

# Monthly data collection on the migration situation in the EU

## April 2017 monthly report

1-31 March 2017

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# Highlights: 1-31 March 2017

## New arrivals

### External land and sea borders

Arrivals to Italy further increased in March, by more than one third to more than [11,000 people](#), mostly coming from Guinea, Nigeria, Bangladesh, Côte d'Ivoire, Gambia and Senegal. Some 200 people were estimated to have [died](#); several corpses were found and one severely malnourished man died on board a rescue vessel.

Between 1 January and 21 March 2017, some 3,370 people arrived by sea to Greece. The average number of daily arrivals increased during the week of 13-19 March in comparison with previous weeks, from about 30 to about 80, owing to an improvement in weather conditions.

Arrivals in Hungary decreased significantly. The police returned 350 people apprehended within eight kilometres of the Serbian side of the border fence and apprehended some 190 people within the territory, compared with some 1,050 and 320, respectively, in February. Furthermore, the number of people prevented from climbing over the fence decreased from about 2,180 in February to approximately 650 in March, as Hungary installed 'smart fence' technology, including speakers that play a message in multiple languages warning people of the consequences of irregular border fence crossings.

Fewer than 250 people, mostly from Syria, Afghanistan and Iraq, were apprehended at the borders and within the territory of Bulgaria, marking a slight increase.

Some 1,000 people [arrived](#) in Spain by sea and about 50 people were confirmed to have died on the western Mediterranean route between January and March 2017. Arrivals by small boat [increased by 62 %](#) during the first quarter of 2017 compared with the same period in 2016.

During March 2017, about 1,670 individuals were relocated from Greece to other Member States. Some 910 were male and some 760 were female. The majority of people were relocated to Germany (about 250 people), France (about 170 people) or Switzerland (some 70 people).

Relocations to Spain had reached about 880 by mid-March; fewer than ten relocated children arrived in March.

### Internal borders and airports

Arrivals to Austria decreased to some 2,220 in March, mainly coming from Nigeria, Pakistan, Afghanistan, Syria and Iraq.

At least 100 people, mainly from Syria and Morocco, entered Denmark irregularly.

More than 300 irregular migrants arrived in Slovakia, most of them Ukrainian citizens, marking a significant increase on previous months.

Arrivals to Sweden have remained below 2,000 asylum seekers per month, mainly from Syria, Afghanistan and Iraq, including some 700 children.

## Criminal proceedings

The [Public Prosecutor](#) in Italy decided not to investigate NGO staff or private individuals steering boats for search-and-rescue, considering that they are not facilitators; however, a fact-finding investigation into some NGO funding and sources of information was launched.

Italian police [arrested](#) three French activists in Ventimiglia for providing food to irregular migrants in breach of an order by the mayor.

Between January and March 2017, Hungary initiated criminal proceedings against 20 people accused of human smuggling. According to the [Criminal Code](#), such activities are punishable even if no profit is sought or made, and thus the definition of smuggling may include the activities of volunteers helping refugees.

In Bulgaria, the police rescued 11 adults and 16 children from a burning truck; criminal proceedings for human smuggling were opened against the adults. A group of about 30 Iraqis, including one child, were [sentenced](#) to imprisonment, in most cases suspended, and fines for irregular border crossing.

The [Malmö District Court](#) (case number B 2249-16) sentenced three staff members of a TV channel for human smuggling. For the recording of a documentary, the team had helped a Syrian child to reach Sweden from Athens. Although the court recognised the humanitarian motivation, it did not consider the case to fall within with the exception for humanitarian aid provided for by the law. According to the police, most cases of human smuggling concern asylum seekers already residing in Sweden picking up family members from Germany.

In France, several demonstrations in support of asylum seekers and migrants took place. A new group, [Offenders Together](#) (*Délinquants solidaires*), was created with the aim of denouncing the increase in questioning, arrests and prosecutions of people who act in various ways to assist migrants.

## Initial registration and asylum processing

### At the border

Some 8,000 people are waiting in Serbia to enter Hungary. Hungary continues to admit only five people per working day for each of two transit zones, despite a new law requiring asylum applications to be made from the transit zones. The slow admission procedure results in extremely long waiting times of up to one year for admission to a transit zone. Several [reports](#) were published on brutality towards asylum seekers along the southern borders of Hungary, including severe police violence, which remains largely uninvestigated.

NGOs from Poland [report](#) that border guards in Brest/Terespol and Medyka systematically refuse entry to individuals who plan to apply for international protection. Asylum applicants from Tajikistan and Chechnya often try to submit asylum applications 30 times or more, while only two to three families a day

have their applications registered at the border crossing. The Border Guard justify such refusals by invoking the absence of a valid entry visa or other documents enabling the bearer to stay legally in Poland.

## **Asylum**

Asylum applications in Italy increased by more than 60 % in the first three months of 2017 compared with the same period in 2016, according to the [National Commission for the Right to Asylum of the Ministry of Interior](#); more than half (54 %) of the applications lodged in 2017 were rejected; some 119,500 applications were still pending.

Asylum applications in Hungary decreased further to some 320 (compared with about 430 in February), including only some 20 people who applied while in police custody within the territory (compared with 120 in February). Applicants are mainly from Afghanistan, Iraq, Syria, Pakistan and Algeria. Some 390 decisions were negative in March.

Asylum applications in Bulgaria increased to some 530, including nearly 100 from children.

Asylum applications in Germany [continued to decrease](#), to some 16,570 in February. Around 39 % of all applicants were children; 17 % were younger than 4 years old. Applications came primarily from Syrian, Iraqi, Eritrean and Afghan citizens. Some 334,000 applications were still pending in March.

The [figures](#) of the Office for Migration and Refugees for February show that the proportion of people receiving only subsidiary protection decreased to 19 %; it had been 41 % in September 2016. The proportion of people whose removal was suspended had increased to 6 % of asylum decisions issued; in August 2016, it had been 2.3 %).

A [university study](#) showed considerable and increasing differences among German federal states in recognition rates between 2010 and 2015, particularly in relation to applicants from Iraq and Afghanistan; moreover, a low recognition rate in a federal state was found to correlate to a high number of hate crime attacks during the preceding year.

Some 3,430 [new asylum applicants](#) arrived and applied for asylum in the Netherlands in February 2017.

In France, there has been a rise of 15 % in requests for asylum in recent months, compared with the same period last year, according to La Cimade.

About 15,760 people applied for asylum in Spain in 2016, including nearly 1,800 children, 1,530 of them being under 14 years of age. The number of first-time applications is far below the average for EU Member States (335 applications per million inhabitants). A [question](#) raised in the Senate indicated that sub-Saharan African asylum applicants are not able to register their asylum applications at the offices established at the city borders of Ceuta and Melilla.

While the number of asylum applications remained low in Denmark during March, at some 170, unaccompanied children continue to account for a large proportion of them, at nearly 30 %.

[Concerns were expressed](#) in relation to the legal protection of asylum seekers in Finland. Time pressure, the lack of experience of many asylum officers and

lawyers, insufficient legal guidance provided to asylum seekers and efforts towards efficiency are said to jeopardise the fair assessment of asylum claims.

Around 10 % of asylum applicants in Austria are unaccompanied children.

In Sweden, many asylum seekers are frustrated with the [temporary restrictions](#) on obtaining a residence permit and on family reunification, introduced in July 2016.

Asylum case officers in Austria continue to increasingly call into question the authenticity of documents from Syria and the authenticity of marriages, according to NGOs.

## Return

The majority of individuals returned from Greece in March in the context of the International Organization for Migration (IOM) Assisted Voluntary Return and Reintegration (AVVR) programmes were from Pakistan, Iraq or Algeria. During the same month, the Hellenic Police conducted approximately 600 forced returns. The majority of returnees originated from Albania (about 490 people) or Pakistan (about 30 people).

Italy returned more than [70 Nigerian citizens](#) in March, following instructions to intensify checks to identify Nigerian migrants living irregularly in Italy (as reported in FRA's February report).

A young Afghan man apprehended while trying to cross the border to France in Ventimiglia, Italy, [attempted suicide](#) as he was about to be transferred to Taranto.

Hungary returned some 50 people to Ukraine, Serbia, Georgia and Kosovo.

Bulgaria returned about 80 % of some 500 people who had participated in a riot in November 2016 at the registration centre in Harmanli to other countries.

A Jewish Afghan citizen in Pinneberg, Germany, resorted to seeking [refuge in a synagogue](#) because he was to be deported despite the vulnerabilities resulting from his minority background.

Austria increased the number of people it returned to Afghanistan.

In the Netherlands, a large number of people are categorised as having [returned to their country without supervision](#). According to the National Support Point for Undocumented Migrants the majority of them are likely to be staying irregularly in the Netherlands or to have moved to other countries in Europe; they are therefore in a vulnerable position and [more likely](#) to become victims of human trafficking. Forced return following detention has increased, from 59 % to 70 % in 2016.

In France, various associations highlighted the frequency of the use of deprivation of liberty for undocumented foreigners during return procedures, with this being "systematic" in certain towns. Furthermore, according to Anafé, at airports certain people are returned very quickly after their arrival by plane, sometimes without being informed of their rights. On 23 March, Anafé published an [official statement](#) in which it denounced the treatment of a family at the

airport of Roissy Charles de Gaulle, which ended with the hospitalisation of a one-year-old child.

## Reception conditions

### Hotspots and immigration detention

The Italian Ministry of the Interior [announced](#) the opening of additional hotspots by June 2017 in Messina and Palermo (Sicily), Corigliano Calabro, Crotone and Reggio Calabria, as well as the creation of a mobile hotspot in Sardinia.

In Brindisi, Italy, a [transgender woman](#) from Brazil was placed in a pre-removal detention facility for men, based on the gender to her assigned at birth. In the facility, her hormone therapy was stopped for more than a month. The same woman was later held again in a pre-removal facility in Caltanissetta.

Some 120 people were detained in Hungary before their removal and more than 60 during asylum procedures.

Construction works to turn the reception centre in Pastrogor, Bulgaria, into a closed facility continued. A sector of the pre-removal detention facility in Busmantsi was transformed into a closed facility for asylum seekers who have committed certain offences.

Immigration detention centres (CIEs) in Spain continue to be [criticised](#) for their penitentiary-style regimes and deficiencies in identifying children and victims of human trafficking. More than [70 % of foreigners entering the CIEs are released](#) into a limbo situation, as removal frequently turns out to be impossible following the maximum detention period.

According to the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Helsinki Foundation for Human Rights, foreigners – including families with children and victims of torture – who have successfully applied for international protection at the border crossings in Poland are often placed in detention centres for at least 60 days. The courts justify detention by citing numerous refusals of entry, the need to gather additional information, the risk of absconding and the lack of a permanent address.

### Safety and material conditions

On the Greek islands, sexual and gender-based violence remains a critical issue due to the lack of basic standards in reception and identification centres (RICs), particularly in Lesbos (RIC Moria) and Samos (RIC Vathy).

Two [reception hubs](#) will be established near Rome, Italy, hosting up to 400 asylum seekers each.

In Hungary, asylum seekers are accommodated in containers in the transit zones, which they may not leave until a decision on their claim is made, except through a one-way exit to Serbia. The capacity of open reception facilities in Hungary has been further reduced; they were hosting only about 69 refugees and asylum seekers at the end of March. The Körmend open refugee camp had closed.

Reception centres (CETIs) in Ceuta and Melilla, Spain, remained [overcrowded](#), filled to more than twice their capacity.

Since the dismantling of the informal camps in Calais, France, at the end of 2016, many migrants have returned there in the hope of being able to go to the United Kingdom. The Public Defender of Rights estimates their number at between 250 and 400, including more than 100 children. These migrants live in hiding from the police, in the cold and in destitution in the absence of reception facilities.

### **Healthcare and basic services**

Mental health care is insufficient in Greece, particularly on the Greek islands. On Lesbos, the percentage of patients with anxiety and depression has increased by a factor of 2.5 and the percentage of those with post-traumatic stress disorder has increased threefold, according to [Médecins Sans Frontières](#); on Samos and Chios mental health among asylum seekers has deteriorated and attempts at self-harm and suicide have escalated.

A representative [study](#) on the situation of refugee women in Germany identified a lack of privacy and deficient sanitary conditions as key concerns; more than one third of the women interviewed complained about a lack of medical care; fewer than 10 % of those who had asked for psychological treatment had received it.

The Administrative Court of Lille, France, suspended several decisions by the mayor of Calais prohibiting the distribution of food to migrants; however, the court [refused](#) to order the Calais council to open a distribution centre for meals and to provide the material resources for the operation of a meal distribution service for the benefit of people of French or foreign nationality without a fixed abode.

In Guyana, France, according to several [associations](#), for technical reasons asylum requests can no longer be registered, which creates major difficulties for applicants in accessing healthcare, as they cannot prove their administrative status.

In January, the [Public Defender of Rights](#) in France raised the difficulties that migrants face in accessing healthcare, caused by illegal practices by doctors who refuse to see members of vulnerable groups.

### **Vulnerable people**

The Italian Refugee Council launched a [monitoring tool](#), including a survey, to assess responses to the needs of survivors of torture and violence; the tool is aimed at lawyers, legal counsellors, social workers, doctors and other stakeholders.

To qualify for state funding in Germany, welfare organisations have to include the identification of vulnerable people among their tasks; however, there are no harmonised standards or procedures at national level.

In France, [half of applicants for asylum remain without accommodation](#) as a result of the priority rules that have been set. Owing to an inability to meet their needs, men, women and children, many of whom are unaccompanied, are left in the street, according to the [NGO Le Gisti](#), without access to information on their rights.



The police in Finland report cases of self-harm among asylum seekers, especially those facing negative asylum decisions.

## Child protection

### Identification

Arrivals in Italy by unaccompanied children increased to nearly 2,300 between 1 January and 22 March; fewer than 400 had arrived by the end of February.

Unaccompanied children in Sweden are increasingly anxious about the results of age assessments and their chances of staying in Sweden when they turn 18. Reports of deteriorating mental health and suicide attempts among unaccompanied children reflect this. Several NGOs, as well as the [Parliamentary Ombudsman](#), have criticised the motivation behind and process involved in the age assessments. In an [internal quality control report](#), the Swedish Migration Agency found that age had been insufficiently investigated in 60 % of all cases; in 43 %, applicants were not clearly informed that the agency had not been able to confirm their age during the asylum interview. From March, the National Board of Forensic Medicine will arrange medical age assessments, which in some cases had been [postponed](#) pending the start of the new process.

In its annual [report](#), the Swedish Ombudsman for Children criticised the absence of child-specific forms of persecution as a ground for asylum and the weak phrasing of the child's right to be heard in the Aliens Act; furthermore, the Ombudsman pointed out that there were no special units assessing the needs of unaccompanied children upon arrival.

According to the Human Rights League, in the Slovakian detention centre at Medveďov there was a problem with the age assessment of young men detained by the police. Although the men claimed that they were minors, the police did not initiate an age assessment and treated them as adults.

According to a [response](#) to a parliamentary question, Germany rejected 620 unaccompanied children at the border in 2016 for failing to meet the entry requirements; among them were 275 Afghan, 58 Syrian, 39 Eritrean and 36 Iraqi unaccompanied children.

According to NGOs in Poland, the best interests of the child are not taken into account in detention decisions. The system for appointing a guardian for unaccompanied children does not work properly; it can take from three to six months for a guardian to be appointed.

### Accommodation and family reunification

Unaccompanied children living in Como, northern Italy, [do not receive adequate assistance](#). Those who live in the government encampment are accommodated together with unrelated families, including adults; legal counselling and a guardian are made available to them only if they apply for asylum.

The capacity to accommodate unaccompanied children is still insufficient in Greece. On 17 March 2017, there were 891 children on the waiting list to be referred to the National Centre for Social Solidarity for accommodation.



In accordance with the new law in Hungary, children over the age of 14 are transferred to the transit zones, where they must stay until their asylum claim is decided.

The Hungarian [SOS Children's Village Foundation](#) has been trying to find volunteers willing to accommodate refugee children.

The number of unaccompanied children in basic care facilities in Austria has gradually decreased to some 4,250.

The provincial authorities in Lower Austria have taken over responsibility for legal counselling of unaccompanied children; the counsellors reportedly do not always file appeals when they are requested to do so by the children, and do not always hand over decisions to the children.

In Finland, transfers of unaccompanied children to another municipality or another part of the country were [reported](#) to have a negative impact on the well-being and integration of the children. The number of places allocated to unaccompanied children in municipalities was reported to be insufficient, which has led to delays in placements.

A [report](#) by NGOs and a judicial clinic described the situation of the more than 540 unaccompanied children staying in Melilla, Spain, including some 100 sleeping in the streets. Many are not registered and have no access to child protection, education or healthcare services.

In Spain, the [book](#) *My name is Adou* was published; it is the story of an eight-year-old boy whose father resorted to smugglers following the death of the grandmother who had been looking after the child in Côte d'Ivoire, as his request for family reunification was refused due to a minor discrepancy in the required income.

A 16-year-old child from Mali committed suicide in France by throwing himself out of the window of reception accommodation for unaccompanied children; according to his friends, he did so because he feared that a police patrol would find him and deport him on the grounds that his status as a child was contested.

Owing to financial considerations, 17-year-old asylum seekers are to be accommodated in adult facilities in Denmark. Four children's centres will be [closed](#).

Families with children have increasingly been arriving in the municipality of Vesthimmerland, Denmark, following restrictions on family reunification throughout Europe.

Reception centres for families are often not suitable for children in Sweden, according to the National Board of Health and Welfare. Mental health problems, also among parents, make the children even more vulnerable. Relocations to other municipalities often take place at short notice and without preparation, causing anxiety among the children.

A government [report](#) on the situation of unaccompanied children in Germany highlights the lack of trained staff and adequate accommodation facilities in some municipalities; many children are affected by extreme stress; the time taken to appoint a guardian ranges from a few days to several weeks. Federal states, municipalities and welfare organisations call for social systems to be

interlinked, to improve access to education and training, healthcare and psychosocial care, which would require increased cooperation between immigration and youth welfare authorities, and more training for social workers and guardians.

Research in the Netherlands showed that the physical and mental health of so-called rooted children [was at risk](#) when children and their families were returned after a long asylum procedure (more than five years). In addition to developing physical and mental problems, [these children](#) lack knowledge of the language of their country of origin, have no social connections, have no plans for the future, live in poverty and, because of their 'otherness' in behaviour, are considered outsiders by the local community.

Children in families may spend several months or even years in refugee accommodation centres in Germany that are often not safe and inadequate for children; only 29 % of children in reception centres attend regular schools, according to a [Unicef study](#).

Asylum-seeking children in Slovakia lack quality education. This is mostly due to the language barrier and teachers being ill prepared to teach refugee children. The employees of reception centres also lack the financial sources to provide leisure activities for children.

Unaccompanied children are no longer granted a temporary residence permit under the special regulation for unaccompanied children in Denmark, according to NGOs. They therefore live in asylum centres until they are old enough to undergo an asylum procedure. The children's centres are not necessarily equipped to meet the needs of children who are in the asylum system for a number of years.

## Legal, social and policy responses

### Legal changes

The European Court of Human Rights (ECtHR) [stopped](#) the transfer of eight teenagers and a pregnant woman from a refugee camp near Budapest to the transit zone along the Hungarian-Serbian border, in line with the new law. The court asked the authorities which services were in place in the transit zones to meet special needs, particularly of children, and if asylum seekers were granted access to education and medical services in the transit zones.

The ECtHR [ruled](#) that Hungary violated the European Convention on Human Rights by detaining two asylum seekers in the transit zone in the autumn of 2015 and returning them to Serbia, putting them at risk of facing inhumane treatment in refugee centres in Greece. The court ordered Hungary to pay each of the appellants around €18,700 in compensation, in addition to legal fees.

In accordance with a [new law](#) further extending its border control policy, Hungary is accepting asylum applications only from the transit zones, requiring the police to collect and take all asylum applicants (including those who did not enter through Serbia) to the Serbian side of the border fences, where they have to wait in one of the two transit zones until they can apply for asylum. This includes children in families as well as unaccompanied children who are over 14 years old. The timeframe for appealing against a negative asylum decision has

been reduced from seven to three calendar days. If the applicant does not cooperate with the authorities, the applicant is returned to Serbia without having the opportunity to appeal. In case of a negative decision, the asylum seeker has to reimburse the cost of their detention. NGOs have strongly criticised the law for practically preventing access to asylum in Hungary and urged the Commissioner for Fundamental Rights in Hungary in a public [letter](#) to consult the Constitutional Court on the automatic detention of all asylum seekers.

EASO will provide rapporteurs in support of the Appeal Committees in Greece, which, depending on the way it is implemented, could raise questions under the right to an effective remedy.

The Italian Senate approved the law decree accelerating asylum procedures and restricting appeal options; the Chamber of Deputies is expected to approve the law in April. The Association for Legal Studies on Immigration [criticised](#) the decree for failing to address migration flows comprehensively, including through legal migration. The National Association of Judges also [criticised](#) the reform for possibly infringing the right to effective remedy and contributing to an excessive backlog of cases before the Court of Cassation. Several NGOs also [expressed](#) their criticism for the emergency solutions, as opposed to longer term measures, provided for by the legal changes.

The Italian Parliament approved the [law](#) on unaccompanied children, introducing a national protocol for age assessment, a two-tier reception system with arrival and secondary reception centres, foster care as a priority over reception centres, consolidated safeguards concerning education and healthcare, and the right for children to be heard in judicial proceedings affecting them.

The Bulgarian interim government [repealed](#) the [regulation](#) on integration agreements, considering that it had failed to provide clear criteria for the social and cultural integration of people granted asylum or international protection and that it had caused problems in the localities where mayors had to implement integration measures in the face of negative public attitudes. The Minister of the Interior and the Minister of Labour and Social Policy will draft a new regulation by 7 April 2017.

Austria proposed a new [Integration Act](#), obliging asylum seekers to complete several integration activities, such as courses on the German language and Austrian values, and providing for penalties, such as a reduction in benefits, in case of non-compliance. The act also foresees integration monitoring by the Ministry for Europe, Integration and Foreign Affairs and prohibits full-face veiling. The supplementary [Integration Year Act](#) obliges people granted international protection and asylum seekers with a high probability of recognition to take part in charitable activities with a view to facilitating their integration into the labour market.

In Germany, several organisations criticised the [draft bill](#) to accelerate returns: the proposed restrictions, including the possible extension of pre-removal detention, are not justified; extending the duration of stays in reception centres would be an obstacle to integration and education; and youth services need urgent training if they are to be made responsible for asylum applications for unaccompanied children.

In the Netherlands, a draft bill of the Return and Immigration Detention Act is under [review](#), in particular with regard to the provision that detention of aliens must be used only as a means of last resort.

Poland presented [amendments](#) to the Act on granting international protection to foreigners. As a result of these amendments, in certain cases, asylum applications at border crossing points will be examined within border procedures, which means that the procedure should be completed within 28 days and a negative decision cannot be suspended. Nearly all applicants will be detained for up to 12 months. Another draft [amendment](#) to the regulation on detention centres for foreigners would allow for the possibility of accommodating foreigners in containers.

The parliament in Slovakia agreed to an [amendment](#) to the Law on residence of foreigners allowing families with children in detention to access mental health and social services and establishing that children have a right to meals five times a day and access to outdoor space three times a day. Age assessment for unaccompanied children will be obligatory only in cases where there “is a suspicion that a person is an adult”, rather than, as previously required, “when it was not ‘obvious’ that he/she was a minor”. The Parliamentary Committee for Human Rights and National Minorities [recommended](#) the establishment of a working group on alternatives to detention for families with children.

In Finland, changes in legislation and practice have recently taken place in relation to the availability of legal aid and appeal times.

The amendment of the Finnish [Aliens Act](#) (*ulkomaalaislaki/utlänningslag*) to include ‘designated residence’ (*lapsen asumisvelvollisuus/boendeskyldighet för barn*) as an alternative to detention for children aged 15 to 17 and with an enforceable expulsion order entered into force on 1 February 2017. The introduction of designated residence has been [criticised](#) for not creating a real alternative to detention for children, instead expanding the use of interim measures.

In Sweden, the Migration Court of Appeal (case number UM911-16) [confirmed](#) the right to subsidiary protection of an Afghan child, considering the extent of violence and abuse, the overall situation in the country and the lack of family, other networks and local knowledge of the country, concluding that these factors created an individual and specific risk to the child.

## **Policy responses**

In Greece, the Minister of Migration Policy [announced](#) that the money provided through IOM AVRRO programmes will be increased from €500 to €1,000 for those who do not appeal their first instance negative decisions and depart voluntarily through the programmes.

The [EU-Northern Africa Contact Group](#) met for the first time in Rome, Italy, including officials from the ministries of the interior of Algeria, Libya and Tunisia; the group aims to monitor migration flows and coordinate their interventions.

Concerns have been raised in Denmark in relation to Dublin transfers to Hungary. The Danish Refugee Council is currently awaiting a decision by the Refugee Appeals Board (*Flygtningenævnet*) concerning conditions in Hungary, especially in terms of detaining asylum seekers.

Asylum seekers in the detention facility at Békéscsaba, Hungary, started a hunger strike in response to the new law on the extended border control policy.

In Bulgaria, procurement procedures for €160 million in EU funding for dealing with the migration situation and border management were launched.

Austria promoted voluntary return through a [website](#) and advertisements displayed in public places in Vienna. There are plans for the distribution of information materials in basic care centres.

The [government programme 2017-2018](#) adopted in Austria includes measures on 'security and integration' and the establishment of return centres.

The German police plan to [extend](#) border patrols, currently restricted to within 30 kilometres of the border area, beginning patrols on the main traffic routes.

The police practice in Region South, Sweden, of demanding information from the municipal social services on the whereabouts of rejected asylum seekers will be extended to all regions.

In the Netherlands, the law granting a permit to children who have stayed in the country for a long period of time due to protracted procedures, is applied in an increasingly restrictive manner. The State Secretary for Security and Justice [rejected](#) a [motion](#) by MEPs to reconsider the very strict interpretation of the requirement of "cooperation in return procedures", which is a criterion for granting such permits. NGOs, media and MEPs have [criticised](#) the [increasingly restrictive](#) implementation of the regulation for interfering with the child's best interests and right to development.

### **Responses by civil society and local and political actors**

Several demonstrations took place in cities throughout Germany (Berlin, Frankfurt, Leipzig and Bremen) against deportations in general and to Afghanistan particularly and against the EU-Turkey agreement on the occasion of its one-year anniversary. At the same time, many [rallies against refugees](#) took place, with criminal incidents such as hate speech, Nazi salutes and attacks on pro-refugee demonstrators, the press or the police.

Similarly, on 18 March 2017, [protests](#) took place throughout Greece against the implementation of the EU-Turkey statement, with the biggest one taking place in Athens.

In Rome, Italy, demonstrations took place against negotiations between the EU and third countries to tackle irregular migration.

On 30 March 2017, the Greek Council for Refugees held a [press conference](#) in light of the announcement of the ECtHR ruling on the case *Chowdury and others v. Greece*. The court ordered Greece to pay €588,000 in compensation to a group of irregular migrant workers from Bangladesh, exploited in the agriculture sector.

According to [a survey](#) by the National Centre for Social Research in Greece, 65 % of participants think that migrants have a negative effect on Greece's economy, 59 % consider that migrants are taking jobs from Greek citizens and 59 % consider that migrants' use of health and welfare services is greater than their contribution in taxes.

The Prefecture of Brescia, Italy, [refused](#) access to the reception system to rejected asylum applicants whose appeals were still pending.

In a village near Harmanli, Bulgaria, over the past year, a school principal has been helping Syrian children who had not been accepted at other schools to integrate through cultural exchange activities; this has [reportedly](#) led to a much greater level of tolerance throughout the village.

Public discourse in Austria has been growing increasingly insensitive to restrictive measures, and NGOs have noticed an overall erosion of fundamental rights awareness.

In Spain, hundreds of people [demonstrated](#) in support of refugees and against restrictive EU policies in Barcelona, Madrid, Valencia, Zaragoza, Seville and a number of other cities.

The Danish Minister for Immigration and Integration (*Udlændinge- og Integrationsministeren*) was heavily [criticised](#) in March 2017 for publishing a picture of a birthday cake with the number 50 on it on Facebook with the following text: "Today I got the 50th amendment to tighten immigration controls ratified. This needs celebrating."

Several actors in Sweden consider that the public debate on migration and asylum has becoming ever more polarised and aggressive, although the number of arrivals has been decreasing.

In Poland, according to [NGOs](#), the media automatically portrays foreigners in a negative way and government representatives present a negative attitude to migrants and refugees.

There have been several expressions of hostility against asylum seekers and migrants of Muslim origin by politicians in Slovakia. One of the opposition political parties wants to ban by law the construction of mosques in Slovakia. Prime Minister Robert Fico defended the unwillingness of Slovakia to accept more asylum seekers. In his view, the arrival of asylum seekers threatens the cultural identity of Slovakia. The Slovak National Party proposed a ban on burqas.

## Hate speech and violent crime

In Italy, the NGO Lunaria published a [report](#) on 210 cases of violence against asylum seekers monitored by the association during 2016.

Several racist, xenophobic and related incidents against migrants and asylum seekers have taken place in Austria since January, resulting in material damage and disturbance. Some 40 % of people with a migrant background, including migrants and refugees, in the region of Styria reported having been verbally attacked because of their skin colour, religion or origin, according to a [survey](#).

The Catholic Church [withdrew](#) a priest from the small town of Belene, Bulgaria, because he had received threats for accommodating a Syrian refugee family despite local protests allegedly instigated by a municipal councillor representing a populist party.



Several violent attacks against asylum seekers and reception and accommodation facilities were [reported](#) in Germany.

In January and February, 49 proceedings were initiated by the police in relation to online hate speech in Poland.

The Slovak NGO Humanitarian Council reported that it had been attacked more often recently for providing integration services to asylum seekers residing in refugee centres, as well as for working with refugees.

In the Netherlands, on 29 March 2017 the Dutch Reporting Point for Discrimination on the Internet published its [report](#) on online hate speech in 2016. Of the incidents of online hate speech that were reported on the grounds of race, 22 % were registered as hate speech against asylum seekers and refugees (70 out of a total of 305 incidents). An additional 4 % (equal to 12 incidents) were directed at migrants in general.

In February 2017, four Danish boys attacked a 16-year-old Afghan boy and tried to [burn him alive](#). The four boys were arrested. Charges of attempted homicide were later dropped, but the defence expects that they will be charged with severe violence instead. According to local police, the crime was not a hate crime motivated by the ethnic origin of the boy. The boy's family, however, claimed that their son had been the victim of racist attacks for some time.

In February 2017, the Danish Institute for Human Rights published the report [Hate speech in the public online debate](#), which shows that hate speech is most common in connection with news posts on topics concerning religious belief, refugees, migration, asylum and equality. Almost every third comment in debates on these topics was hateful.

Arson attacks against accommodation centres in Sweden have decreased significantly.

Some confrontations between asylum seekers and counter-demonstrators were reported to have taken place at demonstrations in central Helsinki, Finland, since February. Several reports of crimes, including assaults, have been registered. In late March, an attempt was made to set fire to a tent while 12 pro-migration demonstrators were inside it.

New [online police officers](#) were recruited to police departments in Finland, and a new police unit was established in Helsinki to work on online hate speech.

In Spain, some [extreme right groups](#) have increased their activities. According to a [report](#), incidents of online hate speech have increased considerably in Spain. A Facebook group is being [investigated](#) for inciting hatred against unaccompanied children in Melilla. Between January and March, several racist and xenophobic incidents, including attacks and insults, were [reported](#).

*Note on periods covered in country reports*

In the following sections on specific Member States, subsections 1 and 2 report on events that took place in March 2017. All other subsections relate to January, February and March 2017. This applies to Austria, Bulgaria, Denmark, Finland, France, Germany, the Netherlands, Poland, Spain, Slovakia and Sweden.

Concerning Greece, Hungary and Italy, subsections 1-7 report on events that took place in March 2017. Subsections 8 and 9 report on events that took place in January, February and March 2017.

# 1. Austria

## 1.1. Overview of the situation

Around 2,220 new arrivals entered Austria in March 2017, according to the Federal Ministry of the Interior, Department II/2, Operational Affairs (*Bundesministerium für Inneres, Abteilung II/2, Einsatzangelegenheiten*).<sup>1</sup> The new arrivals' main countries of origin were Nigeria (some 310 people), Pakistan (some 220 people), Afghanistan (some 210 people), Syria (some 130 people) and Iraq (some 120 people).<sup>2</sup>

Official statistics on the number of new asylum applications will be available in the middle of April.<sup>3</sup> The Federal Ministry of the Interior, Department III/9, Basic Care and Federal Services (*Bundesministerium für Inneres, Abteilung III/9, Grundversorgung und Bundesbetreuung*), reported that there were 500 to 600 asylum applications per week in March.<sup>4</sup> The applicants' main countries of origin were Syria, Afghanistan and Pakistan.<sup>5</sup> The Federal Ministry of the Interior, Department III/5, Asylum and Immigration (*Bundesministerium für Inneres, Abteilung III/5 Asyl und Fremdenwesen*), expected that the total number of asylum seekers for the period January to March would be about 6,500.<sup>6</sup>

Currently, around 64 % of asylum seekers are male and 36 % are female.<sup>7</sup> Around 10 % of asylum seekers are unaccompanied children.<sup>8</sup>

There are around 76,000 people in basic care (*Grundversorgung*) in Austria, most of them in facilities provided by the provinces.<sup>9</sup>

According to Caritas Styria (*Caritas Steiermark*), the number of people in basic care facilities in the region of Styria has fallen.<sup>10</sup> In March, 250 to 300 people left basic care, either because they received a positive or a negative asylum decision or, in some cases, because they absconded.<sup>11</sup> Of those in basic care in Styria, 30-35 % are female, according to Caritas Styria.<sup>12</sup> Around 38 % of those in basic care in Styria are under the age of 18, and 24 % are under the age of 14.<sup>13</sup>

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<sup>1</sup> Austria, Federal Ministry of the Interior, Department II/2, Operational Affairs (*Bundesministerium für Inneres, Abteilung II/2, Einsatzangelegenheiten*).

<sup>2</sup> *Ibid.*

<sup>3</sup> Austria, Federal Ministry of the Interior, Department III/5 (*Bundesministerium für Inneres, Abteilung III/5 Asyl und Fremdenwesen*).

<sup>4</sup> Austria, Federal Ministry of the Interior, Department III/9 (*Bundesministerium für Inneres, Abteilung III/9 Grundversorgung und Bundesbetreuung*).

<sup>5</sup> *Ibid.*

<sup>6</sup> Federal Ministry of the Interior, Department III/5 (*Bundesministerium für Inneres, Abteilung III/5 Asyl und Fremdenwesen*).

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> Austria, Caritas Styria (*Caritas Steiermark*).

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

## 1.2. Key fundamental rights concerns

The number of Afghans deported to Afghanistan increased in March,<sup>14</sup> either as a result of a negative asylum decision or because subsidiary protection had been removed.<sup>15</sup> It was mainly young men who were deported. These deportations were based on court decisions (usually second instance).<sup>16</sup>

No key fundamental rights concerns were reported by Caritas Styria; the Federal Ministry of the Interior, Department III/5; or the Federal Ministry of the Interior, Department III/9.<sup>17</sup> Department III/9 reported that efforts had been made to further increase the quality of basic care facilities.<sup>18</sup>

## 1.3. Children and vulnerable groups

There are currently around 4,250 unaccompanied children in basic care in Austria.<sup>19</sup> This number is falling only slowly.<sup>20</sup>

As a result of the decreasing number of asylum applications, more places are available for children and vulnerable groups. For the same reason, access to services such as education and healthcare is also improving for all applicants, including vulnerable persons.<sup>21</sup>

Caritas Vienna (*Caritas Wien*) reported that responsibility for providing legal counsel to unaccompanied children in Lower Austria had been transferred from Caritas to the provincial authorities of Lower Austria at the end of March.<sup>22</sup>

According to Caritas Vienna, this handover caused problems with the quality and accessibility of legal advice. The organisation reported that the provincial authorities' legal counsellors do not always file appeals when they are requested to do so by unaccompanied children and do not always provide them with the decision documents in their cases.<sup>23</sup> Caritas Vienna noted that there may, therefore, be gaps in legal protection.<sup>24</sup>

## 1.4. Changes in law, policy and practice

At the end of March, the government proposed to the parliament a new legislative package on integration.<sup>25</sup> This new Integration Act<sup>26</sup> would amend

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<sup>14</sup> Austria, Caritas Styria (*Caritas Steiermark*); Austrian Red Cross (*Österreichisches Rotes Kreuz*).

<sup>15</sup> Austria, Red Cross (*Österreichisches Rotes Kreuz*).

<sup>16</sup> Austria, Caritas Styria (*Caritas Steiermark*).

<sup>17</sup> Austria, Caritas Styria (*Caritas Steiermark*); Federal Ministry of the Interior, Department III/5 (*Bundesministerium für Inneres, Abteilung III/5 Asyl und Fremdenwesen*); Federal Ministry of the Interior, Department III/9 (*Bundesministerium für Inneres, Abteilung III/9 Grundversorgung und Bundesbetreuung*).

<sup>18</sup> Austria, Federal Ministry of the Interior, Department III/9 (*Bundesministerium für Inneres, Abteilung III/9 Grundversorgung und Bundesbetreuung*).

<sup>19</sup> Austria, Federal Ministry of the Interior, Department III/5 (*Bundesministerium für Inneres, Abteilung III/5 Asyl und Fremdenwesen*).

<sup>20</sup> *Ibid.*

<sup>21</sup> Austria, Caritas Styria (*Caritas Steiermark*).

<sup>22</sup> Austria, Caritas Vienna (*Caritas Wien*).

