.

Austria reintroduced border controls along the EU internal borders with Hungary and Slovenia during the periods May - November 2018 and November 2018 - May 2019, while Germany reintroduced border controls at the

German-Austrian land border beyond May 2018 for a period of six months renewed in November 2018 due to the on-going specific migratory and security situation. Sweden also decided to keep performing temporary controls at its intra-Schengen borders throughout 2018.

A few Member States<sup>270</sup> implemented policy-related or other ad-hoc measures/practices concerning Schengen governance. For instance, in Belgium, the action plans on Police cooperation, Return and Visa were concluded and an unannounced Schengen evaluation visit on Visa took place.

261 AT, BE, CZ, DE, EE, EL, ES, FI, FR, HU, IE, IT, LT, LU, LV, NL, PL, SE, SK, UK.

262 BG, CY, EE, HR, IE, PT, SI, NO.

263 CZ, IE, LT.

264 AT.

265 LU.

266 CZ, LT, SE.

267 CZ, LT, LU, SE.

268 AT, BE, CZ, DE, EL, FI, HR, LV, PT.

269 AT, DE.

270 AT, BE, DE, EE, EL, FI, HR, HU, LV.



Greece and Hungary took actions to prepare the implementation of the new Entry Exit System (EES)<sup>271</sup> and the new European Travel and Authorisation System (ETIAS).<sup>272</sup> For example, in Hungary a new governmental working group was set up in order to coordinate the implementation of EES and ETIAS EU Regulations. Additionally, in Greece competent Ministries started taking actions to address the issues regarding their implementation and the interoperability with the Visa Information System (VIS) and other systems.

In response to the European Commission Decision No.SG-Greffe (2018) D/19370, in Latvia, targeted checks were carried out at Riga Airport in case of a disproportionate impact on traffic flow and the suspension of application of systematic checks on nationals of the EU, the European Economic Area, the Swiss Confederation, and the transition to a targeted inspection was also carried out at land border crossing points with a higher traffic intensity.

---

271 Regulation (EU) 2017/2226 of the European Parliament and of the Council.

272 Regulation (EU) 2018/1240 and Regulation (EU) 2018/1241 of the European Parliament and of the Council.

# 7. IRREGULAR MIGRATION INCLUDING MIGRANT SMUGGLING

This section looks at new policies and measures adopted by Member States and Norway during 2018, tackling irregular migration. The first section elaborates on developments at EU level (section 7.1) while the following

sections outline measures to prevent and tackle irregular migration resulting from legal migration channels (section 7.2); and measures to prevent irregular stay and fight smuggling (section 7.3).



## 7.1. DEVELOPMENTS AT EU LEVEL

In 2018, around 150 000 irregular arrivals were detected at EU external borders, which represented a 25% decrease compared to 2017. This was the lowest level of irregular arrivals in five years and over 90% below the peak year for the migratory crisis in 2015.<sup>273</sup>

### 7.1.1. Changes in migratory routes

There were significant differences in arrivals between the different sea routes to Europe in 2018, with the Central Mediterranean route to Italy and Malta seeing a decrease of 80% in irregular arrivals compared to 2017, owing in part to the increased intervention of the Libyan Coast Guard that intercepted or rescued a large number of persons at sea (around 15 000) in 2018.<sup>274</sup> The other two main routes, the Western Mediterranean/Atlantic route and the Eastern Mediterranean route saw significant increases of irregular arrivals in 2018. Arrivals in Spain increased by 131% compared to 2017 and in Greece by 30%, occurring both on the Aegean Islands and incrementally at the Greek-Turkish land border.<sup>275</sup>

### 7.1.2. Enhanced cooperation with external partners to combat irregular migration

In 2018, the European Union stepped up cooperation with third-country partners to combat irregular migration, especially with African countries. To this end an integrated approach along migratory routes as a whole was applied in order to tackle all aspects of irregular migration.<sup>276</sup> Cooperation with Turkey remained important during the year for an effective management of migration on the Eastern Mediterranean route. The second tranche

of the financing agreed upon in the EU-Turkey Statement (€3 billion) was allocated to Turkey for their Facility for Refugees.<sup>277</sup>

The EU Emergency Trust Fund for Africa for stability and addressing root causes of irregular migration and displaced persons in Africa (EUTF for Africa), set up in 2015 also played an important role in funding projects related to migration. For example, the European Commission increased cooperation with Morocco to address irregular migration in response to on migration pressure along the Western Mediterranean Route.<sup>278</sup> On the Central Mediterranean route, the EU worked to secure more humane conditions for migrants in Libya, where conditions remained precarious, with an estimated 6 200 migrants detained during the year. Since 2016, €135 million of the Trust Fund had been allocated to the protection of migrants in Libya. Initiatives were taken in cooperation with the African Union and the United Nations assisted voluntary return programmes, through which over 37 000 people were able to return home.<sup>279</sup>

Other proposed mechanisms to alleviate pressure on Member States were those of the controlled centres and of regional disembarkation arrangements. The first concept aimed to improve the distinction between irregular migrants and people in need of international protection, while the second one concerned disembarkation centres situated on both sides of the Mediterranean Sea along the coast where those requiring international protection (and possible resettlement to the EU) could be identified, and irregular migrants provided with assistance through return and reintegration to countries of origin. However, no further concrete actions to implement these mechanisms were taken during the year.

273 European Commission, Progress report on the Implementation of the European Agenda on Migration [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20190306\\_com-2019-126-report\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20190306_com-2019-126-report_en.pdf).

274 Ibid.

275 Ibid.

276 European Commission, Managing migration in all its aspects: progress under the European Agenda on Migration: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20181204\\_com-2018-798-communication\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20181204_com-2018-798-communication_en.pdf).

277 Ibid.

278 [http://europa.eu/rapid/press-release\\_IP-18-6705\\_en.htm](http://europa.eu/rapid/press-release_IP-18-6705_en.htm).

279 European Commission, Progress report on the Implementation of the European Agenda on Migration [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20190306\\_com-2019-126-report\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20190306_com-2019-126-report_en.pdf).

In the Communication issued on 4 December 2018,<sup>280</sup> the Commission called for temporary arrangements to be put in place. While discussions should continue in parallel to the reform of CEAS including the Dublin Regulation, such temporary arrangements would ensure that the EU is equipped to offer concrete solidarity to Member States in case it is needed, also on the issue of preventing secondary movements. However, the effectiveness of such temporary arrangements will directly depend on the number of Member States participating in them.

### 7.1.3. Fighting root causes of irregular migration

In order to prevent further irregular migration, the EU focused on tackling its root causes, working with partners in Africa through new initiatives funded under the EU Trust Fund for Africa. The Trust Fund has three main focuses: economic development, especially for young people and women in local communities, with a focus on vocational training and the creation of micro and small enterprises; migration management which aimed at preventing irregular migration and fighting human trafficking; and stability and governance aimed at preventing conflict, addressing human rights abuses and enforcing the rule of law.<sup>281</sup> It included projects that supported the livelihoods and economies in Sub-Saharan Africa as well as in the EU Neighbourhood countries. Another intervention was the European External Investment Plan that funded projects focused on entrepreneurship, green electricity, environment and agriculture among other areas.<sup>282</sup>

### 7.1.4. The fight against smuggling networks

Furthermore, additional measures were taken to fight smuggling networks in cooperation with third-country partners under the framework of the EU Action Plan against Migrant Smuggling. Over €23 million have been devoted to information and awareness raising campaigns since 2015. Efforts have been made to provide trusted, factual and balanced information on the risks

for migrants of smuggling and of irregular migration these efforts will continue further by engaging diaspora communities in providing counter-narratives to dissuade people from embarking on dangerous journey to the EU. Information exchange between Member States, EU Agencies, Common Security and Defence Policy Missions, international organisations, and third countries was stepped up through the establishment of the pilot Crime Information Cell on board EUNAVFOR MED Operation Sophia, which played an important role in targeting criminal smuggling networks. Furthermore, the consolidation of the Information Clearing House at the European Migrant Smuggling Centre also served to bring together information from various EU Agencies, Interpol, EUNAVFOR MED Operation Sophia as well as other partners in order to pursue migrant smuggling criminal networks. Additional actions were taken in cooperation with EU Agencies such as Europol and by the European Migration Liaison Officers, who were deployed by the European Commission in key countries. A further example of an initiative undertaken to address smuggling was that of the Joint Investigation Teams that operated in Niger and brought together Nigerien, French and Spanish authorities to prosecute smugglers. A similar Common Operational Partnership was financed in 2018 through the EU Trust Fund for Africa in Senegal.

A series of six anti-visa-fraud workshops<sup>283</sup> were funded and organised by DG HOME (November 2017 – June 2018) to build the capacity of Member States' consular officials posted to third countries in order to prevent migrant smuggling and document fraud already at the pre-frontier area. Each workshop was supported by Member State expert document fraud trainers from Frontex's pool of experts, while Frontex's Risk Analysis Unit presented its region-specific analyses at each workshop. As a result of the workshops, 162 consular officials benefitted from document fraud training and were able to share good practices on detecting fraudulent visa applications amongst themselves. In addition to these workshops, Frontex also organised training courses on detecting documentary fraud for consular officials, including in the Western Balkans region.



## 7.2. PREVENTING AND TACKLING THE MISUSE OF LEGAL MIGRATION CHANNELS

### 7.2.1. Irregular migration as a result of visa liberalisation

As of 2018, five Western Balkan countries<sup>284</sup> and three Eastern Partnership countries<sup>285</sup> were beneficiaries of visa liberalisation to the EU Schengen area. The most recent visa liberalisation initiative extended visa liberalisation to Ukraine and Georgia in 2017 under Regulation (EC) No 539/2001 and related amending Regulations.<sup>286</sup>

The 2019 EMN Study on the impact of visa liberalisation on countries of destination found that the main impacts had been an immediate increase in short-term travel to the countries of destination and impacts relating to the facilitation of access to the labour market in specific Member States.<sup>287</sup>

The report also found that there had been an overall increase in the number of asylum applications from visa-free countries, mainly Albanian, Georgian and

280 COM(2018) 798 final.

281 European Commission, EU Emergency Trust Fund for Africa Factsheet, [https://ec.europa.eu/europeaid/sites/devco/files/eu-emergency-trust-fund-for-africa-20181220\\_en.pdf](https://ec.europa.eu/europeaid/sites/devco/files/eu-emergency-trust-fund-for-africa-20181220_en.pdf)

282 Ibid.

283 Moscow, New Delhi, Nairobi, Islamabad, Beijing, Abu Dhabi.

284 Albania, Bosnia and Herzegovina, North Macedonia, Montenegro and Serbia.

285 Georgia, Moldova and Ukraine.

286 Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

287 European Migration Network (2019). Impact of Visa Liberalisation on Countries of Destination – Synthesis Report. Brussels: European Migration Network.

Ukrainian nationals,<sup>288</sup> most of which had received a negative decision.<sup>289</sup> For example, in the Czech Republic, the overall number of Ukrainians applying for asylum increased by 8.6%, with Ukrainians remaining the top nationality of asylum applications. Several Member States<sup>290</sup> undertook practical measures to address these largely unfounded applications. In Germany, this led to an intensification of immigration checks at airports in order to collect relevant migration indicators and to gather information on the modus operandi of applicants from Georgia. In Sweden, asylum applications from Georgians were generally treated as manifestly unfounded or fast-tracked, except for singular cases where an accelerated process was not possible.

Finland and France also took specific measures to fight against organised crime involving Georgian nationals, in France foremost to fight against organised cross-border crime through a bilateral agreement with Georgia. In several Member States,<sup>291</sup> the number of Ukrainians irregularly present increased after visa liberalisation of 2017 and increases were also reported for Albanian nationals in several Member States.<sup>292</sup>

### 7.2.2. Irregular migration as a result of misuse of legal migration channels

Regarding international students, Belgium introduced a decree in April 2018, that stipulated that a student's residence permit could be withdrawn if there was insufficient study progress. A specific issue in Belgium was that of Cameroonians who misused student visas; measures were taken to tackle this by screening applications more closely. In Latvia amendments to the Immigration Law<sup>293</sup> also introduced grounds for refusing issuance or renewal of a student permit in the absence of progress in studies, resulting from prior expulsion for poor performance, dropping out twice, or taking longer than normal to finish a study programme (one year extra for programmes of up to three years and two years extra for programmes over three years).

In France, a new law was passed in September 2018 regarding family reunification. Adding substantive conditions to obtain the right to stay as a third-country-national parent of a French child, it also reinforced the checks required for the recognition of parentage in order to obtain the residence permit.