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

<sup>25</sup> Austria, Caritas Styria (*Caritas Steiermark*).

various laws and provide a central framework for the successful integration into Austrian society of non-nationals living in the country. The guiding principle of the Act is “integration through performance”. The legislative package includes measures to support refugees but also means to exert pressure on refugees to integrate.<sup>27</sup> It includes provisions obliging non-nationals to cooperate with the authorities. The law also provides for compulsory courses on the German language and Austrian values, as well as an integration test. Recognised refugees and people entitled to subsidiary protection are obliged to comply with the fundamental values of the legal and social order as set out in an integration contract (*Integrationsvereinbarung*) and to participate in and complete the integration measures offered to the extent possible (the ‘extent possible’ is not defined). The Act provides for penalties if a refugee or person entitled to subsidiary protection does not fulfil these obligations. The main penalty that the law allows for is a reduction in needs-based minimum benefits (*Bedarfsorientierte Mindestsicherung*).<sup>28</sup>

The Integration Act would also introduce institutional measures: an integration monitoring and research coordination centre would be established at the Federal Ministry for Europe, Integration and Foreign Affairs (*Bundesministerium für Europa, Integration und Äußeres*). To support integration policy issues of fundamental importance, the existing Expert Council for Integration (*Expertenrat für Integration*) at the Ministry would be legally established.<sup>29</sup>

The Integration Act would also prohibit full veiling.<sup>30</sup> According to the new law, anyone who conceals his or her face by means of clothing or other objects in public places or in public buildings such that they are no longer recognisable is committing an administrative offence, which is punishable by a fine of up to €150. Exceptions apply if such concealment is allowed by federal or provincial law, or if it takes place in the context of artistic, cultural or traditional events, while practising a sport, or for health or professional reasons.<sup>31</sup>

Further amendments proposed as part of the legislative package on integration aim to prohibit radical groups from distributing materials in public places.<sup>32</sup>

In addition, the Integration Act is supplemented by an Integration Year Act (*Integrationsjahrgesetz*),<sup>33</sup> which would require beneficiaries of international protection and asylum seekers with a high probability of recognition to take part in charitable activities<sup>34</sup> for a minimum of one year.<sup>35</sup> The intention is that these activities would make it easier for those taking part to join the labour market in future.<sup>36</sup> According to Section 3 (2) of the Integration Year Act, people entitled

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<sup>26</sup> Austria, [Integration Act](#).

<sup>27</sup> Austria, Caritas Styria (*Caritas Steiermark*).

<sup>28</sup> *Ibid.*

<sup>29</sup> Austria, [Integration Act](#).

<sup>30</sup> Austria, Caritas Styria (*Caritas Steiermark*).

<sup>31</sup> Austria, [Bundesgesetz über das Verbot der Verhüllung des Gesichts in der Öffentlichkeit](#) (Anti-Gesichtsverhüllungsgesetz – AGesVG).

<sup>32</sup> Austria, [Integration Act](#).

<sup>33</sup> Austria, [Integration Year Act](#) (*Integrationsjahrgesetz*).

<sup>34</sup> Austria, [Integration Act](#).

<sup>35</sup> Paragraph 3 (1) of the Integration Year Act stipulates that the integration year is a labor market policy support measure designed in principle for a minimum of one year. Under special circumstances, particularly if a faster sustainable inclusion into the labor market is to be expected, the “integration year” may be shorter.

<sup>36</sup> Austria, [Integration Act](#).

to asylum and subsidiary protection who cannot immediately take up a suitable job are obliged to participate in the activities offered during the integration year, unless substantive reasons for not doing so are given. Various modules have to be completed. These include training resulting in qualifications, but also on-the-job training (*Arbeitstrainings*) that serves the public interest. This on-the-job training might last as long as nine months. The Integration Year Act does not address the issue of remuneration. Caritas Vienna is critical of the Integration Act and believes that it will be difficult to implement.<sup>37</sup>

The Federal Ministry of the Interior further promotes the voluntary return of asylum seekers. It has been doing this through advertisements on information screens in Vienna and by creating information materials to be distributed in basic care facilities.<sup>38</sup> A website providing information on voluntary return has been set up at [www.voluntaryreturn.at/en/](http://www.voluntaryreturn.at/en/). Moreover, in March, the Federal Ministry of the Interior offered €1,000 each to the first 1,000 people to voluntarily return to their home country.<sup>39</sup> This incentive is available to people from, for example, Afghanistan, Iraq and African states but not to people from the Western Balkans. Candidates must have been admitted to the asylum procedure before 15 March 2017. The Federal Office for Asylum (*Bundesamt für Fremdenwesen und Asyl* – BFA) assesses each case individually. Caritas Styria provides counselling on voluntary return but does not exert any pressure on asylum seekers, as everyone has to decide by him-/herself whether to return voluntarily or not.<sup>40</sup> Caritas Vienna welcomes the initiative in principle but argues that €1,000 is not enough for many countries.<sup>41</sup>

The Alien Law Amendment Act (*Fremdenrechtsänderungsgesetz 2017* – FrÄG2017) proposed by the Federal Ministry of the Interior (*Bundesministerium für Inneres*) is currently still under discussion.<sup>42</sup>

The Austrian government's work programme for 2017-2018, adopted at the end of January, includes measures on security and integration.<sup>43</sup> The programme reflects the government's intentions to adopt further measures on asylum and to establish return centres.<sup>44</sup>

The Austrian Red Cross (*Österreichisches Rotes Kreuz*) has observed a change in the decision-making practice of the BFA. Asylum case officers have increasingly been questioning the authenticity of documents from Syria. As the authorities are not legally required to explain why they believe that documents are not genuine, it is difficult to file a complaint against such a decision.<sup>45</sup> According to Red Cross Austria, asylum case officers are also increasingly unlikely to

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<sup>37</sup> Austria, Caritas Vienna (*Caritas Wien*).

<sup>38</sup> Austria, Federal Ministry of the Interior, Department III/9 (*Bundesministerium für Inneres, Abteilung III/9 Grundversorgung und Bundesbetreuung*).

<sup>39</sup> *Ibid*; Caritas Styria (*Caritas Steiermark*).

<sup>40</sup> Austria, Caritas Styria (*Caritas Steiermark*).

<sup>41</sup> Austria, Caritas Vienna (*Caritas Wien*).

<sup>42</sup> Austria, Federal Ministry of the Interior, Department III/5 (*Bundesministerium für Inneres, Abteilung III/5 Asyl und Fremdenwesen*).

<sup>43</sup> Austria, [Für Österreich](#), Arbeitsprogramm der Bundesregierung 2017/2018, Jänner 2017.

<sup>44</sup> Austria, Federal Ministry of the Interior, Department III/5 (*Bundesministerium für Inneres, Abteilung III/5 Asyl und Fremdenwesen*).

<sup>45</sup> Austria, Red Cross (*Österreichisches Rotes Kreuz*).



determine that marriages are genuine, particularly if the couple has been married for less than three months.<sup>46</sup>

## 1.5. Social response

There have been repeated public demonstrations both in favour and against Austrian asylum policy in front of the Ministry of the Interior.<sup>47</sup>

The overall atmosphere in the population has not changed, according to Caritas Styria and the Austrian Red Cross.<sup>48</sup> Publications on asylum and/or integration still cause polarised reactions in the media, and politicians often adopt extreme positions.

However, Caritas Vienna noted a change in public discourse. Restrictive measures tend to be downplayed by the public. For example, the planned return centres and the deportations of young Afghans do not cause a public outcry; rather, they are perceived as being 'not so bad'.<sup>49</sup> Caritas Vienna considers that there has been a general erosion of fundamental rights awareness. This makes it more difficult for NGOs to voice concerns and argue in support of asylum seekers.<sup>50</sup>

The Federal Ministry of the Interior, Department III/9, noted an increase in studies and research on various topics related to asylum, stating that it increasingly receives information requests in this context.<sup>51</sup>

## 1.6. Hate crime incidents

Neither the Austrian Red Cross<sup>52</sup> nor Caritas Vienna<sup>53</sup> was aware of any incidents during the reporting period.

The Federal Agency for State Protection and Counter Terrorism (*Bundesamt für Verfassungsschutz und Terrorismusbekämpfung – BVT*) provided the following information on cases of racist, xenophobic and related incidents against migrants and people in need of international protection. Please note that the BVT reported only extracts for the period January to March 2017:

Incidents reported for January:

- Styria: an unknown person threw a pyrotechnic object at a home for asylum seekers (nobody was harmed but there was property damage).
- Deutschlandsberg/Styria: members of the Identitarian Movement Austria (*Identitäre Bewegung Österreich – IBÖ*) set up a banner reading

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<sup>46</sup> *Ibid.*

<sup>47</sup> Austria, Federal Ministry of the Interior, Department III/9 (*Bundesministerium für Inneres, Abteilung III/9 Grundversorgung und Bundesbetreuung*).

<sup>48</sup> Austria, Caritas Styria (*Caritas Steiermark*). Austria, Red Cross (*Österreichisches Rotes Kreuz*).

<sup>49</sup> Austria, Caritas Vienna (*Caritas Wien*).

<sup>50</sup> *Ibid.*

<sup>51</sup> Austria, Federal Ministry of the Interior, Department III/9 (*Bundesministerium für Inneres, Abteilung III/9 Grundversorgung und Bundesbetreuung*).

<sup>52</sup> Austria, Red Cross (*Österreichisches Rotes Kreuz*).

<sup>53</sup> Austria, Caritas Vienna (*Caritas Wien*).

*"Remigration ist die Option"* ("Re-migration is the option") at a school that has opened a class for refugees.

- Schladming/Styria: members of the IBÖ displayed a banner reading: *"Remigration"* at the Night Race (a popular skiing event).

Incidents reported for February:

- Ferlach/Carinthia: at the main road, IBÖ members set up a banner reading *"Integration ist eine Lüge"* ("Integration is a lie").
- Castle Salzburg: a banner was set up reading *"Festung Europa – macht Grenzen dicht"* ("Fortress Europe – close the borders").
- Bad Radkersburg/Styria: IBÖ members ran a poster campaign; the posters read *"Sichere Grenzen – Identitäre Bewegung"* ("Safe borders – Identitarian Movement").
- Eichgraben/Lower Austria: unknown persons graffitied a swastika and the slogan *"Scheiß Flüchtlinge"* ("crap refugees").
- Wolfberg/Carinthia: IBÖ members set up a banner reading *"Integration ist eine Lüge"* ("Integration is a lie").

Incidents reported for March:

- Graz/Styria: IBÖ members climbed the Styrian ORF-Studio (the regional studio of the Austrian Broadcasting Corporation) and unrolled a banner reading *"Kein Geld für Fake News"* ("No money for fake news").
- Klagenfurt/Carinthia: IBÖ members tried to distribute flyers reading *"Remigration"* at a state parliament session, but they were stopped.
- Various municipalities in Styria: unknown persons graffitied walls with anti-immigration slogans.
- Styria: IBÖ members held signs reading *"Integration ist eine Lüge"* ("Integration is a lie").
- Graz/Styria: IBÖ activists appeared in burka-like garments, one of them wearing an Erdogan mask in mockery of the Turkish president.
- Vienna: IBÖ members set up a banner at the Turkish embassy reading *"Erdogan hol deine Türken ham"* ("Erdogan get your Turks home").
- Steyr/Upper Austria: IBÖ members set up a banner reading *"Steyr ist identitär"* ("Steyr is identitarian").
- Vöklabruck/Upper Austria: unknown persons set up a poster reading *"Islamisierung: nein danke"* ("Islamisation: no thanks").

The Antidiscrimination Office Styria (*Antidiskriminierungsstelle Steiermark*) published a survey on hate crime incidents<sup>54</sup> in the region. Of 1,112 respondents (people from migrant backgrounds, including asylum seekers), about 40 % reported that they had been verbally attacked at least once within the last 12 months, because of their skin colour, religion or origin; 9 % stated that they had been physically attacked. Most of the incidents took place in public spaces – on the street, in parks or on public transport. In the report on the findings, experts on public security emphasised the effect of the social climate on the occurrence of hate crime; they pointed out that particular groups (e.g. the IBÖ) try to

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<sup>54</sup> [Press release](#) (report not available online).

emotionalise the debate on immigration and incite fear, for example by spreading fake news.<sup>55</sup>

## 1.7. Policies against smuggling of human beings

No proceedings for smuggling of human beings have been initiated, according to the Federal Criminal Police Office (*Bundeskriminalamt*).<sup>56</sup>

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<sup>55</sup> Austria, Antidiscrimination Office Styria (*Antidiskriminierungsstelle Steiermark*).

<sup>56</sup> Austria, Federal Criminal Police Office (*Bundeskriminalamt*).

## 2. Bulgaria

### 2.1. Overview of the situation

In March 2017, some 250 people were apprehended at the borders and within Bulgaria, which was an increase on the previous reporting period, although the number remains relatively low. The number of people apprehended while trying to enter the country was around 140. Almost all of them were apprehended at the border with Turkey. Most of these people were from Syria (more than 55 %), Afghanistan (about 14 %) or Iraq (about 12 %). The number of people apprehended while trying to leave the country was around 20. Within Bulgaria, the police apprehended some 80 people.<sup>57</sup>

Another 260 people already registered in the automated fingerprint identification system were also apprehended while trying to leave Bulgaria. Almost all of them were apprehended at the border with Serbia. Most of these people were from Afghanistan (more than 76 %), Pakistan or Syria.<sup>58</sup>

During the reporting period, some 530 people applied for asylum, including some 450 men (of these, around 30 were aged between 0 and 13 years, around 40 were aged between 14 and 17 years, some 340 were aged between 18 and 34 years, 45 were aged between 35 and 64 years, and fewer than 5 were aged 65 years or older) and some 80 women (of these around 20 were aged between 0 and 13 years, around 5 were aged between 14 and 17 years, 35 were aged between 18 and 34 years, some 15 were aged between 35 and 64 years, and fewer than 5 were aged 65 years or older). Most asylum applicants were Afghan (more than 53 %), Syrian (about 25 %), Iraqi (about 9 %) or Pakistani (about 5 %).<sup>59</sup>

### 2.2. Key fundamental rights concerns

There was nothing new to report. All previously reported issues – anti-migrant attitudes, insufficient information about newcomers' rights, poor living conditions in reception centres – were ongoing concerns.<sup>60</sup>

### 2.3. Fundamental rights issues in relation to registration and channelling into different procedures

#### 2.3.1 Registration and identification

There was nothing new to report.

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<sup>57</sup> Bulgaria, Ministry of the Interior, Directorate General Border Police. The statistics cover the period from 8 a.m. on 2 March 2017 to 8 a.m. on 30 March 2017.

<sup>58</sup> *Ibid.*

<sup>59</sup> Bulgaria, State Agency for Refugees.

<sup>60</sup> Bulgaria, Refugee Support Group.

### 2.3.2 Asylum procedures

Renovations continued in the reception centre for asylum seekers in the village of Pastrogor to make it a closed facility. Construction work was taking place, the fence was being enlarged, and increased video surveillance and more stringent security arrangements were being introduced. Future activities will include setting up internal partitions, introducing still more video surveillance and installing bars on all windows.<sup>61</sup>

In an increasing number of cases, the State Agency for Refugees (SAR) (*Държавна агенция за бежанците – ДАБ*) cannot find asylum seekers living in reception centres or in private accommodation to hand them documents relating to the asylum procedure. When the document in question is a negative decision on an asylum application, the asylum seeker often misses the deadline for an appeal. The case is then forwarded to the Ministry of the Interior (Moi) (*Министерство на вътрешните работи – МВР*), which, once the person is found, starts return procedures.<sup>62</sup>

### 2.3.3 Return procedures

The Moi reported that during the first three months of 2017 around 810 irregular migrants were returned: some 130 people were subject to forced return, some 200 left voluntarily, around 430 were returned under assisted return programmes and some 50 were sent to other EU Member States under the Dublin Regulation.<sup>63</sup>

## 2.4. Challenges and developments concerning reception conditions for new arrivals, including detention

### 2.4.1 Reception conditions and capacity

As a result of the decreasing number of new arrivals, reception centres for asylum seekers are no longer overcrowded. On 30 March 2017, the occupancy rate at the centres was 52 %.<sup>64</sup>

The Moi reported that security measures were undertaken in response to riots in the registration and reception centre in Harmanli. These measures included repairs to the centre's fence, setting up video surveillance and introducing restricted access, allowing inhabitants to leave and visit the town only at certain times of day. All the inhabitants who participated in the riot that took place in November 2016 (about 500 people) were transferred to closed facilities, and about 80 % of them were returned to their home countries.<sup>65</sup>

An indictment against an Afghani asylum seeker who, in November 2016, set the Bulgarian national flag on fire during a protest in the reception centre in Harmanli was submitted to court. Two charges were brought, of desecrating the

<sup>61</sup> Bulgaria, State Agency for Refugees. For more information, see Nova TV (2017), '[The camp in Pastrogor is becoming a closed type centre](#)' (*'Лагерът в Пъстрогор става от затворен тип'*), 20 March 2017.

<sup>62</sup> Bulgaria, Refugee Support Group.

<sup>63</sup> Bulgaria, Ministry of the Interior, Directorate General Border Police.

<sup>64</sup> *Ibid.*

<sup>65</sup> Bulgaria, Ministry of the Interior (*Министерство на вътрешните работи*) (2017), '[Moi's Chief Secretary visited the SAR centre in Harmanli](#)' (*'Главният секретар на МВР главен комисар Георги Костов бе на работно посещение в Центъра на ДАБ в Харманли'*), Press release, 16 February 2017.

national flag and of indecent actions violating public order (throwing stones at police officers).<sup>66</sup>

#### 2.4.2 Vulnerable persons

The Council of Refugee Women in Bulgaria (CRWB) (*Съвет на жените бежанки в България* – СЖББ) started a project, funded by the International Rescue Committee, with the aim of creating common regional practices for providing psychosocial support to asylum seekers, specifically to survivors or witnesses of gender-based and other violence. The project aims to help tackle the problems experienced by women and children as a result of gender-based violence. As part of the project, five new social mediators were appointed to work in reception centres.<sup>67</sup>

UNHCR Bulgaria carried out a participatory assessment with the refugee community to inform its planning. A participatory assessment involves “holding separate discussions with women, girls, boys, and men of concern, including adolescents, to gather accurate information on the specific protection risks they face and the underlying causes, to understand their capacities, and to hear their proposed solutions”.<sup>68</sup>

#### 2.4.3 Child protection

The CRWB supports the 1000 Scholarships Project (Проект 1000 стипендии) competition run by the Communitas Foundation. The competition is for pupils from 6th to 11th grade, and has a particular focus on children from smaller towns and villages, children from indigent families, children with disabilities and children under international protection. From 2017 onwards, the competition will also target foreign children seeking international protection who study in Bulgarian schools. Each of the scholarships that are awarded as prizes includes a financial grant, access to consultations and vouchers for buying books, including school textbooks. The CRWB will provide consultations in various languages for the foreign children, and its social mediators will help them with their applications.<sup>69</sup>

The CRWB was active in celebrating Nowruz (Iranian New Year) on 21 March 2017; with the SAR, it organised a children’s celebration in the Vrazhdebna reception centre.<sup>70</sup> The CRWB also organised a jewellery workshop on the occasion of International Women’s Day on 8 March, as well as a campaign that ran throughout March aimed at collecting baby food for the youngest asylum seekers.<sup>71</sup>

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<sup>66</sup> Prosecutor’s Office of the Republic of Bulgaria (*Прокуратура на Република България*) (2017), ‘[The Specialised Prosecutor’s Office submitted to court an indictment against the Afghani who set the Bulgarian national flag on fire in Harmanli](#)’ (*‘Специализираната прокуратура внесе в съда обвинителен акт срещу афганистанец Бахир Ярунал, който запали българския флаг в Харманли’*), Press release, 23 February 2017.

<sup>67</sup> For more information, see the [Council’s Facebook page](#).

<sup>68</sup> For more information, see the [job advertisement](#) in the Facebook page of the Council of Refugee Women in Bulgaria and UNHCR, [What is a participatory assessment?](#)

<sup>69</sup> Council of Refugee Women in Bulgaria (*Съвет на жените бежанки в България*) (2017), ‘[1000 scholarships competition and the Council of Refugee Women in Bulgaria open the opportunity for scholarships for refugee children](#)’ (*‘Конкурс “1000 стипендии” и сдружение “Съвет на жените бежанки в България” предоставят възможност за стипендии на деца-бежанци’*), Press release, 13 March 2017.

<sup>70</sup> For more information, see the [Council’s Facebook page](#).

<sup>71</sup> *Ibid.*



NGOs reported on the continuing practice of accommodating unaccompanied children with adults without any measures to safeguard the children except for supervision by staff during working hours.<sup>72</sup>

#### 2.4.4 Immigration detention

As a result of the decreasing number of new arrivals, pre-removal detention facilities are no longer overcrowded. On 30 March 2017, the occupancy rate was 63 %, with a total of 591 foreigners accommodated in these centres, mostly Afghani (more than 30 %) or Pakistani (about 23 %).<sup>73</sup>

The SAR and the MoI agreed to create a sector in the pre-removal detention facility in Busmantsi for asylum seekers who have committed certain violations. The sector has the status of a closed facility and accommodates asylum seekers who have committed a criminal offence or a violation of the internal rules of the open facilities. Volunteers and NGOs working in Busmantsi have asked the SAR to provide internet access to the people accommodated there, but the SAR responded that the use of smartphones is not allowed in these facilities. Currently, the possibility of installing desktop computers in one of the rooms is being explored.<sup>74</sup>

### 2.5.Changes in law, policy and practice

The key fundamental rights concern during the reporting period was the repeal of the Regulation on the terms and conditions for conclusion, implementation and termination of integration agreements with foreigners who have been granted asylum or international protection (*Наредба за условията и реда за сключване, изпълнение и прекратяване на споразумение за интеграция на чужденци с предоставено убежище или международна закрила*).<sup>75</sup> The interim government repealed the regulation at an extraordinary session on 31 March 2017. According to the official statement issued after the session, the regulation had failed to provide clear criteria for the social and cultural integration of migrants and had caused problems and tensions in the localities where mayors had had to implement integration measures while taking into account negative public attitudes. The Minister of the Interior and the Minister of Labour and Social Policy were tasked with drafting a new regulation. The draft regulation must be presented to the government by 7 April 2017.<sup>76</sup>

The former chief secretary of the SAR was charged with intentional negligence in managing property, causing significant material damage. The charges concerned

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<sup>72</sup> Bulgaria, Refugee Support Group.

<sup>73</sup> Bulgaria, Ministry of the Interior, Directorate General Border Police.

<sup>74</sup> Bulgaria, Refugee Support Group.

<sup>75</sup> Bulgaria, [Regulation on the terms and conditions for conclusion, implementation and termination of integration agreements with foreigners who have been granted asylum or international protection](#) (*Наредба за условията и реда за сключване, изпълнение и прекратяване на споразумение за интеграция на чужденци с предоставено убежище или международна закрила*), 19 August 2016.

<sup>76</sup> Bulgaria, Council of Ministers (Министерски съвет) (2017), '[The regulation, adopted by Ruling of the Council of Ministers No 208/2016 was repealed](#)' ('Отменена е наредбата, приета с ПМС 208/2016'), Press release, 31 March 2017.

public procurement procedures for the delivery of food products to reception centres for asylum seekers.<sup>77</sup>

The Ministry of the Interior (MoI) reported on the opening of procurement procedures to enable the spending of €160 million of EU funding to address migration pressure and border management problems. Over €29 million will be spent on the development of border communication systems, around €18 million will be invested in the development of an integrated system for monitoring the Bulgarian-Turkish border; IT equipment and further developing the National Schengen Information System will cost another €20 million. In addition, all-terrain vehicles will be bought for police departments in border areas and for the border police; containers will be purchased to accommodate migrants in case of crisis; and 600 new border guards will be recruited.<sup>78</sup>

## 2.6. Social response

News reports stated that, in a village near Harmanli, a head teacher had made special efforts to integrate Syrian children who had previously not been accepted in other schools. He introduced folklore dances and ethnological studies in pursuit of tolerance and mutual respect. The efforts began more than a year ago, and a much higher level of tolerance is reported throughout the village.<sup>79</sup>

The Catholic Church withdrew a priest from the small town of Belene because of threats he had received on account of his accommodating a Syrian refugee family, which resulted in protests among the local population. The protests were allegedly instigated by a municipal councillor representing a populist party. The Syrian family ultimately left Belene. The Catholic Church temporarily suspended its services in the town and the financial aid it provided.<sup>80</sup> Around 300 citizens gathered in a rally in support of the priest in front of the Office of the President of the Republic in Sofia.<sup>81</sup> The leader of the Catholic Church in Bulgaria published a special statement calling for the equal rights of the Syrian family to be upheld and criticising the distortion of the facts that had provoked hate speech.<sup>82</sup>

In February 2017, CVS (Cooperation for Voluntary Service) Bulgaria held a refugee job fair with the support of Service Civil International (SCI) (through its

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<sup>77</sup> Prosecutor's Office of the Republic of Bulgaria (*Прокуратура на Република България*) (2017), '[The Specialised Unit on Anticorruption charged the former chief secretary of the State Agency for Refugees with intentional negligence in managing property](#)' ('СЗА "Антикорупция" обвини бившия главен секретар на Държавната агенции за бежанците в умишлена безstopанственост'), Press release, 17 January 2017.

<sup>78</sup> Ministry of the Interior (*Министерство на вътрешните работи*) (2017), '[Philip Gounev: the closing of the process of using the €160,000,000 EU funding is a matter of national interest](#)' ('Филип Гунев: От национален интерес е завършването на процеса по усвояване на европейското финансиране от 160 млн. Евро'), Press release, 13 January 2017.

<sup>79</sup> Offnews.bg (2017), '[A village school principal accepted Syrian children nobody wanted to accept before](#)' ('Директорът в село Иваново приюти неприемани сирийчета в училището'), 24 March 2017.

<sup>80</sup> Mediapool Online (2017), '[A catholic priest threatened on account of receiving refugees leaves Bulgaria](#)' ('Отец Паоло Кортези, заплашван заради приети бежанци, напуска България'), 10 March 2017.

<sup>81</sup> Mediapool Online (2017), '[A rally supported the catholic priest and demanded from the president to protect constitutional order](#)' ('Митинг подкрепи отец Кортези и поиска от президента да защити конституцията'), 12 March 2017.

<sup>82</sup> Caritas Bulgaria (2017), '[A statement by the Episcopal Conference of the Catholic Church in Bulgaria on the accommodation of the Syrian family in Belene](#)' ('Становище на Епископската конференция на Католическата църква в България по повод настаняването на семейство Албакри в град Белене'), 7 March 2017.

Refugee Fund). During the event, 60 pre-selected candidates were able to meet employment experts, ask questions and engage in further supported job-seeking activities.<sup>83</sup>

The CRWB continued to hold open sessions with pupils in Sofia to inform them about the situation and needs of asylum seekers. In March 2017, the CRWB's experts visited first graders in a school in Sofia and informed them about how they could help refugee children. The sessions were part of the organisation's efforts to raise public awareness and combat prejudice against people seeking international protection.<sup>84</sup>

## 2.7. Hate crime incidents

There was nothing new to report.

## 2.8. Policies against smuggling of human beings

During March, border police found 11 foreign adults and 16 foreign children in a burning truck. A border police officer managed to rescue the foreigners. The prosecutor's office opened criminal proceedings against the 11 adults and against the driver for assisting them to pass illegally into the country. However, the person who had been driving the truck was not found.<sup>85</sup>

## 2.9. Criminal proceedings against migrants and asylum seekers

In an incident in March, a foreigner was injured during an encounter with police. A police patrol stopped a car for inspection and noticed migrants in it. The driver refused to follow police orders and tried to escape in the car. The police fired some shots, the car was stopped and seven Afghans were found in it. One foreigner, injured by the shots, was found in the car's boot and was taken to hospital. His injuries were not life threatening.<sup>86</sup>

Some 31 Iraqi citizens were sentenced to eight months' imprisonment, suspended for three years, and a fine of BGN 200 (approximately €100). One underage person was given a suspended sentence of four months and a public reprimand. One of the foreigners had already been convicted of irregular entry into the country; he was sentenced to three months' imprisonment.<sup>87</sup>

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<sup>83</sup> For more information, see [CVS's Facebook page](#).

<sup>84</sup> For more information, see the [Council's Facebook page](#).

<sup>85</sup> Prosecutor's Office of the Republic of Bulgaria (*Прокуратура на Република България*) (2017), '[The Regional Prosecutor's Office in Tsarevo supervises 11 immediate pre-trial proceedings against 11 foreigners having crossed illegally Bulgaria's border. Proceedings were also started against an unknown perpetrator](#)' ('Под надзора и ръководството на Районна прокуратура – Царево са започнали 11 незабавни досъдебни производство срещу 11 чужди граждани преминали противозаконно границата на Република България. Започнало е и досъдебно производство срещу неизвестен извършител'), Press release, 23 March 2017.

<sup>86</sup> Webcafe (2017), '[Border police officers injured a migrant](#)' ('Гранични полицаи раниха мигрант'), 6 March 2017.

<sup>87</sup> Prosecutor's Office of the Republic of Bulgaria (*Прокуратура на Република България*) (2017), '[Iraqis having attempted to cross the border were sentenced under expedited cases by the Regional Prosecutor's](#)

## 3. Denmark

### 3.1. Overview of the situation

#### *Arrivals*

Between 26 February and 26 March 2017 inclusive, at least 100 foreigners entered Denmark, according to estimates by the National Danish Police (*Rigspolitiet*) based on the temporary border control on a limited number of trains and buses.<sup>88</sup>

#### *Asylum applications*

The number of newly arrived asylum seekers in Denmark remains low; some 170 people applied for asylum in Denmark between 1 and 26 March 2017.<sup>89</sup>

#### *Proportion of unaccompanied minors*

Unaccompanied children continue to represent a significant proportion of asylum seekers, accounting for 26 % of all asylum applications in February 2017.<sup>90</sup>

#### *Main countries of origin of asylum seekers*

The main countries of origin were Syria (some 40 people) and Morocco (some 20 people) followed by stateless applicants (some 10 people).<sup>91</sup> Most unaccompanied children came from Morocco (some 20 children), Afghanistan, Algeria or Syria (some 10 children each).<sup>92</sup>

#### *Characteristics in terms of families, age and gender*

The ratios of applicants in terms of families, age and gender from 1 to 26 February 2017 were:<sup>93</sup>

- single to with family, 77 % to 23 %;
- children to adults, 26 % to 74 %;

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[Office in Rousse, while the two Bulgarians having transported migrants remain in custody](#) ('Иракчани, направили опит да преминат границата са осъдени по бързи производства на РП – Русе, а двамата българи, превозвали мигранти остават в ареста'), Press release, 4 January 2017.

<sup>88</sup> Denmark, information available in Danish at the [website of the Danish National Police](#) (*Rigspolitiet*). The number is an estimate by the Danish National Police based on weekly reports from two police districts. Please note that the estimate is subject to a significant uncertainty, as the police due to the Schengen Regulation only carried out border control on a limited number of trains, buses etc.

<sup>89</sup> Denmark, Danish Immigration Service (*Udlændingestyrelsen*). Please note that the data provided from 2017 is still provisional, as changes/updates may occur, and that the data are subject to general uncertainty as the case handling system is structured as a record-case management system and not as an actual statistical system.

<sup>90</sup> Denmark, information available in Danish at the [website of the Ministry of Immigration and Integration](#) (*Udlændinge- og Integrationsministeriet*).

<sup>91</sup> Denmark, Danish Immigration Service (*Udlændingestyrelsen*). Please note that the data provided from 2017 is still provisional, as changes/updates may occur, and that the data are subject to general uncertainty as the case handling system is structured as a record-case management system and not as an actual statistical system.

<sup>92</sup> Denmark, information available in Danish at the [website of the Ministry of Immigration and Integration](#) (*Udlændinge- og Integrationsministeriet*).

<sup>93</sup> Denmark, Danish Immigration Service (*Udlændingestyrelsen*). Please note that the data provided from 2017 is still provisional, as changes/updates may occur, and that the data are subject to general uncertainty as the case handling system is structured as a record-case management system and not as an actual statistical system.

- female to male, 30 % to 70 %.

As was also reported in the March report, one municipality operating a number of reception facilities stated that, since various EU Member States have amended their national laws on family reunification, there has been a significant increase in the proportion of families arriving with children, rather than trying to reunify upon arrival.<sup>94</sup>

### 3.2. Key fundamental rights concerns

#### *Prolonged process for Bedoon asylum seekers*

The Danish Refugee Council (*Dansk Flygtningehjælp*) raised concerns about a long-standing issue that had come to its attention. A group of asylum seekers from Kuwait, known as Bedoon, have, for up to a year, been waiting for their asylum applications to be processed, as the Danish fact-finding mission to Kuwait was cancelled as a result of lack of cooperation on the part of the Kuwaiti government. According to the Danish Refugee Council, the authorities have not properly informed this group of approximately 1,000 asylum seekers about the status of their applications. The Danish Refugee Council has provided the applicants with information where possible.<sup>95</sup>

#### *Change in the handling of claims by unaccompanied children*

Both the Danish Refugee Council and the Danish Red Cross (*Dansk Røde Kors*) have expressed great concern about the recent change in practice regarding unaccompanied children seeking asylum. Their concern relates to a legal amendment introduced in 2011 but seemingly not implemented before.

In accordance with the Danish Aliens Act (*Udlændingeloven*),<sup>96</sup> section 9 c (3) (1)), children who are too young to undergo an asylum procedure will not have their asylum claim processed until a later stage. A child can be granted a residence permit as an unaccompanied child if they would be in an 'emergency situation' (*reel nødsituation*) if they returned to their country of origin. This permit is not granted automatically; for example, if the child has contact with their family in their country of origin, they will not be granted a residence permit. A child in this situation cannot, however, be returned either, as their asylum claim has not yet been processed.

As a result, a number of unaccompanied children are living in asylum centres until they are old enough to undergo an asylum procedure, where, previously, they could have stayed with relatives or in the community. The consequence of this change in practice is that children will remain unaccompanied in asylum facilities for children for long periods. The change has reportedly affected some 25 children, some as young as nine years old. The Danish Refugee Council and the Danish Red Cross are highly critical of this practice, as these children are extremely vulnerable. In addition, civil society organisations have pointed out

<sup>94</sup> Denmark, Asylum Center, Municipality (*Asylcenter Vesthimmerland*).

<sup>95</sup> Denmark, Danish Refugee Council (*Dansk Flygtningehjælp*).

<sup>96</sup> Denmark, [the Danish Aliens Act](#), Consolidated Act No. 412 of 9 May 2016 (*Udlændingeloven, lovbekendtgørelse nr. 412 af 9. maj 2016*), available in Danish.

that the children's centres are not necessarily equipped to meet the needs of children who may be in the asylum system for a number of years.<sup>97</sup>

#### *Continued concern about the 'emergency brake'*

The Danish Refugee Council and the Danish Red Cross continue to question the current proposal and implementation of an 'emergency brake' by the government; this would allow the authorities to stop asylum seekers at the border in the case of a sudden influx and refuse them entry to Denmark. In addition to concerns raised in the past, civil society organisations have also criticised the lack of a 'best interests of the child' assessment in this situation.<sup>98</sup>

#### *Assessment of the risk of female genital mutilation in cases of return to Somalia*

In March 2017, concerns were raised in the media about the assessment of the risk of female genital mutilation in cases of return to Somalia. According to country of origin information, 98 % of girls in Somalia undergo genital mutilation, and the question was raised of whether or not the authorities assessed this risk without being prompted to do so. Experts have stated that the authorities are obliged to do so, even if parents do not raise the issue. Additional concerns were raised about whether or not accompanied children themselves are in general heard in asylum procedures. If not, this could have severe consequences for girls from Somalia if their parents do not refer to female genital mutilation as a reason for applying for asylum.<sup>99</sup>

### 3.3. Children and vulnerable groups

#### *Accommodation of unaccompanied children at the age of 17*

This issue was also reported in January 2017 and stakeholders highlighted it again. Owing to financial considerations, 17-year-old asylum seekers are to be accommodated in adult facilities, whereas previously they have been accommodated in children's centres. Four children's centres will be closed.<sup>100</sup> These centres, which are not operated by the Danish Red Cross, can each reportedly accommodate up to 60 unaccompanied 17-year-old children.<sup>101</sup>

#### *Supervision of the conditions at asylum centres*

As previously reported, there are a number of concerns about the supervision of the conditions at asylum centres. According to the Danish Red Cross, the Danish Immigration Service (*Udlændingestyrelsen*) has recently rolled out a new model for supervision at the centres. The Danish Refugee Council reported that their

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<sup>97</sup> *Ibid* and the Danish Red Cross (*Dansk Røde Kors*).

<sup>98</sup> Denmark, Danish Refugee Council (*Dansk Flygtningehjælp*) and the Danish Red Cross (*Dansk Røde Kors*). For example Politiken (2017) '[Regeringen vil afvise asylbørn ved grænsen](#)', 22 March 2017, available in Danish.

<sup>99</sup> For example, Information (2017), '[Jurister til Støjberg: Hvis piger risikerer omskæring, må Danmark handle](#)', 15 March 2017, available in Danish.

<sup>100</sup> Denmark, Danish Refugee Council (*Dansk Flygtningehjælp*). See also: [https://www.nyidanmark.dk/da-dk/nyheder/nyheder/udlaendingestyrelsen/2016/faerre\\_driftsoperatoerer\\_boernecenteromraadet\\_2017.htm](https://www.nyidanmark.dk/da-dk/nyheder/nyheder/udlaendingestyrelsen/2016/faerre_driftsoperatoerer_boernecenteromraadet_2017.htm).

<sup>101</sup> Denmark, Danish Refugee Council (*Dansk Flygtningehjælp*) and the Danish Red Cross (*Dansk Røde Kors*).



impression was that the Immigration Service was paying greater attention to supervision than it had done in the past.<sup>102</sup>

#### *Separation of young couples at asylum centres*

In February 2016, the Minister for Immigration and Integration (*Udlændinge- og integrationsministeren*) decided that married couples of whom one or both of the partners were under 18 years of age would not be allowed to be accommodated together.<sup>103</sup> The Parliamentary Ombudsman (*Folketingets Ombudsmand*) criticised this decision, saying that it contradicts both Danish law and the European Convention on Human Rights. The Ombudsman has called for individual assessments, and the Danish Refugee Council supports this.<sup>104</sup>

### 3.4. Changes in law, policy and practice

The temporary border control measures have been extended until May.<sup>105</sup>

As was also reported in the January monthly report, concerns have been raised about transfers to Hungary under the Dublin Regulation. The Danish Refugee Council stated that it is currently awaiting a decision by the Refugee Appeals Board (*Flygtningenævnet*). The Danish Refugee Council is concerned that the conditions in Hungary do not meet the required standards, especially in relation to the detention of asylum seekers.<sup>106</sup>

#### *Court decision on tolerated stay*

As was also reported in the February report, on 17 January 2017 the Supreme Court (*Højesteret*) of Denmark ruled that the requirement for a person with a permit for 'tolerated stay' to reside in a designated facility for a period of 3 years and 11 months after having been released from a prison sentence was disproportionate and a violation of Article 2 of the Fourth Protocol to the European Convention on Human Rights (freedom of movement).<sup>107</sup> In a number of cases (it is not known exactly how many), the authorities waived the obligation to live at the asylum centre at Kaershovedgaard. However, the authorities informed those affected that they would receive services such as healthcare only if they resided at Kaershovedgaard – a decision that was criticised by a law professor.<sup>108</sup>

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<sup>102</sup> *Ibid.*

<sup>103</sup> Denmark, the Ministry of Immigration and Integration (*Udlændinge- og Integrationsministeriet*) (2016), '[Inger Støjberg stopper indkvartering af barnebrude på asylcentre](#)', Press Release, 10 February 2016, available in Danish.

<sup>104</sup> Denmark, the Danish Parliamentary Ombudsman (*Folketingets Ombudsmand*) (2017), '[Ulovligt at tvangsadskille alle unge asylpar](#)', 23 March 2017, available in Danish, and information provided by the Danish Refugee Council (*Dansk Flygtningehjælp*).

<sup>105</sup> Denmark, Danish Refugee Council (*Dansk Flygtningehjælp*).

See also: <https://www.dr.dk/nyheder/politik/danmark-vil-forlaenge-graensekontrol-efter-eu-ja>.

<sup>106</sup> Denmark, Danish Refugee Council (*Dansk Flygtningehjælp*).

<sup>107</sup> Denmark, Supreme Court (*Højesteret*), [Judgement](#), 17 January 2017, available in Danish.

<sup>108</sup> Politiken (2017), '[Juraprofessor sår tvivl om nye krav til tålt ophold](#)', 21 March 2017, available in Danish, and information provided by the Danish Red Cross (*Røde Kors*).

### 3.5. Social response

The Danish National Police is not aware of any demonstrations relating to migrants during the relevant period.<sup>109</sup>

However there have been smaller protests in support of specific families who have had their asylum application rejected and are, therefore, expected to be deported. These demonstrations are often arranged by civil society organisations and local activists who know the families.<sup>110</sup>

In addition a so-called freedom walk took place, in support of rejected asylum seekers who are being detained at Vridsløselille. Between 40 and 70 people took part in it.<sup>111</sup>

Although the incident might not represent a change in the public discourse as such, in March 2017 the Danish Minister for Immigration and Integration was heavily criticised for publishing a picture of a birthday cake with the number 50 on it on Facebook, with the following text: "Today I got the 50th amendment to tighten immigration controls ratified. This needs celebrating." The picture sparked a furious backlash and led to a public debate about whether or not it is OK to celebrate political amendments that may be necessary but have serious consequences for the people they affect.<sup>112</sup> In addition, the official site for the Ministry of Immigration and Integration (*Udlændinge- og Integrationsministeriet*) has a scoreboard that shows progress on new amendments tightening immigration controls.<sup>113</sup>

Pro-refugee initiatives have continued their voluntary work. The best known are the groups Venligboerne and Refugees Welcome. Both work to connect refugees with ordinary citizens and give basic support to asylum seekers when they arrive in Denmark.

### 3.6. Hate crime incidents

The Danish National Police provided no information on violent hate crimes during demonstrations for or against migrants.<sup>114</sup>

Monitoring by the Danish National Police identified no major changes concerning online hate speech. The majority of the small number of cases relate to hate speech on the internet, primarily on Facebook. This is based on data from January and February 2017.<sup>115</sup>

In February 2017, the Danish Institute for Human Rights published the report *Hate speech in the public online debate*.<sup>116</sup> The report describes the results of a

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<sup>109</sup> Denmark, Ministry of Justice (*Justitsministeriet*).

<sup>110</sup> DR (2017), '[Jelling-borgere støtter flygtningefamilie, der skal udvises](#)', 27 March 2017, available in Danish at ; TVSYD, '[Familie fra Jelling bliver udvist og splittet](#)', 26 March 2017, available in Danish.

<sup>111</sup> Denmark, SOS Against Racism (SOS mod Racisme).

<sup>112</sup> Independent (2017), '[Danish minister sparks furious backlash after celebrating tougher immigration laws with cake](#)' 16 March 2017.

<sup>113</sup> Denmark, the Ministry of Immigration and Integration [website](#).

<sup>114</sup> Denmark, Ministry of Justice (*Justitsministeriet*).

<sup>115</sup> Denmark, Ministry of Justice (*Justitsministeriet*).

<sup>116</sup> The Danish Institute for Human Rights (2017), '[Hadefulde ytringer i den offentlige online debat](#)', Available in Danish (English summary at page 11-14).

study on hate speech conducted in 2016. The objective of the study was to gain insights into the frequency with which hate speech appears in connection with news dissemination and debate.

The report looked at just under 3,000 comments taken from the Facebook pages of two major Danish news media outlets, DR Nyheder and TV 2 Nyhederne. Based on these comments, the institute identified trends and patterns in an attempt to get an overview of the scope and nature of hate speech during a defined period. Of the 2,996 comments that were analysed, 439 were categorised as hate speech based on the definition given in Chapter 2 of the study. This amounted to hate speech in every seventh comment in the public debate on the Facebook pages of DR Nyheder and TV 2 Nyheder.

The report found that hate speech was most common in connection with news posts on topics concerning religious belief; refugees, migration and asylum; and equality. Almost every third comment in debates on these three topics fell within the definition of hate speech.

The Danish National Police does not record statistics specifically on hate crimes against migrants and asylum seekers, but it records crimes motivated by the victim's ethnic origin, sexuality, faith, etc., as hate crimes.<sup>117</sup>

The Danish Red Cross does not report any cases of attacks on migrants or asylum seekers nor any incidents of vandalism of reception or accommodation centres.<sup>118</sup>

In February 2017, four Danish boys attacked a 16-year-old Afghan boy and tried to burn him alive. The four boys were arrested. Charges of attempted homicide were later dropped. The defence expects that they will be charged with severe violence instead. According to local police, the crime was not a hate crime motivated by the ethnic origin of the boy. The boy's family, however, claimed that their son had been the victim of racist attacks for some time.<sup>119</sup>

### 3.7. Policies against smuggling of human beings

Statistics from the Danish temporary border control at the border with Germany show that, during the period from 2 January to 2 April 2017, 25 people were charged with smuggling human beings. The information does not, however, indicate whether the smugglers acted for humanitarian reasons or for profit (or both), nor what the outcomes of the cases were.<sup>120</sup>

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<sup>117</sup> Denmark, Ministry of Justice (*Justitsministeriet*).

<sup>118</sup> Denmark, Danish Red Cross (*Dansk Røde Kors*).

<sup>119</sup> The Local, [Four Danish teens tried to burn Afghan teen alive](#), 7 February 2017, available in English [and TV2 \(2017\)](#), [Politi dropper at sigte fire drenge for drabsforsøg i brandsag fra Ry](#), 5 April 2017, available in [Danish](#).

<sup>120</sup> Denmark, information available in Danish at the [website of the Danish National Police](#) (*Rigspolitiet*).

## 4. Finland

### 4.1. Overview of the situation

No exceptional numbers of new arrivals were reported for March. Information on new asylum applications is not yet available but will be sent to FRA as soon as the Finnish Immigration Service (*Maahanmuuttovirasto/Migrationsverket*) makes it available.

### 4.2. Key fundamental rights concerns

In March, concerns emerged about the legal protection of asylum seekers. Time pressures, the lack of experience of many asylum officers and lawyers, insufficient legal guidance provided to asylum seekers and efforts towards efficiency are said to have a negative effect on the assessment of asylum claims.<sup>121</sup> Civil society representatives continued to criticise the recent changes in legislation and practice concerning the availability and quality of legal aid and appeal times.<sup>122</sup> Legislative amendments to the Finnish Aliens Act (*ulkomaalaislaki/utlänningslag*) (Act 301/2004) were introduced on 1 September 2016 with Act 646/2016. The concerns relate to the amendments to Section 9 on legal aid, Section 190 on the right to appeal and Section 196 on the right to appeal second instance decisions. With respect to Section 9, the provision of legal aid no longer includes the right to the presence of a legal counsellor during the asylum interview. Only in exceptional circumstances and if the asylum seeker is an unaccompanied child is a legal counsellor provided. The time to appeal asylum decisions by the Finnish Immigration Service was reduced from 30 days to 21 days from the notification of the decision and the time to apply to the Supreme Administrative Court for leave of appeal was reduced from 30 days to 14 days from notification.

The National Police Board (*Poliisihallitus/Polisstyrelsen*) (Internal) reported tensions and some incidents of violence among asylum seekers and against staff at reception centres.<sup>123</sup> The Board also reported self-harm among asylum seekers, especially those facing negative asylum decisions.<sup>124</sup>

### 4.3. Children and vulnerable groups

The placement of unaccompanied children granted international protection and a residence permit continued to be a source of concern.<sup>125</sup> A transfer to another municipality or another part of the country has a negative impact on the child's

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<sup>121</sup> Marjaana Laine, Pia Lindfors (Refugee Advice Centre) (*Pakolaisneuvonta/Flyktingrådgivningen*) [in Helsingin Sanomat](#), 10 March 2017.

<sup>122</sup> Finland, Refugee Advice Centre (*Pakolaisneuvonta/Flyktingrådgivningen*) and the Central Union for Child Welfare (*Lastensuojelun Keskusliitto/Centralförbundet för Barnskydd*).

<sup>123</sup> Finland, National Police Board (*Poliisihallitus/Polisstyrelsen*).

<sup>124</sup> *Ibid.*

<sup>125</sup> Finland, Ombudsman for Children (*Lapsiasiavaltuutettu/Barnombudsmannen*); Finnish Ombudsman for Children (*Lapsiasiavaltuutettu/Barnombudsmannen*), [Press release](#), 9 February 2017; and Central Union for Child Welfare (*Lastensuojelun Keskusliitto/Centralförbundet för Barnskydd*).

well-being and integration.<sup>126</sup> The number of places allocated to unaccompanied children in municipalities was reported to be insufficient, leading to delays in placements.<sup>127</sup> Shortages were also noted with regard to access to mental health services for unaccompanied children.<sup>128</sup> Reception services for unaccompanied children are, in general, said to vary considerably from one unit to another.<sup>129</sup> The amendment of the Aliens Act to include ‘designated residence’ (*lapsen asumisvelvollisuus/boendeskyldighet för barn*) as an alternative to detention for children aged 15-17 years, and with an enforceable expulsion order, entered into force on 1 February 2017.<sup>130</sup> The introduction of designated residence has been criticised for not creating a real alternative to detention for children, instead expanding the use of interim measures.<sup>131</sup>

#### 4.4. Changes in law, policy and practice

The amendments to the Aliens Act to introduce designated residence and designated residence for children as alternatives to detention entered into force on 1 February 2017.<sup>132</sup>

The legislative amendment decentralising the handling of appeals of decisions relating to international protection entered into force on 1 February 2017. In addition to the Administrative Court of Helsinki, the Administrative Courts of Turku, Eastern Finland and Northern Finland will handle such appeals.<sup>133</sup>

In January, the Finnish Immigration Service updated its country information reports relating to the safety situations in Afghanistan, Iraq and Somalia.<sup>134</sup>

In February, a Ministry of Education and Culture (*Opetus- ja kulttuuriministeriö/Undervisnings- och kulturministeriet*) working group presented a set of recommendations for the further development of measures for the integration and education of immigrants.<sup>135</sup> The recommendations consider knowledge of the Finnish or Swedish language a vital entry point for learning and integration.

<sup>126</sup> Finland, Ombudsman for Children (*Lapsiasiavaltuutettu/Barnombudsmannen*), Central Union for Child Welfare (*Lastensuojelun Keskusliitto/Centralförbundet för Barnskydd*); and Finnish Ombudsman for Children (*Lapsiasiavaltuutettu/Barnombudsmannen*) in media source: [Yle uutiset](#), 9 February 2017.

<sup>127</sup> Finland, Ombudsman for Children (*Lapsiasiavaltuutettu/Barnombudsmannen*), and Finnish Ombudsman for Children (*Lapsiasiavaltuutettu/Barnombudsmannen*), [Press release](#), 9 February 2017.

<sup>128</sup> Central Union for Child Welfare (*Lastensuojelun Keskusliitto/Centralförbundet för Barnskydd*), [Statement](#), 9 January 2017. Concerns relating to the mental health challenges of unaccompanied minors were expressed also by the Central Union for Child Welfare (*Lastensuojelun Keskusliitto/Centralförbundet för Barnskydd*).

<sup>129</sup> Central Union for Child Welfare (*Lastensuojelun Keskusliitto/Centralförbundet för Barnskydd*), [Statement](#), 9 January 2017.

<sup>130</sup> Finland, Aliens Act (*ulkomaalaislaki/utlänningslag*) (301/2004), Chapter 7, Section 120(b). The text of the amending Act as adopted by Parliament is available in [Finnish](#).

<sup>131</sup> Central Union for Child Welfare (*Lastensuojelun Keskusliitto/Centralförbundet för Barnskydd*), [Statement](#), 9 January 2017.

<sup>132</sup>

Finland, Aliens Act (*ulkomaalaislaki/utlänningslag*) (301/2004), Chapter 7, Sections 120a and 120b.

<sup>133</sup> Finland, Aliens Act (*ulkomaalaislaki/utlänningslag*) (301/2004), Chapter 13, Section 193.

<sup>134</sup> Finnish Immigration Service (*Maahanmuuttovirasto/Migrationsverket*), [Press release](#), 17 January 2017.

<sup>135</sup> Finland, Ministry of Education and Culture (*Opetus- ja kulttuuriministeriö/Undervisnings- och kulturministeriet*), (2017) [‘Maahanmuuttajien koulutuspolut ja integrointi – kipupisteet ja toimenpite-esitykset II’](#) [Education and integration of migrants].

## 4.5. Social response

A demonstration by asylum seekers against Finnish asylum policies and an anti-immigration counter-demonstration by the Finland First (*Suomi ensin*) movement have been going on in central Helsinki since around 10 February.<sup>136</sup> In March, a demonstration in support of migrants was organised in Oulu.<sup>137</sup> The extreme right Soldiers of Odin organised an anti-immigration rally in response.<sup>138</sup> The National Police Board reported that anti-immigration demonstrations had also taken place in Jyväskylä and Tampere during the reporting period.<sup>139</sup>

No significant changes in public discourse (media coverage, public debate) concerning the issues of migration and asylum were observed. At a general level, a recent survey commissioned by the Finnish Ministry of the Interior (*Sisäministeriö/Inrikesministeriet*) and conducted by the University of Vasa suggests that people in Finland find the debate on asylum seekers to be polarised, which often makes them refrain from presenting their views for fear of being stigmatised as either for or against asylum seekers. The results indicate that the respondents in general find opportunities for a fact-based discussion on Finnish asylum policy to be limited and that they would like more information to be provided directly by authorities.<sup>140</sup>

In early March, the National Police Board appealed to the Pirkanmaa District Court to dissolve the Finnish branch of the extreme right organisation the Nordic Resistance Movement (*Pohjoismainen vastarintaliike/Nordiska Motståndsrörelsen*).<sup>141</sup>

## 4.6. Hate crime incidents

Some confrontations between asylum seekers and counter-demonstrators have taken place in central Helsinki since February, and several reports of crimes, including assaults, have been registered.<sup>142</sup> For example, on 20 March an asylum seeker was attacked using a gas spray. The incident is being investigated by the police as a possible assault.<sup>143</sup> In late March, an attempt was made to set fire to a tent while 12 pro-migration demonstrators were inside it. The incident is being investigated by the police as possible vandalism.<sup>144</sup>

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<sup>136</sup> Finland, National Police Board (*Poliisihallitus/Polisstyrelsen*); and National Police Board (*Poliisihallitus/Polisstyrelsen*), [Press release](#), 9 March 2017. See, also, e.g., Media source: Yle, '[Asylum seekers continue fight against "flawed asylum process"](#)', 28 February 2017.

<sup>137</sup> Finland, National Police Board (*Poliisihallitus/Polisstyrelsen*).

<sup>138</sup> *Ibid.*

<sup>139</sup> *Ibid.*

<sup>140</sup> Finland, Finnish Ministry of the Interior (*Sisäministeriö/Inrikesministeriet*), '[Kansalaismielipide: Turvapaikanhakijat ja turvapaikkapolitiikka](#)' [Public opinion: Asylum seekers and the asylum politics], 9/2017.

<sup>141</sup> National Police Board (*Poliisihallitus/Polisstyrelsen*), [Press release](#), 2 March 2017.

<sup>142</sup> Finland, National Police Board (*Poliisihallitus/Polisstyrelsen*).

<sup>143</sup> Helsinki Police Department (*Helsingin poliisilaitos/Polisinrättningen i Helsingfors*), [Press release](#), 20 March 2017.

<sup>144</sup> Helsinki Police Department (*Helsingin poliisilaitos/Polisinrättningen i Helsingfors*), [Press release](#), 30 March 2017.



The police noted a certain intensification of online hate speech against migrants in January and February.<sup>145</sup> On a more general level, hate speech and fake news are increasingly common in Finland, in particular on social media platforms.<sup>146</sup> The police are making increased efforts to curb and prevent hate speech. During the reporting period, new online police officers were recruited by police departments and a new unit was established in Helsinki to work on online hate speech.<sup>147</sup> The police also launched a YouTube channel to raise awareness of issues such as hate speech.<sup>148</sup> In addition to the in-service training on hate crime for police officers organised by the Police University College of Finland (*Poliisiammattikorkeakoulu/Polisyrkeshögskolan*), which began last year, the Police University College now offers training for hate crime trainers. The first training course was organised in March 2017 and the second one will be organised in April 2017. The goal is that the trainers will educate police officers on hate crime in their own departments and units.<sup>149</sup>

The police registered some incidents of violence or threats of violence against asylum seekers by extreme right organisations in public places in March.<sup>150</sup> In addition, threats against the police were made.<sup>151</sup> In January, a shot was fired at the Kuusa reception centre in Kuusankoski. The incident did not result in injuries and is being investigated as possible imperilment.<sup>152</sup> In February, an asylum seeker was the victim of an attempted homicide in Oulu.<sup>153</sup>

In March, the Nordic Resistance Movement was reportedly particularly active in distributing national socialist and anti-immigration propaganda, in the form of leaflets and stickers, in different parts of Finland.<sup>154</sup> Furthermore, the Soldiers of Odin reportedly distributed propaganda leaflets and organised street patrols in various towns during the reporting period.<sup>155</sup>

## 4.7. Policies against smuggling of human beings

Under Chapter 17, Section 8(2) of the Finnish Criminal Code (*Rikoslaki/Strafflag*) (19.12.1889/39), an act does not constitute arrangement of illegal immigration where, “when taking into account in particular the humanitarian motives of the person committing it or his or her motives relating to close family relations, and

<sup>145</sup> Finland, National Police Board (*Poliisihallitus/Polisstyrelsen*).

<sup>146</sup> Finland, Finnish Ministry of the Interior (*Sisäministeriö/Inrikesministeriet*) (2017): [Väkivaltaisen ekstremismin tilannekatsaus 1/2017](#) (Report on violent extremism), p. 9. See also, National Police Board (*Poliisihallitus/Polisstyrelsen*), [Press release](#), 13 January 2017.

<sup>147</sup> Finland, National Police Board (*Poliisihallitus/Polisstyrelsen*). See, also, media source: Yle, [‘Police recruitment drive for 25 new online officers’](#), 2 February 2017; and National Police Board (*Poliisihallitus/Polisstyrelsen*), [Press release](#), 21 March 2017, 16 November 2016. Additional resources for internet police activities preventing hate speech and for the investigation of hate speech crime were agreed upon in the fall of 2016. Finland, Finnish Government Communications Department (*Valtioneuvoston viestintäosasto/Statsrådets kommunikationsavdelning*) (2016), [‘The Government agreed on measures to tackle violent extremist movements’ activities’](#), Press Release, 26 September 2016.

<sup>148</sup> National Police Board (*Poliisihallitus/Polisstyrelsen*), [Press release](#), 13 January 2017.

<sup>149</sup> National Police Board (*Poliisihallitus/Polisstyrelsen*), [Press release](#), 21 March 2017.

<sup>150</sup> Finland, National Police Board (*Poliisihallitus/Polisstyrelsen*).

<sup>151</sup> *Ibid.*

<sup>152</sup> Southeastern Finland Police Department (*Kaakkois-Suomen poliisilaitos/ Polisinrättningen i Sydöstra Finland*) [Press release](#), 17 January 2017.

<sup>153</sup> Finland, National Police Board (*Poliisihallitus/Polisstyrelsen*).

<sup>154</sup> *Ibid.* Generally, see, also, Finland, Finnish Ministry of the Interior (*Sisäministeriö/Inrikesministeriet*) (2017): [Väkivaltaisen ekstremismin tilannekatsaus 1/2017](#) (Report on violent extremism), p. 13.

<sup>155</sup> Finland, National Police Board (*Poliisihallitus/Polisstyrelsen*).



the circumstances pertaining to the safety of the foreigner in his or her home country or country of permanent residence, and when assessed as a whole, [it] is to be deemed committed under vindicating circumstances".

## 5. France

### 5.1. Overview of the situation

According to the NGO La Cimade, this administration has noted a rise of 15 % in asylum requests in recent months compared with the same period last year. According to same association, a significant increase in requests for asylum has occurred in the Auvergne-Rhone region (in the south-east of France), in connection with the arrival in France of a significant number of Albanians, including many children, since the end of 2016.<sup>156</sup> According to the statistics for 2016, out of approximately 7,500 requests submitted by asylum seekers of Albanian nationality, almost one third of the applications concerned children.<sup>157</sup>

### 5.2. Key fundamental rights concerns

*Life, health and dignity: in Calais (Nord), the return of migrants and a death*

Since the dismantling of the 'wild' camps in Calais at the end of 2016, many migrants have returned in the hope of being able to go to the United Kingdom.<sup>158</sup> According to the Public Defender of Rights (*Défenseur des droits*), they number between 250 and 400, including more than 100 children.<sup>159</sup> These migrants live in groups, in the cold and in destitution in the absence of reception facilities. They are in hiding to avoid the very frequent patrols by the police, who are trying to prevent new camps being created. The police have taken some migrants in for questioning in spite of the fact that they have submitted requests for asylum that are in the course of being processed. Depending on their personal circumstances, they were either detained or immediately released following the interview and verification of their status.<sup>160</sup> The situation has been widely publicised as a result of the death of a migrant who was run over by a truck on 21 January 2017. The young Ethiopian was struck while walking along the Calais motorway in circumstances that remain unclear despite a call for witnesses by the police. In 2016, before the dismantling of the 'wild' camps by the authorities, more than a dozen migrants died in similar circumstances while walking along this motorway, which is a major route since it runs along the north coast of France and serves the port of Calais. This was however the first death of this type since the end of October.<sup>161</sup>

*Access to basic needs: in Calais, access to showers installed by an association and meals distributed by association activists*

The issue of access to showers installed by the Association Secours Catholiques, which was in the news in February (see previous monthly report), again resulted in heightened tensions. Although the courts had ordered the Calais council to

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<sup>156</sup> France, La Cimade.

<sup>157</sup> *Ibid.*

<sup>158</sup> France, Association Service centre for migrants in Calais.

<sup>159</sup> France, Public Defender of Rights. These figures had already been mentioned in the decision of the administrative Court of Lille relating to access to meals.

<sup>160</sup> France, Le GISTI.

<sup>161</sup> *Ibid.*

allow the migrants access to these showers, there was a heavy police presence during March, with identity checks on the people entering and leaving the facility, including children.<sup>162</sup> In addition, the mayor of Calais took several decisions, on 2, 6 and 9 March, to prevent the distribution of food to the migrants present in the city by prohibiting “abusive, prolonged and repeated occupation” of the sites where such distribution takes place.<sup>163</sup> The mayor said that she wanted to avoid the creation of a “meeting point” (“*point de fixation*”), which would lead, according to the mayor, “to the creation of camps which would rapidly become utilised by smugglers”.<sup>164</sup>

Eleven associations assisting the migrants in Calais appealed to the Administrative Court of Lille, which suspended the enacting of the decisions in a ruling of 22 March 2017.<sup>165</sup> However, it refused to agree to the request from associations to order the Calais council to open a distribution centre for meals, and to provide them with the material resources for the operation of a meal distribution service for the benefit of people of French or foreign nationality in France without a fixed abode. This request was rejected, taking into account the “limited” number of migrants present in Calais. According to the Public Defender of Rights, the police pressure was aimed at “not creating new meeting points” and intended “not to create incentives”; however, with these events, said the Public Defender of Rights, the situation “has today reached a new level by bringing into question, on the one hand, the operation of a humanitarian association dealing with unaccompanied children and, on the other hand, free access to the humanitarian distribution of food”.<sup>166</sup>

See subsections 5.6 and 5.8 for further information on repressive activities against migrant support initiatives.

### 5.3. Fundamental rights issues in relation to registration and channelling into different procedures

#### 5.3.1 Registration and identification

Associations for the defence of migrants’ rights reveal significant differences in access to asylum procedures. Whereas the law provides for a time limit of three working days between an applicant presenting at pre-reception and being registered at the prefecture (which may be increased to 10 working days in the event of a massive surge in asylum applications), the actual time taken ranges in practice from three days to more than two months. Long delays are noted in certain places in particular.

First, in Paris, where the majority of requests are concentrated, the actual time taken is 25 days on average.<sup>167</sup> The humanitarian camp for migrants set up in November 2016 to replace the dismantled wild camps functions poorly,

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<sup>162</sup> France, Catholic Relief; Public Defender of Rights; National Consultative Committee on Human Rights.

<sup>163</sup> France, Le GISTI.

<sup>164</sup> See the decisions published on [the GISTI website](#).

<sup>165</sup> France, Administrative Court of Lille, [Ruling](#), 22 March 2017.

<sup>166</sup> France, Public Defender of Rights (*Défenseur des droits*), [The Court of Lille suspends the decree prohibiting the distribution of meals to migrants](#) (*Le tribunal de Lille suspend l’arrêté interdisant la distribution de repas aux migrants*), 22 March 2017.

<sup>167</sup> France, Land of Asylum.

according to the NGO Le Gisti. Having a reception capacity of only 400 places, the camp cannot accommodate new arrivals owing to limited accommodation.<sup>168</sup> Those people who are admitted face obstacles to submitting their asylum requests.<sup>169</sup>

In Guyana, according to a group of associations, operational failings reported in 2016 (the closing of the prefecture for several months) are currently reflected in the recording of asylum requests. The system is overwhelmed. The practical obstacles to registering asylum claims generate major difficulties for applicants in accessing healthcare. People cannot prove their administrative status to the Guyana medical assurance service, which results in delays in providing medical and social care.<sup>170</sup>

Finally, in Toulouse, where there are also general shortcomings in the registration of asylum claims, on 27 March the Human Rights League (*Ligue des droits de l'homme* – LDH) published the results of a survey carried out between 1 January and 1 June 2016. This survey asked migrants who went to the Prefecture of Toulouse with their situation to fill out questionnaires.<sup>171</sup> The report denounces an increase in “useless or even abusive” procedures, such as demands for documents that are not required by law. At the prefecture, there is no interpretation and no opportunity for a confidential interview.

### 5.3.2 Asylum procedures

According to La Cimade, the use of accelerated procedures is increasing, although it is difficult to provide even approximate figures.<sup>172</sup>

### 5.3.3 Return procedures

Various associations for the defence of migrants highlighted the frequency of the use of detention for undocumented foreigners during return procedures, with this being “systematic” in certain towns.<sup>173</sup>

With regard to administrative retention centres (*centres des rétention administratives*), La Cimade says that these are used not only for the purpose of return but also to dissuade migrants, in particular to move them away from Calais.<sup>174</sup>

The NGO Anafé has several criticisms regarding the waiting areas at the borders (land borders and airports) where foreigners in an irregular situation are held

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<sup>168</sup> France, Le Gisti.

<sup>169</sup> Their fingerprints are taken at a counter which has been specially opened for exiles who have passed through this camp. According to Le Gisti, “if a request for protection on their part has been recorded in another country, the “transfer” to this country is organized according to a fast-track procedure against which appeals are very difficult to bring”. And, “if they have not made a request for asylum in the countries crossed, they have to wait several weeks or months to be called to the prefecture, the normal procedure for recording a request for asylum, which according to the law should be done within three days, is closed for them”. The “reception” measures therefore function like a “trap”. France, Le Gisti, [‘Four months after the opening of the “humanitarian” camp in Paris, a damning assessment’](#) (“Quatre mois après l’ouverture du camp «humanitaire» de Paris, un bilan accablant”), 2 March 2017.

<sup>170</sup> France, Doctors of the world (*Médecins du monde*), [Closing of the Asylum plan: three months for nothing](#) (*Fermeture du dispositif Asile: trois mois pour rien*), 7 March 2017.

<sup>171</sup> France, LDH Toulouse, [Republican principles ridiculed by the prefecture of Toulouse: institutionalized ill-treatment](#) (*Les principes républicains bafoués par la préfecture de Toulouse une maltraitance institutionnalisée*), March 2017.

<sup>172</sup> France, La Cimade.

<sup>173</sup> France, L’ANAFÉ; La Cimade; Le Gisti.

<sup>174</sup> France, La Cimade.

while waiting to be allowed into France or returned.<sup>175</sup> At airports, certain people are returned very quickly after their arrival by plane, sometimes without being informed of their rights. In addition, the sanitary arrangements are very poor.

On 23 March, Anafé published an official statement denouncing the treatment of a family at the airport of Roissy Charles de Gaulle, which ended with the hospitalisation of a one-year-old child.<sup>176</sup> A woman arriving from Côte d'Ivoire on 6 March was held upon her arrival in France with her children aged one and three. After being placed in the waiting area, the family were subjected to daily attempts to deport them and were held from 11.00 to 16.00 each day in a holding room at terminal 2E of the airport, a cold and cramped room without windows or direct access to toilets, and without facilities for young children. Ultimately, the health of the one-year-old child deteriorated; the child was taken to hospital on 20 March 2017, following which the family was allowed into the country.<sup>177</sup>

## 5.4. Challenges and developments concerning reception conditions for new arrivals, including detention

### 5.4.1 Reception conditions and capacity

Reception capacity remains insufficient to meet demand, as the French Office for Immigration and Integration (Office français de l'immigration et de l'intégration — OFII), which manages the national reception system, recognises, with half of applicants for asylum remaining without accommodation.<sup>178</sup> In Paris, owing to an inability to meet their needs, men, women and even children, many of whom are unaccompanied, are left in the street, according to Le Gisti, without access to information on their rights.<sup>179</sup>

More generally, the system for the distribution of migrants across the country leads to unacceptable practices, according to several associations. The accommodation places tend to serve as control measures to facilitate deportations.<sup>180</sup> Reception conditions in particular have been the subject of criticism following the death of a 16-year-old Malian, who arrived in October 2016. This boy committed suicide by throwing himself out of the window of an accommodation centre for unaccompanied children; according to his friends, he did so because of his fear of being found and deported by a police patrol, on the grounds that his status as a child was contested.<sup>181</sup>

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<sup>175</sup> France, L'ANAFÉ. This association defends the rights of foreigners at the borders by assisting them in waiting areas.

<sup>176</sup> France, ANAFÉ, [The holding of a family in a waiting area: three people released for the price of the hospitalization of a child](#) (*Maintien d'une famille en zone d'attente : trois libérations au prix de l'hospitalisation d'un enfant*), 23 March 2017.

<sup>177</sup> *Ibid.*

<sup>178</sup> France, French Office for Immigration and Integration; France, OFII, [Annual report](#) (*Rapport annuel*) (2016).

<sup>179</sup> France, Le Gisti, [Four months after the opening of the "humanitarian" camp in Paris, a damning assessment](#) (*Quatre mois après l'ouverture du camp «humanitaire» de Paris, un bilan accablant*), 2 March 2017.

<sup>180</sup> France, La Cimade; Le Gisti.

<sup>181</sup> France, Le Gisti.

### 5.4.2 Vulnerable persons

In January, the Public Defender of Rights raised the persistent difficulties that migrants face in accessing healthcare, caused by illegal practices by doctors who refuse to provide care because they do not wish to deal with vulnerable groups. The institution has opened an investigation.<sup>182</sup>

### 5.4.3 Child protection

Access to care within the framework of child protection remains difficult, as children's ages are often disputed.<sup>183</sup> Although departments are obliged to take charge of any person who presents themselves as being a child, a practice exists whereby care is refused to people whose physical appearance might lead the authorities to think that they are older than they claim. The Public Defender of Rights had already condemned this practice of discrimination according to physical appearance in 2016,<sup>184</sup> and did so again on 7 February 2017.<sup>185</sup>

The administration and the organisations to which the reception of children is delegated (e.g. the French Red Cross (*Croix-Rouge Française*)) in Paris, speak of the lack of places in reception facilities. Many children therefore find themselves on the street, since they have no access to reception facilities for adults, as they have requested care under the child welfare system.<sup>186</sup> Moreover, according to the Public Defender of Rights many young people, after a long wait, receive only an appointment, and not accommodation.<sup>187</sup>

### 5.4.4 Immigration detention

According to La Cimade, in practice 'designated residence' does not work as an alternative to the detention of men, women and children, who therefore remain deprived of their liberty. The conditions are sometimes deplorable.<sup>188</sup>

## 5.5. Changes in law, policy and practice

No new changes to legislation or policies were announced.

## 5.6. Social response

No demonstrations against migrants were reported for the relevant period, but there were many in support of them.<sup>189</sup> These were organised around particular events or specific incidents, or in response to measures directed against activists

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<sup>182</sup> France, Public Defender of Rights (*Défenseur des droits*), [Refusal of care for social protection beneficiaries \(CMU / ACS / AME\): the Ombudsman opens several investigations](#) (*Refus de soins pour les bénéficiaires de protection sociale (CMU/ACS/AME) : le Défenseur des droits ouvre plusieurs enquêtes*), 27 January 2017.

<sup>183</sup> France, Le Gisti; Human Rights League; The voice of the child.

<sup>184</sup> France, Public Defender of Rights (*Défenseur des droits*)(2016), [Decision](#).

<sup>185</sup> France, Public Defender of Rights (*Défenseur des droits*), [Opinion](#) (*Avis*), n°17-03, 7 February 2017.

<sup>186</sup> France, Le Gisti, [In Paris, the Red Cross and the city hall leave minors in the street in mid-winter](#) (*À Paris, la Croix Rouge et la Mairie laissent des mineurs à la rue en plein hiver*), 23 January 2017. The number affected could not be easily evaluated according to Le Gisti.

<sup>187</sup> France, Public Defender of Rights (*Défenseur des droits*), [Opinion](#) (*Avis*) n° 17-03, 7 February 2017.

<sup>188</sup> France, Le Gisti, [In Paris, the Red Cross and the city hall leave minors in the street in mid-winter](#) (*À Paris, la Croix Rouge et la Mairie laissent des mineurs à la rue en plein hiver*), 23 January 2017. The number affected could not be easily evaluated according to the interview with Le Gisti.

<sup>189</sup> France, Le Gisti; La Cimade.

working to assist migrants. Le Gisti has created a list of these demonstrations.<sup>190</sup> The following can be highlighted:

- 11 January 2017: demonstration of support for Denko Sissoko, a young Malian who committed suicide at his reception facility (see subsection 5.4), organised at Châlons-en-Champagne (the location of the incident), with the participation of 200 demonstrators, according to the local press.
- 20 January 2017: demonstration in support of migrants and against the hostility of the National Front towards migrants, organised at Fougères (in Brittany), with the participation of an unknown number of demonstrators.
- 21 January 2017: demonstration by the group Offenders Together (*Délinquants solidaires*), Grenoble, with the participation of "several hundred" people, according to a local newspaper.
- 6 February 2017: demonstration by Offenders Together, Lille, with the participation of an unknown number of demonstrators.
- 8 February 2017: demonstration in support of Jean-Luc Munro (acting against a policeman at a Roma camp) outside his trial at Lille, with the participation of approximately 150 demonstrators.
- 9 February 2017: demonstration by Offenders Together, Strasbourg, with the participation of an unknown number of demonstrators.
- 10 February 2017: demonstration by Offenders Together, Nice, with the participation of an unknown number of demonstrators.
- 1 March 2017: demonstration organised in Paris under the slogan "No minors in the streets!", with the participation of an unknown number of demonstrators.
- 25 March 2017: demonstration in support of migrants arriving at Languimberg in October 2016 and facing removal, organised in Sarrebourg, with the participation of an unknown number of demonstrators.

There is less media focus on the question of migrants than there was at the end of 2016,<sup>191</sup> a period that saw the dismantling of the camps around Calais and the distribution of migrants across the country.

Repressive measures against activists assisting migrants has led to the creation of the new group called Offenders Together (*Délinquants solidaires*).<sup>192</sup> This group, which, according to its manifesto, published online on 12 January 2017,<sup>193</sup> aims "to end the offence of solidarity". It consists of more than 350 national and local associations and trade unions. The group denounces the increase in questioning, arrests and prosecutions of people who act in various ways to assist migrants. They call for activists to show "citizen resistance, at the risk of civil disobedience".<sup>194</sup>

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<sup>190</sup> For a complete list of demonstrations in support of defenders of migrants, see [the Le Gisti website](#).