### 7.2.3. False travel documents

Policy and practical initiatives were taken to more effectively prevent, detect and/or investigate the fraudulent acquisition and use of false travel documents. In several Member States, trainings on detection of false travel documents were provided in 2018 to police officers and border guards mainly.<sup>294</sup> New technologies to better analyse travel documents were introduced in a few Member States.<sup>295</sup> In addition to the introduction of ABC gates<sup>296</sup> at two Hungarian airports, Hungary's liaison officer network was expanded by posting a document expert liaison officer to Turkey, beside those already deployed in Nigeria and China. In France, the Law of 10 September 2018 strengthened the system to combat the fraudulent recognition of filiation, enabling a foreign national to obtain a residence permit as a parent of a French child and/or protection against a removal order without due process. Moreover, new tools to fight false documents were developed.

### 7.2.4. Irregular migration caused by the misuse of free movement rights by third-country nationals and preventing the fraudulent acquisition and use of free movement rights by third-country nationals

Only three Member States<sup>297</sup> reported legal and policy changes to prevent third-country nationals from misusing free movement rights in order to enter the EU. Belgium adopted a new law on the 25 November 2018 to tackle identity fraud by introducing the digital fingerprints registration on identity cards of Belgian citizens and on residence cards of foreigners. In Estonia, the policy for a new database was worked out that would store all of Estonian residents' fingerprints and possibly other biometric data in order to make document fraud and false identity usage impossible. In Hungary, legal changes were made by amending Act II of 2007 that excluded family members of Hungarian citizens being able to apply for EEA or C visitor visas and obliged them to apply for D type visas instead when applying for a residence permit with the purpose of family reunification with a Hungarian citizen.

288 Reported both in the EMN Study and by Member States.

289 Ibid.

290 BE, FI, FR, DE, SE.

291 CZ, EE, LV, LT, PL, SE, SK.

292 Slight increase in BE, significant increase in FR.

293 Law on "Amendments to the Immigration Law". *Latvijas Vēstnesis*, No. 132, 04.07.2018 - [came into force on 18.07.2018].

294 CZ, CY, EL, FI, LT, SK.

295 CZ, EE, FR, HU, SK.

296 ABC gates are Automated Border Control gates that automatically scan your passport.

297 BE, EE, HU.



## 7.3. THE FIGHT AGAINST FACILITATION OF IRREGULAR MIGRATION ('SMUGGLING') AND PREVENTION OF IRREGULAR STAY

### 7.3.1. Combatting the facilitation of irregular migration (smuggling)

In 2018, numerous Member States<sup>298</sup> stepped up efforts to curb smuggling, implemented various measures and launched initiatives pertinent to the national situation. Due to the diversity of the challenges regarding smuggling, measures taken to fight the facilitation of irregular migration differed from Member State to Member State.

New initiatives were launched by Austria on a national level during their Presidency of the Council of the European Union under the motto 'A Europe that protects'. In April 2018, the 'Vienna Process' was launched at policy level with the aim to link up Austria's traditional Central European partners with the former and future EU Presidency countries in order to strengthen the EU's external border protection, develop a crisis-resistant EU asylum system, tackle the causes for violent extremism and terrorism, strengthen European police cooperation, focussed on fighting human trafficking and migrant smuggling as well as promoting Community Policing and safeguarding digital security. The Council of the European Union adopted on 6 December 2018 a common set of operational measures to more effectively target migrant smuggling criminal networks. Furthermore, a Western Balkans task force was set up that included Balkan countries,<sup>299</sup> several Member States and EU Agencies<sup>300</sup> that aimed at stepping up operational efforts to combat people smuggling along the various Balkan routes. The following procedures were agreed on and implemented with the participating countries: the Joint Operational Office within the Criminal Intelligence Service of Austria set up a 24/7 contact point (Real Time Intelligence Sharing), ongoing expansion of the Early Warning System between the participating states and initiation of bilateral and multilateral investigation procedures. The Joint Operational Office supported the participating States with investigators, technical equipment (UFED mobile phone readers and Smart Identification software) and interpreting services. The Joint Operational Office organised a conference to share good practices for combating smuggling and trafficking in human beings and launched the Internal Security Fund (ISF) supported 'Silk Road' project in 2018, with the goal of combating irregular migration and people smuggling concerning Afghanistan, Iran, Pakistan and Turkey. Further partners in the project were Bulgaria, Hungary and Interpol.

Estonia and Lithuania reported special policy measures that were taken due to an increased number of irregular

entries related to the 2018 Football World Cup in Russia. Preventive measures were taken in both countries to tackle migrants entering this way. In Estonia the construction of a border barrier with Russia was ongoing and was expected to be completed by 2026.

As an example of operational activities between Member States and EU Agencies under the EU EMPACT priority on the facilitation of illegal immigration, a joint intervention under the Joint Operational Team (JOT) DUNQETT, was launched by France, in cooperation with Spain, Portugal, the United Kingdom, the Netherlands and Czech Republic, working with Frontex, EUROPOL and EUROJUST. The initiative had the aim to fight against smuggling networks in Western Europe.

Belgium and the Czech Republic experienced issues related to their location as transit countries for migration to, respectively, the United Kingdom and Germany. For example, in 2018, 11 761 migrants in transit were intercepted in Belgium which constituted an increase from 2017. An action plan to tackle irregular transit migration was presented by the Minister of Security and Interior and the State Secretary for Asylum Policy and Migration in September 2018.

New legal measures against migrant smuggling were taken in Hungary through a legislative pack that criminalised the aiding of migrant smuggling, which has been contested by the European Commission in the context of an ongoing infringement procedure. Hungary also reported an increase in attempts at illegal border crossings that was considered to be linked to Serbia's visa free policy with China, Suriname and Iran.<sup>301</sup> Following Serbia's visa liberalisation with Iran in August 2017, over 15 000 Iranian people travelled to Serbia,<sup>302</sup> however since then, due to pressure from the European Union the free visa regime was terminated in October 2018.<sup>303</sup>

### 7.3.2. Prevention of irregular migration and irregular stay

An important trend in the prevention of irregular migration was the continuation of information and awareness-raising campaigns in third countries organised by some of the Member States.<sup>304</sup> For instance, Belgium launched a dissuasion campaign in six languages<sup>305</sup> through flyers distributed in Greek and Italian hotspots as well as banners on social media. Finland ran campaigns in Iraq, and the Netherlands in West African countries,<sup>306</sup> Iraq and Tunisia aimed at making migrants aware of the risks of irregular travel and stay in the EU. Additionally, some

298 AT, BE, CZ, EE, FR, HU, LT, LU, SE, SK, UK.

299 Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, Serbia.

300 AT, BG, DE, HR, HU, IT, RO, SI as well as Europol and Frontex.

301 Serbia has a 30-day visa free policy with China, a 30-days within a one-year period visa free policy with Suriname and had a visa free regime with Iran until October 2018 (<http://www.mfa.gov.rs/en/consular-affairs/entry-serbia/visa-regime>).

302 Radio Free Europe, Serbia Ends Visa-Free Travel For Iranians, Citing 'Abuses' By Some <https://www.rferl.org/a/serbia-abolishes-visa-free-travel-iranians-citing-abuses-by-some-migrants-to-eu-/29539329.html>.

303 European Commission, Visa liberalisation: Commission reports on fulfilment of visa-free requirements by Western Balkans and Eastern Partnership countries [http://europa.eu/rapid/press-release\\_IP-18-6819\\_en.htm](http://europa.eu/rapid/press-release_IP-18-6819_en.htm)

304 BE, DE, FI, IT, NL.

305 Arabic, Urdu, Kurdish, English, Hindi and Pashtu.

306 Ethiopia, Gambia, Guinea, Mali, Nigeria, Senegal.

Member States<sup>307</sup> financed awareness campaigns run by IOM, including the 'Aware Migrants' campaign,<sup>308</sup> and with the support of AMIF funding.

Latvia, Lithuania, Belarus and Russia cooperated in taking practical measures to prevent irregular migration which included the exchange of information and plans for joint operations. Other practical measures were taken by Member States by expanding the network of embassies in third countries,<sup>309</sup> taking measures to tackle the environment in which people smugglers can thrive,<sup>310</sup> and with the police starting its own working group with an increased focus on criminal activity related to human smuggling and human trade.<sup>311</sup>

Several Member States<sup>312</sup> also took legal and policy measures on the prevention of irregular stay. Sweden passed new legislation that gave the police extended rights to conduct workplace inspections in sectors where there was an elevated risk of individuals working without the necessary work or residence permits in order to detect irregular stayers and to prevent the exploitation of irregular migrants in the workplace. New legislation in Poland created stricter conditions within the 30-day deadline that third-country nationals had to leave the country. In the United Kingdom, a new policy that allowed banks and building societies to make checks on current-account holders based on a list of known irregular migrants was introduced to detect irregular migrants liable for removal or deportation. France reinforced criminal sanctions and implemented entry ban sanctions for refusing to have fingerprints and photographs taken, and extended this criminalisation for copycat fraud.

### 7.3.3. Cooperation with third countries to prevent irregular migration

In 2018, cooperation between third countries and Member States steadily increased, with numerous projects launched in third countries and trainings provided to third-country officials. Cooperation focused on the following five aspects:

- Launching information and awareness raising campaigns in third countries focused on the risks of irregular migration, countering the narratives of smugglers, providing information on alternative legal migration routes, strengthening the asylum system in third countries or improving the socio-economic situation (among others), often funded with EU funds and

developed in cooperation with several Member States and third countries;<sup>313</sup>

- Making financial contribution to projects run by international organisations such as the United Nations Relief and Works Agency (UNRWA), IOM and others;<sup>314</sup>
- Training of third-country border guards and other officials with the aim of preventing irregular migration;<sup>315</sup>
- Deployment of border guards and liaison officers to third countries, as well as reinforced police agents in strategic areas;<sup>316</sup> and
- Multilateral or bilateral agreements with third countries on migration.<sup>317</sup>

Cooperation was focused on various regions with a particular focus on the Middle East, the Western Balkans and Sub-Saharan Africa. Campaigns were launched across the numerous countries, including:

- A project in Morocco with the aim to better implement a national immigration asylum strategy;<sup>318</sup>
- Projects in DR Congo to strengthen border control and migration policies;<sup>319</sup>
- The Czech MEDEVAC Programme providing help in the medical field in Ukraine, Senegal and Jordan and through financial donations in Iraq, Libya, Niger and Ukraine in 2018;
- Projects in Lebanon, Iraq and Jordan aimed at protecting and supporting refugees and their host communities;<sup>320</sup> and
- Projects financed by the United Kingdom's Conflict, Stability and Security Fund in all three regions and beyond.

The exchange of information through Spanish-Moroccan Joint Investigation Teams increased in 2018, resulting in the successful conclusion of operations in both countries. The BLUE SAHEL and EL KSAR projects were developed for the 2017-2019 period and a continuation of the route taken to consolidate relationships and cooperation with countries that participated in the previous SEAHORSE and WEST SAHEL projects. France developed several projects in different countries to combat criminal networks (Niger) and to create a regional operational police cooperation centre (Sudan).

Member States financially supported projects run by UNHCR,<sup>321</sup> UNRWA,<sup>322</sup> IOM,<sup>323</sup> UNDP<sup>324</sup> and Care International<sup>325</sup> among other organisations, mainly in the Middle East and in the African Sahel region. Border guards and

307 AT, DE, IT, NL.

308 The campaign is run in Algeria, Cameroon, Cote d'Ivoire, Egypt, Ethiopia, Gambia, Ghana, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, Senegal, Sudan and Tunisia <https://awaremigrants.org/project>.

309 NL.

310 UK.

311 NO.

312 AT, EE, PL, SE, UK.

313 BE, CZ, FR, LV, LT, NL, IT, UK.

314 CZ, EE, LT, NL.

315 AT, CZ, DE, FR, LV, UK.

316 CZ, FR, HU, SK.

317 AT, FR, NL, SK.

318 BE.

319 BE.

320 NL.

321 CZ, LT, NL.

322 LT.

323 BE, NL.

324 SK.

325 CZ.

other officials received training from Member States in Georgia,<sup>326</sup> with training provided for 133 members of the Georgian police responsible for passport checks and a service dog training was developed. In Kazakhstan<sup>327</sup> and in Ukraine, training was provided both for police officers, border guards and medical staff,<sup>328</sup> in Slovak Republic experts from Azerbaijan learned about security aspect of documents issued by police<sup>329</sup>; in Gambia the Customs Service and airport handling teams were trained<sup>330</sup> and in Nigeria and Niger border officials were trained.<sup>331</sup>

Border guards were deployed mainly in the Western Balkans region, namely in Serbia and North Macedonia.<sup>332</sup> In 2018, Hungary deployed 375 officers to North Macedonia and 175 officers to Serbia according to their bilateral agreements, the Slovak Republic deployed 60 officers to North Macedonia and 40 to Serbia and the Czech Republic deployed 40 and 15 police officers in each respective country. A multilateral agreement between four Western Balkan States (Albania, North Macedonia, Montenegro and Serbia), Moldova and four Member States (Austria, Bulgaria, Hungary and Romania) aimed at regulating automated information exchange including of DNA data, dactyloscopic data and vehicle registration data was signed in September 2018 in Vienna.