<sup>191</sup> France, National Consultative Committee on Human Rights; Public Defender of Rights.

<sup>192</sup> See their [Internet site](#).

<sup>193</sup> France, Le Gisti, 2017: [Offenders together mobilized in all regions of France](#) (2017 : des délinquants solidaires mobilisés dans toutes les régions de France), 2017.

<sup>194</sup> France, La CIMADE, [Criminalized solidarity ?](#) (*La solidarité criminalisée?*), 16 March 2017.



## 5.7. Hate crime incidents

Nothing new to report.<sup>195</sup>

## 5.8. Policies against smuggling of human beings

According to Article L. 622-1 of the Code of entry and stay for foreigners and the right to asylum (*Code de l'entrée et du séjour des étrangers et du droit d'asile* – Ceseda) states that “any person who, through direct or indirect assistance, facilitates or attempts to facilitate the entry, the movement or the irregular stay of a foreigner in France” shall be punished by five years’ imprisonment and a €30,000 fine. Although this provision targets smugglers or those who exploit foreign people, it has gradually come to be used against citizens who have given their support to foreigners without any benefit to themselves. Often prosecutions are brought based on additional offences, such as behaving violently or insultingly towards the police or failing to cooperate with them.

Reports of the following cases having emerged during the first three months of 2017:

- 6 January 2017: arrests of four activists in the Roya Valley who, at the France-Italy border, transported migrants in a car to enable them to avoid a police checkpoint. Their trial is scheduled for April 2017.
- 10 March 2017: a person in Paris who was filming a demonstration of migrants protesting against daily deportations was assaulted, arrested and charged with insulting and committing an aggravated assault on a police officer and with failing to cooperate with a police officer.
- 20 March 2017: three humanitarian voluntary workers, some of whom belonged to the humanitarian association Roya-Citizen (*Roya-Citoyenne*), were arrested by the Italian police in Vintimille while they were distributing meals to refugees.<sup>196</sup>

During the first three months of 2016, many activists, journalists and photographers have been taken into custody and questioned but released in the course of the day (without charges). According to humanitarian associations, this practice, which is becoming more common, is part of a wider effort to make migrants ‘invisible’ in France.<sup>197</sup> In addition, several court cases were brought for similar incidents at the end of 2016.<sup>198</sup>

## 5.9. Criminal proceedings against migrants and asylum seekers

No information was available.<sup>199</sup>

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<sup>195</sup> France, National Consultative Committee on Human Rights; Public Defender of Rights; Le Gisti.

<sup>196</sup> France, Citoyens solidaires, [Arrested on Monday in Ventimiglia for feeding migrants](#) (*Arrêtés ce Lundi à Vintimille pour avoir nourri des migrants*), 22 March 2017.

<sup>197</sup> France, Le Gisti; La Cimade; Catholic Relief.

<sup>198</sup> France, Le Gisti, [News on prosecutions and mobilizations relating to crimes of solidarity](#) (*Actualité des poursuites et des mobilisations relatives aux délits de solidarité*), 2017.

<sup>199</sup> France, La Cimade.

## 6. Germany

### 6.1. Overview of the situation

#### *Arrivals/registration*

Since January 2017, the Federal Ministry of the Interior has been using a new system, called the core data system (*Kerndatensystem*). This core data system is now providing, according to the Federal Ministry of the Interior (*Bundesministerium des Innern*), valid data about the number of registered people who intend to apply for asylum per month. Some 14,290 people in need of international protection were registered in the core data system in February 2017 (in January, some 14,480 were registered).<sup>200</sup>

#### *Main countries of origin*

The main nationalities of those registered in February 2017 were Syrian (some 3,500 people), Iraqi (some 1,400 people), Eritrean (some 1,020 people), Afghan (some 950 people), Iranian (570 people), Nigerian (450 people), Turkish (some 440 people), Somali (some 500 people) and Russian (some 390 people); the nationalities of some 570 people were not established.<sup>201</sup>

#### *Approximate proportions of children, families, women and other vulnerable groups*

Of all applicants for asylum in January and February 2017, 73.9 % were younger than 30, 38.5 % were younger than 18, and 17 % were younger than 4. About one third of all initial applications (*Erstanträge*) were submitted by women.<sup>202</sup>

On 1 February 2017, some 43,840 unaccompanied children were under the protection of the youth welfare offices, in addition to some 18,000 young adults (*junge Volljährige*).<sup>203</sup>

#### *Applications*

Around 16,570 applications for asylum were submitted in February 2017.<sup>204</sup> This figure marks a decrease of almost 8 % on the 17,970 applications submitted in January 2017.<sup>205</sup>

In February 2017, the Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge* – BAMF) registered some 15,000 initial applications (in January, there were some 6,000), predominantly submitted by Afghan, Syrian and Iraqi citizens. Repeat applications (*Folgeanträge*) in February were predominantly submitted by Serbian, Albanian and Macedonian citizens.<sup>206</sup>

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<sup>200</sup> Federal Ministry of the Interior, [press releases](#), 9 March 2017.

<sup>201</sup> *Ibid* and Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge*, BAMF), [asylum statistics](#) (*Asylgeschäftsstatistik*), 9 March 2017.

<sup>202</sup> BAMF, [Aktuelle Zahlen zu Asyl](#), February 2017, p. 7.

<sup>203</sup> [Evangelischer Pressedienst](#) (epd), 15 March 2017.

<sup>204</sup> Federal Ministry of the Interior, [press releases](#) 9 March 2017.

<sup>205</sup> *Ibid*.

<sup>206</sup> Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge*, BAMF), [asylum statistics](#) (*Asylgeschäftsstatistik*), 9 March 2017.

In February 2017, some 334,000 asylum proceedings were still pending (in January, some 385,000 were pending).<sup>207</sup>

### *Decisions*

In February 2017, the BAMF decided on some 71,500 applications by asylum seekers (during the same month in 2016 the figure was some 51,500).<sup>208</sup>

Around 15,150 (21.2 %) of them received the legal status of a refugee in accordance with the Geneva Convention Relating to the Status of Refugees of 1951.<sup>209</sup>

In February 2017, some 13,300 people (18.6 %) received subsidiary protection compared with, for example, 21,700 people in August 2016 (38.0 %).<sup>210</sup> The proportion of decisions resulting in people receiving only subsidiary protection has decreased since September 2016 (when it was 40.6 %).

In addition, the BAMF numbers show an increased proportion of people with a suspension of deportation order, in accordance with Section 60, paragraph 5 or 7, sentence 1, of the Residence Act (*§ 60 Absatz 5 oder Absatz 7 Satz 1 des Aufenthaltsgesetzes*), compared with August and September last year: in February 2017, some 8,540 people (6 % of asylum decisions issued) compared with some 2,690 people (3.9 %) in September 2016 and 1,290 people (2.3 %) in August 2017. In these cases, return was not possible, for example owing to substantial specific threats to life, such as a life-threatening disease.<sup>211</sup>

The BAMF rejected the applications of some 51,140 people (36.0 %) in February 2017, compared with only some 14,800 people (21.2 %) in September 2016. The applications of some 24,580 people (17.3 %) were closed in February 2017 for other reasons, such as because applicants were subject to Dublin procedures or because they withdrew their applications.<sup>212</sup>

## 6.2. Key fundamental rights concerns

In March, researchers at the University of Konstanz published a study about the decision-making practice of the BAMF in asylum procedures between 2010 and 2015. Within Germany, the recognition rates differ considerably between the federal states, although one and the same federal agency, the BAMF, decides on all applications. Saarland and Bremen had recognition rates of 69 % and 55.7 % respectively between 2010 and 2015. Berlin and Saxony, on the other hand, were at the bottom of the list, with rates of only 24.6 % and 26.9 % respectively. Although recognition rates constantly increased between 2010 and 2015, the differences between the individual federal states have become even bigger during the same period. The acceptance rates of Syrians were relatively constant across the 16 federal states. However, large differences were found in relation to asylum seekers from countries including Iraq and Afghanistan. There is also a significant correlation between a high number of hate crime attacks in a

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<sup>207</sup> *Ibid.*

<sup>208</sup> Federal Ministry of the Interior, [press releases](#), 9 March 2017.

<sup>209</sup> *Ibid.*

<sup>210</sup> *Ibid.*

<sup>211</sup> *Ibid.*

<sup>212</sup> *Ibid.*

federal state and a low recognition rate in the following year. According to the authors of the study, BAMF staff consider perceived political sensitivities when making their decisions.<sup>213</sup>

### 6.3. Children and vulnerable groups

#### *Identification of vulnerable persons*

Interviewed stakeholders emphasised once again that neither systematic nor mandatory procedures are in place in reception centres for identifying vulnerable persons and applicants with special reception needs. However, there are a few model and pilot projects. According to the German Red Cross (*Deutsches Rotes Kreuz*), the funding and task guidelines for state-funded counselling centres run by welfare organisations require staff to consider the need to identify vulnerable persons as they carry out their tasks. However, in the absence of a harmonised federal procedure, it is unclear how this is to be done and in accordance with what standards.<sup>214</sup>

#### *Unaccompanied children*

The federal government published its first report on the situation of unaccompanied children in Germany in accordance with an annual reporting obligation stipulated in Section 42e of the Child and Youth Services Act (§ 42e *Sozialgesetzbuch, Achtes Buch, Kinder- und Jugendhilfe – SGB VIII*).

According to the government, the reception procedure is well established, but there are shortcomings with regard to reception conditions for unaccompanied children. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (*Bundesministerium für Familie, Senioren, Frauen und Jugend*) highlighted some issues in particular.<sup>215</sup> In some municipalities, for example, there is a lack of trained staff and of adequate accommodation facilities. In addition, the report identifies a significant need for training among social workers and youth officers, especially with regard to the Asylum and Residence Acts (*Asyl- und Aufenthaltsgesetz*).<sup>216</sup> The report also states that the family situation of unaccompanied children is often unclear. The health and well-being of many unaccompanied children is affected by extreme stress while travelling to Germany. For their safety and successful integration, the appointment of a legal guardian for unaccompanied children is very important. According to the report, the appointment of a legal guardian takes between a few days and several weeks.

Furthermore, the report states that in the 16 federal states, the municipalities, as well as welfare organisations, identified a need to interlink social systems to improve access to education and training and to healthcare and psychosocial care, which would require increased cooperation between immigration

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<sup>213</sup> See <https://www.uni-konstanz.de/universitaet/aktuelles-und-medien/aktuelle-meldungen/presse-informationen/presse-informationen/asyl-zentral-gesteuert-foederal-interpretiert/>.

<sup>214</sup> Germany, Red Cross (*Deutsches Rotes Kreuz*).

<sup>215</sup> Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (*Bundesministerium für Familie, Senioren, Frauen und Jugend*), [press releases](#), 15 March 2017.

<sup>216</sup> Bundesministerium für Familie, Senioren, Frauen und Jugend (BMFSFJ), [Bericht über die Situation unbegleiteter ausländischer Minderjähriger in Deutschland](#), Berlin, 16 March 2017.

authorities and youth welfare authorities, as well as more training for specialists, social workers and legal guardians.<sup>217</sup>

### *Women*

A representative study investigated the situation of refugee women in some federal states. In total, 639 refugees were interviewed in reception facilities in five urban and rural areas in north, south, west and east Germany. Almost half of the women were between 17 and 29 years old; the vast majority were younger than 40. Most of them were from Syria, Afghanistan or Iraq. Of those interviewed, 81 % had children. They had fled primarily owing to a threat to life, war or hunger, but also because of the fear of kidnapping, violence or torture. Women from Eritrea, in particular, reported experiences of violence.

With regard to their lives in Germany, on the one hand the women were grateful and motivated. On the other hand, they judged their quality of life to be insufficient. Above all, living conditions caused the greatest dissatisfaction: there was a lack of privacy and sanitary conditions were often poor, according to the study. More than one third of the women complained about a lack of medical care. Fewer than 10 % of women who had asked for psychological treatment had received it. The women also reported depression and grief caused by the separation of family members.<sup>218</sup>

### *Accompanied children*

According to a new Unicef report, many refugee children spend several months or even years in refugee accommodation centres that are often not safe and not adequate for them. In reception centres, for example, only 29 % of the children attend regular schools. The report also states that showers and rooms are very often not lockable.

In addition, the report indicates that the treatment of refugee children increasingly varies depending on their country of origin and the likelihood that they will remain in Germany.<sup>219</sup> Unicef demands that all children and adolescents seeking asylum and protection in Germany must have the same access to protection, care and support, irrespective of their country of origin.

Furthermore, in Unicef's view, a federal regulation is needed to establish binding family- and child-friendly standards for refugee accommodation facilities that should be met and regularly monitored by the supervisory authorities. Children, young adults and their parents should be accommodated as soon as possible outside of reception centres. This is particularly important in view of the current draft law (see subsection 6.4) that provides for the possibility of extending an obligatory stay in reception facilities beyond six months.<sup>220</sup>

### *Transgender people*

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<sup>217</sup> *Ibid.*

<sup>218</sup> See [https://female-refugee-study.charite.de/index.php?id=30230121&type=0&jumpurl=fileadmin%2Fuser\\_upload%2Fmicrosites%2Fsonstige%2Fmentoring%2FAbschlussbericht\\_Final\\_-1.pdf&juSecure=1&mimeType=application%2Fpdf&locationData=30230121%3Asys\\_file\\_metadata%3A30241895&juHash=1bb7720e95803b2be0fcb7414ae70ec266d7a3b9](https://female-refugee-study.charite.de/index.php?id=30230121&type=0&jumpurl=fileadmin%2Fuser_upload%2Fmicrosites%2Fsonstige%2Fmentoring%2FAbschlussbericht_Final_-1.pdf&juSecure=1&mimeType=application%2Fpdf&locationData=30230121%3Asys_file_metadata%3A30241895&juHash=1bb7720e95803b2be0fcb7414ae70ec266d7a3b9).

<sup>219</sup> UNICEF, 'Kindheit im Wartezustand' - Studie zur Situation von Kindern und Jugendlichen in Flüchtlingsunterkünften in Deutschland', Berlin, March 2017.

<sup>220</sup> UNICEF, [press releases](#), 21 March 2017.

Section 81d (1) of the Code of Criminal Procedure (*Strafprozessordnung*) establishes that, if a legitimate interest is expressed, an examination or search can be conducted by an officer or doctor of a certain sex. This standard can be applied also to 'preventive police measures', such as searching people, available to the Federal Police (*Bundespolizei*), that is, those set out in Section 43 of the Federal Police Act (*Gesetz über die Bundespolizei – BPOLG*), unless an immediate search is necessary to protect against danger to life or limb.<sup>221</sup>

#### *Rejections of unaccompanied children at German borders*

The German authorities rejected 620 unaccompanied children at the borders in 2016. The government has said that the children "failed to meet requirements to enter the country".<sup>222</sup> Among the children were 275 Afghans, 58 Syrians, 39 Eritreans, 36 from Iraq and others from Pakistan, Iran, Morocco, Egypt, The Gambia, Guinea, Mali, Algeria, Albania and other countries.<sup>223</sup>

Germany's Green Party criticised the federal authorities over their rejections of refugee children. The Greens' spokesperson on youth policy said that the rejections were "a large-scale mistreatment of the children". Even if a child does not receive asylum in Germany, the authorities should check if they have relatives in Germany before beginning the deportation process.<sup>224</sup>

#### *Duration of asylum procedures*

The duration of procedures is still very different from region to region. However, according to the German Red Cross, a general trend is for very fast procedures (taking 48 hours or a few days) to be carried out in arrival centres (*Ankunftscentren*). The Red Cross emphasises that access to legal advice is not guaranteed in these accelerated procedures. It is also unclear how the specific requirements of the asylum applicants are taken into account in such accelerated procedures and how the identification of vulnerable persons can be guaranteed.<sup>225</sup> According to the German Caritas Association (*Deutscher Caritasverband*), this affects people who are subject to Dublin procedures in particular.<sup>226</sup>

On the other hand, many asylum applicants have to stay for long periods of time in reception centres, which puts additional pressure on them and, in addition, affects their access to healthcare, education and other services.<sup>227</sup>

## 6.4. Changes in law, policy and practice

The German government presented a draft bill to speed up the deportation of rejected asylum seekers, amending several laws, including the Asylum Act (*Asylgesetz*), the Residence Act (*Aufenthaltsgesetz*) and the Codes of Social Law SGB VIII.<sup>228</sup> The planned amendments would result in the following changes: <sup>229</sup>

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<sup>221</sup> Germany, Federal Police (*Bundespolizei*).

<sup>222</sup> [Federal government's response to a parliamentary minor interpellation](#), 3 February 2017.

<sup>223</sup> *Ibid.*

<sup>224</sup> See <https://twitter.com/BeateWaRo/status/829578547761184768>.

<sup>225</sup> Germany, Red Cross (*Deutsches Rotes Kreuz*).

<sup>226</sup> Germany, Caritas Association (*Deutscher Caritasverband*).

<sup>227</sup> Germany, Red Cross (*Deutsches Rotes Kreuz*).

<sup>228</sup> See <http://dipbt.bundestag.de/dip21/brd/2017/0179-17.pdf>, 23 February 2017.



- The BAMF will be given new powers to examine asylum seekers' mobile phones and SIM cards to determine their identity. The government calculates that this would involve examinations of the data of some 150,000 applicants for asylum in 2017.<sup>230</sup>
- Germany also plans to detain people scheduled for deportation if they are considered a threat to public security, or require them to wear electronic ankle bracelets (*Elektronische Fußfessel*). Detention in accordance with Section 62 of the Residence Act (*Aufenthaltsgesetz*) will be admissible even where deportation cannot be carried out within three months.
- Short-term detention immediately before deportation in accordance with Section 62b of the Residence Act (*Ausreisegewahrsam*) will be extended by law from a maximum of four days to a maximum of 10 days.
- Youth Services (*Jugendämter*) are to be generally obliged to apply for asylum for unaccompanied children.<sup>231</sup>
- The federal states are to be authorised to extend the duration of the periods during which asylum applicants may be obliged to stay in reception centres.

The measures are subject to approval by the German Parliament (*Bundestag*) and the Federal Council (*Bundesrat*).

On 27 March, several organisations took part in a hearing on the draft bill.<sup>232</sup> The Jesuit Refugee Service (*Jesuiten Flüchtlingsdienst*) pointed to the absence of adequate data to show the need for the amendments, for example assumptions that a large number of applicants would not need protection in Germany and that the four-day limitation on deportation detention would not be sufficient.<sup>233</sup> Arguing that several aspects of the proposal did not comply with EU and German law, the Jesuit Refugee Service recommended not passing the draft bill.

Pro Asyl and Unicef expressed similar concerns about the draft bill.<sup>234</sup> Unicef noted that an extended obligation for asylum applicants to stay in reception centres would impair the integration and the schooling of children. In addition, Youth Services should be obliged to examine if an asylum application is in the interest of the child or not. If Youth Services are to be obliged to apply for asylum for unaccompanied children, there is an urgent necessity to train staff and legal guardians on the Asylum and Residence Acts.

The Federal Ministry of the Interior argued that Germany needs more effective police investigations. The current geographical restrictions on Federal Police patrols (within the 30-kilometre border area) are no longer appropriate for

<sup>229</sup> *Ibid.*

<sup>230</sup> *Ibid.*, p.11.

<sup>231</sup> Please note also Federal Association for Unaccompanied Minor Refugees (*Bundesfachverband Unbegleitete Minderjährige Flüchtlinge*), [press releases](http://www.b-fv.de/images/20170217_Stellungnahme_des_Bundesfachverband_umF_zum_Entwurf_eines_Gesetzes_zur_besseren_Durchsetzung_der_Ausreisepflicht.pdf), 22. February 28, 2017 and [http://www.b-fv.de/images/20170217\\_Stellungnahme\\_des\\_Bundesfachverband\\_umF\\_zum\\_Entwurf\\_eines\\_Gesetzes\\_zur\\_besseren\\_Durchsetzung\\_der\\_Ausreisepflicht.pdf](http://www.b-fv.de/images/20170217_Stellungnahme_des_Bundesfachverband_umF_zum_Entwurf_eines_Gesetzes_zur_besseren_Durchsetzung_der_Ausreisepflicht.pdf).

<sup>232</sup> See <https://www.bundestag.de/ausschuesse18/a04/anhoerungen?url=L2F1c3NjaHVlc3NIMTgvYTA0L2FuaG9lc nVuZ2VuLzExMS0tc2l0enVuZy1pbmhhbHQvNDk5MjEy&mod=mod458740>.

<sup>233</sup> See <https://www.bundestag.de/blob/500846/c66964fc79589b0889f99847a721bf9f/18-4-843-data.pdf>

<sup>234</sup> See <https://www.bundestag.de/blob/500848/f0b4ca2ba915678f0abeaca2f53da6ce/18-4-844-data.pdf> and <https://www.bundestag.de/blob/500016/c93c5454d698d8b0e8f08117cefae473/18-4-825-a-data.pdf>.



cross-border crime in the 21st century. For example, the ministry argues that the Federal Police must also patrol the main traffic routes.<sup>235</sup>

## 6.5. Social response

The interviewed stakeholders provided no further information on this issue and no detailed overview on this issue is available. However, several demonstrations in support of as well as against migrants took place.

One year after the so-called EU-Turkey deal, several demonstrations took place on 20 March. In Berlin, Frankfurt, Leipzig and Bremen, about 200 people demonstrated against deportations.<sup>236</sup> The network welcome2stay called for demonstrations in various cities in Germany and other Member States.<sup>237</sup>

In spite of continuing protests by human rights organisations, churches, Afghan communities and politicians,<sup>238</sup> some federal states continue to deport Afghan citizens in cooperation with Frontex. On 27 March, 15 Afghan citizens were deported from Munich.<sup>239</sup> On 22 February, 18 Afghan citizens whose applications for asylum had been rejected and who were obliged to leave the country were deported from Munich. They were transferred to Munich from Bavaria, Hamburg, Baden-Württemberg, Hesse, Saxony-Anhalt and Rhineland-Palatinate.<sup>240</sup> Among the deportees were members of Afghan religious minorities such as Hindus and Shiites. In Pinneberg, near Hamburg, a Jewish Afghan citizen sought refuge in a synagogue because he was to be deported, according to his lawyer.<sup>241</sup>

## 6.6. Hate crime incidents

Pro Asyl and the Amadeu Antonio Foundation recorded several violent incidents that took place between January and 22 March 2017.<sup>242</sup> According to these organisations, there have been many demonstrations and rallies against refugees. However, their records are limited to demonstrations in which criminal incidents (not having announced the rally to the authorities, hate speech/incitement of the people (*Volksverhetzung*), Nazi salutes, attacks on pro-refugee demonstrators, the press or the police, etc.) have taken place.<sup>243</sup>

During 1 January and 29 March 2017, Pro Asyl and the Amadeu Antonio Foundation recorded:<sup>244</sup>

- 14 violent attacks directed against asylum seekers;
- eight arson attacks against reception and accommodation centres;

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<sup>235</sup> See <http://www.faz.net/aktuell/politik/inland/innenminister-de-maiziere-leitlinien-fuer-einen-starken-staat-in-schwierigen-zeiten-14601852.html>

<sup>236</sup> See <https://www.neues-deutschland.de/artikel/1045227.fuer-ein-berlin-ohne-abschiebungen.html>.

<sup>237</sup> See <http://welcome2stay.org/de/>.

<sup>238</sup> See e.g. Amnesty International Germany, [Interview with Secretary-General](#) (*Generalsekretär*) Markus N. Beeko.

<sup>239</sup> See <https://www.tagesschau.de/inland/sammelabschiebung-afghanistan-101.html>.

<sup>240</sup> See <https://www.tagesschau.de/inland/abschiebung-afghanistan-113.html>.

<sup>241</sup> See <https://www.ndr.de/nachrichten/hamburg/Doch-keine-Einzelfallpruefungen-fuer-Afghanen,afghanistan818.html>.

<sup>242</sup> See <https://www.mut-gegen-rechte-gewalt.de/service/chronik-vorfaelle>.

<sup>243</sup> *Ibid.*

<sup>244</sup> See <https://www.mut-gegen-rechte-gewalt.de/service/chronik-vorfaelle>.

- 10 'other attacks' against reception and accommodation centres (e.g. damage to property);
- in total, 18 injured refugees.<sup>245</sup>

## 6.7. Policies against smuggling of human beings

In December 2016, the federal police registered 168 cases of 'smuggling foreigners' (*Einschleusen von Ausländern*), compared with 161 cases in July 2016 and 148 cases in January 2017. In addition, police forces in the 16 federal states registered further smuggling suspects not included in that figure.<sup>246</sup> It is unclear, however, if persons or organisations acting on humanitarian grounds are among those cases. The stakeholders did not provide any specific information about other individual cases.

As instances of human smuggling are very diverse, it is difficult to detect specific cases against people or organisations acting on humanitarian grounds or others who facilitated irregular entry or stay for reasons other than profit.<sup>247</sup> There are reports indicating that those smugglers are prosecuted only for 'assistance' (*Beihilfe*) and therefore receive lighter penalties.<sup>248</sup>

The human rights organisation Borderline-Europe<sup>249</sup> emphasises that smuggling should be understood not only as a consequence of organised crime but also as a response to an extremely restrictive immigration system that prevents the movement of refugees. In many cases, smuggling is the only choice for people who are forced to leave their countries.

According to Borderline-Europe, people who have the same region of origin and, in recent times, relatives have tried to facilitate entry to Germany for refugees. For example, two Syrian brothers tried to facilitate entry to Germany for their relatives, who had been waiting for family reunification. People in similar cases who are accused of smuggling often have no access to counselling centres or lawyers.<sup>250</sup>

## 6.8. Criminal proceedings against migrants and asylum seekers

The Federal Police initiated 5,366 criminal proceedings against migrants and asylum seekers for irregular crossing of the border (*Unerlaubte Einreise*) in

<sup>245</sup> Please note that The chronicle lists only attacks specifically against refugees. There are further attacks against migrants (or Germans who are supposed to be migrants in the eyes of the attackers) and German muslims, jews, sinti and other minorities. Further data for example: <http://www.netz-gegen-nazis.de/>.

<sup>246</sup> Germany, Police intake statistics of the Federal Police (*Polizeiliche Eingangsstatistik der Bundespolizei PES*), 21 March 2017.

<sup>247</sup> E.g. <http://daserste.ndr.de/panorama/aktuell/Syrischer-Fluchthelfer-kaempft-gegen-Verurteilung-als-Schleuser,syrien642.html>, <http://www.nds-fluerat.org/wp-content/uploads/2016/12/20161203130720.pdf>, <http://www.zeit.de/gesellschaft/2016-11/fluechtlinge-migration-ausbildung-bildung-fluchtersachen> and <http://www.bild.de/regional/muenchen/bundespolizei/nimmt-zehn-mutmassliche-schleuser-fest-43422200.bild.html>

<sup>248</sup> See <http://dip21.bundestag.de/dip21/btd/18/064/1806445.pdf>.

<sup>249</sup> See <http://www.borderline-europe.de/>.

<sup>250</sup> Germany, Borderline-Europe.

December 2016, and 4,596 in January 2017 (in comparison, the police initiated 6,088 cases in July 2016). About half of these people were apprehended by the Federal Police at the German borders with Austria, Switzerland and France. According to a media report, most of the migrants and asylum seekers were Afghan, Syrian or Nigerian citizens.<sup>251</sup>

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<sup>251</sup> See <https://www.tagesschau.de/inland/illegale-migration-101.html>.

## 7. Greece

### 7.1. Overview of the situation

Between 1 January and 21 March 2017, some 3,370 persons arrived by sea. In March, Chios recorded most sea arrivals, followed by Lesbos and Samos. The increase in arrivals coincided with an improvement in the weather conditions, which had been particularly bad during previous weeks.<sup>252</sup>

### 7.2. Key fundamental rights concerns

There was nothing new to report.

### 7.3. Fundamental rights issues in relation to registration and channelling into different procedures

#### 7.3.1 Registration and identification

There was nothing new to report.

#### 7.3.2 Asylum procedures

In March 2017, the Asylum Service (*Υπηρεσία Ασύλου*) registered about 4,880 asylum applications. Around 3,470 were from men and around 1,410 were from women. The majority of applicants originated from Syria (about 1,280 people), followed by Pakistan (about 850 people), Afghanistan (about 590 people) and Iraq (about 500 people). The majority of applications were recorded on Lesbos (about 930), while on the other islands the following numbers of applications were registered: Chios, about 610; Samos, about 270; Leros, about 130; and Kos, about 100.

Recognition rates to 28 February 2017 for the following countries of origin were: Syria, 99.6 %; Pakistan, 2.5 %; Afghanistan, 57.7 %; Iraq, 64.1 %; Palestine, 90.2 %; Iran, 51.3 %; Albania, 0.23 %; and Algeria, 1.5 %. Calculations are based only on decisions on the substance of the case. Inadmissibility decisions are excluded.<sup>253</sup>

During March 2017, some 1,670 individuals were relocated from Greece to other Member States. Around 910 were male and around 760 were female. The majority of people were relocated to Germany (some 250 people), France (some 170 people) or Switzerland (some 70 people).<sup>254</sup>

#### 7.3.3 Return procedures

In March 2017, there were some 710 registrations for return and some 740 actual returns through the International Organization for Migration (IOM) Assisted Voluntary Return and Reintegration (AVRR) programmes. Some 570 were men, some 90 were women, and some 70 were children, of whom seven

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<sup>252</sup> UNHCR weekly reports.

<sup>253</sup> Greece, Asylum Service.

<sup>254</sup> Greece, IOM.

were unaccompanied children who returned to their families. The majority of returning individuals were from Pakistan, Iraq or Algeria.<sup>255</sup>

During the same period, the Hellenic Police conducted some 600 forced returns. The majority of returned individuals were from Albania (about 490 people) or Pakistan (about 30 people).<sup>256</sup>

## 7.4. Challenges and developments concerning reception conditions for new arrivals, including detention

### 7.4.1 Reception conditions and capacity

UNHCR continues to reduce accommodation in hotels and increase accommodation in apartments. By 28 March 2017, the total number of UNHCR-sponsored places was around 19,140 and the total number of beneficiaries was about 27,970.<sup>257</sup>

In the context of the resumption of Dublin transfers to Greece, the Minister for Migration Policy, Mr Ioannis Mouzalas, stated that "Greece simply has no capacities to cope with additional arrival of refugees ... We accommodate 60,000 refugees ... and it would be a mistake to make Greece's burden heavier by the revival of the Dublin agreement".<sup>258</sup>

### 7.4.2 Vulnerable persons

On the islands, sexual and gender-based violence (SGBV) remains a critical issue due to the lack of basic standards in reception and identification centres (RICs). The situation is particularly challenging in Lesbos (RIC Moria) and Samos (RIC Vathy). On the mainland, training sessions on SGBV were organised by UNHCR in the three Elliniko sites.<sup>259</sup>

There is insufficient treatment available for people with mental or psychological conditions, particularly at the entry points on the islands. People who need urgent mental health support are not properly referred and treated. Significant gaps remain in medical and psychosocial follow-up, accommodation and hospitalisation, and in relation to referrals to the mainland for further treatment.<sup>260</sup>

Médecins Sans Frontières (MSF) released a report on the human cost of European policy failures in Greece and the Balkans. MSF called on EU and Member State leaders to radically change their approach to migration and ensure a swift end to the unnecessary suffering of the thousands affected by the consequences of the EU-Turkey deal. According to the report, *One year on from the EU-Turkey deal: challenging the EU's alternative facts*, MSF psychologists in Lesbos have seen the percentage of patients with anxiety and depression increase by a factor of 2.5 and the percentage of those with post-traumatic

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<sup>255</sup> Greece, IOM.

<sup>256</sup> Greece, Hellenic Police Headquarters.

<sup>257</sup> Greece, UNHCR Greece.

<sup>258</sup> See <http://greece.greekreporter.com/2017/03/26/greek-migration-minister-says-system-for-taking-in-refugees-is-at-the-brink-of-collapse/>.

<sup>259</sup> UNHCR, Weekly Reports, 31 March 2017.

<sup>260</sup> *Ibid.*

stress disorder increase threefold. Symptoms of psychosis also increased. This all coincides with MSF teams seeing more patients with severe trauma, and more cases of self-harm and suicide attempts. In the nearly 300 mental health consultations it has conducted in Samos, MSF has seen a similar deterioration in mental health and escalation in self-harm and suicide attempts in recent months.<sup>261</sup> At the end of March, in Chios, a Syrian attempted suicide by setting himself on fire.<sup>262</sup>

On 24 March 2017, police and coast guard officers in the port of Piraeus were looking into the circumstances of the death of a Syrian man. The 25-year-old man was found hanged from a kiosk close to one of the passenger ferry terminals. He was found by a passer-by, who informed the authorities. An investigation into the circumstances of the refugee's death is ongoing, sources reported.<sup>263</sup>

#### **7.4.3 Child protection**

The existing capacity to accommodate unaccompanied children is still insufficient. On 17 March 2017, there were some 890 children on the waiting list to be referred to the National Centre for Social Solidarity (*Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης* – EKKA) for accommodation, including 130 in RICs and 18 police stations under protective custody. The total number of available places for unaccompanied children reached about 1,350. The estimated total number of unaccompanied children currently residing in Greece is 2,000, based on referrals to EKKA as at 17 March 2017.<sup>264</sup>

#### **7.4.4 Immigration detention**

The construction of a pre-removal detention centre in Vathy was announced by the Deputy Minister for Migration Policy, Yiannis Balafas, following the Joint EC-Greece action plan on the implementation of the EU-Turkey statement. In the action plan, it was agreed that the Greek authorities, with EU support, would create sufficient detention capacity on the islands as soon as possible. In line with this, there is now a partially operational pre-removal detention centre in Kos and a plan for the construction of a pre-removal detention centre in Vathy.<sup>265</sup>

The number of people detained in pre-removal centres throughout Greece in March 2017 was about 2,750. The majority of detainees originated from Pakistan or Algeria. The number of unaccompanied children detained in the same period was 79.<sup>266</sup>

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<sup>261</sup> See <http://www.msf.org/en/article/one-year-after-eu-turkey-deal-migrants-and-asylum-seekers-are-paying-price-their-health>.

<sup>262</sup> See <http://www.amna.gr/english/article/17920/Syrian-refugee-self-immolates-over-his-stay-in-Chios--delays-in-asylum-request>.

<sup>263</sup> For more information see <http://greece.greekreporter.com/2017/03/27/police-investigating-death-of-hanged-syrian-refugee-discovered-at-passenger-terminal-of-port/>.

<sup>264</sup> Greece, National Centre for Social Solidarity.

<sup>265</sup> Greece, UNHCR Greece.

<sup>266</sup> Greece, Hellenic Police Headquarters.



## 7.5. Changes in law, policy and practice

The Minister for Migration Policy announced changes to the asylum procedures in relation to the right to appeal. More specifically, the minister announced that the money provided through IOM AVRR programmes would be increased from €500 to €1,000 for those who do not appeal their first instance negative decisions and depart voluntarily through these programmes. Those who do appeal their negative decisions will be excluded from IOM voluntary return programmes. This provision applies only for people who arrived on the Aegean islands after 20 March 2016 and fall under the provisions of the EU-Turkey statement, except for Syrian nationals.

A recent reform introduced in March (4461/2017) enabled EASO staff to assist the Appeals Committees in the examination of appeals against negative decisions by the Greek Asylum Service, despite criticism from civil society organisations.<sup>267</sup>

Joint Ministerial Decision 4000/4/32-n introduced changes to the registration process for the national list of undesirable aliens. Each case on the national list of undesirable aliens is automatically examined every three years by the competent body, which decides whether the registration is maintained or deleted. Provisions were also made for the automatic deletion of aliens on whom the courts have imposed deportation orders before certain periods of time.<sup>268</sup>

In the early hours of 13 March 2017, the police evacuated two squats in Athens. The squats were being used to accommodate refugees and migrants. The Minister for Citizens' Protection stated that the evacuation was fully justified, since the Municipality of Athens and the Red Cross were claiming to be the lawful owners of the properties.<sup>269</sup>

## 7.6. Social response

On Thursday 16 March 2017, a number of organisations held a press conference in Athens, on the occasion of the first anniversary of the EU-Turkey deal. The following organisations were involved: the International Federation for Human Rights, the Hellenic League for Human Rights, Solidarity Now, MSF, Doctors of the World, Amnesty International, Praksis and Vavel. The invitation to the press conference read, in part, as follows: "The message that this deal sends out undermines the European values of human rights and dignity. Interviewed organisations have underlined that, in order to face the ongoing refugee crisis, we should seek a solution that reflects European values: decent reception conditions, access to fair asylum procedures, providing safe legal passage through resettlement and relocation and full respect to the principle of non-refoulement."<sup>270</sup>

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<sup>267</sup> See [http://www.asylumineurope.org/sites/default/files/resources/nomos\\_4461\\_2017.pdf](http://www.asylumineurope.org/sites/default/files/resources/nomos_4461_2017.pdf).

<sup>268</sup> See <https://drive.google.com/file/d/0B7hvGv7tFH2QUGRJVXZHN1BYR0k/view>.

<sup>269</sup> See <http://www.kathimerini.gr/900250/article/epikairothta/ellada/ekkenw8hkan-h-vila-zwgrafoy-kai-ktirio-sthn-alkiviadoy-poy-teloysan-y-po-katalhyh---epta-syllhyeis>.

<sup>270</sup> See [https://www.solidaritynow.org/en/pressconference\\_turkeydeal/](https://www.solidaritynow.org/en/pressconference_turkeydeal/).

On 18 March 2017, protests took place throughout Greece against the implementation of the EU-Turkey statement, with the biggest one taking place in Athens. The protests came about as a result of a common call from anti-racist movements and groups, political parties, and activists.<sup>271</sup> On 20 March 2017, the organisations Solidarity Now, Action Aid, Oxfam, the Jesuit Refugee Service, Save the Children, Care, the International Rescue Committee and the Norwegian Council for Refugees published a joint policy brief entitled “One year stranded – What has changed?” considering the situation one year after the EU-Turkey statement.<sup>272</sup> This brief outlines three areas that illustrate that Greece has become a testing ground for policies that are undermining international protection standards: (i) the growing difficulty in seeking access to fair and efficient asylum procedures; (ii) convoluted and constantly changing processes that lack oversight; and (iii) the increasing vulnerability of those stranded in Greece. On the occasion of the International Day against Racism and Racial Discrimination, on 21 March, the Greek Migrants Forum, as every year, organised a Walk against Discrimination from Syntagma Square to the Refugee Accommodation Centre Welcommon, with the participation of national and international organisations and anti-racism movements and groups.<sup>273</sup>

On 30 March 2017, the Greek Council for Refugees held a press conference in light of the announcement of the ECtHR ruling on the case *Chowdury and others v. Greece*. The case was brought by 42 workers following violence directed against strawberry pickers in Nea Manolada in the Peloponnese in 2013, after they protested against their employers’ failure to pay wages for several months. More than 30 workers were injured after armed guards at the site started shooting at the protestors. The ECtHR ordered Greece to pay a group of migrant Bangladeshi agricultural workers €588,000 in compensation. The workers were represented by the Greek Council for Refugees and the Open Society Justice Initiative.<sup>274</sup>

On 13 March 2017, Solidarity Now filed a submission to the European Parliament requesting an investigation into the use of EU funds. As the director of Solidarity Now stated in his speech at the press conference on 16 March: “It is imperative that the Parliament and the other European institutions investigate why the excessive amount of more than €1 billion allocated has not created decent living standard for the majority of the population residing in Greece – while many, including children, are placed in detention.”<sup>275</sup>

On 21 March, the National Centre for Social Research published the findings of its latest survey on how Greeks and migrants residing legally in Greece perceive and think about migration. The survey was conducted through interviews with

<sup>271</sup> See <http://solidarity2refugees.gr/18th-march-last-saturdays-big-international-mobilization-come/>.

<sup>272</sup> See [http://www.solidaritynow.org/one\\_year\\_stranded/](http://www.solidaritynow.org/one_year_stranded/).

<sup>273</sup> See <http://www.praksis.gr/el/news-top/item/%CF%80%CF%81%CF%8C%CF%83%CE%BA%CE%BB%CE%B7%CF%83%CE%B7-%CE%B3%CE%B9%CE%B1-%CF%84%CE%BF%CE%BD-%CF%80%CE%B5%CF%81%CE%AF%CF%80%CE%B1%CF%84%CE%BF-%CE%BA%CE%B1%CF%84%CE%AC-%CF%84%CF%89%CE%BD-%CE%B4%CE%B9%CE%B1%CE%BA%CF%81%CE%AF%CF%83%CE%B5%CF%89%CE%BD>.

<sup>274</sup> See <http://gcr.gr/index.php/el/news/press-releases-announcements/item/645-synentefksi-typou>. See also: <https://www.opensocietyfoundations.org/press-releases/european-court-human-rights-rules-favor-bangladeshi-migrant-workers-greek-abuse>.

<sup>275</sup> See [http://www.solidaritynow.org/wp-content/uploads/2017/03/pressconfMarch16\\_GR.pdf](http://www.solidaritynow.org/wp-content/uploads/2017/03/pressconfMarch16_GR.pdf).

some 500 migrants and some 830 Greeks aged 15 or over, living in major urban centres in Greece. Among those taking the survey, 65 % said that migrants were bad for Greece's economy, 59 % considered that migrants were taking their jobs and 59 % thought that migrants' use of health and welfare services was greater than their contribution in taxes. The survey also revealed that Greeks place a high value on cultural homogeneity, with 63 % considering that the country was a 'worse place to live' as a result of migration and 57 % saying that Greece's cultural life had deteriorated because of migrants, rather than being enriched. One third said that the government must not be too generous in granting refugee status to applicants and 44.4 % believed the government treated people who arrived in Greece during the latest wave of migration better than the local population.<sup>276</sup>

On 28 March 2017, AIDA (Asylum Information Database) published the updated country report for Greece as drafted by the Greek Council for Refugees. The report offers a thorough analysis of the transformation of the Greek asylum system in light of the closure of the Western Balkan route and the EU-Turkey statement. It provides detailed statistics and practical insights into the asylum procedure, reception and detention of asylum seekers, as well as the context of international protection.<sup>277</sup>

The Norwegian Refugee Council opened a community centre in Chios to forge ties between refugees and residents. The centre, called Agora, is already up and running. The IOM conducts psychological support for humanitarian workers and refugees there. The European Asylum Support Office provides information sessions on asylum processes and applications. Future plans include Greek lessons, pottery classes and computer skills lessons.<sup>278</sup>

## 7.7. Hate crime incidents

There was nothing new to report.

## 7.8. Policies against smuggling of human beings

The Hellenic Police did not provide any information.

## 7.9. Criminal proceedings against migrants and asylum seekers

The Hellenic Police did not provide any information.

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<sup>276</sup> See <http://greece.greekreporter.com/2017/03/21/majority-of-greeks-see-migrants-as-a-social-and-economic-threat-ekke-survey-finds/>. See also: <http://www.tovima.gr/society/article/?aid=868996>.

<sup>277</sup> See <http://gcr.gr/index.php/el/news/press-releases-announcements/item/649-aida-greece-country-report-2016>.

<sup>278</sup> See <https://www.nrc.no/news/2017/march/bringing-refugees-and-greeks-together/>.

## 8. Hungary

### 8.1. Overview of the situation

In March 2017, some 190 people crossed the border irregularly into Hungary and were apprehended by the police within the territory, more than eight kilometres from the southern borders.<sup>279</sup> This was a significant decrease on the same figure for February (about 320).<sup>280</sup>

Of those who crossed the border irregularly, 75 % were men and 25 % were women. About 20 were under 18 years of age, nine of whom were classified as unaccompanied children.<sup>281</sup> Most of the new arrivals who crossed the Hungarian border irregularly in March came from Afghanistan, Iraq, Syria or Pakistan.<sup>282</sup>

In accordance with the extended border control policy (known as the 'eight kilometre law') that entered into force on 5 July 2016, the police were entitled to send irregular migrants apprehended within eight kilometres of the southern border back to the Serbian side of the border fences and to make them wait to submit their claims for asylum in one of the transit zones.<sup>283</sup> On 28 March 2017, however, a new law entered into force, extending the scope of the extended border control policy. The new law requires the police to escort all irregular migrants apprehended anywhere in the country (even if they entered Hungary from Ukraine) to the Serbian side of the border fences where they must wait to submit their claims for asylum in one of the two transit zones (Röszke and Tompa) operating at the southern borders of Hungary.<sup>284</sup> In March, the police enforced the policy of extended border control against 350 people who were apprehended in Hungarian territory. This was a significant decrease on the same figure for February (1,050). The authorities do not count these people as new arrivals in the statistics, as they cannot stay in the country; therefore, they are not included in the approximately 190 people who arrived irregularly into Hungary in March.<sup>285</sup> NGOs believe that the new extended border control policy effectively prevents people from accessing asylum in Hungary.<sup>286</sup>

Since 5 July 2016, the police have been publishing the number of people they have prevented from entering the country on their website each month. In March, the police prevented some 650 people from crossing the border into Hungary.<sup>287</sup> This was a significant decrease on the same figure for February (about 2,180). The figure includes people who attempted to enter Hungary illegally, most commonly through the border fences, and who were prevented

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<sup>279</sup> Hungary, National Police Headquarters.

<sup>280</sup> *Ibid.*

<sup>281</sup> *Ibid.*

<sup>282</sup> Hungary, Immigration and Asylum Office.

<sup>283</sup> Hungary, Article 2 of [Act XCIV of 2016 on amending laws necessary to conduct asylum procedures at the border in a wide scope](#) (2016. évi XCIV. törvény a határon lefolytatott menekültügyi eljárás széles körben való alkalmazhatóságának megvalósításához szükséges törvények módosításáról).

<sup>284</sup> Hungary, Article 7 of [Act XX of 2017 on amending certain laws related to increasing the strictness of procedures carried out in the areas of border management](#) (2017. évi XX. törvény a határőrizeti területen lefolytatott eljárás szigorításával kapcsolatos egyes törvények módosításáról).

<sup>285</sup> Hungary, National Police Headquarters.

<sup>286</sup> Hungary, MigSzol; UNHCR Hungary.

<sup>287</sup> Hungary, National Police Headquarters.

from doing so by the police or the army. It is still unclear how the police count these people and what they understand by the term 'preventing from entering', as the measures they take to keep people away from the fences are not known.<sup>288</sup>

The Ministry of the Interior (*Belügyminisztérium*) claims that the reason that fewer people tried to enter the country illegally in March is that it has started to install 'smart fence' technology along the Serbian-Hungarian border. The ministry is installing speakers every 300 metres that play a message warning people of the consequences of illegal border fence crossings. Motion sensors detect when someone gets close to the fence, and the warning message is played in multiple languages (English, Arabic, Urdu and Farsi). The smart fence technology is expected to be installed along the entire southern border by 1 May 2017.<sup>289</sup>

## 8.2. Key fundamental rights concerns

A representative of the Hungarian Association for Migrants (*Menedék Migránsokat Segítő Egyesület*) stated in an interview on 16 March 2017 that the Hungarian government did not spend a penny on the integration of refugees. The head of the association claims that, since refugees are not entitled to monetary support from the government to find a job and settle in Hungary, it has become almost impossible for a refugee to become an integrated member of Hungarian society. Since the government removed the once successful 'integration contract' from the Hungarian asylum laws in June 2016, refugees have been entitled only to the same social security services that the system offers Hungarian nationals (e.g. accommodation in homeless shelters, public labour, family support). In practice, however, refugees rarely get access to these services, as they are often discriminated against and pushed out of homeless shelters, and Hungarian nationals involved in the public labour programme do not welcome refugees. In the past, the integration contract provided monetary support to refugees who were willing to find a job, learn the language and settle in Hungary.<sup>290</sup>

## 8.3. Fundamental rights issues in relation to registration and channelling into different procedures

### 8.3.1 Registration and identification

The authorities reported that they had registered and fingerprinted all new arrivals in March. They reported that most people did not object to these procedures, mentioning only a few isolated cases where some people raised concerns about being fingerprinted. The authorities also claimed that they were able to successfully resolve these conflicts by explaining the purpose of

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<sup>288</sup> Hungary, MigSzol.

<sup>289</sup> Hungary, Ministry of the Interior.

<sup>290</sup> Hungary, abcüg, [The Government does not spend a penny to the integration of refugees](#) (*Egy forintot sem költ a kormány a menekültek beilleszkedésére*), 16 March 2013.

registration and fingerprinting to the people concerned. The authorities stressed that they did not have to use force in any of these cases.<sup>291</sup>

While there are around 8,000 people in Serbia waiting to enter Hungary, the number of people camping in the border zones near the two Hungarian transit zones (Röszke, Tompa) was usually around 15 people per day in March.<sup>292</sup>

### 8.3.2 Asylum procedures

In March, about 320 people applied for asylum in Hungary. This was a decrease on the same figure for February (about 430). The asylum seekers were mainly from Afghanistan, Iraq, Syria, Pakistan or Algeria.<sup>293</sup> The majority of these applications were from people entering Hungary through one of the two transit zones along the Hungarian-Serbian border; however, some of them applied for asylum after being apprehended by the police elsewhere in the country (about 20 people applied for asylum in a police procedure).<sup>294</sup>

In the same month, the Immigration and Asylum Office made some 40 positive decisions (accepting asylum claims) and about 390 negative decisions (rejecting claims, including decisions on applications made by people in transit zones). The office terminated the process in about 320 ongoing cases because the applicants had left the country. There are no statistics available on when these procedures started.<sup>295</sup>

Since the new law on the extended border control policy entered into force on 28 March 2017, applicants can submit their claims for asylum only from one of the two transit zones operating at the Serbian-Hungarian borders. These applicants cannot enter Hungary until they receive a decision. However, they may leave the transit zone through the one-way exit leading to Serbia.<sup>296</sup>

### 8.3.3 Return procedures

In March, the Immigration and Asylum Office issued return decisions to approximately 50 people accommodated in refugee camps or detention centres. These people's asylum claims were rejected and, therefore, the Office expelled them from the country. This number, however, does not include those who submitted their asylum claims in one of the transit zones and got a negative decision shortly before they could have left the transit zones to be accommodated in open refugee camps or detention centres. No information is available on the countries to which these people were to return.<sup>297</sup>

In March, the police also returned 32 people to Ukraine (20), Serbia (10), Georgia (one) and Kosovo (one).<sup>298</sup> No information is available on these people's nationalities. In these cases, the police are typically executing court orders and returning people who have been sentenced to an entry ban in a criminal procedure or whose appeal against the Immigration and Asylum Office's

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<sup>291</sup> Hungary, National Police Headquarters.

<sup>292</sup> Hungary, UNHCR Hungary.

<sup>293</sup> Hungary, Immigration and Asylum Office.

<sup>294</sup> Hungary, National Police Headquarters.

<sup>295</sup> Hungary, Immigration and Asylum Office.

<sup>296</sup> Hungary, Article 7 of [Law XX of 2017 on amending certain laws related to increasing the strictness of procedures carried out in the areas of border management](#) (2017. évi XX. törvény a határőrizeti területen lefolytatott eljárás szigorításával kapcsolatos egyes törvények módosításáról).

<sup>297</sup> Hungary, Immigration and Asylum Office.

<sup>298</sup> Hungary, National Police Headquarters.



negative decision (rejecting their asylum claim) has been rejected in a court review procedure.

## 8.4. Challenges and developments concerning reception conditions for new arrivals, including detention

### 8.4.1 Reception conditions and capacity

The transit zones along the Serbian borders (Röszke and Tompa) were opened in March.<sup>299</sup> During March, the Hungarian authorities continued to admit up to 10 people per day through the two transit zones (five from each transit zone), resulting in around 50 people (25 people from each transit zone) being granted access to seek asylum in Hungary each week. The transit zones do not accept people on weekends and public holidays.<sup>300</sup> Civil society organisations raised concerns about the opening hours of the transit zones, especially in light of the new law on the extended border control policy that entered into force on 28 March 2017. NGOs add that, since transit zones have become the only places where asylum seekers can submit their claims for asylum in Hungary, and there are already around 8,000 people waiting for admission into Hungary from Serbia, the reduced admission policy (50 people per week) is unacceptable.<sup>301</sup>

On a regular day in March, the number of people waiting in the areas outside the two transit zones was around 15 per day. NGOs report that the slow admission procedure results in extremely long waiting lists; some people have to wait up to a year to be admitted to the transit zones.<sup>302</sup> Therefore, many people get tired of waiting for admission, and more and more of them try to get in by illegal means, many of them relying on the assistance of human smugglers.<sup>303</sup> Those camping in the border areas outside the transit zones receive assistance from various Hungarian and Serbian civil society organisations and volunteers.<sup>304</sup>

In the transit zones, asylum seekers are accommodated in shipping containers and can only leave the transit zone through one gate, which leads to Serbia.<sup>305</sup> In the zones, UNHCR's implementing partner, the Hungarian Helsinki Committee (*Magyar Helsinki Bizottság*), offers free legal representation to asylum seekers throughout the asylum procedure, including the court review process. UNHCR also makes daily visits to the transit zones, providing asylum seekers with information and counselling on their rights and obligations, legal aid and possibilities for appeal.<sup>306</sup>

The maximum capacity of the open refugee camps within Hungary continues to decrease. While the maximum capacity was 706 beds at the end of January 2017, this number had dropped to approximately 490 by the end of March.<sup>307</sup> On 26 March 2017, the Immigration and Asylum Office shut down the

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<sup>299</sup> *Ibid.*

<sup>300</sup> Hungary, UNHCR Hungary.

<sup>301</sup> Hungary, UNHCR Hungary; Migszol.

<sup>302</sup> Hungary, UNHCR Hungary.

<sup>303</sup> Hungary, MigSzol.

<sup>304</sup> Hungary, UNHCR Hungary.

<sup>305</sup> Hungary, MigSzol.

<sup>306</sup> Hungary, UNHCR Hungary.

<sup>307</sup> Hungary, Immigration and Asylum Office.

Körmend open refugee camp, which had been the subject of harsh criticism since it opened in May 2016. Living conditions in the camp were substandard, with refugees accommodated in military tents even in the coldest months of winter. While the Körmend camp was originally meant to be a temporary summer shelter for refugees and asylum seekers, it remained open during the autumn and winter.<sup>308</sup> Civil society organisations welcomed the closure of the Körmend camp but expressed their concerns about the decreasing capacity of open refugee camps in Hungary.<sup>309</sup> Only about 60 refugees and asylum seekers were accommodated in open refugee camps on 30 March 2017.<sup>310</sup>

#### 8.4.2 Vulnerable persons

On 28 March 2017, the Hungarian Helsinki Committee reported that the ECtHR had banned the Hungarian authorities from transferring eight teenagers and a pregnant woman from a refugee camp near Budapest to the transit zone along the Hungarian-Serbian border to be detained. The case was brought to the ECtHR by the Hungarian Helsinki Committee following the introduction of the new law that requires the authorities to transport asylum seekers to the transit zones until their claims are decided. The Hungarian Helsinki Committee raised concerns about the fact that even obviously vulnerable clients in need of special treatment may also be transferred from open camps to closed facilities in the transit zones. The Court addressed questions to the Hungarian government, to be answered before 10 April, with regard to the timing of and legal basis for such transfers. The Court wants to know if services are in place to meet special requirements in the transit zone, and if asylum seekers are granted opportunities to study or to have access to medical services. The ECtHR is also concerned that children may receive the same treatment in the transit zones as adults.<sup>311</sup> The Ministry of the Interior states that it has not received an official ruling on that matter. The Ministry claims it did not issue decisions regarding the transfer of the migrants in question, and that therefore the Hungarian Helsinki Committee has no legal grounds to seek judicial remedy.<sup>312</sup>

#### 8.4.3 Child protection

The new law on the extended border control policy requires the authorities to keep children who are 14 years old or older in the transit zones until their claims for asylum have been decided. Children under the age of 14, however, are transferred to children's homes, and the authorities notify the guardianship authority, which assigns a guardian to the child.<sup>313</sup> Guardians are not assigned to children over 14 years old, as the new law requires that, in the asylum procedure, the same rules be applied to these children as are applied to adults.

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<sup>308</sup> Hungary, MigSzol.

<sup>309</sup> *Ibid.*

<sup>310</sup> Hungary, Immigration and Asylum Office.

<sup>311</sup> Daily News Hungary (2017), [Strasbourg Court shut down the transportation of eight migrant children and a pregnant woman to the transit zone](#) (A strasbourgi bíróság leállította nyolc gyerek és egy terhes nő átszállítását a tranzitónába), 28 March 2017.

<sup>312</sup> Hungary, Ministry of the Interior.

<sup>313</sup> Hungary, Article 7 of [Act XX of 2017 on amending certain laws related to increasing the strictness of procedures carried out in the areas of border management](#) (2017. évi XX. törvény a határőrizeti területen lefolytatott eljárás szigorításával kapcsolatos egyes törvények módosításáról).

#### 8.4.4 Immigration detention

In March, police detention was ordered by the Immigration and Asylum Office and by the police for some 90 and 30 people, respectively.<sup>314</sup> Detention is ordered when a person is about to be deported. This happens when the Immigration and Asylum Office, or the court, issues a return decision to somebody.<sup>315</sup>

In March, the Immigration and Asylum Office ordered asylum detention for about 60 people. None of them were women or children. There were some 220 people in asylum detention on 30 March 2017.<sup>316</sup> The office typically orders asylum detention for a claimant to prevent them from leaving the country before a decision is made on their asylum request.

On 14 March 2017, the ECtHR ruled against Hungary regarding the detention and deportation of two Bangladeshi asylum seekers, in the case of *Ilias and Ahmed v. Hungary*. In its ruling, the ECtHR stated that Hungary had violated the European Convention on Human Rights by detaining two asylum seekers in the Röszke transit zone in the autumn of 2015. The Court stressed that the Hungarian authorities later sent the two asylum seekers back to Serbia, putting them at risk of facing inhumane treatment. The Court found that the actions of the Hungarian authorities were in breach of the right to liberty and security, the prohibition of torture and the right to an effective remedy prescribed by the Convention. The Court ordered Hungary to pay each of the petitioners about €18,700 in compensation and legal fees.<sup>317</sup> NGOs welcomed the decision, adding that the ECtHR has essentially labelled the routine procedure that the authorities apply to be in breach of the Convention.<sup>318</sup> In reaction to the ruling, the governing party, Fidesz, called it nonsense that the country was being punished for defending its own borders and those of Europe.<sup>319</sup>

#### 8.5. Changes in law, policy and practice

The new law on the extended border control policy entered into force on 28 March 2017. The most important amendments introduced by the new law were as follows:

- Asylum claims can be submitted only from one of the transit zones along the Hungarian-Serbian border.
- The new law requires the authorities to keep all asylum seekers in the transit zones for the full duration of the asylum procedure. People are interviewed in the transit zones and housed in shipping containers.
- Applicants can leave the transit zone only through one gate, which leads to Serbia.

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<sup>314</sup> Hungary, Immigration and Asylum Office. National Police Headquarters.

<sup>315</sup> Hungary, Article 54 of [Act II of 2007 on the admission and stay of third country nationals](#) (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról).

<sup>316</sup> Hungary, Immigration and Asylum Office.

<sup>317</sup> ECtHR, *Ilias and Ahmed v. Hungary*, No. 47287/15, 14 March 2017.

<sup>318</sup> Hungary, MigSol.

<sup>319</sup> Daily News Hungary (2017), [ECtHR rules against Hungary for wrongly detaining, deporting asylum-seekers](#), 14 March 2017.

- The new law legalises detention for all asylum seekers, including children arriving with families (regardless of their age) and unaccompanied children who are over 14 years old. The new system allows the authorities to collect asylum seekers from all around the country and transport them to the transit zones.
- The timeframe for appealing against a negative asylum decision is reduced from seven to three calendar days.
- An asylum claim can now be rejected if the applicant does not cooperate with the authorities (what this means is not specified). In such cases, the procedure ends and the person must go back into Serbia without having the opportunity to appeal against the decision.
- If an asylum claim is rejected, the asylum seeker must reimburse the cost of their own detention to the state, including the costs of accommodation and food.<sup>320</sup>

Civil society organisations believe that these changes will be very harmful to asylum seekers living in open refugee camps in Hungary, as well as to those already in the transit zones. Those who have begun to build their lives in open refugee camps, finding friends or work close to a city, will be transferred to the containers in the transit zones. NGOs fear that the authorities may transfer asylum seekers without prior notice. Civil society organisations are concerned that, in failing to respect basic human rights, the new rules completely alter the Hungarian asylum system and will severely damage people's lives. The civil society organisation MigsZol noted that such measures at the border of the Schengen Area would be beneficial to other EU governments, because Hungary would be doing the 'dirty work' of keeping people out of the EU for them.<sup>321</sup>

In response to the new law, asylum seekers in the closed detention facility in Békéscsaba started a hunger strike and released a statement in which they objected to the inhumane new regime, which, they argued, treated them as criminals.<sup>322</sup>

During March, Hungarian and foreign media outlets and civil society organisations published several reports on the brutality towards asylum seekers committed by the Hungarian authorities along the southern borders of Hungary.<sup>323</sup> These stories often referred to police violence. According to these reports, the authorities use violent and humiliating practices, make threats and they yell at people when expelling them from Hungary into Serbia. There are reports that policemen have taken selfies with beaten asylum seekers. On a regular basis, the media obtains photographs showing people bleeding from injuries caused by the brutality of the Hungarian authorities.<sup>324</sup> NGOs have expressed their concerns that these people have no opportunity to gain access to asylum in Hungary at all. NGOs report that the authorities usually deny that

<sup>320</sup> Article 7 of [Act XX of 2017 on amending certain laws related to increasing the strictness of procedures carried out in the areas of border management](#) (2017. évi XX. törvény a határőrizeti területen lefolytatott eljárás szigorításával kapcsolatos egyes törvények módosításáról).

<sup>321</sup> Hungary, MigSzol.

<sup>322</sup> Hungary, MigSzol, [Békéscsaba: Hunger strike and common statement!](#), 13 March 2017.

<sup>323</sup> For example, Independent (2017), [‘Hungarian border guards “taking selfies with beaten migrants” as crackdown against refugees intensifies’](#), 4 March 2017.

<sup>324</sup> Independent (2017), [Hungarian border guards ‘taking selfies with beaten migrants’ as crackdown against refugees intensifies](#), 4 March 2017.

such incidents could have occurred and state that they are not initiating official investigations.<sup>325</sup> The Ministry of the Interior has officially denied that such incidents have ever happened;<sup>326</sup> however, the Attorney General's Office (*Legfőbb Ügyészség*) has shared statistics on these incidents, having registered complaints against policemen in approximately 40 cases in 2015-2016. Complaints mainly came from NGOs, but the European Committee for the Prevention of Torture, various divisions of the police, the army and the jail in Szeged have also initiated procedures. While in most cases the criminal justice authorities ended these procedures, there were two cases in which the authorities imposed monetary fines on police officers. In five cases, the investigation is still ongoing.<sup>327</sup>

## 8.6. Social response

The Hungarian SOS Children's Village Foundation (*SOS-Gyermekfalu Magyarországi Alapítvány*) launched a programme to find volunteers willing to accommodate refugee children. The Foundation launched its migrant programme in December 2015, and since then it has been assisting underage asylum seekers and refugees by providing interpretation services, psychological support, social work services, medical services and donations. The foundation believes that the new branch of their migrant programme can identify people who can provide decent accommodation and conditions for refugee children in their own households.<sup>328</sup> This would, however, be only a temporary solution, as these people would not be trained foster parents.

On 17 March 2017, MigsSzol published a call on its website urging people to sign a petition addressed to the Ministry of the Interior protesting against the violence and brutality committed against asylum seekers at the southern borders of the country. So far, there is no information on how many people signed the petition.<sup>329</sup>

On 24 March 2017, six civil society organisations (Amnesty International Hungary, the Artemission Foundation, the Cordelia Foundation for the Rehabilitation of Torture Victims, the Hungarian Helsinki Committee, the Hungarian Association for Migrants and MigsSzol) wrote a joint letter to the Commissioner for Fundamental Rights in Hungary asking him to turn the Constitutional Court regarding the new legislation on the extended border control policy requiring the automatic detention of all asylum seekers. The NGOs invited the commissioner to join them in a visit to the transit zones.<sup>330</sup>

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<sup>325</sup> Hungary, UNHCR Hungary; MigSzol.

<sup>326</sup> Hungary, [Press release](#) of the Ministry of the Interior, 6 March 2017.

<sup>327</sup> Hungary, General Attorney's Office.

<sup>328</sup> SOS Gyermekfalva Magyarország, [Looking for parents to host refugee children](#) (*Menekült háttérű gyerekekhez keresünk befogadó szülőket*).

<sup>329</sup> MigSzol, [MigSzol calls for action: Write to the Ministry of Interior to investigate the border violence](#) (A MigSzol cselekvésre hív: Írj a Belügyminisztériumnak, hogy indítsanak vizsgálatot a határon terjedő erőszak ügyében), 17 March 2017.

<sup>330</sup> Hungary, Amnesty International, [Constitutional Control and Investigation – Letter to the Commissioner for Fundamental Rights](#) (*Alkotmányos kontroll és vizsgálat – levél az alapvető jogok biztosának*).

## 8.7. Hate crime incidents

There were no reported violent incidents during demonstrations for or against migrants in March.<sup>331</sup>

## 8.8. Policies against smuggling of human beings

Between January and March 2017, the police apprehended and initiated new criminal proceedings against 20 people accused of committing the crime of human smuggling. Perpetrators were nationals of Hungary, Romania, Ukraine and Serbia.<sup>332</sup> The Hungarian Criminal Code (*Büntető Törvénykönyvről*) states that human smuggling activities are punishable even in cases where the perpetrator facilitating irregular entry or stay was not acting for profit.<sup>333</sup> The activities of volunteers helping refugees (e.g. inviting them to stay in their homes, transporting them in their cars, lending them their mobile phones) can be interpreted as participating in human smuggling under Hungarian criminal law. Such crimes are punishable by several years of imprisonment; however, to date the authorities have not applied sought such penalties for volunteers helping refugees.<sup>334</sup>

## 8.9. Criminal proceedings against migrants and asylum seekers

During January-March 2017, the police registered around 190 people who had either climbed over or ducked under fences at the Serbian-Hungarian border. However, no criminal proceedings were initiated against these people; the authorities handled these cases as misdemeanours, and they typically resulted in monetary fines.<sup>335</sup>

The County Court of Szeged (*Szegedi Törvényszék*) upheld the decisions of the first instance criminal court in the cases of 10 asylum seekers who – according to the verdict – had participated in a riot on 16 September 2015 at Röszke, when the asylum seekers, protesting against the closure of the southern borders, had clashed with police. The court amended the sentence of only one defendant, decreasing the length of the original sentence of imprisonment. Among the defendants, there was an elderly woman and a disabled man who used a wheelchair. The defendants were Syrian nationals, and they were all found guilty of participating in a riot. Six defendants were sentenced to 14 months in prison, while the others were sentenced to two to three years of imprisonment suspended for one to two years. By the time the court delivered the verdicts on 28 February 2017, only one of the defendants was in the country.<sup>336</sup>

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<sup>331</sup> Hungary, National Police Headquarters.

<sup>332</sup> Hungary, National Police Headquarters.

<sup>333</sup> Hungary, Article 353 of [Act C of 2012 on the Criminal Code](#) (2012. évi C. törvény a Büntető Törvénykönyvről).

<sup>334</sup> Hungary, National Police Headquarters.

<sup>335</sup> *Ibid.*

<sup>336</sup> Hungary, County Court of Szeged.



Between January and March 2017, the police initiated criminal proceedings against some 90 people whom they suspected of having committed the crime of forging public documents when they tried to enter Hungary.<sup>337</sup>

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<sup>337</sup> Hungary, National Police Headquarters.

## 9. Italy

### 9.1. Overview of the situation

According to Frontex, the number of new arrivals reaching Italian shores in February 2017 had more than doubled, to nearly 9,000 people, compared with the same period in 2016. The total for the first two months of 2017 stood at 13,440. The two main nationalities among new arrivals in Italy in February 2017 were Guinean and Bangladeshi.<sup>338</sup>

According to the data on arrivals published by the Ministry of the Interior, a total of 11,075 people arrived in Italy by sea in March 2017. Compared with the same periods in 2016 and 2015, arrivals had increased by approximately 29 % and 139 %, respectively.<sup>339</sup>

**Table1: Number of new arrivals according to days in March 2017, Italy**

Date	1/3	2/3	3/3	4/3	5/3	6/3	7/3	8/3	9/3	10/3	11/3
Arrivals	0	0	873	0	1,442	84	0	0	0	0	0
Date	12/3	13/3	14/3	15/3	16/3	17/3	18/3	19/3	20/3	21/3	22/3
Arrivals	0	0	9	0	354	290	0	0	1,984	1,357	1,099
Date	23/3	24/3	25/3	26/3	27/3	28/3	29/3	30/3	31/3		
Arrivals	1,221	0	5	28	8	1,186	0	1,135	0		

Source: FRA (2017)

Since January 2017, the ports receiving the highest numbers of people have been Augusta, Sicily (6,765); and Catania, Sicily (3,570); followed by Pozzallo, Sicily (2,530); Trapani, Sicily (2,370); Reggio Calabria, Calabria (1,850); Lampedusa, Sicily (1,365); Messina, Sicily (1,270); Palermo, Sicily (975); Cagliari, Sardinia (900); Vibo Valentia, Calabria (610); Porto Empedocle, Sicily (250). Taranto, Apulia, received no new arrivals during this period. The four officially established hotspots are Pozzallo, Trapani, Lampedusa and Taranto.<sup>340</sup> The main countries of origin declared upon disembarkation are Guinea (13 %), Nigeria (12 %), Bangladesh (11 %), Côte d'Ivoire (10 %), The Gambia (9 %), Senegal (8 %), Morocco (5 %), Mali (5 %), Somalia (3 %), Eritrea (2 %) and others (22 %).

Some 2,290 unaccompanied children reached Italian shores by 22 March 2017.

<sup>338</sup> Frontex (2017), 'Arrival of migrants in February: Surge in Italy, Drop in Greece', 15 March 2017.

<sup>339</sup> Italy, Ministry of the Interior.

<sup>340</sup> Data are up to date as of 31 March 2017.

On 23 March 2017, activists from the Spanish NGO Proactiva Open Arms found six corpses suspecting many more to have drowned.<sup>341</sup>

On 27 February 2017, the Italian intelligence services presented their annual report to parliament concerning the activities implemented to protect public security.<sup>342</sup> A section of this report is specifically dedicated to migration issues. According to the Ministry of the Interior, approximately 181,440 migrants arrived in Italy by sea in 2016, 18 % more than in 2015. Of these, 90 % started their journey from Libya and 7 % from Egypt. The two main nationalities were Nigerians (over 37,000 people) and Eritreans (over 20,000 people).

According to the weekly report released by UNHCR on 12 March 2017,<sup>343</sup> between 1 January and 5 March 2017 around 15,670 people arrived in Italy by sea, a 71 % increase on the same period in 2016 when 9,185 people arrived. The daily average number of arrivals in Italy during the week from 27 February to 5 March 2017 was about 330, and the total number of arrivals during that week was about 2,320. The majority of newly arrived people had departed from Libya, and they were mainly from sub-Saharan African countries and Bangladesh, as well as from Syria and Eritrea. Two corpses were also disembarked: that of a 16-year-old Gambian boy and that of a very malnourished Ethiopian man who had died on board the rescue vessel. On 2 March 2017, about 20 Iraqi and Syrian nationals were stopped at the port of Trieste (Friuli Venezia Giulia) in northern Italy.

## 9.2. Key fundamental rights concerns

The main debate taking place during the reporting period concerned the role of NGOs engaged in search-and-rescue operations in the Mediterranean Sea. This issue, which was first raised by Frontex, has monopolised the Italian political debate. On the one hand, the Northern League (*Lega Nord*) party presented a petition focusing on the role of NGOs and on the support they allegedly provide to smuggling organisations.<sup>344</sup> On 22 March 2017, the Public Prosecutor of Catania, Sicily, spoke before the Parliamentary Committee for Monitoring the Implementation of the Schengen Agreement, Supervising Europol Activity, and Monitoring and Supervising Immigration Issues (*Comitato parlamentare di controllo sull'attuazione dell'Accordo di Schengen, di vigilanza sull'attività di Europol, di controllo e vigilanza in materia di immigrazione*). His speech was reported by several media outlets.<sup>345</sup> He emphasised three main issues:

- The public prosecutor's office will not formally investigate migrants who steer the dinghies as they are not smugglers.
- The public prosecutor is carrying out a fact-finding investigation (*indagine esplorativa*, which refers to a situation where no one has been charged with a crime but an investigation is being carried out to assess whether a crime

<sup>341</sup> See: [http://www.repubblica.it/esteri/2017/03/24/news/libia\\_migranti\\_naufragio\\_morti-161265858/](http://www.repubblica.it/esteri/2017/03/24/news/libia_migranti_naufragio_morti-161265858/).

<sup>342</sup> Italy, Intelligence Services, 'Report regarding the Italian policy on security communication 2016' (*Relazione sulla politica dell'informazione per la sicurezza*).

<sup>343</sup> UNHCR, 'Weekly Report: 27 February – 5 March 2017', 12 March 2017.

<sup>344</sup> Stranieri in Italia (2017), 'Migranti, Lega presenta esposto sul ruolo delle ong', 24 March 2017.

<sup>345</sup> Avenire (2017), 'Soccorse in mare delle Ong, nessun reato', 23 March 2017; Corriere della Sera (2017), 'Migranti, il procuratore accusa le Ong', 23 March 2017; Il Fatto Quotidiano 'Migranti, la Procura: "Le Ong ostacolano indagini su scafisti"', 23 March 2017.

has been committed) to shed light on the sources of funding used by NGOs involved in rescuing migrants in the Central Mediterranean, as well as on the information sources they use to identify the people to be rescued. The investigation does not involve NGOs that have been performing rescue and assistance operations for many years, such as Save the Children Italia Onlus and Doctors Without Borders Italy (*Medici Senza Frontiere Italia*).

- No violent extremists have been identified among the people on board the boats. Occasionally, mobile phones with pictures or messages related to *ji*had have been seized, but these are isolated cases.<sup>346</sup>

## 9.3. Fundamental rights issues in relation to registration and channelling into different procedures

### 9.3.1 Registration and identification

On 16 March 2017, the Head of the Civil Liberties and Immigration Department of the Ministry of the Interior spoke before the Parliamentary Inquiry Commission on the Reception, Identification and Expulsion System, and on Migrants' Detention Conditions and Earmarked Public Resources (*Commissione parlamentare di inchiesta sul sistema di accoglienza, di identificazione ed espulsione, nonché sulle condizioni di trattenimento dei migranti e sulle risorse pubbliche impegnate*).<sup>347</sup> She announced the forthcoming establishment of new hotspots in southern Italy, in addition to the four existing ones (Lampedusa, Pozzallo, Trapani and Taranto), to improve procedures for the identification and registration of newly arrived migrants. By June 2017, two hotspots will be established in Messina and Palermo (Sicily); by October-November 2017, three more hotspots will be established in Corigliano Calabro (Calabria, with a capacity of 400 people), Crotone (Calabria, with a capacity of 800 people) and Reggio Calabria (Calabria, with a capacity of 400 people).

### 9.3.2 Asylum procedures

On 16 March 2017, Eurostat released relevant statistics concerning asylum in the EU Member States.<sup>348</sup> With regard to Italy, the data showed that first-time applicants registered in Italy in 2016 amounted to some 121,200 people (making up 10 % of all EU registrations), 46 % more than in 2015. The main nationalities of first-time applicants in 2016 were Nigerian (26,550 applicants, 22 %), Pakistani (13,470 applicants, 11 %), and Gambian (8,845, 7 %). At the end of 2016, 99,900 applications for international protection lodged in Italy were still awaiting assessment by the relevant national authorities.