The Netherlands strengthened bilateral relations with Nigeria, Niger, Tunisia and Libya during 2018 by supporting these countries with programmes aimed at socio-economic development as well as the international combatting of human trafficking and migrant smuggling. France developed reinforced contacts with several countries (Morocco, Tunisia, Senegal, Guinea, Côte d'Ivoire, Mali) as part of the roadmap for a managed migration since 2017. These countries were asked to be more co-operative, particularly at the consular level. In exchange for strengthening cooperation, new capacity-building partnerships on the subject of controlling borders, fighting irregular immigration and improving civil records may be offered to these countries.

### 7.3.4. Monitoring and identifying irregular migration routes

In addition to the changes in migratory routes in the Mediterranean reported in section 7.1, changes in routes were also reported in 2018 by Poland and by the Slovak Republic, with the channels for Vietnamese migrants coming to Poland having shifted from the Russia – Baltics – Poland route towards the Ukraine – Slovak Republic – Poland route. Furthermore, the Slovak Republic reported a significant decrease in irregular entries to the Slovak Republic from Hungary.

The Netherlands funded a study by the IOM Displacement Tracking Matrix that resulted in a large dataset on characteristics of irregular migrants, motives for migration, choice of migration channels, provision of information to irregular migrants, use of smugglers and the countries of destination from Nigeria, Somalia, Ethiopia and Iraq to Europe. Austria introduced a new monitoring mechanism through which information on migration flows is shared

and analysed and measures are developed and coordinated with the respective authorities. France has developed expertise on irregular migration for tactical and strategic purposes through various units and networks in order to prevent irregular migration, dismantle irregular migration networks and strengthen the capacities of local internal security forces.

326 AT, LV.  
327 AT.  
328 AT, CZ.  
329 SK.  
330 DE, CZ.  
331 FR, UK.  
332 CZ, HU, SK.

# 8. TRAFFICKING IN HUMAN BEINGS

This section looks at the new policies and measures adopted by Member States and Norway during 2018, addressing trafficking in human beings (THB). The first section elaborates on the developments at EU level (section 8.1) while the following sections outline the main developments in Member States and Norway (section

8.2). Notably, this section analyses how Member States and Norway pursued a more effective victims' identification system and provided information and assistance to the victims (section 8.3) by cooperating with each other and third countries.



## 8.1. DEVELOPMENTS AT EU LEVEL

Trafficking in human beings is a violation of fundamental rights, and is explicitly prohibited under Article 5 of the EU Charter of Fundamental Rights. It is a serious form of organised crime, with references in Art. 83 (organised crime) and Art.79 (irregular migration) Treaty on the Functioning of the European Union (TFEU). Trafficking is not only a migration related phenomenon<sup>333</sup> and a significant number of victims in the EU are EU nationals, including victims trafficked within their own Member State. It is a complex crime, linked to multiple other crimes, and continues to be an EU priority for tackling organised and serious international crime for the period 2018 – 2021.

Building on efforts to fully implement the EU Anti-trafficking Directive, the European Commission adopted the Communication 'Reporting on the follow-up to the EU Strategy towards the Eradication of trafficking in human beings and identifying further concrete actions'<sup>334</sup> on 4 December 2017, which identified a number of targeted prevention priorities for 2018 and beyond: disrupting the THB business model (Priority A), improving victims' access to rights (Priority B), and ensuring a consistent / coordinated response across EU internal and external actions (Priority C). A key action in the reference period under this last Priority was the signing of a further Joint Statement of Commitment by the Heads of ten EU Agencies<sup>335</sup> on 4 June 2018 to work together to address THB.<sup>336</sup>

In line with this, developments in 2018 included the publication (under Priority B) of a report on gender-specific measures in anti-trafficking actions<sup>337</sup> by the European Institute for Gender Equality published on 18 October (EU Anti-trafficking Day) and the publication (under Priority A) of the document 'Working together to address trafficking in human beings: key concepts in a nutshell'<sup>338</sup> by the European Commission in December, which aimed to disseminate knowledge about trafficking in human beings appropriate for policy and operational work. Finally, the European Commission published its Second Progress Report on the progress made in the fight against trafficking in human beings,<sup>339</sup> together with its related staff working document,<sup>340</sup> on 4 December, and a Study on Data collection on trafficking in human beings in the EU.<sup>341</sup> The Second Report analysed national statistical data and provided an update on the implementation of Directive 2004/81/EC (residence permits for victims of trafficking) and identified improvements, e.g. relating to cross-border cooperation, cooperation with civil society, use of financial investigations, setting up joint investigation teams, and developing national and transnational referral mechanisms based on available information. However, THB remains a priority for the European Commission, as set out in the 2017 Communication, which aims to work with Member States to criminalise those who knowingly exact services from victims of trafficking in human beings.

333 [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/key\\_concepts\\_in\\_a\\_nutshell.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/key_concepts_in_a_nutshell.pdf)

334 [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/20171204\\_communication\\_reporting\\_on\\_follow-up\\_to\\_the\\_eu\\_strategy\\_towards\\_the\\_eradication\\_of\\_trafficking\\_in\\_human\\_beings.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/20171204_communication_reporting_on_follow-up_to_the_eu_strategy_towards_the_eradication_of_trafficking_in_human_beings.pdf)

335 European Asylum Support Office (EASO), European Police Office (Europol), European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA), European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), EU Judicial Cooperation Unit (Eurojust), European Institute for Gender Equality (EIGE), European Border and Coast Guard Agency (Frontex), EU Agency for Fundamental Rights (FRA), EU Agency for Law Enforcement Training (CEPOL), and the European Foundation for the Improvement of Living and Working Conditions (Eurofound).

336 Available at [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eu\\_agencies\\_joint\\_statement\\_of\\_commitment\\_to\\_working\\_together\\_to\\_address\\_thb.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eu_agencies_joint_statement_of_commitment_to_working_together_to_address_thb.pdf), last accessed on 21 March 2019.

337 <https://eige.europa.eu/rdc/eige-publications/gender-specific-measures-anti-trafficking-actions-report>

338 [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/key\\_concepts\\_in\\_a\\_nutshell.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/key_concepts_in_a_nutshell.pdf)

339 [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20181204\\_com-2018-777-report\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20181204_com-2018-777-report_en.pdf). The document is a requirement under Article 20 of Directive 2011/36/EU

340 [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20181204\\_swd-2018-473-commission-staff-working-document\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20181204_swd-2018-473-commission-staff-working-document_en.pdf)

341 [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20181204\\_data-collection-study.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20181204_data-collection-study.pdf)





## 8.2. NATIONAL STRATEGIC POLICY DEVELOPMENTS

In 2018, a majority of Member States undertook legal and policy initiatives to revise their national strategic policy in the field of trafficking in human beings.

From a legislative perspective, two main lines of action were adopted. On the one hand, some of the key international conventions linked to the fight against THB or forced labour were ratified or entered into force in several Member States,<sup>342</sup> namely ILO 1930 Forced Labour Convention<sup>343</sup> and its 2014 Optional Protocol<sup>344</sup> or the Council of Europe Conventions on preventing and combating violence against women and domestic violence ('Istanbul Convention')<sup>345</sup> and against Trafficking in Human Organs.<sup>346</sup>

On the other hand, four Member States revised their national legal framework to step up the fight against trafficking in human beings by introducing new infractions in their Penal Code. In particular, these measures addressed forced marriage in Greece, knowingly using prostitution services of minors; vulnerable persons or victims of sexual exploitation in Luxembourg; and strengthening the protection of (vulnerable) victims,<sup>347</sup> for instance, unaccompanied minors in Greece, and both unaccompanied alien minors (UAMs) and stateless persons in the Slovak Republic.

From a policy perspective, national strategic documents continued to underpin the fight against THB, with twelve Member States<sup>348</sup> adopting or drafting national strategies or plans to fight the phenomenon. Among them, six adopted new multi-annual strategies/plans,<sup>349</sup> Bulgaria approved the annual national programme and three<sup>350</sup> either drafted or started preparing the document that

will replace the current plan upon expiry. In addition, the United Kingdom published the first Labour Market Enforcement Strategy, of which the objective – to improve state-led enforcement of employment rights – is expected to contribute to the fight against trafficking in human beings. In addition, Spain further developed its framework protocol to fight THB by adding an annex that focuses on minors who are victims of this crime.

Other strategic policy developments included the clarification of rules – such as on labour exploitation in the Czech Republic, and the considered application of discretionary leave in cases of confirmed victims of trafficking in human beings in the United Kingdom – and changes in the governance structures in Slovenia and Sweden that reflect their efforts to consolidate the coordination at national level of efforts to counter trafficking in human beings, following the recommendation of the Group of Experts on Action against Trafficking in Human Beings (GRETA).<sup>351</sup> The work that Spain has been doing in this area has been acknowledged by the GRETA Report of 2018.

Developments in practice were also reported by over half of Member States.<sup>352</sup> This largely concerned the implementation of initiatives under recently adopted Action Plans,<sup>353</sup> the launch of projects in the field of THB,<sup>354</sup> the provision of or increase in funds for actions seeking to counter trafficking in human beings (including for labour exploitation and forced marriages in Spain),<sup>355</sup> and the publication of studies and reports examining national policies, the extent of THB in the country, the impact of trafficking in human beings<sup>356</sup> on its victims and other related topics.<sup>357</sup> For instance, in Spain the case of children slavery has also been analysed.



## 8.3. IMPROVING IDENTIFICATION OF AND PROVISION OF INFORMATION TO THIRD-COUNTRY NATIONAL VICTIMS OF TRAFFICKING IN HUMAN BEINGS

The commitment of Member States to improving the protection of victims of THB was reaffirmed by their efforts to further build their capacity to identify victims of this crime and to strengthen the assistance provided to them, as well as to improve cooperation between relevant stakeholders at national, EU and international level.

Extensive information is further included in the European Commission's Staff Working Document accompanying the Second Progress report (2018).<sup>358</sup>

### 8.3.1. Building the capacity to improve the identification of and provision of information to third-country national victims of trafficking in human beings

In order to continue improving their capacity to improve the identification of and assistance to victims

342 CZ, EE, EL, IE, MT.

343 MT.

344 IE, MT.

345 EE, EL, LU.

346 CZ.

347 EL, SK.

348 AT, BE, BG, DE, EL, FR, HR, HU, IT, PL, SE, SK.

349 AT, DE, HR, IT, SE, SK.

350 EL, HU, PL.

351 GRETA is responsible for monitoring the implementation of the [Council of Europe Convention on Action against Trafficking in Human Beings by the Parties](#).