<sup>346</sup> Italy, House of Representatives (*Camera dei Deputati*), Parliamentary Committee of control on the implementation of the Schengen Agreement, of supervision on the activities of Europol, of control and supervision on immigration (*Comitato parlamentare di controllo sull'attuazione dell'Accordo di Schengen, di vigilanza sull'attività di Europol, di controllo e vigilanza in materia di immigrazione*), '[Indagine conoscitiva sulla gestione del fenomeno migratorio nell'area Schengen, con particolare riferimento alle politiche dei paesi aderenti relative al controllo delle frontiere esterne e dei confini interni](#)', 22 March 2017.

<sup>347</sup> Gazzetta del Sud (2017), '[Hotspot, Mineo no, Messina sì. 3 in Calabria](#)', 16 March 2017. The video of the hearing is available [online](#).

<sup>348</sup> Eurostat (2017), '[1.2 million first time asylum seekers registered in 2016](#)', News release 46/2017, 16 March 2017,

On 15 March 2017, the President of the National Commission for the Right to Asylum (*Commissione Nazionale per il Diritto d'Asilo*) of the Ministry of the Interior spoke before the Parliamentary Committee for Monitoring the Implementation of the Schengen Agreement, Supervising Europol Activity, and Monitoring and Supervising Immigration Issues (*Comitato parlamentare di controllo sull'attuazione dell'accordo di Schengen, di vigilanza sull'attività di Europol, di controllo e vigilanza in materia di immigrazione*).<sup>349</sup> According to him, the number of applications for international protection lodged in the first three months of 2017 had increased by 60 % compared with the same period in 2016. Since 1 January 2017, about 16,360 of these applications had been considered by the Territorial Commissions for the Recognition of International Protection (*Commissioni Territoriali per il riconoscimento della protezione internazionale*): 9 % of applicants obtained international protection, 9 % subsidiary protection, and 23 % humanitarian protection, whereas 54 % were rejected. For the 2014-2016 period, the average time required to assess an application for international protection was 260 days. On 10 March 2017, the number of applications still awaiting assessment by the territorial commissions was around 119,460. Moreover, the President of the National Commission for the Right to Asylum emphasised that efforts had been made to provide additional training for members of the territorial commissions and judges.

### 9.3.3 Return procedures

Following the telegram sent by the Ministry of the Interior to some Italian police headquarters at the end of January 2017, return procedures involving Nigerian citizens have increased. Police checks have concentrated on Nigerian sex workers living in Italy, who have been returned to their country of origin after a period of detention in the Identification and Expulsion Centre (*Centro di Identificazione ed Espulsione*) in Rome (these centres have recently been renamed 'Repatriation Centres', *Centri di Permanenza del il Rimpatrio* – CPRs). The Rome CPR is the only one with a wing for female inmates.<sup>350</sup> Since the end of February 2017, at least 70 Nigerian citizens living irregularly in Italy have been returned to Nigeria.<sup>351</sup>

On 22 March 2017, a 35-year-old Afghan migrant was caught by police officers attempting to irregularly cross the border between Italy and France in Ventimiglia (Liguria). The man, who was about to be transferred to Taranto, attempted suicide near the local police station. He was rescued by firefighters and local emergency staff, and was then taken to the hospital at Bordighera (Liguria), where he is under guard by police.<sup>352</sup>

<sup>349</sup> Italy, House of Representatives (*Camera dei Deputati*), Parliamentary Committee of control on the implementation of the Schengen Agreement, of supervision on the activities of Europol, of control and supervision on immigration (*Comitato parlamentare di controllo sull'attuazione dell'Accordo di Schengen, di vigilanza sull'attività di Europol, di controllo e vigilanza in materia di immigrazione*), '[Indagine conoscitiva sulla gestione del fenomeno migratorio nell'area Schengen, con particolare riferimento alle politiche dei paesi aderenti relative al controllo delle frontiere esterne e dei confine interni](#)', 15 March 2017.

<sup>350</sup> CN24TV (2017), '[Contrasto alla prostituzione, controllate 13 donne](#)', 16 March 2017; ASalerno (2017), '[Assistenza computer salerno e provincial Da Napoli ad Atena Lucana per prostituirsi, rimpatrio per una 18enne nigeriana](#)', 15 March 2017.

<sup>351</sup> Vanguard (2017), '[37 more Nigerians deported from Italy](#)', 9 March 2017.

<sup>352</sup> Riviera24 (2017), '[Ventimiglia, respinto dalla Francia si lancia nel vuoto: gravissimo afgano](#)', 22 March 2017.

## 9.4. Challenges and developments concerning reception conditions for new arrivals, including detention

### 9.4.1 Reception conditions and capacity

On 14 March 2017, the Ministry of the Interior formally approved the establishment of two reception hubs on the outskirts of Rome. The two facilities, which will host up to 400 asylum seekers each, are privately owned and will be rented by the Municipality of Rome. At a later stage, a call for tenders will be launched with the aim of identifying providers of reception and assistance services to applicants for international protection living in Rome.<sup>353</sup>

Since the beginning of March 2017, the Prefecture of Brescia (Lombardy) has issued several decrees revoking the right to access the reception system, together with removal orders targeting applicants for international protection living in the area whose applications have been rejected by the relevant territorial commission but who are waiting for the local Court of Appeals to assess their complaints.<sup>354</sup>

### 9.4.2 Vulnerable persons

On 11 March 2017, the Italian Refugee Council (*Consiglio Italiano per i Rifugiati*) launched a monitoring tool – the Tool for the Assessment of the Response to the Specific Needs of Survivors of Torture and Violence (*Strumento per la valutazione della risposta ai bisogni specifici dei sopravvissuti a tortura e violenza*) – aimed at assessing the adequacy of the support system for victims of crime and other vulnerable persons, including unaccompanied children. This tool covers four areas: implemented procedures, reception, psychological and physical health, and social needs. It includes a survey aimed at lawyers, legal counsellors, social workers, doctors and all other stakeholders involved in the reception and assistance of vulnerable persons. The overall goal of the tool is to identify inadequacies in the system, thus enabling the provision of better solutions to protect vulnerable persons.<sup>355</sup>

### 9.4.3 Child protection

The situation of unaccompanied children temporarily living in Como (Lombardy) is reported to be particularly difficult. Most of them are currently trying to leave Italy to continue their journey northwards. Only a small proportion of them are living in the government encampment opened in September 2016 and managed by the Italian Red Cross (*Croce Rossa Italiana*), while the others have absconded. The encampment – which currently hosts 300-400 people – is a mixed one: children live together with unrelated families, including adults. Those children who decide apply for international protection are assisted by counsellors, while those who do not are accommodated in the encampment but

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<sup>353</sup> Roma Today (2017), '[Migranti, dal Ministero l'ok a due nuovi hub dell'accoglienza. Uno a Massimina](#)', 15 March 2017.

<sup>354</sup> Melting Pot Europa (2017), '[Revoche dell'accoglienza e decreti di espulsione ai richiedenti diniegati. Le prassi illegali della Prefettura di Bergamo](#)', 20 March 2017.

<sup>355</sup> Italian Council for Refugees (*Consiglio Italiano per i Rifugiati*) (2017), '[Time for needs - Parte la sperimentazione del TARS - Strumento per la valutazione della risposta ai bisogni specifici dei sopravvissuti a tortura e violenza](#)', 11 March 2017.



do not receive any kind of special assistance, and no guardian is appointed for them.<sup>356</sup>

#### 9.4.4 Immigration detention

A 34-year-old transgender woman from Brazil was taken to the CPR in Brindisi (Apulia) after she had been found without regular residence documents during a police check in Naples. She was detained in the wing for male inmates based on the gender that had been assigned at birth. She succeeded in contacting the legal counsellors of the Transsexual Identity Movement (*Movimento Identità Transessuale*). The case attracted public attention, and the management of the CPR facility decided to move her to an isolated wing and to stop her hormone therapies, thus worsening her physical and psychological condition. After more than a month of detention, she was finally released and could apply for international protection, obtaining a six-month residence permit while her application was assessed.<sup>357</sup> Owing to her criminal record, she was detained again, this time in the CPR facility of Caltanissetta (Sicily). The Italian legislation on migration states that applicants for international protection with criminal records must wait in a CPR facility for the relevant territorial commission to assess their application. For her safety, the management of the CPR facility, which does not have a wing for female inmates, decided to accommodate her in a container where she was isolated from the other inmates.<sup>358</sup>

### 9.5. Changes in law, policy and practice

During the reporting period, political debate revolved around the recent approval, by the government, of Decree Law No 13 of 17 February 2017 (*Decreto legge 17 febbraio 2017, n. 13, Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto dell'immigrazione illegale*). The decree has been approved by the Italian Senate and Parliament and, as law no. 46 of 13.04.2017, entered into force on 19 April 2017. It contains urgent provisions to speed up international protection procedures, as well as to combat irregular migration, and, for the first time, contains a provision on hotspots in Italian law.<sup>359</sup>

Concerns about the long-term effects of the reform were raised by several NGOs – including the Jesuit Refugee Service Centro Astalli, the Italian General Confederation of Work (*Confederazione Generale Italiana del Lavoro*), the Italian Confederation of Workers' Unions (*Confederazione Italiana Sindacati Lavoratori*), and the Union of Italian Workers (*Unione Italiana del Lavoro*), the Community of Sant'Egidio (*Comunità di Sant'Egidio*) Catholic association, and the Recreational and Cultural Italian Association (*Associazione Ricreativa e Culturale Italiana*) –

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<sup>356</sup> Minori Stranieri Non Accompagnati (blog), '[Minori non Accompagnati invisibili alla Città. Il Caso di Como](#)'.

<sup>357</sup> Dire (2017), '[Adriana, trans nel reparto uomini del Cie, è libera](#)', 24 March 2017; Il Fatto Quotidiano (2017), '[Brindisi, trans chiusa nel reparto maschile del Cie: "Mi hanno detto 't'ammazziamo'. Dormo sotto le telecamere per paura"](#)', 18 March 2017; Quotidiano di Puglia (2017), '[Paura per Adriana, trans nel reparto maschile del Cie: «Minacciata di morte»](#)', 19 March 2017; and adn Kronos, (2017), '[Perde permesso soggiorno, trans chiusa nel reparto uomini Cie di Brindisi](#)', 19 March 2017.

<sup>358</sup> La Gazzetta del Mezzogiorno (2017), '[La trans Adriana dal Cie di Brindisi portata in Sicilia](#)', 26 March 2017.

<sup>359</sup> Italy, [Decreto legge 17 febbraio 2017, n. 13, Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto dell'immigrazione illegale](#).

which released a joint statement emphasising that the decree law provides only emergency solutions for migration management and does not introduce effective measures to allow for legal entry into Italian territory or humanitarian aid for migrants in need of protection.<sup>360</sup> The President of the National Association of Judges (*Associazione Nazionale Magistrati*) intervened with the Senate Commission for Constitutional Affairs (*Commissione Affari Costituzionali*) and the Senate Commission for Justice (*Commissione Giustizia*),<sup>361</sup> stating that the reform might infringe international protection applicants' right to a defence.

On 19-20 March 2017, the first meeting of a permanent EU-Northern Africa contact group took place in Rome. This group currently consists of officials from the ministries of the interior of Algeria, Austria, France, Germany, Italy, Libya, Malta, Slovenia, Switzerland and Tunisia, and it aims to monitor and analyse migration flows in the Mediterranean Sea, as well as considering common patterns of intervention in this field.<sup>362</sup>

On 29 March, the Italian parliament approved the Law on Measures to protect unaccompanied migrant children.<sup>363</sup> The new law introduces measures to ensure more effective protection for these vulnerable children, including a national protocol for age assessment based on a multidisciplinary approach, rather than only on wrist X-ray analysis; reform of the reception system based on first reception centres for children only, where they can spend up to 30 days after arrival, and secondary reception centres scattered all over Italy and providing adequate assistance and reception conditions; foster care as the priority approach to be preferred to reception centres, considering the child's best interests; increased protection of the rights to education and to healthcare; increased protection of children's right to be heard in judicial proceedings relating to them. Once published, the new law will enter into force.

## 9.6. Social response

The Local Healthcare Authority of Ciriè, Chivasso and Ivrea (Piedmont) (*Azienda sanitaria locale di Ciriè, Chivasso e Ivrea*) established a support service targeting women who have suffered female genital mutilation in their countries of origin or after arriving in Italy. This public service is aimed at providing assistance, counselling and a medical surgery protocol to rectify the procedure.<sup>364</sup>

Demonstrations took place in Rome on 25 March 2017, on the 60th anniversary of the Treaty of Rome. In the morning, a flash mob was organised by more than 40 NGOs under the common slogan 'Not my Europe' to protest against negotiations between the EU and third countries to tackle irregular migration.<sup>365</sup>

<sup>360</sup> See <http://mailchef.4dem.it/app/public/file/view/3rh/1sd4>.

<sup>362</sup> Italy, Ministry of the Interior (*Ministero dell'Interno*) (2017), '[Al via il 'Gruppo di Contatto Europa-Nord Africa' sul tema dei flussi migratori nel Mediterraneo centrale](#)', Press release, 17 March 2017.

<sup>362</sup> Italy, Ministry of the Interior (*Ministero dell'Interno*) (2017), '[Al via il 'Gruppo di Contatto Europa-Nord Africa' sul tema dei flussi migratori nel Mediterraneo centrale](#)', Press release, 17 March 2017.

<sup>363</sup> Italy, Law Draft No. A.C. 1658-B, "[Disposizioni in materia di misure di protezione dei minori stranieri non accompagnati](#)".

<sup>364</sup> Torino Cronaca (2017), '[Mutilazioni genitali alle giovani rifugiate](#)', 7 March 2017.

<sup>365</sup> Redattore sociale (2017), '[La "zattera" Europa non salva chi fugge. Il flash mob per scuotere i leader Ue](#)' 25 March March 2017; Italian Council for Refugees (*Consiglio Italiano per i Rifugiati*) (2017), '[MOBILITAZIONE NOT MY EUROPE Installazione-evento della società civile sulle acque del "Mar Tevere" Contro le politiche dei muri. Per un'Europa più umana](#)'.

Moreover, a demonstration took place in the afternoon, with clashes between participants and the thousands of police officers deployed in the city on that day; the demonstrators, including activists and NGOs, protested against current EU policies in various fields, including the strengthening of the EU's borders and efforts to combat irregular migration flows.<sup>366</sup>

## 9.7. Hate crime incidents

During the night of 2-3 March 2017, a fire was set in the informal encampment at Rignano (Apulia), which hosts more than 700 migrants working in the countryside. Police officers had tried to evacuate the encampment on 28 February 2017, but many of the migrants refused to leave, since no adequate alternative reception solutions could be offered. For this reason, riots broke out in the encampment on 2 March 2017 and the fire set that night caused the death of two migrants.<sup>367</sup> Despite this episode, local authorities decided to move more than 100 migrants to two facilities belonging to the Region of Apulia.<sup>368</sup> The office of the Region of Apulia in Rome was occupied on 9 March 2017 to express solidarity with the migrants involved in this episode and with those who still risk being evacuated from the encampment.<sup>369</sup> On 15 March 2017, the Ministry of the Interior highlighted the need to close all kinds of informal encampments still existing in Italy.<sup>370</sup>

On 3 March 2017 in Genoa (Liguria), a fire was set in a flat where a Moroccan family was living; a mother and daughter were treated at the local hospital and have now recovered. Police officers are investigating this offence, which was allegedly racially motivated.<sup>371</sup> On 4 March 2017, two young black people were prevented from entering a disco in Vicenza (Veneto); they are currently considering reporting the episode to the police.<sup>372</sup> On 22 March 2017, a 25-year-old Nigerian asylum seeker was attacked and stabbed in Rimini (Emilia-Romagna) by a local man, who also used derogatory and racist language. The perpetrator was identified by the police and charged with attempted murder.<sup>373</sup>

On 15 March 2017, the NGO Lunaria published a report on 210 incidents of racist episodes against the reception of asylum seekers, monitored by the association throughout Italy during 2016.<sup>374</sup> These episodes included both initiatives supported by Italian political parties and demonstrations organised and attended by citizens.

<sup>366</sup> InfoAut (2017), [‘Tutto da conquistare, niente da festeggiare: 25 marzo contro l'UE’](#), 24 March 2017.

<sup>367</sup> Melting Pot Europa (2017), [‘Sgombero al Gran Ghetto di Rignano: dopo il corteo, i morti di stato’](#), 3 March 2017; Stranieri in Italia (2017), [‘Incendio al Gran Ghetto di Rignano, si indaga sul dolo’](#), 7 March 2017.

<sup>368</sup> Sky TG24 (2017), [‘Nel "ghetto" di Rignano ruspe al lavoro per abbattere le baracche’](#), 4 March 2017.

<sup>369</sup> Radio Ondarossa (2017), [‘Occupazione della sede Regione Puglia’](#), 9 March 2017.

<sup>370</sup> Stranieri in Italia (2017), [‘Minniti: Chiusura Rignano solo inizio. Basta ghetti nel paese’](#), 15 March 2017.

<sup>371</sup> Repubblica (2017), [‘Genova, brucia casa di immigrati: intossicate mamma e figlia. Rogo di origine dolosa’](#), 5 March 2017.

<sup>372</sup> Corriere del Veneto (2017), [‘«Fascisti fuori dalla disco per la pelle nera»’](#), 7 March 2017.

<sup>373</sup> Repubblica (2017), [‘Rimini, accoltella e investe un richiedente asil: ipotesi di tenato omicidio per motivi razziali’](#), 23 March 2017.

<sup>374</sup> Lunaria (2017), [‘Accoglienza. La propaganda e le proteste del rifiuto, le scelte istituzionali sbagliate’](#), March 2017.

## 9.8. Policies against smuggling of human beings

On 20 March 2017, three French activists were arrested by Italian police officers in Ventimiglia because they had been found to be illegally providing food to irregular migrants living in the area. The three activists were identified and charged with breaching an order issued by a public authority, namely, a decision of the Mayor of Ventimiglia that prohibits the distribution of food to migrants living in the area.<sup>375</sup>

## 9.9. Criminal proceedings against migrants and asylum seekers

Several migrants were involved in criminal proceedings in March 2017, and charged with smuggling and facilitating irregular entry of migrants into Italian territory. Five migrants were arrested in Augusta on 5 March 2017,<sup>376</sup> and four were arrested in Pozzallo on 23 March 2017.<sup>377</sup> On 14 March 2017, during the preliminary ruling on the proceeding, the Court of Palermo sentenced an Egyptian citizen, who was charged with smuggling, to a prison term of four years and five months.<sup>378</sup>

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<sup>375</sup> See [www.osservatoriorepressione.info/ventimiglia-tre-volontari-arrestati-aver-dato-mangiare-ai-migranti/](http://www.osservatoriorepressione.info/ventimiglia-tre-volontari-arrestati-aver-dato-mangiare-ai-migranti/).

<sup>376</sup> Giornale di Sicilia (2017), '[Augusta, arrestati altri due presunti scafisti](#)', 5 March 2017.

<sup>377</sup> Giornale di Sicilia (2017), '[Arrestati quattro presunti scafisti sbarcati a Pozzallo](#)', 23 March 2017.

<sup>378</sup> Repubblica (2017), '[Palermo: 4 anni e 5 mesi per lo scafista Mamadoni](#)', 14 March 2017.

## 10. The Netherlands

### 10.1. Overview of the situation

#### *Arrivals/registration*

The most recent publicly available data providing an overview of the situation regarding new arrivals in terms of numbers and patterns are those of February 2017, when about 19,190 people migrated to the Netherlands.<sup>379</sup> This number does not include asylum applicants and takes into account only regular migration. Data on asylum applications are published by the Immigration and Naturalisation Service (*Immigratie en Naturalisatiedienst* – IND), which is responsible for the extended identification process and the determination of the status of all individuals arriving in the Netherlands. About 3,430 new asylum applicants arrived and applied for asylum in the Netherlands in February 2017.<sup>380</sup> The IND distinguishes between first asylum applications (around 1,160), repeat asylum applications (around 160) and family reunification applications (around 2,100).<sup>381</sup> Family reunification applications account for almost two thirds of all applications for asylum.<sup>382</sup>

#### *Main countries of origin*

The main countries of origin are Syria (about 1,710) and Eritrea (about 310); stateless individuals numbered about 240). For those submitting first asylum applications, Syria (about 140) Eritrea (about 100) and Algeria (about 100) were the main countries of origin in February. With regard to family reunification, requests filed by Syrians (about 1,570) are by far the largest category, followed by requests filed by stateless individuals (about 220) and Eritreans (about 210).<sup>383</sup> For those submitting repeat asylum applications, Afghanistan (about 60) and Iran (less than 10) were the main countries of origin in February.<sup>384</sup>

#### *Approximate shares of children, families, women and other vulnerable groups*

In February 2017, around 110 unaccompanied children were registered as applying for asylum. Numbers have decreased since August 2016.<sup>385</sup> Of these children, 58 % (about 70 children) originated from Eritrea, 6 % from Afghanistan (about 10 children) and 6 % from Syria (about 10 children).<sup>386</sup>

Statistics Netherlands (*Centraal Bureau voor de Statistiek*) clarifies that arrivals through family reunification are almost all women and children.<sup>387</sup>

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<sup>379</sup> Netherlands, Statistics Netherlands (*Centraal Bureau voor de Statistiek*) (2017), "[Bevolking en bevolkingsontwikkeling: per maand, kwartaal en jaar, 2017 januari](#)".

<sup>380</sup> Netherlands, Immigration and Naturalisation Service (*Immigratie en Naturalisatiedienst*) (2017), [Asylum Trends. Monthly Report on Asylum Applications in The Netherlands and Europe, February 2017](#), The Hague, Ministry for Security and Justice.

<sup>381</sup> *Ibid.*

<sup>382</sup> *Ibid.*

<sup>383</sup> *Ibid.*

<sup>384</sup> *Ibid.*

<sup>385</sup> *Ibid.*

<sup>386</sup> *Ibid.*

<sup>387</sup> Netherlands, Statistics Netherlands (*Centraal Bureau voor de Statistiek*) (2017), "[Asielverzoeken en nareizigers: nationaliteit, geslacht en leeftijd, 2017 februari](#)". Netherlands, Immigration and Naturalisation

### *Landing points of arrival by sea*

Most of those who arrived by sea disembarked at Rotterdam.

## 10.2. Key fundamental rights concerns

In addition to the issues covered in the last report, which continued to be relevant, the key fundamental rights concerns related to the children's amnesty and return monitoring.

### *Children's amnesty*

A children's amnesty (*Kinderpardon*) was established by the government in February 2013 to protect children's rights.<sup>388</sup> Research had shown that the physical and mental health of so-called rooted children was at risk when children and their families were forced to leave the country after a long asylum procedure (more than five years).<sup>389</sup> The reasons for these long procedures were considered to include, among others, accumulation of legal procedures by parents and non-cooperation in return procedures.<sup>390</sup> To protect these children from harm, the Dutch government therefore decided to grant some of them and their families asylum, under certain circumstances. As a result of the initial regularisation, asylum was granted to 1,540 children and their families.<sup>391</sup> In June 2013, the final regulation came into effect<sup>392</sup> and over time the criteria 'cooperation in return' became one of the main conditions in the decision-making process. Its application has become so strict that from the implementation of this final regulation until today almost all rejections are based on this criterion, and of 1,530 applicants only 29 children and their families have been granted asylum.<sup>393</sup>

This outcome of the regularisation has been criticised by NGOs, media outlets and members of parliament, as forced deportation after more than five years of residence in the Netherlands is considered contrary to the best interests of the child as set forth in Article 3 of the UN Convention on the Rights of the Child, and to the right to development established in Article 6.<sup>394</sup> The majority of requests are rejected, and children and their families are forced to leave the Netherlands. The State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) rejected a motion that was submitted by several members

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Service (Immigratie en Naturalisatiedienst) (2017), [Asylum Trends. Monthly Report on Asylum Applications in The Netherlands and Europe, February 2017](#), The Hague, Ministry for Security and Justice.

<sup>388</sup> Netherlands, Government Gazette (*Staatscourant*) (2017), '[Besluit van de Staatssecretaris van Veiligheid en Justitie van 30 januari 2013, nummer WBV 2013/1, houdende wijziging van de Vreemdelingencirculaire 2000](#)', Vol. 2013, No. 2573.

<sup>389</sup> Kalverboer, M.E. & Zijlstra, A.E. (2008), [Het belang van het kind in het Vreemdelingenrecht : Kinderen uit asielzoekersgezinnen. Ontwikkeling, perspectief en juridische positie - Onderzoeksverslag periode 2006-2008](#), Groningen, Rijksuniversiteit Groningen.

<sup>390</sup> Vegter, M. & Van Werven, M. (2017), 'Terug bij af. Staatssecretaris en Afdeling reduceren Kinderpardon tot dode letter', *Asiel&Migrantenrecht*, Vol.2017, No. 2, pp. 67-74.

<sup>391</sup> *Ibid.*

<sup>392</sup> Netherlands, VVD & PvdA (2012), [Bruggen slaan. Regeerakkoord VVD – PvdA. 29 oktober 2012](#).

<sup>393</sup> Netherlands, State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2016), '[Definitieve regeling langdurig verblijvende kinderen \(DRLVK\)](#)', Letter to the House of Representative, 29 November 2016.

<sup>394</sup> KRONCRV (2017), '[Het Kinderpardon](#)', *De Monitor*, 22 January 2017. Vegter, M. & Van Werven, M. (2017), 'Terug bij af. Staatssecretaris en Afdeling reduceren Kinderpardon tot dode letter', *Asiel&Migrantenrecht*, Vol.2017, No. 2, pp. 67-74.



of parliament asking the secretary to reconsider the cooperation criterion.<sup>395</sup> The secretary stated that the aim of the regulation was never to allow as many children as possible to remain.<sup>396</sup>

Recent research by Defence for Children among removed Armenian children showed that these children were likely to develop physical and mental problems. The children (who had been returned 2-13 months previously) were found to be very troubled: in addition to having physical and mental problems, they lacked knowledge of the language of their country of origin, had no social connections, had no future perspectives, lived in poverty and, because of their 'otherness' in behaviour, etc., were regarded as outsiders by the local community.<sup>397</sup>

### *Return*

Two main issues regarding return have been the subject of discussion during the reporting period. First, a recent publication of the Aliens Chain (supervised by Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*)) shows a large number of people returning to their country of origin without supervision. This is the case for about 8,100 of the 17,090 people who have been denied asylum in the Netherlands.<sup>398</sup> These people are assumed by the government to have left the country. According to NGOs, however, the majority of them are likely to be staying irregularly in the Netherlands or to have moved to other countries in Europe.<sup>399</sup> The National Support Point for Undocumented Migrants (*Stichting LOS*) has therefore expressed doubts about categorising these people as 'having left the country individually without supervision', as in the recent report.

Currently, 40 so-called Bed-Bath-Bread facilities are taking care of over 2,000 people who have been rejected for asylum. Many people are on waiting lists for these facilities and even more have no access to any facilities at all. The National Support Point states that the fact that people are officially supposed to have left the country does not mean that they are no longer the state's concern. According to the National Support Point, people should be taken care of and should be helped professionally throughout the process, even after they have been denied asylum, and not be abandoned and refused food, shelter and healthcare.<sup>400</sup> People staying irregularly or travelling around within Europe are in a vulnerable situation and therefore more likely to become victims of human

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<sup>395</sup> Netherlands, State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2017), ['Motie van het lid Voordewind over de Regeling langdurig verblijvende kinderen'](#), Letter to the House of Representative, 27 February 2017.

<sup>396</sup> Netherlands, State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2017), ['Motie van het lid Voordewind over de Regeling langdurig verblijvende kinderen'](#), Letter to the House of Representative, 27 February 2017. Netherlands, State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2017), ['Beleidsreactie rapport Defence for Children "Ik wil terug naar Nederland"'](#), Letter to the House of Representative, 24 March 2017.

<sup>397</sup> Goeman, M., Vegter, M.A., Zijlstra, A.E. & Bonhage-Talsma, G.T. (2017), ["Ik wil terug naar Nederland". Monitoring van teruggekeerde gewortelde kinderen in Armenië](#), Leiden, Defence for Children.

<sup>398</sup> Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2017), [Rapportage. Vreemdelingenketen Periode januari-december 2016](#), March 2017.

<sup>399</sup> Information provided during an interview by telephone with a staff member of the National Support Point for Undocumented Migrants (*Stichting LOS*) held on 3 April 2016.

<sup>400</sup> Netherlands, National Support Point for Undocumented Migrants (*Stichting LOS*).

trafficking, as has been reported previously by the Dutch section of Amnesty International.<sup>401</sup>

Regarding return policies, the report furthermore shows that about 2,560 people were put in detention in 2016, an increase of 18 % on the previous year.<sup>402</sup> This increase is reported to be related to the significant influx of people from so-called safe countries, such as Albania, Algeria and Morocco.<sup>403</sup> Forced return following detention has also increased, from 59 % to 70 % in 2016. This seems to go against the government's objectives of reducing detention and forced returns as much as possible. In the explanatory memorandum to the draft bill of the Return and Immigration Detention Act (*Wet terugkeer en vreemdelingenbewaring*), which was published in 2015, the State Secretary for Security and Justice states that detention of immigrants must be used only as a means of last resort. The bill is still under review at the House of Representatives.<sup>404</sup> The government has expressed, however, that the effectiveness of the procedures for departure following detention has improved considerably during the past year, which seems to indicate satisfaction with the current practices.<sup>405</sup> As reported previously, a report by the Dutch section of Amnesty International regarding the fundamental rights situation of migrants returning to their countries of origin referred to disproportionate violence in the context of return, to the lack of medical care during the return process, and to the lack of documentation and reception arrangements in the destination country (country of origin or a third country).<sup>406</sup>

Questions have been raised in the House of Representatives about whether or not the fundamental rights of people returning to their countries of origin are respected, since their situation upon and after return is not monitored. In relation to the region of North Africa in general but also in relation to specific countries such as Libya, Afghanistan and Turkey, the issue has been raised that fundamental rights could be at risk if no assurances can be given about reception arrangements and further arrangements for looking after returnees.<sup>407</sup>

### 10.3. Children and vulnerable groups

The ministry indicated that no relevant changes had occurred in this period.<sup>408</sup>

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<sup>401</sup> Amnesty International – Dutch Section (2017), '[Ongedocumenteerden \(illegalen\) en uitgeprocedeerden](#)'.

<sup>402</sup> Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2017), '[Rapportage. Vreemdelingenketen Periode januari-december 2016](#)', March, 2017.

<sup>403</sup> *Ibid.*

<sup>404</sup> Netherlands, State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2015), '[Wet terugkeer en vreemdelingenbewaring. Memorie van Toelichting](#)', Sent to House of Representatives, 23 september 2015.

<sup>405</sup> The Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2017), '[Rapportage. Vreemdelingenketen Periode januari-december 2016](#)', March 2017.

<sup>406</sup> Amnesty International – Dutch Section (2017), '[Migranten zonder verblijfsrecht](#)'.

<sup>407</sup> Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2017), '[Verslag van een algemeen overleg](#)', Parliamentary Document (*Kamerstuk*) 32 317 No. 459, available at:

<sup>408</sup> Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*).

## 10.4. Changes in law, policy and practice

According to the information provided by the Ministry of Security and Justice, the only change in policy to report is a change in the so-called country policy on Afghanistan and Iraq. During the reporting period, changes were made to the specific country information that determines asylum policy for migrants coming from these two countries. Not all people from Afghanistan have the right to apply for asylum in the current socio-political circumstances, as they did before. Several specific vulnerable groups now have the right to asylum based on their specific characteristics. This information is taken into account by the IND in judging individual cases. The groups mentioned are ethnic and religious minorities, non-Muslims, women working in the public sector (such as in NGOs and government, as well as healthcare workers, teachers, journalists, lawyers and judges, etc.), LGBT people, and other groups, such as women who are not married or in a relationship.<sup>409</sup> According to the update to the country information regarding Iraq, several provinces are still regarded as unsafe (Anbar, Ninewa and parts of the so-called Baghdad belt, as well as parts of the Salehaddin province), but the entire country is no longer considered unsafe. Applications from other regions are also processed and judged on an individual basis.<sup>410</sup>

## 10.5. Social response

Asylum and migration have been hotly debated during the electoral campaign of the past months in the Netherlands and are generally considered a main topic in recent election debates. Discussions have covered topics such as security, integration, tolerance and (national) identity. The discourse of the political parties was noticeably charged: appeals to morals and values as well as in- and out-group rhetoric were heavily used throughout their campaigns. Public discourse before and after the elections made it clear that the influx of migrants and asylum seekers is perceived by many as one of the main challenges for the Netherlands at the moment. While this probably does not constitute an actual change in discourse, the election campaign served to accentuate the already existing tendency.

## 10.6. Hate crime incidents

The ministry indicated that this kind of information is not collected (systematically),<sup>411</sup> and no response was received from the Asylum Taskforce of the National Police.

On 29 March 2017, MiND, the Dutch Reporting Point for Discrimination on the Internet, published its report on online hate speech in 2016. Of the incidents of online hate speech that were reported on the grounds of race, 22 % were

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<sup>409</sup> Netherlands, State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2017), '[Landgebonden asielbeleid Afghanistan](#)', Letter to the House of Representative, 23 February 2017.

<sup>410</sup> Netherlands, State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2017), '[Landgebonden asielbeleid Irak](#)', Letter to the House of Representative, 22 February 2017.

<sup>411</sup> Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*).

registered as hate speech against asylum seekers and refugees in general (70 out of a total of 305 incidents).<sup>412</sup> According to MiND, since 2015 (when an estimated 50 % of the incidents of racist hate speech were directed at refugees) online hate speech directed towards this group has been a recurring issue, which MiND believes is fuelled by discourse in politics and society (for example in the media).<sup>413</sup> Whereas in former years this category of incidents was registered as 'other' (since no obvious remarks about ethnicity or religion were made), this year hate speech targeting refugees or asylum seekers is categorised as such to shed light on this specific topic. An additional 4 % (about 12 incidents) were directed at migrants in general.<sup>414</sup>

## 10.7. Policies against smuggling of human beings

No information was provided.

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<sup>412</sup> MiND (2017), [Jaarverslag 2016 : Meldpunt Internet Discriminatie \(MiND\)](#), 4 April 2017.

<sup>413</sup> Netherlands, Dutch Reporting Point for Discrimination on the Internet (*Meldpunt Internetdiscriminatie Nederland, MiND*).

<sup>414</sup> MiND (2017), [Jaarverslag 2016 : Meldpunt Internet Discriminatie \(MiND\)](#), 4 April 2017.

## 11. Poland

### 11.1. Overview of the situation

#### *Arrivals/registration*

In March 2017, some 140 applications for international protection were registered in the national registration system for foreigners (*Pobył*); the applications covered around 320 people. During the same period, some 15,070 applications for temporary stay in Poland, some 1,710 applications for permanent stay and some 170 applications for a long-term EU permit were submitted.<sup>415</sup> In 2016, Poland issued around 1,062,900 visas, including some 794,650 multiple visas.<sup>416</sup>

#### *Main countries of origin*

The main nationalities of persons registered in March 2017 were: Russia, Ukraine and Tajikistan.

#### *Approximate proportions of children, families, women and other vulnerable groups*

No information is available. There were 10 applications submitted by unaccompanied children.<sup>417</sup>

#### *Applications*

The Head of the Office for Foreigners (*Szef Urzędu do spraw Cudzoziemców*) registered some 70 subsequent applications for asylum (which covered around 140 people), mainly submitted by Russians and Ukrainians.

### 11.2. Key fundamental rights concerns

There are two main key fundamental rights concerns: placement of migrants in detention centres and the ongoing issue of restricted access to the asylum procedure.

Access to asylum procedures in Poland continues to be restricted. Three interviewed partners (Association for Legal Intervention (*Stowarzyszenie Interwencji Prawnej* – SIP), the Helsinki Foundation for Human Rights (*Helsinki Fundacja Praw Człowieka* – HFHR) and UNHCR) reported that border guards in Brest/Terespol and Medyka systematically refuse entry to individuals who intend to apply for international protection.<sup>418</sup> The number of refusal of entry decisions has increased. Asylum applicants from Tajikistan and Chechnya often try to submit asylum applications 30 times or more, while only two to three families a day have their applications successfully registered at the border crossing. Border

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<sup>415</sup> Poland, Head of the Office for Foreigners.

<sup>416</sup> See <http://www.schengenvisa.info.com/visa-statistics-2016/>.

<sup>417</sup> Poland, Head of the Office for Foreigners.

<sup>418</sup> See <http://interwencjaprawna.pl/granicy-raport-monitoringu-dostepu-postepowania-o-udzielenie-ochrony-miedzynarodowej-przejsciach-granicznych-terespolu-medyce-lotnisku-warszawa-okecie/>, <http://www.hfhr.pl/droga-donikad-relacja-z-przejscia-granicznego-brzesc-terespol/http://wyborcza.pl/duzyformat/7,127290,21184727,w-poczekalni-do-polskiego-raj-u.html>

Guard officers seem to ignore foreigners' intention to apply for international protection and refuse them entry to Poland. They justify these refusals by invoking the absence of a valid entry visa or other documents enabling the bearer to stay legally in Poland. During the reporting period, the Border Guard denied about 2380 people in Terespol and some 590 people in Medyka entry to Poland. Only 235 people applied successfully for international protection.<sup>419</sup> Asylum seekers do not have access to an attorney. In a report published on 1 March 2017, Human Rights Watch stated that "procedures at the Terespol border station violate Poland's obligations under EU law and international refugee law, under which any expression of intent to seek asylum should promptly be forwarded to the competent authorities for assessment of the international protection claim".<sup>420</sup>

In January 2017, the Ombudsman for Children (*Rzecznik Praw Dziecka*) monitored the border crossing at Terespol to check if there were cases of families who wanted to apply for international protection in Poland being denied entry. The monitoring did not confirm that foreigners were denied access to asylum. However, the Ombudsman does not exclude the possibility that applications for international protection were not accepted by Border Guards. The report was published on 24 March 2017.<sup>421</sup>

On 17 March 2017, a group of 14 attorneys from the Warsaw Regional Bar Association<sup>422</sup> went to the border crossing at Terespol to provide legal assistance to those who wished to claim asylum.<sup>423</sup> This action was planned in cooperation with the Helsinki Foundation for Human Rights (*Helsinki Fundacja Praw Człowieka* – HFHR) and SIP, which have been monitoring the situation at border crossing points for years. The purpose of the visit by attorneys and representatives of NGOs to the border station was to emphasise the importance of public authorities' respect for Poland's obligations under the Convention Relating to the Status of Refugees and its obligation to provide access to international protection procedures under EU law. According to reports from NGOs, officers working at this border station often 'cannot hear' foreigners declaring their intention to seek international protection.

The attorneys were refused access to asylum seekers who were denied entry to Poland.<sup>424</sup> Border Guards stated that the attorneys tried to force them to issue entry permits to foreigners even before the foreigners themselves stated the reasons for their arrival during border checks.<sup>425</sup>

According to UNHCR and HFHR, foreigners who successfully apply for international protection in Poland at border crossings are often placed in detention centres. The courts often place families with children and victims of torture in detention centres for at least 60 days. The courts justify detention by

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<sup>419</sup> Poland, Border Guards.

<sup>420</sup> See <https://www.hrw.org/news/2017/03/01/poland-asylum-seekers-blocked-border>.

<sup>421</sup> See <http://brpd.gov.pl/aktualnosci-wystapienia-generalne/zabezpieczenie-praw-maloletnich-cudzoziemcow>.

<sup>422</sup> See <http://www.tokfm.pl/Tokfm/7,102433,21511206,adwokaci-chcieli-pomoc-czeczenom-na-granicy-nie-dostali-na.html>.

<sup>423</sup> See <http://pokojadwokacki.pl/adwokaci-na-granicy-brzesc-terespol/>.

<sup>424</sup> See <http://www.tokfm.pl/Tokfm/7,102433,21511206,adwokaci-chcieli-pomoc-czeczenom-na-granicy-nie-dostali-na.html>.

<sup>425</sup> See <http://strazgraniczna.pl/pl/aktualnosci/4674,Komunikat-dotyczacy-sytuacji-na-przejsciu-granicznym-w-Terespolu.html>.



citing numerous refusals of entry, the need to gather additional information, the high risk of absconding and the lack of a permanent address. During appeal procedures, the courts ignore foreigners' requests to be present during examinations of their appeals against decisions on detention. In addition, foreigners are not informed about the start of procedures to extend their stay in detention centres. They are not present during court proceedings, so they cannot present their views. Furthermore, appeals have to be prepared in Polish, so foreigners are dependent on NGOs, which provide only limited legal assistance owing to a lack of funds.

Other key fundamental rights concerns reported by NGOs are:

- inefficient and ineffective information for asylum seekers about the asylum procedure (UNHCR, SIP);
- incorrect and inaccurate translations during interviews (the Helsinki Foundation);
- the special needs of asylum seekers are not recognised at an early stage or they are not respected, contrary to EU standards, and, therefore, they are often not taken into account in the asylum procedure (SIP, UNHCR, National Prevention Mechanism);<sup>426</sup>
- pervasive hate speech and an increasing number of violent crimes motivated by prejudice (SIP, HateStop (*Stowarzyszenie Projekt: Polska*));
- a lack of systematic legal assistance for asylum seekers in detention centres, as well as in open centres, owing to a lack of funding. New calls for proposals are not announced or the results are not published for a long time (UNHCR, the Helsinki Foundation, SIP).<sup>427</sup>

### 11.3. Fundamental rights issues in relation to registration and channelling into different procedures

#### 11.3.1 Registration and identification

According to SIP and UNHCR, information provided to all new arrivals on registration is not adjusted to their needs and foreigners are not aware of their obligations.

In February 2017, the Helsinki Foundation for Human Rights (*Helsinska Fundacja Praw Człowieka* – HFHR) reported two cases where asylum seekers who had tried to apply for asylum in Poland at the border crossing point on four occasions were denied entry to Poland. They were citizens of Turkey of Kurdish origin, and they spoke only Turkish and Kurdish. At the border crossing at Terespol, there were no interpreters who could translate their testimonies. The HFHR informed the Border Guard in a letter about these people's previous attempts, their intention to seek asylum and their need for a translator.<sup>428</sup> The letter was also addressed to UNHCR Poland, the Polish Ombudsman (*Rzecznik Praw*

<sup>426</sup> See <https://www.rpo.gov.pl/sites/default/files/Wyci%C4%85g%20-%20Strze%C5%BCony%20O%C5%9Brodek%20dla%20Cudzoziemc%C3%B3w%20K%C4%99trzyn%202016.pdf>.

<sup>427</sup> See <http://fundusze.mswia.gov.pl/ue/aktualnosci/14167.OGLOSZENIE-O-NABORZE-WNIOSKOW-nr-62016-FAMI.html>.

<sup>428</sup> Poland, letter is not published, ref number L.DZ.577/2017/MG.

*Obywatelskich*) and Border Guard headquarters. On 9 March 2017, the Ombudsman asked the Border Guard for copies of all the foreigners' documents relating to their attempts to cross the border and requested information on whether an interpreter had been present. They also demanded information on whether a letter from HFHR had been received by the guards at the border crossing. The results of the Ombudsman's enquiries are not yet known.

In addition, interviews with asylum seekers are not recorded and foreigners' statements are written in Polish. The interviews are not carried out in a confidential setting, which affects what is said during registration. Very often, it is only after receiving a first negative decision that asylum seekers receive information about inaccuracies and discrepancies in their statements at registration and during the subsequent asylum procedure.

The National Prevention Mechanism found, during its monitoring in the detention centre at Ketrzyn, that Border Guards served as interpreters during foreigners' visits to the doctor.<sup>429</sup>

Interview partners (SIP, UNHCR) stated that, although there are mechanisms for identifying vulnerable persons and victims of torture and violence, the mechanism used by the Head of the Office for Foreigners is not adequate. Vulnerable persons and victims of torture and violence are not recognised early enough and they do not receive appropriate support. Very often they are placed in detention centres. Even when there is information fact that vulnerable persons are being detained, they are not released.<sup>430</sup>

### **11.3.2 Asylum procedures**

The approximate average duration of detention in the first half of 2017 was 71 days (this figure is for asylum seekers and irregular migrants).<sup>431</sup>

### **11.3.3 Return procedures**

Apart from non-admission of asylum applicants at the border, as described above, no other issues were raised by the interviewed stakeholders and civil society organisations. Data on forced returns will be available at the end of April.<sup>432</sup>

The Border Guards conducted approximately 110 forced returns in January, about 95 in February and about 100 in March.<sup>433</sup>

## **11.4. Challenges and developments concerning reception conditions for new arrivals, including detention**

### **11.4.1 Reception conditions and capacity**

Asylum seekers have a right to be in a reception centre during an application for international protection. The Border Guard initiates a return procedure after a

<sup>429</sup> See <https://www.rpo.gov.pl/pl/content/kmp/od-1477316700-do-1477403100-krajowy-mechanizm-prewencji-przeprowadzi%C5%82-wizytacj%C4%99-w-strze%C5%BConym-o%C5%9Brodku-dla-cudzoziemc%C3%B3w-w>.

<sup>430</sup> *Ibid.*

<sup>431</sup> Poland, Border Guards.

<sup>432</sup> *Ibid.*

<sup>433</sup> Poland, Border Guards. (*Ibid.*).

second negative decision. This means that asylum seekers and persons who are to be returned can end up living in the same reception centre. According to SIP, asylum seekers who wish to live outside reception centres do not receive enough money, and it is very difficult for them to rent a flat from a private landlord.

#### **11.4.2 Vulnerable persons**

Please see subsection 11.3.

#### **11.4.3 Child protection**

According to SIP, HFHR and UNHCR, the best interests of the child are not taken into account in detention decisions.

According to UNHCR, SIP and the Ombudsman for Children (*Rzecznik Praw Dziecka*), the legal representative system for unaccompanied children does not work properly; appointing a representative takes three to six months.<sup>434</sup>

#### **11.4.4 Immigration detention**

Please see subsection 11.3.

### **11.5. Changes in law, policy and practice**

The Ministry of Internal Affairs and Administration presented new amendments to the Act on granting international protection to foreigners.<sup>435</sup> The amendments concern the border procedure, in cases where people apply for asylum at the border crossing without fulfilling entry conditions and, for example:

- give reasons other than fear of persecution or a risk of serious harm;
- provide false information concerning their nationality or provide false information or documents concerning their identity; or
- come from a safe country of origin or a safe third country.

In these cases, the procedure should be completed within 28 days, and a negative decision cannot have a suspensive effect. Nearly all applicants will be detained and placed in a guarded centre, and their stay may last for up to 12 months. The new law also proposed a list of safe third countries and safe countries of origin. A new administrative body is planned to replace the Refugee Board. The new Board for Foreigners will be a quasi-judicial body with more competences, such as the examination of appeals of return decisions. NGOs (e.g. SIP, the Helsinki Foundation)<sup>436</sup> and the Polish Ombudsman (*Rzecznik Praw Obywatelskich*)<sup>437</sup> have presented their opinions on the amendments; they have not been published on the Ministry of the Interior's website.

In March, proposals for new amendments on guarded detention centres and detention centres for foreigners were presented to the Minister of the Interior

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<sup>434</sup> Poland, Association for Legal Intervention (*Stowarzyszenie Interwencji Prawnej*, SIP).

<sup>435</sup> See <https://udsc.gov.pl/projekt-zmiany-ustawy-o-udzielaniu-ochrony-cudzoziemcom/>, <https://bip.mswia.gov.pl/bip/projekty-aktow-prawnyc/2017/24478,Projekt-ustawy-o-zmianie-ustawy-o-udzielaniu-cudzoziemcom-ochrony-na-terytorium-.html>.

<sup>436</sup> See <http://www.hfhr.pl/wp-content/uploads/2017/02/HFPC-uwagi-do-projektu-zmiany-ust-o-ochronie-14-02-2017.pdf>, <http://www.hfhr.pl/en/step-backwards-in-granting-protection-to-foreigners-hfhrs-comments-on-proposed-amendment/>.

<sup>437</sup> See <https://www.rpo.gov.pl/pl/content/opinia-rpo-w-sprawie-zmian-w-ustawie-o-udzielaniu-cudzoziemcom-ochrony-na-terytorium-rp>.

and Administration (*Minister spraw Wewnętrznych i Administracji*); these amendments would allow for the possibility of accommodating foreigners in containers.<sup>438</sup>

The Border Guard increased the general capacity of guarded centres, adding 32 places. The guarded centre at Przemyśl is not longer for general accommodation. From March 2017, only families with children can be placed there. The other guarded centre for families is in Ketrzyn.

## 11.6. Social response

On 18 March 2017, a demonstration in support of migrants took place in Warsaw. It was a celebration of the International Day against Racial Discrimination. Participants demanded that refugees be received and hate speech punished.<sup>439</sup>

According to the Helsinki Foundation, the media automatically portrays foreigners in a negative way and government representatives present a negative attitude to migrants and refugees.<sup>440</sup>

## 11.7. Hate crime incidents

Statistics are available only for January and February 2017. During this period, the police conducted 126 proceedings in hate crime cases.<sup>441</sup>

In January and February, the police initiated approximately 50 proceedings relating to online hate speech.<sup>442</sup>

The interviewed stakeholders and civil society organisations presented no information on violent incidents during demonstrations for or against migrants.

## 11.8. Policies against smuggling of human beings

Statistics will be available at the end of April.<sup>443</sup>

## 11.9. Criminal proceedings against migrants and asylum seekers

Statistics will be available at the end of April.<sup>444</sup>

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<sup>438</sup> See <https://bip.mswia.gov.pl/bip/projekty-aktow-prawnyc/2017/24581,Projekt-rozporzadzenia-MSWiA-zmienialacego-rozporzadzenie-w-sprawie-strzezonych-.html>.

<sup>439</sup> Missing source

<sup>440</sup> See <http://wyborcza.pl/7,75398,20840764,andrzej-duda-nikt-do-polski-nie-bedzie-przywozil-pociagami.html>.

<sup>441</sup> Information from Ministry for (incomplete source)

<sup>442</sup> *Ibid.*

<sup>443</sup> Poland, Border Guards.

<sup>444</sup> *Ibid.*

## 12. Slovakia

### 12.1. Overview of the situation

The Bureau of Border and Foreigners Police provided the following data on newcomers in March 2017. The data are not disaggregated by gender and age. The overall number of irregular migrants arriving in Slovakia was around 330. The majority of them were Ukrainian citizens (some 270 people). Other main countries of origin were Serbia (some 20 people), Afghanistan (some 10 people), Syria (some 10 people) and China (fewer than 5 people). Overall, they came from 24 countries.<sup>445</sup> Compared with previous months, March saw a significant increase in new arrivals from Ukraine.

The Migration Office registered some 14 new asylum applicants in March 2017. Most came from Afghanistan. Nine of the asylum seekers were male and five were female. There were no asylum claims lodged by unaccompanied children. Most asylum seekers were aged 18-39 (11), three were over 50 and one was a child (between 15 and 17 years old).<sup>446</sup>

No asylum seekers were relocated to Slovakia from other European countries during March.<sup>447</sup>

### 12.2. Key fundamental rights concerns

Problems with age assessment and interpretation were reported. Please see subsection 12.3.

### 12.3. Children and vulnerable groups

According to representatives of reception centres, no relevant changes in practice occurred during the reporting period. The most important problems the refugees face are as follows. Children are detained along with their parents. They also lack quality education, despite the fact that they have a right to education (reasons include the language barrier and teachers being ill prepared to teach refugee children). The employees of the centres also lack the financial resources to provide leisure activities for children. They also lack adequate psychological support for asylum seekers, especially children. Psychologists working in the centres are not adequately trained to work with traumatised adults and children.<sup>448</sup>

There were several changes in legislation regarding detention and access to mental health and social services for refugees. Please see subsection 12.4.

During the reporting period, no specific changes in practice regarding the best interests of children or the appointment of representatives for unaccompanied children occurred. According to representative of the Office for Social Affairs and

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<sup>445</sup> Slovakia, Bureau of Border and Foreigners Police.

<sup>446</sup> Slovakia, Migration Office of the Ministry of the Interior.

<sup>447</sup> European Commission, '[Members States' Support to Emergency Relocation Mechanism](#)'.

<sup>448</sup> Slovakia, Refugees centre in Humenné and Opatovská nová Ves.

Family, who is responsible for unaccompanied children, there were only 6 children (from Pakistan, Afghanistan, Bangladesh and Romania) in the children's home at Medzilaborce. No specific challenges or practices in working with these children emerged.<sup>449</sup>

According to a representative of the Human Rights League,<sup>450</sup> which monitors the situation in the detention centre at Medveďov, during the reporting period, there was a problem with the age assessment of two young people detained by the immigration police. Although the two looked younger than 18, the police did not initiate an age assessment and treated them as adults, although they claimed to be children. Another issue is interpretation. Pakistani boys speaking Pashto were provided with interpretation only in Urdu. The Human Rights League also observed that the police habitually use shackles when escorting asylum applicants and other foreigners.

## 12.4. Changes in law, policy and practice

The new amendment to the Law on residence of foreigners<sup>451</sup> was passed by parliament in late March 2017. The Human Rights League was successful in introducing a change in the law so that families with children in detention would have access to mental health and social services.<sup>452</sup> The Minister of the Interior also pledged to introduce another proposed change (access to healthcare for migrants with imposed alternatives to detention) into another amendment to the law that is currently in preparation. In addition, the Parliamentary Committee for Human Rights and National Minorities recommended<sup>453</sup> the establishment of a working group to seek alternatives to detention for families with children, since alternatives are not used in practice even if they are legally available.<sup>454</sup>

The amendment to the Law on residence of foreigners approved by parliament also changes the process of age assessment for unaccompanied children. Under the amended law, age assessment is obligatory only in cases where there "is a suspicion that a person is an adult"; before, it was obligatory in cases where it was not "obvious" that the person was a child.<sup>455</sup>

In addition, the amendment clarifies that children in detention have a right to meals five times a day,<sup>456</sup> to access to outdoor space three times a day (once in

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<sup>449</sup> Slovakia, Office of Labour, Social Affairs and Family.

<sup>450</sup> Slovakia, Human Rights League.

<sup>451</sup> Slovakia, National Council of the Slovak Republic, '[Vládny návrh zákona, ktorým sa mení a dopĺňa zákon č. 404/2011 Z.z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov a ktorým sa menia a dopĺňajú niektoré zákony](#)'.

<sup>452</sup> Slovakia, National Council of the Slovak Republic, '[Vládny návrh zákona, ktorým sa mení a dopĺňa zákon č. 404/2011 Z.z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov a ktorým sa menia a dopĺňajú niektoré zákony](#)', Art. 96/3.

<sup>453</sup> Human Rights League (2017), '[Výbor NRSR pre ľudské práva podporil ochranu detí s rodinami](#)' (Parliamentary Committee on Human Rights supported the protection of children with families), Press release.

<sup>454</sup> Human Rights League.

<sup>455</sup> Slovakia, National Council of the Slovak Republic, '[Vládny návrh zákona, ktorým sa mení a dopĺňa zákon č. 404/2011 Z.z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov a ktorým sa menia a dopĺňajú niektoré zákony](#)', Art. 111/6.

<sup>456</sup> Slovakia, National Council of the Slovak Republic, '[Vládny návrh zákona, ktorým sa mení a dopĺňa zákon č. 404/2011 Z.z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov a ktorým sa menia a dopĺňajú niektoré zákony](#)', Art. 91/1.



the morning and twice afternoon)<sup>457</sup> and to access to education within three months of their detention<sup>458</sup> (previously, access to education was secured only after a period of detention lasting longer than three months). Migrants in detention also have the right to receive visitors every two weeks<sup>459</sup> (this has changed from every three weeks). Asylum seekers have the right to receive visits from family members, UNHCR representatives and representatives of NGOs providing legal help, and they must be provided with a private space for visits.<sup>460</sup>

## 12.5. Social response

On 24 January, the regional library in the town of Zvolen organised a lecture and a film screening with anti-Muslim content. The event was organised by the library in cooperation with the civic association Magnificat Slovakia and was also promoted by the MP Ján Mora of the extreme right party Kotleba – People's Party our Slovakia (*Kotleba – Ľudová strana naše Slovensko*). At the event, the film *Battle at Vienna* by Renzo Martinelli was presented. This film had been rejected by the Slovak public television for being manipulative and not respecting historical facts. The regional library in Zvolen is a public institution founded and operated by the Banská Bystrica self-governing region.<sup>461</sup> Information on the number of people who attended the event is not available.

During the reporting period, there were several expressions of hostility against asylum seekers or migrants of Muslim origin by politicians.

A member of parliament, Milan Krajniak of the opposition political party We Are Family – Boris Kollár (*Sme rodina – Boris Kollár*), wants to ban by law the construction of mosques in Slovakia. Although there are no mosques in Slovakia, he argues that it would be wise to prevent the construction of them, since experiences from abroad show that they are centres of terrorism. He made this announcement at a press conference held on 28 February 2017 at the National Council of the Slovak Republic.<sup>462</sup> Islamic Foundation, an NGO representing Muslims living in Slovakia, published a statement expressing its disagreement with the introduction of further restrictions on the rights of migrants and Muslims in Slovakia.<sup>463</sup>

<sup>457</sup> Slovakia, National Council of the Slovak Republic, '[Vládny návrh zákona, ktorým sa mení a dopĺňa zákon č. 404/2011 Z.z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov a ktorým sa menia a dopĺňajú niektoré zákony](#)', Art. 96/1.

<sup>458</sup> Slovakia, National Council of the Slovak Republic, '[Vládny návrh zákona, ktorým sa mení a dopĺňa zákon č. 404/2011 Z.z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov a ktorým sa menia a dopĺňajú niektoré zákony](#)', Art. 96/2, available at: <http://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=6185>

<sup>459</sup> Slovakia, National Council of the Slovak Republic, '[Vládny návrh zákona, ktorým sa mení a dopĺňa zákon č. 404/2011 Z.z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov a ktorým sa menia a dopĺňajú niektoré zákony](#)', Art. 98/1.

<sup>460</sup> Slovakia, National Council of the Slovak Republic, '[Vládny návrh zákona, ktorým sa mení a dopĺňa zákon č. 404/2011 Z.z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov a ktorým sa menia a dopĺňajú niektoré zákony](#)', Art. 98/3/b, available at: <http://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=6185>

<sup>461</sup> Islamonline.sk (2017), '[V krajskej knižnici vo Zvolene prednášali o islamizácii](#)', 25 January 2017.

<sup>462</sup> Slovakia, National Council of the Slovak Republic, [Media Portal. Press conferences](#), 28 February 2017.

<sup>463</sup> Islamic Foundation (2017), '[Naša diplomacia uistila viaceré ambasády, že prípad s pálením Koránu nie je oficiálnym postojom SR](#)', 28 February 2017.

In a TV debate, the Prime Minister, Robert Fico, defended the unwillingness of Slovakia to accept more asylum seekers. In his view, the arrival of asylum seekers threatens Slovakia's cultural identity and is connected with many risks, such as the creation of Muslim communities that are not integrated into mainstream society.<sup>464</sup>

The chairman of the largest opposition party, Freedom and Solidarity (*Sloboda a Solidarita*), Richard Sulík, reaffirmed his claim (first made in 2016) that Islam is incompatible with Slovak culture. He pointed to what he described as irreconcilable differences with regard to the status of women and discriminatory and illiberal practices in Islamic cultures.<sup>465</sup>

The Speaker of Parliament, Andrej Danko, and his Slovak National Party proposed a ban on burqas as a preventive measure against terrorism. In his view, another example of a preventive measure is the stricter rules for registering a church or religious society introduced by the Slovak National Party in 2016.<sup>466</sup>

## 12.6. Hate crime incidents

No demonstrations for or against migrants took place within the reporting period.

At the beginning of February, a company producing sports clothing, Nebbia Žilina, based in the town of Žilina, published an advertisement on its Facebook page depicting a black model. Subsequently, many people left racist comments on the page. The company created the email address [somrasista@nebbia.sk](mailto:somrasista@nebbia.sk) ([iamracist@nebbia.sk](mailto:iamracist@nebbia.sk)) to allow customers to return goods based on racist sentiments. Fewer than 10 people sent a message to the address to enquire about returning clothes; none of the messages were racist. In the end, nobody did return goods. Observers were not surprised by the displays of racism and hostility on the part of some customers, since the incident reflects a more general attitude, expressed, for example, in politics, particularly following the refugee crisis.<sup>467</sup>

With regard to hate crimes against migrants, there were media reports on the case of a young woman who was arrested and placed in custody because she published a video on Facebook in which she dishonoured a copy of the Quran (she tore it, set it on fire and then poured urine on it).<sup>468</sup> The video received many views and likes and was widely shared. The woman is being investigated for committing the crime of producing extremist materials. According to the Czech media, several gatherings to support her took place across the Czech Republic.<sup>469</sup> There were no reports of similar meetings in Slovakia. The Ministry

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<sup>464</sup> HNonline.sk (2017), '[Zatiaľ každý terorista bol moslimom](#)', 6 January 2017.

<sup>465</sup> Actuality.sk (2016), '[V SAS sú dva názorové prúdy, priznal Sulík](#)', 9 January 2017.

<sup>466</sup> The Press Agency of Slovak Republic (2017), '[Keď sa z politiky stáva Televariéte, treba meniť zákony](#)', 2 January 2017.

<sup>467</sup> Slovak Spectator (2017), '[No racist commenter has returned clothers](#)', 14 February 2017.

<sup>468</sup> Dennik N. (2017), '[Zadržali Slovenku, ktorá páčila korán](#)', 17 February 2017; Slovak Spectator, '[Woman who urinated on the Quran arrested, awaiting trial](#)', 22 February 2017.

<sup>469</sup> Lidové noviny (2017), '[Za zneuctení Koránu skončila Slovenka ve vazbě, v Česku pálení knihy trestní čin není](#)', 22 February 2017.

of Foreign Affairs of the Slovak Republic condemned the crime in a statement sent to embassies of Muslim countries based in Slovakia.<sup>470</sup>

At the beginning of February, the Slovak media reported on an attacker of Afghan origin who was detained after a violent incident in Bratislava. According to the Human Rights League, the media published incorrect information on this story. According to the NGO, the story needed to be reported more responsibly to prevent the spread of misinterpretations and rumours. The NGO also reported that the victims of the incident were former child refugees of Afghan origin who had lent the attacker money and had asked for it back.<sup>471</sup>

Organisations working with asylum seekers and migrants did not report any incidents in which asylum seekers or migrants were targeted. However, the Slovak Humanitarian Council reported that it had been attacked more often recently for providing integration services to asylum seekers residing in refugee centres, as well as for working with refugees. The organisation had received several critical and threatening emails and had also been criticised by some media outlets for helping asylum seekers.<sup>472</sup>

## 12.7. Policies against smuggling of human beings

No proceedings in smuggling cases were reported by IOM or the Ministry of the Interior.<sup>473</sup> The Slovak press wrote about a case in which two Syrian nationals with temporary residence permits in Germany had been caught attempting to smuggle a Syrian woman with two children into Slovakia. The two Syrians were taken into custody in Slovakia and face smuggling charges; if found guilty, they could be imprisoned for up to 10 years. The family is waiting to be returned to Hungary, where they had been placed in an asylum facility.<sup>474</sup>

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<sup>470</sup> Islamic Foundation, (2017) '[Stanovisko Islamskej nadácie k opozičnému návrhu obmedziť práva skupiny občanov Slovenskej republiky](#)', 28 February 2017.

<sup>471</sup> Slovak Spectator (2017), '[Afghani attacker stabs two Afghanistan refugees](#)', 8 February 2017.

<sup>472</sup> Slovak Humanitarian Council.

<sup>473</sup> Slovakia, Ministry of the Interior of the Slovak Republic; International Organisation for Migration (IOM).

<sup>474</sup> The Slovak Spectator (2017), '[Two Syrians from Germany arrested in Slovakia for smuggling migrants](#)', 6 March 2017.

## 13. Spain

### 13.1. Overview of the situation

#### *Arrivals*

Some 8,160 people (making up 2 % of arrivals in the EU) arrived in Spain by the western Mediterranean route in 2016, according to the Spanish Refugee Aid Commission (*Comisión Española de Ayuda al Refugiado* – CEAR) project 'More than just numbers' (*Más que cifras*), based on data from the IOM.<sup>475</sup>

Approximately 10,900 people were apprehended crossing the Spanish borders irregularly by land or sea (no information on flight arrivals), from the beginning of 2016 until the end of December, according to Frontex: 10,230 irregular crossings were by the western Mediterranean route and 670 by the West Africa–Canaries route. The number of irregular border crossings detected on the western Mediterranean route was 46 % more than the previous year, and 21 % more than in 2011.<sup>476</sup>

About 1,000 migrants, including refugees, entered Spain by sea from 1 January 2017 until 26 March 2017, the IOM reports. That represents 3.7 % of the total arrivals by sea in the Mediterranean. At the same time, the IOM-Missing Migrants Project recorded approximately 50 deaths on the western Mediterranean route.<sup>477</sup>

#### *Main countries of origin and routes*

There is no information from the Spanish Ministry of the Interior (*Ministerio de Interior*) on the issue.

The main countries of origin of people arriving by the western Mediterranean route in 2016 were Guinea (about 2,180), Algeria (about 1,760) and Côte d'Ivoire (about 1,650), according to Frontex. On the Canaries, the countries of origin are Côte d'Ivoire (about 190), Guinea (about 170), Morocco (about 90) and others (about 210).<sup>478</sup>

The nationalities of asylum seekers are Venezuelan (about 3,960 people), Syrian (about 2,920 people), Ukrainian (about 2,550 people), Algerian (about 725 people) Colombian (about 610 people), on the basis of Eurostat data.<sup>479</sup> Among the about 4,810 others, there are asylum seekers from El Salvador (about 430 people), Honduras (about 390 people), Palestine (about 360 people), Morocco (about 340 people) and Nigeria (about 290 people), according to CEAR, on the basis of Eurostat information.<sup>480</sup>

#### *Relocation and resettlement refugees*

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<sup>475</sup> Spain, Spanish Refugee Aid Commission (*Comisión Española de Ayuda al Refugiado*, CEAR) (2017), "[More than just numbers](#)" (*Más que cifras*), 13 March 2017.

<sup>476</sup> FRONTEX (2017), [Risk Analysis for 2017](#), Press release, 15 February 2017.

<sup>477</sup> IOM - Missing Migrants Project (2017), [Mediterranean migrant arrivals reach 26,589. Deaths: 649](#), published on 28 March 2017.

<sup>478</sup> FRONTEX (2017), [Risk Analysis for 2017](#), Press release, 15 February 2017.

<sup>479</sup> Eurostat, [Asylum statistics](#), 13 March 2017.

<sup>480</sup> Spain, Spanish Refugee Aid Commission (*Comisión Española de Ayuda al Refugiado*, CEAR) "[More than just numbers](#)" (*Más que cifras*), 13 March 2017.

The total number of refugees arriving through relocation until 16 March 2017 (since the beginning of 2015) was approximately 880, some 140 coming from Italy and about 730 from Greece, according to the table of refugees arriving in Spain (*Cuadro de llegadas de refugiados a España*) provided by the Communications and Institutional Relations Office of the Spanish Ministry of the Interior.<sup>481</sup> Approximately 290 have been resettled: some 60 refugees from Turkey and some 230 from Lebanon.

Approximately 30 new refugees arrived in Spain through relocation during March 2017. They were all relocated from Greece and arrived on 16 March. They all have Syrian nationality. The Spanish Government Press Office (*Oficina de Prensa de La Moncloa*) reported their arrival on its official website.<sup>482</sup>

#### *Approximate proportions of children, families, women and other vulnerable groups*

About 9,400 of the asylum applicants in 2016 were male and about 6,350 were female, according to the latest Eurostat data available for Spain. Among them were approximately 1,780 children and 100 elderly people.<sup>483</sup>

The distribution of asylum applicants by age is approximately as follows: 1,530 were less than 14 years old; 250 were from 14 to 17; 2,930 were from 18 to 34; 1,550 were from 35 to 64; and 100 were 65 years old or over.<sup>484</sup>

In addition, among the new relocated refugees arriving in March, there were fewer than 10 women and about 10 children.<sup>485</sup>

#### *Asylum decisions*

Data on first instance decisions on asylum applications are available only for the year 2016: 67 % first instance asylum decisions resulted in positive outcomes (corresponding to 6,855 people), including 355 people (3.5 %) granted refugee status and 6,500 people (63.5 %) granted subsidiary protection status. Some 3,395 first instance decisions (33 % of all decisions) in 2016 rejected the applications.<sup>486</sup>

## 13.2. Key fundamental rights concerns

### *Fundamental right to asylum, including the principle of non-refoulement*

Spain provided protection to approximately 6,860 asylum seekers in 2016, 6,220 of whom were fleeing the conflict in Syria, CEAR stated on its official website 'More than just numbers' (*Más que cifras*).

Spain remains among the Member States with the lowest numbers of registered first-time applicants relative to the population in 2016: approximately 340 first-

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<sup>481</sup> Spain, [Ministry of the Interior](#) (*Ministerio del Interior*), 16 March 2017.

<sup>482</sup> Spain, [Government Press Office](#) (*Oficina de Prensa de La Moncloa*), 16 March 2017.

<sup>483</sup> Eurostat, [Asylum statistics](#), 13 March 2017.

<sup>484</sup> *Ibid.*

<sup>485</sup> Spain, [Government Press Office](#) (*Oficina de Prensa de La Moncloa*).

<sup>486</sup> See Eurostat, [Asylum statistics](#), Figure 8: Distribution of first instance decisions on (non-EU) asylum applications, 2016 (%), 13 March 2017. See also Spain, Spanish Refugee Aid Commission (*Comisión Española de Ayuda al Refugiado, CEAR*) (2017) '[More than just numbers](#)' (*Más que cifras*), 13 March 2017.

time applicants per million inhabitants, which is far below the European average (about 2,360 first-time applicants per million inhabitants).<sup>487</sup>

13.2.2 Rights of children in situation of mobility At least 540 unaccompanied children live in the Autonomous City of Melilla. Nearly 100 of them – the majority of whom are Moroccans between 10 and 17 years of age – sleep in the streets of Melilla, according to the report *Rejection and Abandonment: The Situation of Children Who Sleep in the Streets of Melilla*, carried out by the Judicial Clinic, Comillas Solidarity and the Santander Chair for Law and Minors at Comillas ICAI-ICADE (*Instituto Católico de Artes e Industrias – Instituto Católico de Administración y Dirección de Empresas*). These are the numbers that the Council for Social Welfare of the Autonomous City of Melilla (*Consejería de Bienestar Social de la Comunidad Autónoma de Melilla*) has presented. It estimates that in 2016 some 1,800 unaccompanied children entered the autonomous city-region.<sup>488</sup>

The Spanish State is responsible for their protection and for ensuring effective access to their rights, such as education, healthcare, security, documentation, etc., but many of them are not in the Unaccompanied Children's Register. Some have been expelled from the country as irregular immigrants. Many experts from a variety of fields have voiced their concerns over the particular situation of these children not only in Melilla but in the Iberian Peninsula. Some of these advocates of human rights participated in the radio programme on unaccompanied children, 'Behind the Acronym' (*Detrás de la sigla*), which the Cadena SER, one of the main Spanish national radio stations, organised.<sup>489</sup> This programme included contributions by experts from several organisations such as the Por Causa Foundation (*Fundación Por Causa*),<sup>490</sup> the Raices Foundation (*Fundación Raices*)<sup>491</sup> and the Harraga Association (*Asociación Harraga*)<sup>492</sup> as well as lawyers, journalists and activists.

#### *Right to family reunification*

On 1 March, the Spanish journalist Nicolás Castellano published *My Name Is Adou* (*Me llamo Adou*), relating the story of an eight-year-old boy who was discovered by security workers when they were scanning luggage at the border.

The child, Adou, had been packed in a suitcase in May 2015 to be smuggled across the Tarajal border crossing, which separates Morocco from the Spanish enclave of Ceuta in North Africa. In his book, Castellano argues that the child's father was not to blame. The Spanish authorities rejected Adou's application for family reunification, alleging that Alí (Adou's father) did not have enough money to support the whole family, although he could demonstrate that he had a stable job and a fixed abode in Spain. The gap between his income and the official financial requirement was €56. Castellano states "that the economic requirements should be secondary to the interests of the child". Adou's

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<sup>487</sup> Jesuit Migrant Service.

<sup>488</sup> Spain, Comillas ICAI-ICADE (2017) '[Rejection and Abandonment. The Situation of Children who Sleep in the Streets of Melilla](#)' (*Rechazo y Abandono. Situación de los niños que duermen en las calles de Melilla*), Press release, March 2017.

<sup>489</sup> Cadena Ser (2017), '[Behind the acronym](#)' (*Detrás de la sigla*), 17 March 2017.

<sup>490</sup> Spain, [Por Causa Foundation](#) (*Fundación Por Causa*).

<sup>491</sup> Spain, [Raices Foundation](#) (*Fundación Raices*).

<sup>492</sup> Spain, [Harraga Association](#) (*Asociación Harraga*).



grandmother, who had been looking after him in Côte d'Ivoire, had just died. With legal entry blocked, Adou's father took matters into his own hands and paid facilitators €5,000 to smuggle his son into Spain. The Spanish journalist points out that each year there are approximately 100,000 applications for family reunification in Spain but a high percentage of these applications are refused.<sup>493</sup>

### *Discrimination and social exclusion of migrants*

The debate on the use of religious symbols in public institutions and companies has also been reopened in Spain. A professor of sociology at Madrid Autonomous University argues that there is no problem in Spain with such symbols, which are regarded as socially acceptable.<sup>494</sup>

According to a Demographic Study of the Muslim Population (*Estudio demográfico de la población musulmana*) prepared by the Islamic Communities Union (*Comunidades Islámicas en España – UCIDE*) and the Andalusí Observatory (*Observatorio Andalusi*), 95 % of Muslim students have no religion classes in public schools, and only eight autonomous communities offer classes in Islam or other religions, although Law 26/1992, which approves the Agreement on Cooperation among the Spanish Government with the Islamic Commission of Spain (*Ley 26/1992 por la que se aprueba el Acuerdo de Cooperación del Estado con la Comisión Islámica de España*),<sup>495</sup> guarantees this right for primary and secondary students in both public and grant-aided schools.<sup>496</sup> In Madrid, for example, there is one teacher for the entire Autonomous Community, who teaches at just two schools.<sup>497</sup>

In Spain, there are currently seven operational Alien Detention Centres (*Centro de Internamiento de Extranjeros – CIE*), which hold over 7,000 migrant people each year. However, the state has been able to expel only 29 % of foreigners entering CIEs. In particular, only 2,200 migrants from a total of 7,500 were expelled in 2016.<sup>498</sup> These centres' environments and regimes are often like those of prisons.<sup>499</sup> Owing to serious deficiencies in placement procedures, victims of human trafficking and children may be held in CIEs.<sup>500</sup> Once released, these people are unable to rebuild their lives as a result of their experience in detention and are left in legal 'limbo'.<sup>501</sup>

### *Data protection*

<sup>493</sup> Europa press social (2017) "["My name is Adou" the story behind the "the suitcase kid" that shows the "legislative violence" over immigrants](#)" (*'Me llamo Adou', la historia del 'niño de la maleta' que retrata la "violencia legislativa" sobre los inmigrantes*) 1 March 2017.

<sup>494</sup> Diario.es (2017), '[Should there be limitations to workers wearing the veil or other religious symbols?](#)' (*¿Se debe limitar que los trabajadores lleven velo u otros símbolos religiosos?*), 15 March 2017.

<sup>495</sup> Spain, Ministry of the Presidency and Territorial Administrations (*Ministerio de la Presidencia y para las Administraciones Territoriales*) (1992), [Law 26/1992](#) which approves the Agreement on Cooperation among the Spanish Government with the Islamic Commission of Spain (*Ley 26/1992 por la que se aprueba el Acuerdo de Cooperación del Estado con la Comisión Islámica de España*), 12 November 1992.