352 AT, BE, CY, DE, EL, ES, FI, FR, HR, IE, IT, LU, MT, NL, PT, SI, SK, UK.

353 BE, CY, FR, IE, PT.

354 HR, IR, NL, SK.

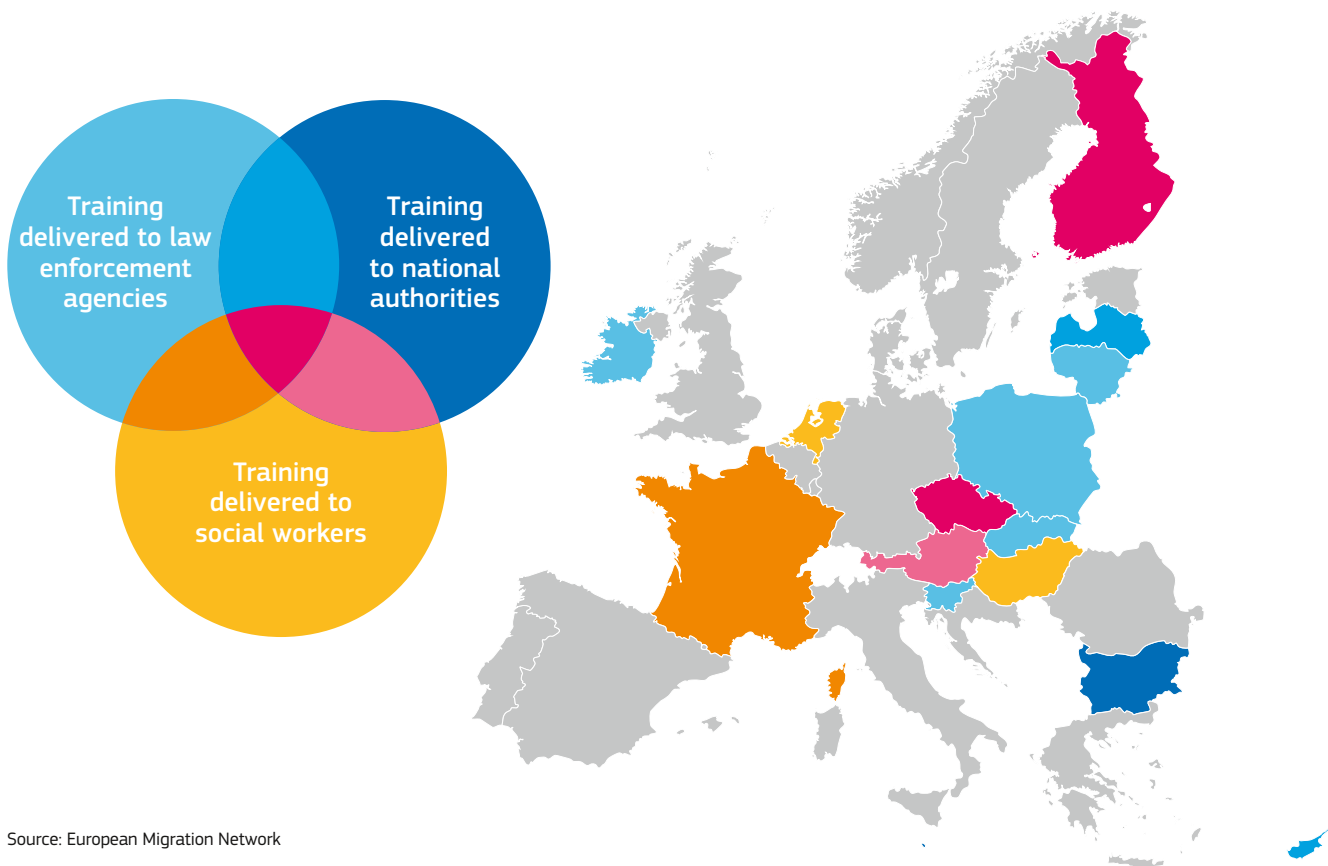
355 ES, IE, IT, LU, NL, SI, UK.

356 BE, EL, FI, MT, NL, UK.

357 BE, EL, ES, FI, IE, MT, NL, UK.

358 In particular section 6 and 7 [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20181204\\_swd-2018-473-commission-staff-working-document\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20181204_swd-2018-473-commission-staff-working-document_en.pdf)

**Figure 8.1 – Member States delivering capacity-building activities in the early detection and identification of victims of THB**



Source: European Migration Network

of THB, a large majority of Member States<sup>359</sup> carried out capacity-building activities. These included trainings, workshops, conferences and other events, targeting national authorities and stakeholders in contact with victims and potential victims, as well as initiatives to raise awareness about the phenomenon among specific groups and the general public.

Training activities were carried out in a large majority of Member States,<sup>360</sup> with most of them focusing on early detection and identification of victims and the referral mechanisms in place. The trainings targeted three main groups of stakeholders: law enforcement agencies (i.e. police and border police),<sup>361</sup> national authorities (e.g. immigration officers, pre-trial investigation authorities, other national and regional authorities),<sup>362</sup> and social workers (e.g. staff working at reception centres, counsellors, etc.).<sup>363</sup> Health-care professionals were also targeted by capacity-building activities, notably a seminar organised in Belgium seeking to instruct them on possible indicators of cases of trafficking in human beings.

### **Building capacity in responsible authorities to tackle THB: Finland**

In Finland, several actions seeking to inform and improve the capacity of authorities to tackle trafficking in human beings were undertaken in the framework of an ISF-funded project (IHME) launched in 2017. Under this project, a website dedicated to identifying cases of THB and to provide support to victims was updated and relaunched. Along with this, training for pre-trial investigation authorities on the identification and assistance of victims of THB began in 2018 and will continue in 2019. This is further complemented by the launch of a survey of trafficking of children in Finland, which began in 2018 and will be published in 2019. The project also contributes to cooperation between national authorities.

Training and seminars seeking to improve the capacity of authorities, social workers and other relevant professions (i.e. health care professions) to assist identified or potential victims of trafficking in human beings were also offered in several Member States.<sup>364</sup> Most of these activities covered assistance to victims in general. However, emphasis on child victims of THB for the purpose

<sup>359</sup> AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, LT, LU, LV, MT, NL, PL, SI, SK, UK.

<sup>360</sup> AT, BE, BG, CY, CZ, DE, EL, ES, FI, FR, HR, HU, IE, LT, LU, LV, MT, NL, PL, SI, SK.

<sup>361</sup> CY, CZ, FR, HR, FI, IE, LT, LV, PL, SK.

<sup>362</sup> AT, BG, CZ, CY, FI, LV, MT.

<sup>363</sup> AT, CZ, FI, FR, HU, NL.

<sup>364</sup> BG, CY, EE, EL, ES, LU, SI.

of sexual exploitation emerged. For instance, in Cyprus teachers were trained to provide them with the necessary knowledge and skills to identify early signs of sexual exploitation, and a seminar on the mental effects of women victims of sexual exploitation was organised for health care professionals.

### Healthcare action against trafficking for sexual exploitation: Spain

The Meeting of the Inter-Territorial Council of the National Health System (SNS) in Spain approved an annex “Healthcare action against trafficking for sexual exploitation”, focussing on women and girls who are victims of this crime. The main objectives of this annex are to improve the capacity of healthcare services for the early detection – including self-detection – of potential victims of trafficking in human beings or sexual exploitation (through awareness raising and training initiatives) and guarantee homogeneous action throughout the national territory, encouraging collaboration and coordination between professionals (both within and outside of the healthcare system).

Capacity-building in relation to other aspects of trafficking in human beings were also reported by several Member States.<sup>365</sup> These largely concerned general training on trafficking in human beings provided as part of the training curriculum of law enforcement agencies and other national authorities, including migration authorities,<sup>366</sup> and the application of national legislation and internal rules to better tackle trafficking in human beings.<sup>367</sup> However, two Member States carried out dedicated initiatives that focused on specific forms of trafficking in human beings, namely labour exploitation.<sup>368</sup> Greece held an international workshop to discuss the European Court of Human Rights judgement of the Manolada case<sup>369</sup> – dealing with labour exploitation of migrants. In Germany, a workshop on exploitation of workforce, forced labour and trafficking in human beings gathered together public prosecutors and allowed them to discuss the question of effective law enforcement.

Some Member States<sup>370</sup> further sought to raise awareness on the fight against THB through campaigns or events targeting the general population<sup>371</sup> or through certain key groups. These included the press in Cyprus, schools in Ireland and Slovenia, migrants in Slovenia or specific communities of migrants in the United Kingdom. Other approaches included the provision of information on how to detect and deal with cases of THB by means of websites,<sup>372</sup> guidelines for national authorities<sup>373</sup> and other stakeholders with a supporting role in the fight against THB such as banks,<sup>374</sup> or brochures to potential victims in several languages.<sup>375</sup>

## 8.3.2. Cooperation mechanisms at national and eu level

Cooperation between national authorities is key to effectively tackle trafficking in human beings and to improve the identification and protection of victims, and one third of Member States<sup>376</sup> improved their national cooperation mechanisms.

Legislative changes were introduced in Austria, where the Federal Ministry of Interior issued a decree seeking to aid trafficking victims anywhere in Austria and ensure their rights. From a policy perspective, two Member States established specialised governance structures to deal with specific cases or aspects of cases of THB: Bulgaria developed a specialised coordination mechanism to deal with cases of foreign children and UAMs, and Luxembourg created a cell within the Police to protect victims and investigate fugitives.

A small number of Member States<sup>377</sup> introduced changes to national practices to strengthen coordination at national level regarding identification of victims of THB. In Lithuania, amendments to official recommendations were drafted to better incorporate procedures to protect children’s rights, and in Cyprus a new standard referral form for potential victims was developed and approved. In the Netherlands, a pilot project was implemented to assess the extent to which the Victimhood of Human Trafficking Committee can assess the plausibility of victimhood and whether their reports have an added value for migration services, reception institutions and victims.

In 2018, operational cooperation between national authorities mainly took place in the form of joint investigations<sup>378</sup> or the joint implementation or funding of projects.<sup>379</sup> For instance, in Malta the Ministry of Home Affairs and National Security, together with the Parliamentary Secretariat for Reforms, Citizenship and Simplification co-launched a residence scheme (‘Specific Residence Authorisation’) that sought to facilitate the reintegration of certain third-country nationals whose asylum application had been rejected, by allowing them to obtain a two-year renewable residence permit. Joint investigative actions mainly consisted of on-site labour inspections in Greece, Ireland and the Slovak Republic, and targeted interviews at airports in Ireland.

Improved cooperation with other Member States was also at the centre of some of the 2018 initiatives. Malta and the United Kingdom signed a Memorandum of Understanding to secure collaboration on the drafting of new legislation and the strengthening of support mechanisms available for victims of THB. Along with this, various actions contributing to or demonstrating increased cooperation were undertaken, namely: participation in

365 AT, DE, EL, HU, PL, SI, SK.

366 EL, HU, PL, SI.

367 DE, SK.

368 DE, EL.

369 *Chowdury and Others v Greece*, Application No. 21884/15, 30 March 2017.

370 AT, BE, CY, EL, FI, FR, IE, LT, MT, SI, SK, UK.

371 AT, EL, ES, IE, LT, MT, SK.

372 ES, FI, IE.

373 ES, FI, FR.

374 BE.

375 AT, SK.

376 AT, BG, CY, EL, FR, IE, LT, MT, NL, SE, UK.

377 CY, LT, NL.

378 EL, IE, SK.

379 AT, MT.

international conferences on THB issues<sup>380</sup> and visits to or from other Member States<sup>381</sup> as well as taking part in operational meetings,<sup>382</sup> joint investigations,<sup>383</sup> high-level meetings<sup>384</sup> and workshops.<sup>385</sup> For instance, the State Attorney General from Spain has collaborated as an expert in combatting THB, also in relation to unaccompanied minors. On the other hand, Germany reported the launch of an ISF-co-funded project managed by the Federal Criminal Police Office (BKA) that focused on operational control of organised structures across the entire spectrum of the THB phenomenon (including sexual exploitation, forced labour and begging) in Germany and Europe.

### 8.3.3. Cooperation with third countries

Developments in relation to cooperation mechanisms with third countries were reported by almost half of Member States. The main lines of action concerned capacity-building and information-exchange activities,<sup>386</sup> initiatives to strengthen police cooperation<sup>387</sup> and awareness raising and prevention campaigns.<sup>388</sup>

In terms of capacity-building, six Member States launched or collaborated in projects that included elements seeking to strengthen the competencies of institutions involved in combating trafficking in human beings in third countries (i.e. Ukraine, Moldova and several countries in Africa).<sup>389</sup>

On the other hand, some Member States organised or participated in events gathering representatives from Member States and third countries that allowed them to exchange knowledge and practices.<sup>390</sup> For instance, Belgium welcomed delegations from third countries (Egypt, Jordan, Serbia and Bosnia Herzegovina) with a view to share national practices focusing on prevention and the fight against THB. Similarly, the Slovak Republic participated in a multidisciplinary seminar organised by the Council of Europe on supranational cooperation in prevention and combating trafficking in human beings – held in Belgrade in May – where experts from several European countries informed participants of specific cases and procedures,<sup>391</sup> and representatives from Cyprus participated in the OSCE Live Simulation training course on combating THB.

Measures on police cooperation between Member States and third countries were reported by six Member States.<sup>392</sup> Belgium established police cooperation agreements with Serbia, Thailand, Morocco and Tunisia, and the United Kingdom signed a memorandum of understanding on human trafficking with Vietnam that will allow for greater collaboration around intelligence sharing, supporting victims and prevention work. On the other hand, Austria and Cyprus carried out joint investigations with third countries

(i.e. Nigeria, China and the Philippines) and the Slovak Republic held operational meetings with Ukrainian counterparts. Spain reported active and successful cooperation with the Nigerian National Agency Against Trafficking in Persons (NAPTIP).

Cooperation with third countries also took the form of awareness raising and prevention initiatives in several Member States through the dissemination of information on trafficking in human beings and legal migration to national authorities in third countries (e.g. Serbia,<sup>393</sup> Ukraine) and to potential migrants at border-crossing points and diplomatic missions.<sup>394</sup>

#### International Call to Action to End Forced Labour, Modern Slavery and Human Trafficking

During 2018, the international Call to Action to End Forced Labour, Modern Slavery and Human Trafficking – launched in 2017 by the United Kingdom – has progressed, with Member States such as the Czech Republic endorsing it. The progress made was presented at the UN General Assembly in September 2018.

#### European Union—United Nations Spotlight Initiative to eliminate violence against women and girls

European Commission 2017 Communication stepping up EU Action to address THB sets forth as an action under Priority C Intensify a coordinated and consolidated response, both within and outside the EU: to ensure that the components of the European Union—United Nations Spotlight Initiative to eliminate violence against women and girls that relate to trafficking in human beings are implemented. The initiative is backed by a budget of €500 million. The initiative published its first annual report on progress from July 2017 to March 2018 during 2018.<sup>395</sup>

380 BE, CY, LU, PL, SK.

381 MT, PT, LT.

382 SK, FR, HR.

383 AT.

384 BE, ES.

385 EL.

386 AT, BE, CY, EE, EL, FR, IE, LT, NL, PT, SK.

387 AT, BE, DE, CY, ES, FR, SK, UK.

388 CZ, HU, SI, SK.

389 AT, EE, LT, LV, NL, PT.

390 AT, BE, CY, EL, IE, SK.

391 Available at: [https://pjp-eu.coe.int/en/web/horizontal-facility/news/-/asset\\_publisher/16Gkv1gurqHM/content/multi-disciplinary-workshop-on-transnational-co-operation-to-prevent-and-combat-human-trafficking?inheritRedirect=false&redirect=https%3A%2F%2Fpjp-eu.coe.int%2Fen%2Fweb%2Fhorizontal-facility%2Fnews%3Fp\\_id%3D101\\_INSTANCE\\_16Gkv1gurqHM%26p\\_p\\_lifecycle%3D0%26p\\_p\\_state%3Dnormal%26p\\_p\\_mode%3Dview%26p\\_p\\_col\\_id%3Dcolumn-4%26p\\_p\\_col\\_count%3D1](https://pjp-eu.coe.int/en/web/horizontal-facility/news/-/asset_publisher/16Gkv1gurqHM/content/multi-disciplinary-workshop-on-transnational-co-operation-to-prevent-and-combat-human-trafficking?inheritRedirect=false&redirect=https%3A%2F%2Fpjp-eu.coe.int%2Fen%2Fweb%2Fhorizontal-facility%2Fnews%3Fp_id%3D101_INSTANCE_16Gkv1gurqHM%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_count%3D1)

392 AT, BE, CY, ES, SK, UK.

393 SK.

394 CZ, HU, SI, SK.

395 [https://www.un.org/en/spotlight-initiative/assets/pdf/Spotlight\\_Annual\\_Report\\_July\\_2017-March\\_2018.pdf](https://www.un.org/en/spotlight-initiative/assets/pdf/Spotlight_Annual_Report_July_2017-March_2018.pdf)

# 9. RETURN AND READMISSION

This section looks at the new policies and measures adopted by Member States and Norway on return during 2018. The first section elaborates on the developments at EU level (section 9.1) while the following section outlines the main developments in Member States and Norway

(section 9.2). Finally, it provides an overview of measures introduced by Member States and Norway to strengthen cooperation with third countries and transit on return and reintegration (section 9.3).



## 9.1. DEVELOPMENTS AT EU LEVEL

### 9.1.1. EU developments in the field of return

Following the 2017 Recommendation on making returns more effective,<sup>396</sup> the European Commission published a proposal for a recasting of the Return Directive, in September 2018.<sup>397</sup> This proposal aimed at a 'targeted revision' of the Directive on several articles of the Directive, based on challenges identified by the European Commission. The proposal suggested revision of the following articles of the Return Directive:<sup>398</sup>

- *Risk of absconding (Article 6)*: introduction of a common, non-exhaustive list of criteria to determine the existence or not of a risk of absconding as part of an overall assessment of the specific circumstances of the individual case.
- *Obligation to cooperate (Article 7)*: an explicit obligation for third-country nationals to cooperate with national authorities at all stages of the return procedures, in particular for establishing and verifying their identity in view of obtaining a valid travel document.
- *Issuing of a return decision in connection with the termination of legal stay (Article 8)*: obligation for Member States to issue a return decision immediately after a decision rejecting or terminating the legal stay is taken.
- *Voluntary departure (Article 9)*: change of the period for voluntary departure of up to 30 days and deleting the minimum period of seven days; introduction of several cases, in which it becomes mandatory not to grant a period for voluntary departure.
- *Entry bans issued during border checks at exit (Article 13)*: obligation for Member States to impose an entry ban on irregularly staying third-country nationals if no

period of voluntary departure has been granted or if the obligation to return has not been complied with; Member States may impose an entry ban without issuing a return decision.

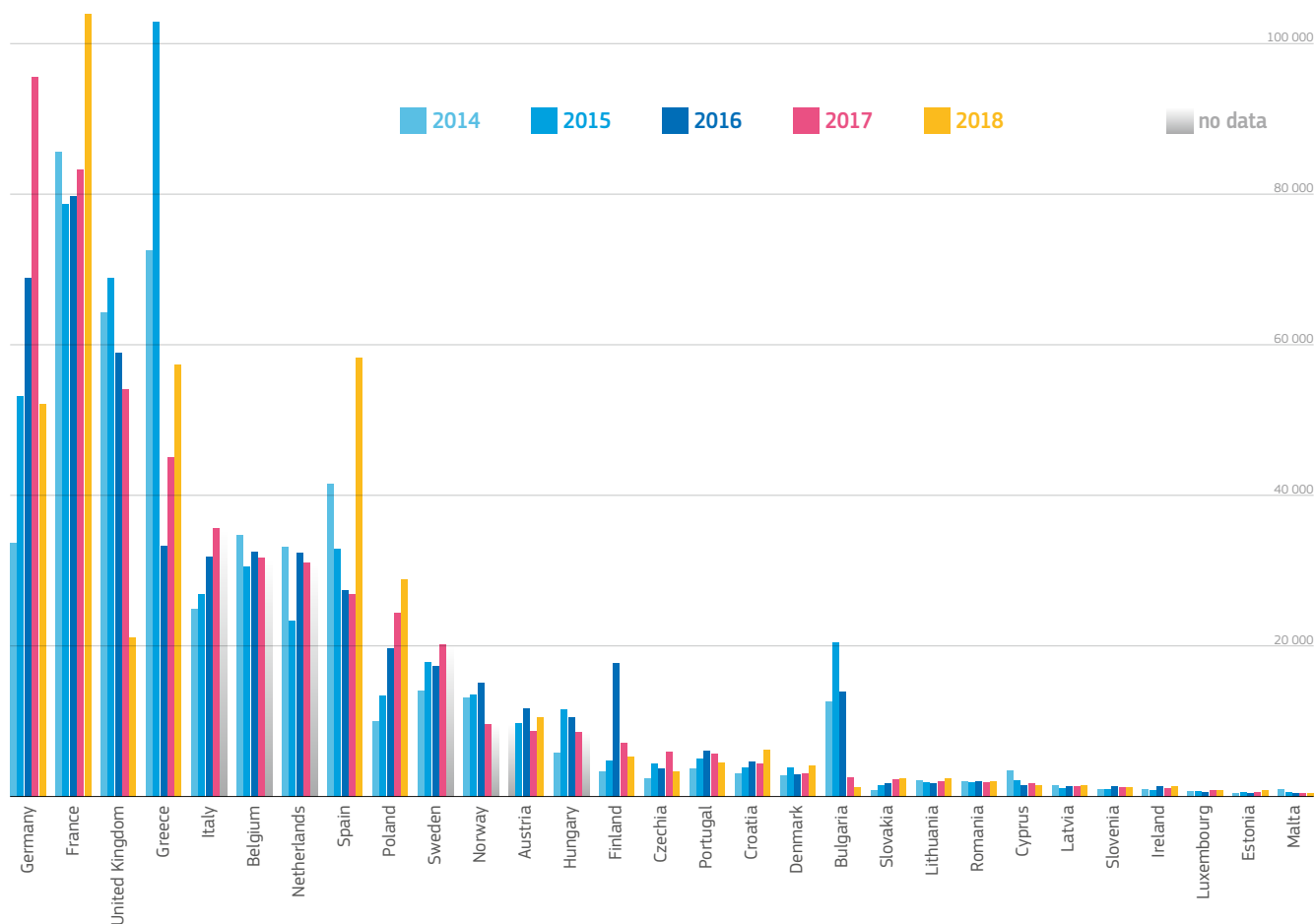
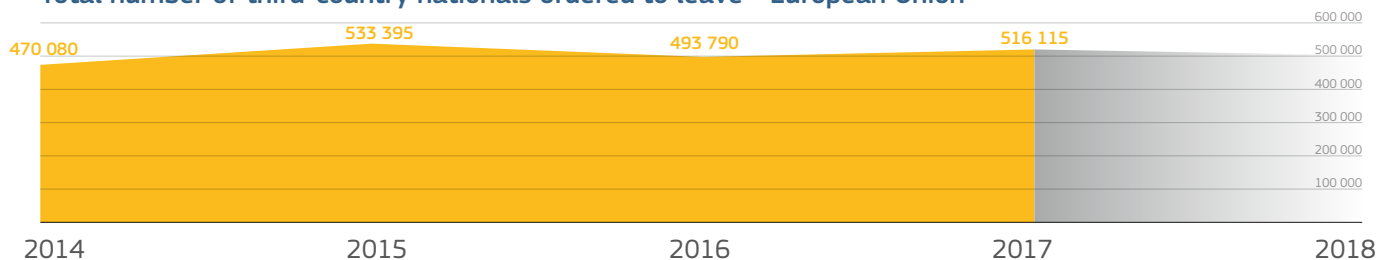
- *Return management (Article 14)*: obligation for Member States to have national return management systems providing timely information on the identity and legal situation of the third-country nationals. These are to be linked to a central system established by the European Border and Coast Guard Agency. Obligation for Member States to establish voluntary return programmes that may also include reintegration support.
- *Remedies and appeals (Article 16)*: introduction of a five-day time-limit for lodging appeals against return decisions issued in cases where the return decision is the consequence of a decision rejecting an application for international protection that became final.
- *Detention (Article 18)*: introduction of a new ground for detention for third-country nationals in an irregular situation, who pose a threat to public order or national security. In addition, national legislation shall provide for not less than three months as an initial minimum period of detention.
- *Border procedure (Article 22)*: introduction of specific rules applicable to third-country nationals who were subject to asylum border procedures.

From its publication in September to the end of 2018, the proposal sparked a variety of reactions from civil society organisations, pointing out the lack of an evaluation of the Directive and outlining concerns around the changes suggested in the proposal such as the number of criteria to determine risk of absconding and detention of third-country nationals subject to a return decision,

<sup>396</sup> European Commission, Recommendation on making returns more effective when implementing the Directive 2008/115/EC, C(2017) 1600 final, 7 March 2017.

<sup>397</sup> European Commission, Proposal for a Directive on common standards and procedures in Member States for returning illegally staying third-country nationals (recast), A contribution from the European Commission to the Leaders' meeting in Salzburg on 19-20 September 2018, COM(2018) 634, 12 September 2018.

<sup>398</sup> Directive 2008/115.

**Figure 9.1 – Third-country nationals ordered to leave (2014 – 2018)****Total number of third-country nationals ordered to leave - European Union**

Source: Eurostat (migr\_eiord), extracted on 8 May 2019

and the possibility for Member States to issue a return decision without a voluntary departure period.<sup>399</sup>

The legislative proposals put forward by the European Commission in 2016 aiming to amend the SIS Regulation to a) enter an alert on return decisions into SIS<sup>400</sup> and b) make compulsory for all Member States to register in SIS II all entry bans issued in application of the provisions of the Return Directive<sup>401</sup> were adopted in November 2018.<sup>402</sup> While all Member States are now required to register return decisions and entry bans issued in application

of return decisions on this basis, certain functionalities – such as inclusion of biometric data in SIS alerts, will be implemented in several stages, with full roll-out in all (Schengen) Member States by 2021.

The latest progress report on the implementation of the European Agenda on Migration published in March 2019 called on the EU legislators to swiftly adopt the proposal while at the same time, making full use of the tools available under the existing framework on return.<sup>403</sup>

399 European Council for Refugees and Exiles (ECRE), Comments on the Commission proposal for a recast Return Directive, November 2018, available at: <https://www.ecre.org/wp-content/uploads/2018/11/ECRE-Comments-Commission-Proposal-Return-Directive.pdf>; Amnesty International, Position Paper on the European Commission proposal recasting the Return Directive, October 2018, available at: [https://www.amnesty.eu/wp-content/uploads/2018/11/AI\\_comments\\_recast\\_return\\_directive.pdf](https://www.amnesty.eu/wp-content/uploads/2018/11/AI_comments_recast_return_directive.pdf).

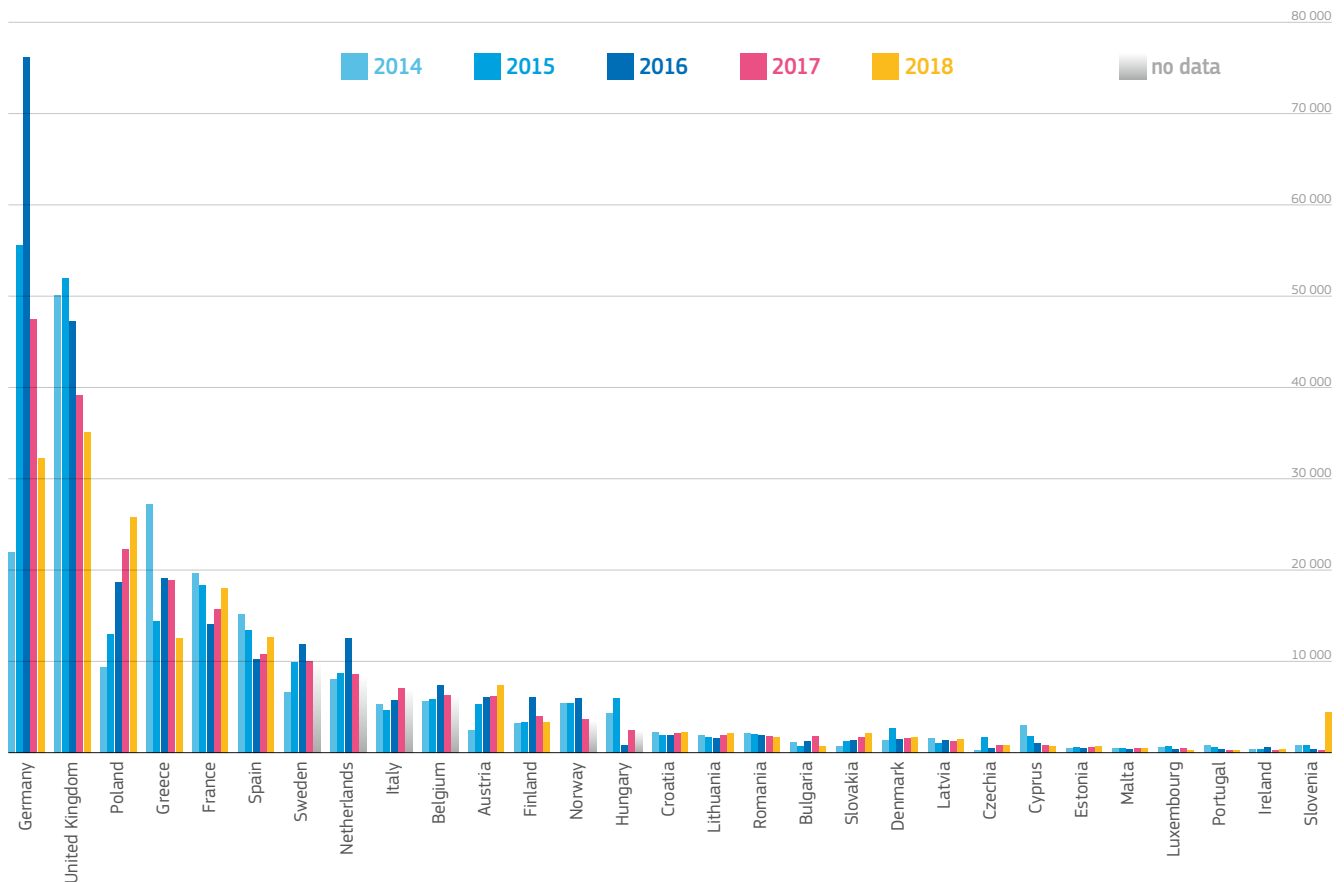
400 European Commission, proposal for a Regulation on the use of the Schengen Information System for the return of illegally staying third-country nationals, COM (2016)731 final, 21 December 2016.

401 European Commission, proposal for a Regulation on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1987/2006, COM(2016)882, 21 December 2016.

402 Regulation 2018/1860 of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals; Regulation 2018/1861 of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006.

403 European Commission, Communication 'Progress report on the Implementation of the European Agenda on Migration', COM(2019) 126 final, 6 March 2019, p. 11.

**Figure 9.2 – Third-country nationals returned to a third country following an order to leave in 2016 and 2017**



Source: Eurostat (migr\_eirtn), extracted on 8 May 2019

Indeed, the low rates of return remains a key objective of EU policies on return.

### 9.1.2. Summary of the emn reg return and reintegration activities developed during 2018

In the course of 2018, the EMN Return Expert Group (REG) continued to provide a forum for networking, sharing of information and cooperation among Member States, EU Commission, EU Agencies and other stakeholders, about return operations. The group, established as part of the EMN in 2013, is divided in two constituencies, a practitioner and a wider group. Chaired by the EU Commission, the REG practitioner group met four times in the reporting period, bringing together return experts from national institutions as well as external partners such as Frontex, EASO, ERRIN (European Return and Reintegration Network), EURINT (European Integration Return Management Initiative) and European Return Liaison Officers (EURLO) to exchange sensitive information on the implementation of voluntary and forced return. At the same time the REG also met in its wider constituency, involving representatives of international organisations and NGOs including *inter alia* IOM, the International Centre for Migration Policy Development (ICMPD), United Nations

International Children's Emergency Fund (UNICEF), Caritas and the Danish Refugee Council.

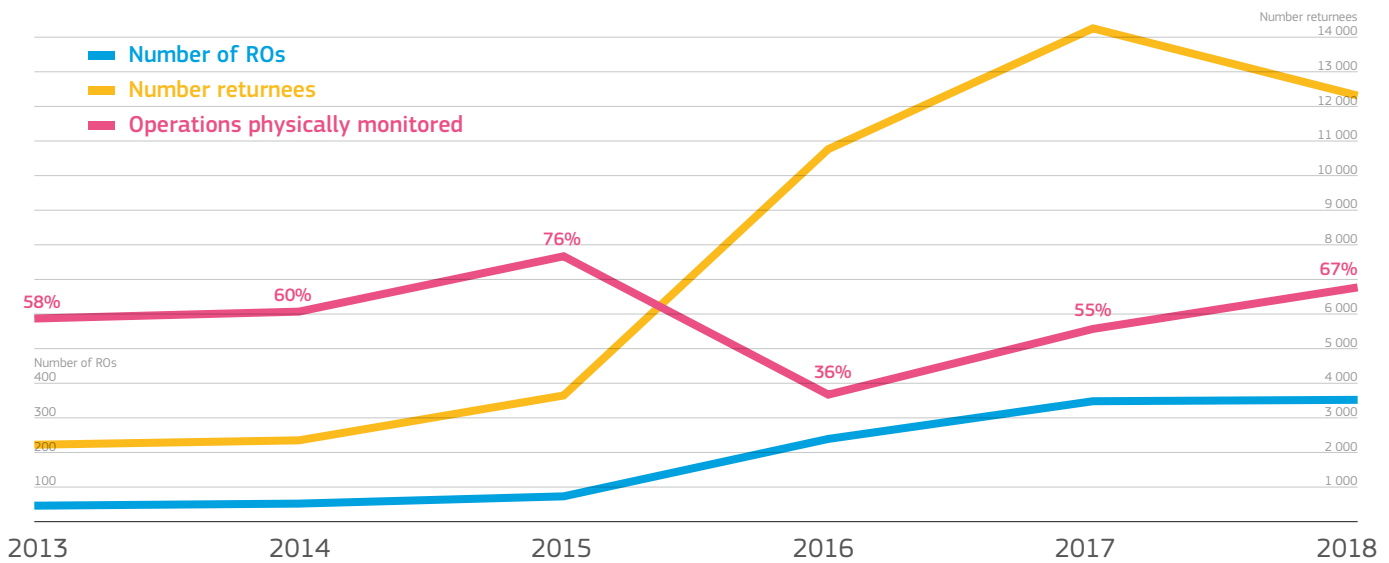
Throughout the year, the EMN REG tackled a number of practical aspects of current approaches and potential improvements of the return process.

On the one hand the group shared experiences on return operations and identified good practices. The topics discussed included: the use of the EU travel document for return; outreach, information and return counselling; the functioning of readmission and referral programmes; effective alternatives to detention of migrants in return operations; the assessment of the Best Interest of the Child in the return process and the return of unaccompanied minors and vulnerable individuals.

On the other hand, the group discussed possible policy responses to problematic and emerging issues. Notably the group reflected on: pull factors encouraging irregular entry and stay to the EU; in-cash and in-kind incentives to return and the harmonisation of Assisted Voluntary Return (and Reintegration) packages (AVRR); the return of irregular third-country national offenders; concerns related to third-country nationals benefitting of asylum protection in the EU travelling to their country of origin.

Stemming from the above discussions, the EMN is currently undertaking a mapping of the AVRR programmes

**Figure 9.3 – Number of return operations (ROs) and third-country nationals returned (2013-2018)**



Source:

offered by Member States, Norway and Switzerland, which will be made available to national institutions through an interactive online application. The EMN also started research on return counselling which will result in three EMN ‘informs’ on approaches, practices, and support structures to information and counselling for voluntary return. This work is expected to also contribute to the development of a wider guidance tool for policy makers engaged on setting-up and managing return counselling services.

### 9.1.3. Summary of the frontex joint return operations (jtos)

Throughout 2018, Member States and Schengen Associated Countries received assistance with their return activities from Frontex, the European Border and Coast Guard Agency (EBCGA).

The pre-return sector of the Agency supported and coordinated various activities to implement a high and uniform level of returns, efficiently and in full observance of fundamental rights. Key highlights in 2018 in this area comprised the pilot activity for the use of VCI (Video Conferencing for Identification) by Afghan Consuls for the purpose of identification under the EU-Afghanistan ‘Joint Way Forward’ (signed in 2016) and in cooperation with the EURLO programme. Frontex pre-return activities focused in 2018 on the digitalisation of the return process. In this framework, Frontex successfully completed the handover of the Irregular Migration Management Application (IRMA) from the European Commission and produced a pilot version of the RECAMAS, a reference model for a Return Case Management System. As part of the new competences conferred upon the Agency in its Regulation, Frontex can deploy return specialists to Member States

upon their request, to provide specific support in areas such as identification and acquisition of travel documents, consular cooperation with countries of return, and the establishment of new return-related procedures.<sup>404</sup> In 2018, Frontex deployed return specialists to Bulgaria and Greece to assist with cooperation with third-countries, and to Germany regarding the implementation of the Frontex Application for Return (FAR).

Moreover, the Agency provided support to Member States with the organisation and coordination of return operations. 2018 saw the implementation of a Frontex pilot project providing assistance to Member States in organising returns by scheduled flights to a wider range of destinations, including those to which charter flights cannot be organised. Based on special agreements with different airlines, Member States can obtain special fares for their return operations. In 2018, 1 477 third-country nationals were returned to 49 destinations by 17 Member States. Given the success of the pilot project, returns by scheduled flights will be transformed into regular Frontex activity in support of Member States.

Throughout 2018, Frontex coordinated and co-financed 345 return operations, a stable number compared to 2017 (see table 9.1). As part of these operations, 12 245 third-country nationals were returned, representing a decrease of 14% compared to 2017. On the other hand, an increase of almost 76% in ‘collecting return operations’<sup>405</sup> was recorded in comparison to 2017.

An increase in the number of return operations that were physically monitored was registered in 2018, from 188 in 2017 to 231 in 2018. 159 of these operations were monitored by staff from the Frontex pool of forced-return monitors. Compared with 2017, an increase of 68% in

<sup>404</sup> Article 31 of Regulation (EU) 2016/1624 on the European Border and Coast Guard.

<sup>405</sup> A definition of ‘collecting return operations’ can be found in Article 28(3) of Regulation 26/1624: “The Agency may provide the necessary assistance and, either at the request of the participating Member States or on the basis of its own proposal, ensure the coordination or the organisation of return operations for which the means of transport and forced-return escorts are provided by a third country of return (‘collecting return operations’).”



the deployment of monitors from the Frontex pool was observed (from 94 in 2017 to 159 in 2018).

Frontex continued to assist with the implementation of the EU-Turkey Statement by coordinating the

deployments of human resources and providing technical assistance by chartering ferries, aircraft and buses. In 2018, 322 third-country nationals were readmitted to Turkey.



## 9.2. MAIN NATIONAL DEVELOPMENTS IN THE FIELD OF RETURN

### 9.2.1. Swift, sustainable and effective return

#### 9.2.1.1. General policy developments in the area of return

Swift and effective returns were a policy priority in several Member States<sup>406</sup> throughout 2018. This was reflected, for example, in the legislative proposal drafted in Finland to speed up the return of third-country nationals convicted of a criminal offence. France passed legislation at the end of 2018 to increase the effectiveness of monitoring third-country nationals throughout all aspects of a return procedure (period of voluntary departure, alternatives to detention, use of videoconferencing, etc.), while Lithuania adopted legislative changes to the procedure to issue return decisions (see section 9.2.1.2).

Current and future policy developments in Estonia and Finland may be affected by the Schengen evaluations on return-related matters carried out by the European Commission in 2018. A Schengen evaluation can result in recommendations and actions to be adopted by the evaluated Member State. This was the case for Estonia, where the evaluation recommended changes to the detention conditions of families in return procedures. As a result, Estonia took these recommendations into account and improved detention conditions of families in newly opened detention centre.

Lastly, to assist with reducing the caseload of the Irish Naturalisation and Immigration Service, Ireland continued and expanded the 'Case Processing Panel of Legal Graduates'. One of the proposed functions of the panel members was to produce a reasoned submission on cases to be decided by the Service, in relation to cases of third-country nationals subject to a deportation order.

#### 9.2.1.2. Issuing Return decisions

Lithuania adopted legislative decisions to expand the type of authorities competent to issue return decisions. Return decisions can now be issued not only by the Migration Department but also by the State Border Guard Service, depending on the circumstances of the third-country national concerned and the authority that established the grounds for return. This has helped to increase flexibility and simplify administrative procedures.

In line with European Commission's 2017 Recommendation on effective returns, which encouraged Member States to issue return decisions regardless of whether a third-country national held an identity or travel document, amendments to the national legislation by Lithuania

allowed national authorities to issue a return decision as long as a third-country national identity was established. Thus, in addition to identification through official identity or travel documents, national authorities were also able to use information available in national databases and registers. National authorities in Lithuania were also able to request other Member States to perform a search in their national databases to obtain such information and therefore could issue a return decision even in the absence of an identity or travel document.

Another measure relying on an increased cooperation and exchange of information among national authorities was introduced in Austria: hospitals now have the obligation to inform the Federal Office for Immigration and Asylum whether they will release a third-country national subject to a return decision; disclosure of information is limited only to the date of release from the hospital.

Belgium introduced a change to its procedural safeguards and remedies, in particular relating to the consideration and assessment of the *non-refoulement* principle in return procedures, as a result of the interpretation of high courts in Belgium.<sup>407</sup> These ruled that the risk of torture and inhuman or degrading treatment against Article 3 ECHR was an integral part of the review of a return decision – not only at the moment of enforcing the decision, but also when deciding to make use of coercive measures in the context of a return procedure. The Cassation Court further specified that such reviews should always be conducted, regardless of whether the third-country national concerned did or did not apply for international protection. These findings were echoed later in 2018 by the Court of Justice of the European Union (CJEU) in the *Gnandi* case.<sup>408</sup>

#### 9.2.1.3. Issuing Entry bans

Several Member States adopted legislative amendments relating to the grounds for issuing an entry ban. For example, in France, an entry ban could be systematically issued to third-country nationals subject to a return decision and who had stayed on the territory after expiry of the voluntary departure.<sup>409</sup> Lithuania extended the grounds for issuing a ban to also include cases where a third-country national, subject to a return decision, had also committed a serious or grave crime, had been convicted for money laundering offences, or had been issued an entry ban in another Member State, EFTA State or NATO State for these reasons. Additionally, where a third-country national was returned following a readmission agreement, an entry ban could also be systematically issued.

406 AT, BE, CZ, EE, FI, FR, LT.

407 Belgium, Court of Cassation, ruling of 31 January 2018, n° P.18.0035.F, and Council of State, decision of n° 240.691.

408 CJEU, Case C-181/16, *Sadikou Gnandi v État belge*, Judgment of 19 June 2018, ECLI:EU:C:2018:465.

409 Legislation adopted in 2018 and measure implemented as of 1 January 2019.

Additional changes to Member States' practices regarding the issuance of entry bans was driven by the EU and national courts' rulings.

The interpretation of the CJEU in the *E.* case impacted certain Member States' practices of issuing entry bans.<sup>410</sup> The case concerned a third-country national who held a residence permit issued by Spain and who was sentenced in Finland to prison for a number of criminal offences. Finland issued a return decision accompanied by an entry ban to the Schengen area. The case thus raised the question, in practical terms, of the effects of an entry ban imposed by one Member State on a third-country national holding a valid residence permit in another Member State, and of the cooperation and exchange of information among Member States in this type of scenario. The Convention implementing the Schengen Agreement (CISA) foresaw a consultation procedure which had to be initiated after an entry ban was entered in the SIS.<sup>411</sup> However, the Court clarified that no CISA provisions impeded Member States from consulting other Member States before the issuance of a return decision. It also ruled that CISA allowed a return decision to be enforced by an entry ban while the consultation procedure was still ongoing, if the third-country national concerned was considered a threat to public order or national security. In the absence of a response from the Member State consulted, the Member State issuing the alert (and the entry ban) would have to withdraw it. This consultation did not, however, affect the rights of a third-country national holding a valid residence permit from one Member State but subject to an entry ban by another Member State.

The Netherlands, relating to the CJEU ruling in this case and decisions issued by the Administrative Jurisdiction Division of the Council of State, introduced amendments to national guidelines<sup>412</sup> whereby an entry ban could also be issued to a third-country national holding a valid residence permit in another Member State where a serious public order concern was demonstrated. In this case, and as clarified by the CJEU, the Member State that granted the residence status must be consulted by the Netherlands and asked whether it saw reason to withdraw the right of residence.

The *Ouhrami* case<sup>413</sup> is another CJEU judgment which had an impact on the practices of several Member States. In this case, the Court ruled that the starting point of the duration of an entry ban must be calculated from the date on which the person concerned actually left the territory of the Member States. Prior to this decision, in several Member States, the start of the duration of an entry ban began at the moment where the entry ban decision was issued. In light of this ruling, Finland, France and Poland introduced changes to start the duration of an entry ban from when a third-country national effectively left the territory of the State, whilst in Latvia, the starting point was when a third-country national effectively left the territory of the Member States of the EU.

Lastly, Finland amended its national legislation to strengthen penalties in case of the breach of an entry ban: in addition to a fine, a breach could be punished also by a prison term of maximum one year.<sup>414</sup>

#### **9.2.1.4. Recording of entry bans in the SIS and exchange of information**

In view of complying with the obligation set in Regulations 2018/1860 and 2018/1861 (see section 9.1.3), Latvia and the Netherlands started to add the biometric search functionality to all entry bans alerts issued in relation to a return decision included into SIS. While Bulgaria and Croatia were not (yet) full members of the Schengen area, Bulgaria started to implement the relevant provisions of the Schengen acquis, thus including those regarding entry bans, whilst Croatia exchanged information related to entry bans of other Member States, but did not enter entry bans into SIS.

#### **9.2.1.5. (Assisted) voluntary return and reintegration**

Member States continued to implement measures encouraging voluntary return among third-country nationals. These included an increase of in-kind and/or cash assistance to certain categories of third-country nationals, focussing on those nationalities for which the successful implementation of return proved to be challenging and/or on the most common countries of origin.<sup>415</sup> For example, Austria mainly targeted rejected asylum applicants from Iran, Iraq, Nigeria, Russia and Syria. Additionally, third-country nationals whose asylum application was under examination were also eligible to apply for this type of measure.

Bilateral cooperation between Austria and France aimed at offering reintegration assistance to third-country nationals returning to 13 francophone States in Africa, and Spain initiated discussions with Mali for the implementation of a pilot project on the voluntary return of its nationals. In Belgium and in the Netherlands, assisted voluntary return programmes were expanded to include another category of third-country nationals who were previously excluded from these programmes, namely nationals of visa-free third-countries.<sup>416</sup> Finally, in Spain, vulnerable persons were the main beneficiaries of AVR programmes implemented in the country, and Norway started a new programme for voluntary return and reintegration support to unaccompanied minors without a need of international protection.

With the aim of exploring and obtaining first-hand information on the conditions for voluntary return in third-countries, Finland initiated a pilot project to involve civilian crisis management experts in three targeted third-countries (Iraq, Somalia and Afghanistan). This type of initiative requires close cooperation between the Immigration Service and the Crisis Management Centre in Finland to create long-lasting channels for exchange of information between experts on the topic.

410 CJEU, Case C-240/17, *E.*, judgment of 16 January 2018, ECLI:EU:C:2018:8.

411 Article 25(2) of the Convention implementing the Schengen Agreement (CISA).

412 Aliens Act Implementation Guidelines.

413 CJEU, Case C-225/16, *Mossa Ouhrami*, Judgment of the Court of 26 July 2017, ECLI:EU:C:2017:590.

414 The legislative amendment was approved on 19 December 2018 and entered into force at the beginning of 2019.

415 AT, FI.

416 In the Netherlands, this category could participate in assisted voluntary return programmes but were temporarily excluded. 2018 marks the year when this exclusion was ended.

Throughout the year, several Member States continued to implement outreach activities in the form of websites, information campaigns and other awareness raising activities to raise awareness about voluntary return possibilities. For example, France set up a website with information available in 18 languages. To facilitate returns to Afghanistan, the Swedish Migration Agency published video clips explaining the process of return to Kabul and the support available, with the participation of the Afghanistan Centre for Excellence (ACE) and the International Organization for Migration. Asylum reception officers were the main target group for these video clips, however, they were to be translated to Dari and Pashto in order to provide information directly to returnees as well.

#### **9.2.1.6. Use of (alternatives for) detention in return procedures**

Five Member States and Norway<sup>417</sup> adopted changes to the use of detention in return procedures. France, Italy and Poland increased the length of detention. The maximum period of detention stood at three months in France, six months (180 days) in Italy and 18 months in Poland.

The Czech Republic, Estonia, Luxembourg and Norway clarified the scope of and/or increased their detention capacity for vulnerable persons and persons with special needs (e.g. families, minors). In Belgium, families with underage children who did not comply with a return decision could be detained in dedicated detention centres ('closed living units') pending their removal. Adopted legislation defined this as a last resort measure, only applicable to families who had already refused to return voluntarily and absconded from (open) Family Identification and Return Team (FITT) units; during the year, four families with underage children were detained in such closed living units. In Norway, change was driven by the adoption of a new framework on the arrest and detention of minors, aiming to ensure, among other procedural safeguards, that the detention of minors constituted a last resort measure and that the best interests of the child were assessed by national authorities before placing minors in detention.

More broadly, the Government in the Netherlands prepared a new framework for detention in the context of return: a proposal for a single and uniform regime for the detention of third-country nationals who did not cooperate in the return procedure and who constituted a 'realistic' risk of absconding was being examined by the legislative bodies. This proposal also recalled the principle of the use of detention as a last resort measure and emphasised alternative measures to detention.

Four Member States<sup>418</sup> expanded or clarified available alternatives to detention. In Bulgaria, available alternative detention measures included the deposit of a financial guarantee and the obligation to surrender a passport or travel documents. In order to locate and monitor more effectively a third-country national in view of his/her return, Bulgarian authorities were able, as of 2018, also to impose a reporting obligation on third-country nationals subject to a return decision. Through its law of 10

September 2018 (effective as of 1 January 2019), France made the supervision of third-country nationals subject to a return decision more robust by allowing them to reside in a place designated by the administrative authority until the voluntary return deadline had expired, subject to recurring checks to ensure the presence of the person at home at least for three hours every day. In a pilot project involving the Swedish Migration Agency, Sweden explored ways to further develop the obligation to report to authorities ("supervision") as an alternative to detention.

A new overarching framework on releasing a third-country national on bail entered into force in the United Kingdom, and set out, in consolidated provisions of the Immigration Act, the eligibility criteria, the conditions that could be imposed on individuals, the consequences if an individual breached bail conditions, and when bail ended.

#### **9.2.1.7. Operation of national forced return monitoring system**

The Return Directive requires Member States to set up an effective forced-return monitoring system whereby national bodies or organisations are appointed, and staff. In Cyprus, the Commissioner for Administration and Protection of Human Rights was entrusted with the task to establish and operate such a monitoring system and in Sweden, this was the responsibility of the Migration Agency. Additional funding available during the year enabled the non-discrimination Ombudsman in Finland to increase staff to monitor more return operations. Several Member States already participate in the Forced Return Monitoring II project (FReM), aiming to elaborate a uniform monitoring system and to set fundamental rights standards.<sup>419</sup>

#### **9.2.1.8. Other actions related to swift, sustainable and effective return**

In the course of 2018, five Member States<sup>420</sup> participated in the project 'Videoconferences for Identification' (VCI), implemented in cooperation with Frontex and run under the EURLO programme. The aim of the VCI project is to facilitate a national and European videoconferencing network to be used within administrative procedures related to return, asylum and residence permits. The aim of the VCI was to establish better communications with the consular representatives of third countries, in particular where there was a lack of cooperation regarding the identification interviews and establishing the identity of undocumented third-country nationals subject to a return decision.

Among other measures to support swift, sustainable and effective returns, Member States set up databases to support the work of national authorities in return procedures. For instance, Estonia was developing a database of third-country nationals who were staying or had stayed in Estonia in an irregular situation. This database was planned to be operational as of June 2019. Likewise, in France, law enforcement authorities were granted access to a national database containing biometric data of all third-country nationals who had applied for a residence permit, had applied for international protection, were subject of a return decision and were apprehended staying

417 BE, CZ, FR, IT, PL, NO.

418 BG, FR, SE, UK.

419 BE, BG, IT, MT.

420 BE, CZ, LU, PL, SI.

irregularly. This database permitted national authorities to check more swiftly the identity of third-country nationals.

Specific attention was also paid throughout the year to safeguarding the best interests of the child in three Member States. Luxembourg is discussing legislative changes aimed at ensuring that the best interests of the child were taken into consideration where a return decision was adopted, requiring an evaluation to be carried out by a multidisciplinary team, to assess whether an unaccompanied minor was an applicant for international protection or not. Estonia adopted guidelines on child treatment, including unaccompanied minors. In Finland, the practice of the Immigration Service was adapted following a series of 2017 rulings by the Supreme Administrative Court. As a result, before a return decision to an unaccompanied minor could be issued, national authorities would have to ensure that the minor would be returned to his or her family member, a nominated guardian or adequate reception facilities in the country of return. Additionally, before making the decision, police were requested to give a statement about the possibility of return, including an assessment of the availability of travel documents and the general possibility of the minor concerned to return to his/her country of origin. In practice, issuing a return decision to an unaccompanied minor required the minor's parents or de facto guardians to have been traced or otherwise contacted. If it became evident that the minor could not be returned, the minor would have to be granted a residence permit.

In Belgium, following the case of a Sudanese national forcibly returned in 2018, together with the accusation of poor treatment by law enforcement during the forced return procedure, the Government set up an evaluation committee on voluntary and forced returns, for a period of two years. The committee was composed of a high-profile academic professor as well as representatives of the federal police, the general inspection of the federal police, the immigration office, the asylum authority (CGRS), Fedasil and a few pilot associations. The committee published its findings in a first interim report in early 2019.

Lastly, based on planned adjustments to the asylum procedure and relevant work processes in order to be able to respond better to future influx fluctuations (as a reaction to the increased number of applications for international protection in 2015 and 2016 that had to be processed), the Netherlands continued to streamline cooperation among competent authorities and organisations with the view to redesigning the identification and registration

process. An accelerated process is expected to eventually support more efficient asylum and return procedures.

## 9.2.2. Return of rejected asylum seekers

Changes in national legislation in Belgium introduced the possibility to initiate return of an applicant for international protection when the person had applied for international protection for the third time (i.e. had already filed two applications) and was staying in a detention centre at the time of application, provided that the return did not violate the principle of *non-refoulement* (assessment made by the CGRS). Similarly, in Finland, proposed changes to national provisions aimed to prevent the filing of subsequent applications for international protection where such an application was motivated by delaying the return. Legislative changes introduced in Italy prohibited the re-entry of rejected asylum applicants without receiving specific permission to do so from national authorities.

Legislation was adopted in France to withdraw the suspensive effect of appeals before the National Court of Asylum Law (*la Cour Nationale du Droit d'Asile*) for third-country nationals falling under accelerated procedures as they were nationals of safe third countries. In this scenario, a return decision could be issued to an applicant at that stage.

Following a government coalition agreement concluded in 2017 on the accommodation of asylum seekers who had exhausted all legal remedies in temporary reception facilities, the Ministry of Justice and Security and the Association of Dutch Municipalities agreed to start the construction of national facility for third-country nationals (LVVs) as a pilot in the Municipalities of Amsterdam, Rotterdam, Utrecht, Eindhoven and Groningen. This type of facilities was planned to help to prevent illegal stay and to limit the consequences of illegal stay for the local environment, with a central place for cooperation between the municipality and the national government.

## 9.2.3. Evidence of the effectiveness of the measures to ensure return

Sweden started an initiative to collect evidence on the effectiveness of the measures to ensure return. The Swedish Migration Agency was tasked with the development of uniform and consistent key performance indicators for all its processes, including return. The results of this initiative were not yet available.



## 9.3. STRENGTHENING COOPERATION WITH THIRD COUNTRIES OF ORIGIN AND TRANSIT ON RETURN AND REINTEGRATION MANAGEMENT

### 9.3.1. Involvement of third countries in return measures

Operation between Member States and third countries in return measures focused, throughout the year, on the organisation of identification missions for the purpose of issuing identity documents to ensure return travel. For example, France was particularly active in

improving the delivery of consular laissez passers, and organised three identification missions to Ivory Coast and Senegal, while Austria received delegations from Gambia, Guinea, Guinea-Bissau and Uganda. Finland continued its cooperation with authorities of Iraq and Somalia, while the Czech Republic intensified cooperation with Moldova and Azerbaijan. In Germany, the number of forced returns continued to increase with regard to several key countries

**Table 9.1 – State of play on the implementation of EU readmission agreements**

EU RA / Member State	Albania	Armenia	Azerbaijan	Bosnia & Herz.	Georgia	Kosovo	Montenegro	North Macedonia	Pakistan	Sri Lanka	Ukraine	Mauritania	Tunisia	Uzbekistan	National developments / activities in 2018 to support implementation of EURAs	Date (if relevant)
BG												●			Memorandum of Understanding (MoU) signed	13 Nov. 2018
BE		●													Implementing Protocol	June 2018
BE													●		MoU	17 July 2018
BG		●													Draft Implementing Protocol	
BG											●				Draft Implementing Protocol	
BG									●						Meetings to improve cooperation	
BG				●											Meetings to improve cooperation	
BG						●									Meetings to improve cooperation	
BG									●						Meetings to improve cooperation	
DE				●											Overall cooperation continued	
DE						●									Overall cooperation continued	
DE							●								Overall cooperation continued	
DE										●					Shared first draft of the Implementation Protocol	End of 2018
DE		●													Overall cooperation continued	
DE			●												Ongoing negotiations on a draft Implementation Protocol	
DE											●				Ongoing negotiations on a draft Implementing Protocol	
DE									●						Meetings to improve procedures	
ES	●														Implementing Protocol signed	
ES							●								Implementing Protocol signed	
LV					●										Draft Implementation Protocol	
LV							●								Draft Implementation Protocol	
LV											●				Draft Implementation Protocol	
LT											●				Implementing Protocol signed	7 Dec. 2018
LU					●										Implementing Protocol entry into force	1 June 2018
NL											●				Implementation Protocol signed	17 Dec. 2018
NL		●													Implementing Protocol signed	20 June 2018
NL										●					Ongoing negotiations of an Implementing Protocol	
NL			●												Negotiations on a draft Implementing Protocol on hold	
NL					●										Implementing Protocol signed	1 June 2018
PL											●				Implementing Protocol (entry into force)	2 Nov. 2018
PL													●		Meetings to improve cooperation (Partnership and Cooperation Agreement between the EU and Uzbekistan, 1996)	

Source: European Migration Network

of origin (e.g. Maghreb states, Pakistan, the Caucasus region); forced returns to Afghanistan also increased in the year following the conclusion of a bilateral memorandum (similar to the EU Afghanistan “Joint Way Forward”) at the end of 2016 and its continuous practical implementation.

Further details relating to the implementation of EU readmission agreements is provided in section 9.2.

### **9.3.2. Reintegration measures implemented in cooperation with third countries**

Throughout 2018, reintegration measures implemented in cooperation with third countries were a result of bilateral cooperation between Member States and concerned third countries. Belgium agreed on a project aiming at supporting economic development and employment with Guinea. By strengthening the employability of local populations, the project focused on reaching potential migrants – in particular women and youths, while at the same time working on integrating third-country nationals who had returned to Guinea. In the same vein, following the EU’s agreement with Ethiopia on the application of admission procedures for return and the EU Trust Fund funded reintegration programme, Norway provided financial support for capacity building of the Ethiopian National Reintegration Coordination centre, a multi-purpose centre for returnees in Addis Ababa. In 2018, France extended to Algeria the “roadmap” implemented in July 2017 for the six countries<sup>421</sup> considered to be priorities in terms of the fight against irregular migration.

421 Morocco, Tunisia, Senegal, Côte d’Ivoire, Mali and Guinea





## Keeping in touch with the EMN

EMN website [www.ec.europa.eu/emn](http://www.ec.europa.eu/emn)

EMN LinkedIn page <https://www.linkedin.com/company/european-migration-network/>

EMN Twitter <https://twitter.com/EMNMigration>

## EMN National Contact Points

Austria [www.emn.at](http://www.emn.at)

Belgium [www.emnbelgium.be](http://www.emnbelgium.be)

Bulgaria [www.emn-bg.com](http://www.emn-bg.com)

Croatia [www.emn.hr](http://www.emn.hr)

Cyprus [www.moi.gov.cy](http://www.moi.gov.cy)

Czech Republic [www.emncz.eu](http://www.emncz.eu)

Denmark [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/authorities/denmark\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/authorities/denmark_en)

Estonia [www.emn.ee](http://www.emn.ee)

Finland [www.emn.fi](http://www.emn.fi)

France <https://www.immigration.interieur.gouv.fr/Europe-et-International/Le-reseau-europeen-des-migrations-REM3/Le-reseau-europeen-des-migrations-REM>

Germany [www.emn-germany.de](http://www.emn-germany.de)

Greece <http://emn.immigration.gov.gr>

Hungary [www.emnhungary.hu](http://www.emnhungary.hu)

Ireland [www.emn.ie](http://www.emn.ie)

Italy [www.emnitalyncp.it](http://www.emnitalyncp.it)

Latvia [www.emn.lv](http://www.emn.lv)

Lithuania [www.emn.lt](http://www.emn.lt)

Luxembourg [www.emnluxembourg.lu](http://www.emnluxembourg.lu)

Malta <https://homeaffairs.gov.mt/en/mhas-information/emn/pages/european-migration-network.aspx>

Netherlands [www.emnetherlands.nl](http://www.emnetherlands.nl)

Poland [www.emn.gov.pl](http://www.emn.gov.pl)

Portugal <http://rem.sef.pt>

Romania [www.mai.gov.ro](http://www.mai.gov.ro)

Slovakia [www.emn.sk](http://www.emn.sk)

Slovenia [www.emm.si](http://www.emm.si)

Spain <http://extranjeros.empleo.gob.es/en/redeuropeamigracion>

Sweden [www.emnsweden.se](http://www.emnsweden.se)

United Kingdom [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/authorities/united-kingdom\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/authorities/united-kingdom_en)

Norway [www.emnnorway.no](http://www.emnnorway.no)