<sup>496</sup> Spain, Islamic Communities Union (*Comunidades Islámicas en España*, UCIDE), Demographic Study of Muslim Population (*Estudio demográfico de la población musulmana*), [Press release](#), March 2017.

<sup>497</sup> Diario.es (2017), '[The subject of Muslim Religion, absent from Spanish Education, despite the fact that the law guarantees it](#)' (*La asignatura Religión musulmana, ausente de los colegios españoles pese a que la ley la garantiza*) published in *Diario.es*, 26 March 2017.

<sup>498</sup> El País (2017), '[Immigrants in the Aliens Detention Centre in Spain](#)' (*Inmigrantes en los Centros de Internamiento en España*), 17 March 2017.

<sup>499</sup> El País (2017), '[Inside a CIE: the life in a 60-day prison](#)' (*Dentro del CIE: la vida en una cárcel de 60 días*) published in, 24 March 2017, available at: Hyperlink was accessed on 28 March 2017.

<sup>500</sup> El País (2017), '[Slaves in the CIES](#)' (*Esclavas en los CIES*), 24 March 2017.

<sup>501</sup> El País (2017), '[Life after the CIE](#)' (*Así es la vida después del CIE*), 23 March 2017.

Embassies criticised the poor management of visas, after the contract for processing them was awarded to the company BLS, which was involved in several scandals relating to data protection. The news site Diario.es accessed a series of emails from consular affairs officials, embassy secretaries and consuls complaining about the “unacceptable impact” on their image because of the BLS connection. The Diplomatic Information Office has confirmed that BLS continues to provide these services and that there is no intention of terminating the contract.<sup>502</sup>

### 13.3. Children and vulnerable groups

Regarding reception conditions, all stakeholders consulted (UNHCR, Ombudswoman and Save the Children, among others) reported that the Centres for Temporary Stay of Immigrants (*Centros de Estancia Temporal de Inmigrantes* – CETIs) in Ceuta and Melilla are overcrowded (beyond twice their normal capacity) and are not suitable for receiving the refugees properly. Safety and privacy are not guaranteed for families in Ceuta, for example, where there are no family units, and access to education is difficult in Melilla because of a lack of public transport.<sup>503</sup>

In her annual report, the Ombudswoman has also expressed concerns about safeguards applied at registration and in asylum and return procedures.<sup>504</sup> She suggested improving the coordination between the child protection bodies, the authorities and the police responsible for entering these children in the Unaccompanied Children’s Register, to avoid delaying their registration and to have up-to-date information on these children.

### 13.4. Changes in law, policy and practice

There were no changes in the laws and/or policies in the fields of asylum, migration and border management in the reporting period. However, it is interesting to note in this context that some changes are being discussed. In particular, a Non-Law Proposal (*Proposición no de Ley*) on Refugees with the aim of ensuring that the Spanish government fulfils its obligations towards the relocation of asylum seekers and the refugee resettlement quotas<sup>505</sup> was presented on 12 January 2017 by three Members of the Spanish Parliament,

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<sup>502</sup> Diario.es (2017), ‘[Embassies criticise the poor management of visas after this work was awarded to a company involved in several scandals](#)’ (*Las embajadas critican la deficiente gestión de los visados tras la adjudicación a una empresa implicada en varios escándalos*), 25 March 2017.

<sup>503</sup> Amnesty International (2016), ‘[No man's land: the situation of refugees and migrant persons in Ceuta and Melilla](#)’ (*En tierra de nadie: la situación de las personas refugiadas y migrantes en Ceuta y Melilla*), Press release, 29 November 2016.

<sup>504</sup> Spain, Ombudsman (*Defensor del Pueblo*) The Ombudsman warns of the “disappearance” of girl victims of trafficking from centres for minors (El Defensor del Pueblo alerta de las niñas víctimas de trata que “desaparecen” de los centros de menores) published in the epsocial.es, 28 February 2017, available at: <http://www.europapress.es/epsocial/derechos-humanos/noticia-defensor-pueblo-alerta-ninas-victimas-trata-desaparecen-centros-menores-20170228144307.html>.

<sup>505</sup> Oxfam Intermón.

Meritxell Batet (PSC), Ione Belarra (Podemos) and Patricia Reyes (Ciudadanos).<sup>506</sup>

Discussion continued on the draft Regulation implementing the Spanish Law on Asylum. In response to a question to the Senate, the Spanish government noted the need to develop legislation on the right to apply for asylum in consulates or embassies,<sup>507</sup> as stated in Article 38 of the Spanish Law on Asylum, which is in force and has been pending regulatory implementation since 20 November 2009.<sup>508</sup>

People from sub-Saharan Africa cannot reach the asylum offices at the borders of the autonomous cities of Ceuta and Melilla in practice, since Moroccan police do not let them through. The Spanish Committee of UNHCR (*Comité español del Alto Comisionado de Naciones Unidas para los Refugiados* – ACNUR) and CEAR have condemned this fact. Many of these people are fleeing from conflicts or persecution and need international protection.<sup>509</sup>

During the reporting period, the courts and relevant stakeholders have identified some changes in the implementation of existing policies in the field of asylum, migration and border management.

The Spanish authorities force asylum seekers to remain in the territories of Ceuta and Melilla and forbid them to move from there, including to the Iberian Peninsula. Nevertheless, the High Court of Justice of Andalusia (*Tribunal Superior de Justicia de Andalucía*) reiterated on 15 February 2017 what other judgments had pronounced:<sup>510</sup> that all asylum seekers who are legally residing in Spain, and those who are in Ceuta and Melilla, are subject to control by the police (for example, any change of postal address should be communicated to the police), but this does not imply that their right to move freely through the territory can be restricted.<sup>511</sup>

On the other hand, NGOs, courts and media have denounced obstacles in the effective application of the right to family reunification. Requiring an amount of money for each member of the family that is reunited creates difficulties, as the NGOs consulted emphasised.<sup>512</sup> Media reports have also confirmed difficulties, as also highlighted in the book *My Name Is Adou* (*Me llamo Adou*) by Nicolás Castellano, who recalls that in family reunification procedures the need to promote the best interests of the child must take priority over economic

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<sup>506</sup> La Vanguardia (2017), '[The opposition urges the Government to receive 16.000 refugees in Spain within four months](#)' (*La oposición aprieta al Gobierno para que acoja a más de 16.000 refugiados en seis meses*) 12 January 2017.

<sup>507</sup> Spain, Government's response on 27 March 2017 to the question submitted on 22 December 2016 by Jon Iñarritu García. See <http://www.senado.es/web/expedientdocblobServlet?legis=12&id=31071>.

<sup>508</sup> Spain, Ministry of the Presidency and Territorial Administrations (*Ministerio de la Presidencia y para las Administraciones Territoriales*) (2009), [Spanish Law on Asylum](#) (*Ley 12/2009, de 30 de octubre, reguladora del derecho de asilo y de la protección subsidiaria*), 31 October 2009.

<sup>509</sup> Spain, Written Question 684/007354 to the Senate submitted on 22 December 2016 by Jon Iñarritu García. See <http://www.senado.es/web/expedientdocblobServlet?legis=12&id=13783>.

<sup>510</sup> Judgments of the High Court of Justice of Andalusia of 21 December 2010, of 24 February 2011 and of 6 March 2012; and the Judgment of the High Court of Justice of Madrid 490/2015, of 11 May.

<sup>511</sup> El Faro de Ceuta (2017), '[The State is being assessed to appeal against another decision on behalf of the migrants seeking asylum](#)' (*El Estado valora recurrir otra sentencia a favor de migrantes con petición de asilo en trámite*), 15 February 2017.

<sup>512</sup> Acoge NGO and Accem NGO.

requirements.<sup>513</sup> In a judgment issued on 24 February 2017, the Spanish Supreme Court notes the existence of barriers, such as different assessments by consulates of the documentation submitted, and recognised the appellant's entitlement to obtain a family reunification visa through the Spanish Embassy in Pakistan.<sup>514</sup>

Finally, the Border Rejections (*Rechazos en frontera*) set out by Organic Law 4/2015 on the Protection of Public Safety (*Ley Orgánica 4/2015, de 30 de marzo, de protección de la seguridad ciudadana*)<sup>515</sup> are carried out without the protocols which allow people entering Ceuta or Melilla illegally to be returned in compliance with international human rights obligations, such as the protection of children or asylum seekers.<sup>516</sup> This was also shown at the hearing of the Spanish Minister of the Interior before the Senate on 3 February 2017.<sup>517</sup>

### 13.5. Social response

Rallies, campaigns and protest marches against refugee policies have taken place in Spain during the first quarter of this year. Hundreds of people demonstrated in support of refugees and against EU policies in Barcelona, Madrid, Valencia, Zaragoza, Seville and a number of other cities in Spain.<sup>518</sup> The largest demonstration was in Barcelona on 18 February, where approximately 160,000 people demonstrated according to the City Police (*Guardia Urbana*), and 300,000 according to the platform 'Our house is your house' (*Casa nostra casa vostra*), which organised the event under the heading 'We want to receive' (*Volem acollir*, in Catalan).<sup>519</sup> Only a few days before, a concert for migrants and refugees took place in the same city.<sup>520</sup> People criticised the national and regional governments during the concert and some members of the Catalan government protested vigorously by saying that the situation is due to the limited responsibility of the Catalan government in this matter (the main authority lying with the central government).<sup>521</sup>

<sup>513</sup> Europa press social (2017) "["My name is Adou" the story behind the "the suitcase kid" that shows the "legislative violence" over immigrants](#)" ('Me llamo Adou', la historia del 'niño de la maleta' que retrata la "violencia legislativa" sobre los inmigrantes) 1 March 2017.

<sup>514</sup> Spain, Iustel, "It must not be denied a family reunification visa on the basis of a different assessment of the documentation which was previously found to be suitable in order to obtain the residence permit due to family regrouping" (*No cabe denegar visado de reagrupación familiar en base a una diferente valoración de la documentación que previamente se consideró adecuada para la obtención de la autorización de residencia por reagrupación*), [Press release](#), 24 February 2017.

<sup>515</sup> Spain, Ministry of the Presidency and Territorial Administrations (*Ministerio de la Presidencia y para las Administraciones Territoriales*) (2015), [Organic Law 4/2015 on the Protection of Public Safety](#) (*Ley Orgánica 4/2015, de 30 de marzo, de protección de la seguridad ciudadana*), 31 March 2015.

<sup>516</sup> El Far de Melilla (2017), '[Why does the Spanish Ministry of the Interior not wish to give instructions?](#)' (¿Por qué no quiere dar instrucciones el ministro del Interior?) 23 February 2017. See also <http://convivirsinracismo.blogspot.co.at/2017/02/por-que-no-quiere-dar-instrucciones-el.html>.

<sup>517</sup> Spain, [Maribel Mora asks the Spanish Minister of the Interior about instructions for GC at the frontier](#) (*Maribel Mora pregunta al Ministro de Interior sobre instrucciones GC en la frontera*), 3 February 2017.

<sup>518</sup> El diario (2017), '[Protest marches throughout Spain against political management of the refugee question](#)' (*Concentraciones por toda España protestan contra la actitud política con los refugiados*), 26 February 2017.

<sup>519</sup> Cadena Ser (2017), '[Thousands of people attended a demonstration to accept refugees in Barcelona](#)' (*Miles de personas asisten en Barcelona a manifestación para acoger refugiados*), 18 February 2017.

<sup>520</sup> El País (2017), '[Solidarity explosion](#)' (*Explosión de solidaridad*) published in *El País*, 12 February 2017.

<sup>521</sup> El Periodico (2017), '[Évole words in the concert "Volem acollir" irritate Junts pel Sí](#)' (*Las palabras de Évole en el concierto 'Volem acollir' irritan a Junts pel Sí*), 12 February 2017.

There were no relevant changes in public discourse (media coverage, public debate) concerning the issue of migration and asylum. *El País* – one of Spain's most widely read newspapers – published a series of reports on the situation in the CIEs under the heading 'CIE Special: the Pending Reform' (*Especial CIE: La reforma pendiente*).<sup>522</sup>

The NGO SOS Racismo complained about alleged xenophobic media coverage on Spanish public television (on *Radio Televisión Española*) because of the channel's one-sided reporting on the negative effects of the arrival of residents of Chinese origin in the neighbourhood of Usera.<sup>523</sup> During Chinese New Year celebrations, the channel broadcast an analysis of the impact of the arrival of people of Chinese origin in Usera, including interviews exclusively with Spanish people that were edited to create a clearly negative picture without referring to official data on services, criminality or other socio-demographic indicators.

No new associations for refugees have emerged and no major initiatives have been launched. However, the Neighbourhood Brigades on the Monitoring of Human Rights (*Brigadas Vecinales de Observación de los Derechos Humanos* – BVODH) strengthened their leadership during this period by requesting support for their complaint before the United Nations International Committee on Human Rights, under the First Optional Protocol to the International Covenant on Civil and Political Rights, with regard to the fines imposed by the Madrid Government Office.<sup>524</sup> The BVODH organises local groups in Madrid with the goal of raising awareness and reporting police checks and massive raids on immigrants;<sup>525</sup> this initiative has arisen in response to the proliferation of police checks based on ethnic profiles.<sup>526</sup>

Some stakeholders, such as the Spanish Immigration and Refugee Aid Network (*Red Española de Inmigración y Ayuda al Refugiado*),<sup>527</sup> noted their concern about the rise of certain far-right groups, for example the group Madrid Social Home (*Hogar Social Madrid*).<sup>528</sup>

<sup>522</sup> El País (2017), '[Special CIE: the Pending Reform](#)' (*Especial CIE: La reforma pendiente*), March 2017.

<sup>523</sup> SOS Racismo (2017), '[Complains against the xenophobic news in RTVE](#)' (*Queja contra el tratamiento informativo xenófobo en RTVE*), 29 January 2017.

<sup>524</sup> On Publico (2017), '[Request for support the complaint before the United Nations International Committee on the Human Rights brought by the Neighbourhood Brigade on the Monitoring of the Human Rights with regards to the fines imposed by the Madrid Government's Office](#)' (*Solicitud de apoyo A LA DENUNCIA ANTE EL COMITÉ de DDHH de Naciones Unidas por multas a Brigadas Vecinales de Observación de los DD.HH.*), 16 February 2017.

<sup>525</sup> [Neighbourhood Brigade on the Monitoring of the Human Rights](#) (*Brigadas Vecinales de Observación de los Derechos Humanos*).

<sup>526</sup> El Diario (2017), '[Discriminatory Police Checks in Spain and France: the same problem, very different judicial responses](#)' (*Controles policiales discriminatorios en España y Francia: mismo problema, respuestas judiciales muy distintas*), 23 November 2016.

<sup>527</sup> [Spanish Immigration and Refugee Aid Network](#) (*Red Española de Inmigración y Ayuda al Refugiado*).

<sup>528</sup> La Vanguardia (2017), '[Spanish Immigration and Refugee Aid Network denounce an increase in hate crimes and the Hogar Social Madrid group](#)' (*Red de Inmigración denuncia aumento delitos de odio y a Hogar Social Madrid*), 6 March 2017.



## 13.6. Hate crime incidents

No violent incidents during demonstrations for or against migrants were recorded during the period analysed, and no changes were reported concerning online hate speech.<sup>529</sup>

Incidences of hate speech on the internet have increased considerably according to a report by the NGO Movement Against Intolerance (*Movimiento contra la Intolerancia*) entitled '2016 Raxen Special Report: Xenophobia, Antisemitism, Islamophobia, Neo-fascism and Other Expressions of Intolerance' (*Informe Raxen. Especial 2016. Racismo, Xenofobia, Antisemitismo, Islamofobia, Neo-fascismo y otras manifestaciones de Intolerancia a través de los hechos*).<sup>530</sup> The social media activities of the Melilla Popular Opinion Group (*Grupo la Opinión de Melilla*) are a good example of this trend. This group has more than 14,000 followers, and it calls to "put [migrant] children in a borehole" or return the children to the centre for minors but in a "wooden box". One of its recent demonstrations about restoring safety on the streets brought together 4,000 people. Currently, the Public Prosecutor's Office is investigating it for inciting hatred against the unaccompanied foreign children in the city of Melilla.<sup>531</sup>

The Raxen report recorded the following incidents between 1 January and 31 March:<sup>532</sup>

- three incidents related to negrophobia (recorded on 11 January 2017,<sup>533</sup> 20 February 2017,<sup>534</sup> and 20 March 2017<sup>535</sup>);
- 11 racist and xenophobic incidents: two racist attacks (recorded on 23 January 2017<sup>536</sup> and 8 March 2017<sup>537</sup>), seven racist insults (recorded on 17 January 2017,<sup>538</sup> 31 January 2017,<sup>539</sup> 2 February 2017,<sup>540</sup>

<sup>529</sup> See most recently Spain, Ministry of the Interior, [Report on incidents related to hate crimes](#) (*Informe delitos de odio 2015*). According to this report, 38.0 % of the registered incidents corresponded to racism and xenophobia. Regarding hate speech, 55 % of the cases is split between the internet (46.2 %) and social networks (9.4 %). For its part, the [2016 Annual Report on racism in Spain](#) (*Informe anual sobre racismo en el Estado español*, September 2016, agrees with these percentages.

<sup>530</sup> Movement against Intolerance (*Movimiento contra la Intolerancia*) (2016), [2016 Raxem Special Report. Xenophobia, Antisemitism, Islamophobia, Neo-fascism and other expressions of intolerance](#) (*Informe Raxen. Especial 2016. Racismo, Xenofobia, Antisemitismo, Islamofobia, Neo-fascismo y otras manifestaciones de Intolerancia a través de los hechos*), March 2017.

<sup>531</sup> Movement against Intolerance (*Movimiento contra la Intolerancia*) (2017), ['A Facebook group is being investigated by the Public Prosecutor's Office for inciting hatred against the foreign unaccompanied minors in Melilla'](#) (*La Fiscalía investiga a un grupo de Facebook por incitar al odio contra los menores extranjeros de Melilla*), 7 February 2017.

<sup>532</sup> News service provided by the NGO Movement against Intolerance (*Movimiento contra la Intolerancia*), available at: <http://www.informeraxen.es/>.

<sup>533</sup> See <http://www.informeraxen.es/soy-espanol-y-soy-negro/>.

<sup>534</sup> See <http://www.informeraxen.es/denuncian-a-un-bar-por-echar-a-dos-hombres-negros-con-la-excusa-de-que-olían-mal/>.

<sup>535</sup> See <http://www.informeraxen.es/denuncian-que-les-negaron-la-entrada-a-un-local-del-maritimo-por-ser-negros/>.

<sup>536</sup> See <http://www.informeraxen.es/agresion-racista-a-una-jugadora-del-cleba-en-una-discooteca/>.

<sup>537</sup> See <http://www.informeraxen.es/detenidos-cinco-jovenes-en-ceuta-acusados-de-propinar-palizas-a-dos-mena/>.

<sup>538</sup> See <http://www.informeraxen.es/llevo-padeciendo-insultos-racistas-desde-que-jugaba-de-infantil/>.

<sup>539</sup> See <http://www.informeraxen.es/el-colegio-viario-expulsara-a-3-alumnos-que-insultaron-a-una-joven-india/>.

<sup>540</sup> See <http://www.informeraxen.es/un-insulto-racista-en-el-futbol-no-es-solo-un-insulto-es-delito-de-odio/>.



20 February 2017,<sup>541</sup> 6 March 2017,<sup>542</sup> 18 March 2017<sup>543</sup> and 29 March 2017<sup>544</sup>), one painted and posters (recorded on 27 January 2017<sup>545</sup>) and one conference (recorded 27 January 2017<sup>546</sup>);

- four incidents related to Islamophobia: three related to racism and xenophobia (recorded on 30 January 2017,<sup>547</sup> 23 February 2017<sup>548</sup> and 2 March 2017<sup>549</sup>) and one related to hate speech (recorded on 7 February 2017<sup>550</sup>).

### 13.7. Policies against smuggling of human beings

The facilitation of irregular immigration remains a significant threat to some EU countries, including Spain, as indicated in the recent Frontex report *Risk Analysis for 2017*. It is significant that, at land and sea borders, most document frauds detected are from Ukraine and Morocco. A large number of document fraud cases was also reported from the Spanish–Moroccan land and sea borders, with Moroccans often presenting fraudulent Spanish ID cards on entry to the EU.<sup>551</sup>

In addition, Europol identified more than 17,450 suspected migrant smugglers in 2016, 24 % more than the year before. Of more specific relevance to Spain, Europol confirms a significant increase in facilitation activities in North Africa.<sup>552</sup> The number of small boats (*pateras*) that were used increased by 62 % during the first quarter of 2017, and the number of people rescued (1,760) has also increased so far this year, by 135 %.<sup>553</sup> Moreover, two trucks – the transport that smugglers use most widely within Europe, but not so widespread in Spain – were detained during the month of March. The Spanish security forces discovered them in eastern Spain transporting groups of Iraqi Kurdish people. A possible irregular migration route between Spain and the United Kingdom

<sup>541</sup> See <http://www.informeraxen.es/me-siento-indefensa-al-denunciar-insultos-como-negra-de-mierda-y-ver-que-la-justicia-los-archiva/>.

<sup>542</sup> See <http://www.informeraxen.es/el-cabanillas-ablitense-fue-suspendido-por-insultos-xenofobos/>.

<sup>543</sup> See <http://www.informeraxen.es/detenido-por-agresion-y-amenazas-de-muerte-con-insultos-racistas/>.

<sup>544</sup> See <http://www.informeraxen.es/insultos-racistas-en-los-principes/>.

<sup>545</sup> See <http://www.informeraxen.es/la-vall-duixo-denuncia-pintadas-y-carteles-de-indole-racista-y-xenofoba-en-la-ciudad/>.

<sup>546</sup> See <http://www.informeraxen.es/el-partido-de-extrema-derecha-msr-vuelve-a-organizar-en-zaragoza-una-jornadas-con-contenido-racista-y-xenofobo/>.

<sup>547</sup> See <http://www.informeraxen.es/escupen-e-insultan-a-una-concejala-de-badalona-por-ser-musulmana/>.

<sup>548</sup> See <http://www.informeraxen.es/el-fiscal-pide-2-anos-y-medio-a-dos-neonazis-por-patear-a-una-embarazada-con-niqab-leer-mas-el-fiscal-pide-2-anos-y-medio-a-dos-neonazis-por-patear-a-una-embarazada-con-niqab/>.

<sup>549</sup> See <http://www.informeraxen.es/fiscalia-pide-dos-anos-de-prision-por-publicar-tuits-contralos-musulmanes/>.

<sup>550</sup> See <http://www.informeraxen.es/la-fiscalia-investiga-a-un-grupo-de-facebook-por-incitar-al-odio-contralos-menores-extranjeros-de-melilla/>.

<sup>551</sup> FRONTEX, *Risk Analysis for 2017*, [Press release](#), 15 February 2017.

<sup>552</sup> Expansion (2017), 'Europol identified more than 17,450 suspected traffickers of new immigrants in 2016, a 24 % increase' (*Europol identifica a más de 17.450 presuntos traficantes de inmigrantes nuevos en 2016, un 24 % más*), 23 March 2017.

<sup>553</sup> ABC España (2017), '62 % growth of pateras on the South coast, with 135 % more immigrants' (*Crecen un 62 % las pateras en la costa sur con un 135 % más de inmigrantes*), 24 March 2017.

through the city of Teruel (Autonomous Community of Aragón) is currently under investigation in Spain.<sup>554</sup>

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<sup>554</sup> ABC Aragon (2017), '[Investigating a possible route of illegal migration between Spain and the United Kingdom through Teruel](#)' (*Investigan una posible ruta de inmigración ilegal entre España y el Reino Unido a través de Teruel*) published in, 13 March 2017.

## 14. Sweden

### 14.1. Overview of the situation

Sweden received 1,940 asylum seekers during March 2017, compared with 1,760 in February and 1,980 in January.<sup>555</sup> The number of new asylum seekers has stabilised at fewer than 2,500 per month since March 2016.<sup>556</sup> This is mainly the result of the obligatory ID checks on all carriers entering Sweden and the introduction of even stricter border controls in other European states. The government extended the internal border controls for another three months, from 11 February 2017 to 10 May 2017.<sup>557</sup>

The main countries of origin of asylum applicants during March were Syria, Afghanistan and Iraq.<sup>558</sup> Approximately 1,170 asylum seekers were men and 770 were women. Close to 700 were children (the number includes both unaccompanied children and children arriving with their families). About 110 asylum seekers were unaccompanied children, which is fewer than in January (130) and more than in February (80).<sup>559</sup>

### 14.2. Key fundamental rights concerns

The main fundamental rights concerns are focused on the temporary law restricting residence permits for asylum applicants introduced in July 2016, which will be valid at least until July 2019.<sup>560</sup> The Act on temporary restrictions of the possibility of obtaining a residence permit in Sweden (*Lag [2016:752] om tillfälliga begränsningar av möjligheten att få uppehållstillstånd*)<sup>561</sup> also includes restrictions on family reunification.<sup>562</sup> The temporary law is a source of great frustration among many of the asylum applicants, the Swedish police states, as the possibility of obtaining a permanent residence permit has changed considerably since the majority of the asylum applicants applied for asylum in Sweden. Several actors have voiced concern about the temporary law.<sup>563</sup> Red Cross Sweden fears that, together with the re-registering as adults of people who identify themselves as children, it will lead to a deterioration in the already bad conditions for unaccompanied children – especially for those who arrived after 26 November 2016. Staff at accommodation centres for unaccompanied children have contacted Red Cross Sweden to report ever-growing anxiety

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<sup>555</sup> Sweden, Migration Agency (*Migrationsverket*).

<sup>556</sup> *Ibid.*

<sup>557</sup> Sweden, Ministry of Justice (*Justitiedepartementet*), '[Government decides to prolong internal border controls again](#)', Press release, 13 February 2017.

<sup>558</sup> Sweden, Migration Agency (*Migrationsverket*).

<sup>559</sup> *Ibid.*

<sup>560</sup> Sweden, [Act on temporary restrictions of the possibility to obtain a residence permits in Sweden](#) (*Lag [2016:752] om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige*) 20 July 2016.

<sup>561</sup> Sweden, [Act on temporary restrictions of the possibility to obtain a residence permits in Sweden](#) (*Lag [2016:752] om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige*), 20 July 2016.

<sup>562</sup> Swedish Police (*Polisen*), Red Cross Sweden (*Röda Korset*), Save the Children (*Rädda Barnen*)

<sup>563</sup> Red Cross Sweden (*Röda Korset*); Amnesty International Sweden (*Amnesty*); Save the Children (*Rädda Barnen*); National Board of Health and Welfare (*Socialstyrelsen*).

among the children. The children are worried about their chances of staying after their 18th birthdays, as well as the possible results of age assessments.<sup>564</sup>

Several actors declare their concerns regarding the re-registration of age, and the way the age assessments have been conducted by the Swedish Migration Agency (*Migrationsverket*).<sup>565</sup> The Parliamentary Ombudsman (*Riksdagens Ombudsmän*) has criticised the agency regarding the process surrounding the age assessments. The Parliamentary Ombudsman stated that, in many cases, the motivation behind the decisions to confirm that the person is indeed under 18 or to re-register the person as over 18 were both unclear and hard to understand.<sup>566</sup> The Swedish Migration Agency is aware of the deficiency in the age assessment process and has highlighted this problem in an internal quality control report. It found that in 60 % of 145 cases involving age assessment, carried out between 1 January and 1 July 2016, the age issue was not investigated sufficiently. In 43 % of these cases it was not clear whether or not the asylum applicants had been adequately informed that the Migration Agency considered that they had not been able to confirm their age during the official asylum interview.<sup>567</sup>

The overall health situation for unaccompanied children is also seen as a major concern.<sup>568</sup> The National Board of Health and Welfare (*Socialstyrelsen*) and the Swedish Association of Local Authorities and Regions (*Sveriges kommuner och landsting*) mention reports of deteriorating mental health among asylum applicants, and especially among unaccompanied children. The National Board of Health and Welfare conducted a research survey involving 50 municipalities in Sweden (out of a total of 290 municipalities). It showed that in these 50 municipalities about 70 unaccompanied children had tried to commit suicide between 2016 and 2017. Most of the suicide attempts (62 of 68 cases) were by boys. Most cases (53 of 68) involved refugees originally from Afghanistan. The suicide attempts are largely linked to the uncertainty surrounding the asylum process, the fear of not being granted residency, deportation after their 18th birthdays and age re-registrations.<sup>569</sup> Several municipalities feel that they have not been granted the resources and support necessary to support these children adequately, they tell the Swedish Association of Local Authorities and Regions. Furthermore, they consider that the legal provisions as well as the information and guidelines they are given are unclear.<sup>570</sup>

Red Cross Sweden notes an increase in the number of individuals who turn to the organisation for assistance to appeal against decisions about subsidiary protection status. Many of the applicants are from Syria. People who gain refugee status receive a temporary residence permit for three years, while

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<sup>564</sup> Red Cross Sweden (*Röda Korset*).

<sup>565</sup> Red Cross Sweden (*Röda Korset*); Save the Children (*Rädda Barnen*).

<sup>566</sup> Sweden, Parliamentary Ombudsman (*Justitieombudsmannen*) [Inspection of the Swedish Migration Agency, Region South Sweden, Asylum Examination Unit, 29 November – 1 December 2016](#) (Unofficial translation) (*Inspektion av Migrationsverket, region Syd, asylprövningen, den 29 november – 1 december 2016*), 24 February 2017.

<sup>567</sup> Sweden, Migration Agency (*Migrationsverket*), [Thematic quality control of age assessments in relation to decisions regarding residence permit](#) (Unofficial translation) (*Tematisk kvalitetsuppföljning av åldersbedömning i samband med beslut om uppehållstillstånd*), 5 March 2017.

<sup>568</sup> Sweden, National Board of Health and Welfare (*Socialstyrelsen*); Swedish Association of Local Authorities and Regions (*Sveriges Kommuner och Landsting*)' Save the Children (*Rädda Barnen*).

<sup>569</sup> Sweden, National Board of Health and Welfare (*Socialstyrelsen*).

<sup>570</sup> Sweden, Swedish Association of Local Authorities and Regions (*Sveriges Kommuner och Landsting*).

people with only subsidiary protection status receive a temporary residence permit for 13 months. Furthermore, only the families of people who have been granted refugee status can apply for family reunification.<sup>571</sup> These regulations do not apply to children.

### 14.3. Children and vulnerable groups

The asylum accommodation for families is not suited for children in many cases, according to the National Board of Health and Welfare (*Socialstyrelsen*). The fact that many parents have mental health problems because of their situation will also have significant effects on their children. Parents who are not in good health have difficulty in focusing on the best interests of their children. This in turn leaves the children even more vulnerable.<sup>572</sup> An increasing number of asylum-seeking children call Save the Children to have somebody to talk to.<sup>573</sup> The organisation's main concern is the mental health and well-being of children who are currently in the asylum process. A number of issues affect children negatively, most noticeably the re-registration of age, the fear of deportation after their 18th birthdays and sudden and unprepared resettlement, which means that children have to change schools and/or move to different municipalities. The municipalities and the Migration Agency (*Migrationsverket*) carry out such relocations at very short notice when asylum accommodation centres and introduction schools close. The closing of the schools and accommodation centres is an effect of the decreasing number of asylum applicants.<sup>574</sup>

The Children's Ombudsman (*Barnombudsmannen*) focused its annual report on the situation and rights of refugee children in Sweden.<sup>575</sup> The report shows a number of flaws in the treatment of children in the asylum process – both children arriving with their families and unaccompanied children. For example, the Alien Act (*Utlänningslag [2005:716]*) does not include child-specific forms of persecution as a basis for refugee status<sup>576</sup> and it formulates the right of the child to be heard in weak terms. There is a lack of reception and investigation units that are able to assess the needs of unaccompanied children upon arrival, and there is no special inspection authority that has the mandate to ensure that the Migration Agency's procedures and guidelines are applied in a uniform and legally reliable way.<sup>577</sup>

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<sup>571</sup> Sweden, Act on temporary restrictions of the possibility to obtain a residence permits in Sweden (*Lag [2016:752] om tillfälliga begränsningar av möjligheten att få uppehållstillstånd*).

<sup>572</sup> Sweden, National Board of Health and Welfare (*Socialstyrelsen*).

<sup>573</sup> Save the Children (*Rädda Barnen*).

<sup>574</sup> *Ibid.*

<sup>575</sup> Sweden, Ombudsman of Children (*Barnombudsmannen*) '[We left everything and came to this place](#)' (*Vi lämnade allting och kom hit*).

<sup>576</sup> Sweden, [Alien Act](#) (*Utlänningslag [2005:716]*).

<sup>577</sup> Sweden, Ombudsman of Children (*Barnombudsmannen*) '[We left everything and came to this place](#)' (*Vi lämnade allting och kom hit*).

## 14.4. Changes in law, policy and practice

Article 6(2) of the Return Directive (2008/115/EC) was implemented through a number of amendments to the Alien Act (*Utlänningslag [2005: 716]*), which entered into force on 1 March 2017.<sup>578</sup>

The Police, Region South (*Polisen, Region Syd*) has routinely demanded information from the municipalities' social services to find people whose asylum applications have been rejected but remain as undocumented migrants. This practice will now be implemented in all regions.<sup>579</sup> It is in accordance with Chapter 17, Section 1 of the Aliens Act (*Utlänningslag [2005: 716]*). The social services may know the whereabouts of undocumented families with dependent children, since they have a legal obligation to protect all children in need and give the families in question financial support. However, the social services are not obliged to protect the families from deportation. Consequently, they are also legally bound to disclose information on the undocumented families if the police request it.<sup>580</sup> Until now the practice has been carried out only in Region South, and the Swedish police estimate that they have found around 25 families in municipalities in the region so far.<sup>581</sup> Red Cross Sweden considers it a major concern for undocumented families if the practice is implemented in the rest of the country.<sup>582</sup>

On 17 March 2017, the Migration Court of Appeal (*Migrationsöverdomstolen*) passed a judgment that will have an impact on children under the age of 18 who are from Afghanistan or are from Iran and of Afghan descent. The case in question concerned a boy of Afghan descent. The court stipulated that the following factors must be assessed to determine if there is an individual and specific risk to the child: the extent of violence and abuse that children are exposed to in Afghanistan, the overall situation in the country, the child's lack of family and other forms of networks, and local knowledge of the country. Therefore, the combination must also be considered to be grounds for granting subsidiary protection status.<sup>583</sup> This judgment implies that unaccompanied children in the same situation will have the right to subsidiary protection status.<sup>584</sup> A group of unaccompanied children under the age of 18 from Afghanistan whose applications for asylum previously have been denied will now have grounds to be granted the right to this status. The number is still unclear.

From March 2017, the National Board of Forensic Medicine (*Rättsmedicinalverket*) will oversee medical age assessments in asylum cases where the applicant has not been able to prove their age and has agreed to a medical age assessment. Previously, it has been up to asylum applicants and their appointed guardians to arrange medical assessments through the regular healthcare system. In anticipation of the start of the new system, the Migration

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<sup>578</sup> Swedish Migration Agency (*Migrationsverket*), the amendments to the Alien Act (*Utlänningslag [2005: 716]*) concerned chapter 5a, sections 1 and 4, chapter 8, sections 6a, 21 and 22, chapter 12, sections 14b, 15 and 15a, chapter 14, section 7a and chapter 16, section 6.

<sup>579</sup> Sweden, Swedish Police (*Polisen*).

<sup>580</sup> Sweden, [Alien Act](#) (*Utlänningslag [2005: 716]*), chapter 17, paragraph 1, 12 June 2014.

<sup>581</sup> Sweden, Swedish Police (*Polisen*).

<sup>582</sup> Red Cross Sweden (*Röda Korset*).

<sup>583</sup> Sweden, Migration Court of Appeal (*Migrationsöverdomstolen*), 17 March 2017, case number: [UM911-16](#) (search the database for the case number in question).

<sup>584</sup> Sweden, Migration Agency (*Migrationsverket*).



Agency (*Migrationsverket*) temporarily postponed asylum cases where medical age assessments are deemed necessary.<sup>585</sup> Since the beginning of March, the National Board of Forensic Medicine has carried out a small number of age assessments but the rate will steadily increase during the coming weeks.<sup>586</sup> All asylum applicants must still give written consent to have the medical age assessment performed.<sup>587</sup>

## 14.5. Social response

The general response from several actors is still that the public debate has become more heated and aggressive. Greater numbers of critical voices arguing against migration and asylum are making themselves heard, even though the number of people arriving in Sweden has decreased dramatically.

No new associations in support of or against refugees have emerged and no associations have launched major initiatives during the period in question.

## 14.6. Hate crime incidents

No violent incidents have occurred during demonstrations in support of or against migrants during the period in question.

No changes were reported in the prevalence or kind of hate speech occurring online.<sup>588</sup>

The Swedish police report that arson attacks against accommodation centres, which were previously a serious problem, have decreased significantly.<sup>589</sup> Amnesty International Sweden also states that attacks against accommodation centres are greatly reduced, but adds that the overall situation now is very different. The decrease in the number of asylum applicants arriving in Sweden has led to the closing of many accommodation centres, which is a very different situation from when most of the attacks against the accommodation centres occurred. The attacks were also mainly against accommodation that had not yet been opened and therefore was unoccupied during the attacks.<sup>590</sup>

## 14.7. Policies against smuggling in human beings

On 9 February 2017, three employees at the national Swedish television broadcaster, SVT, were convicted of smuggling human beings by the Malmö District Court (*Malmö tingsrätt*) and sentenced to 74 hours of community

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<sup>585</sup> Sweden, Migration Agency (*Migrationsverket*), '[The Swedish Migration Agency postpones decisions in cases where medical age assessment may be needed](#)' (*Migrationsverket väntar med ärenden som där medicinsk åldersbedömning kan behövas*), 18 February 2017.

<sup>586</sup> Sweden, National Board of Forensic Medicine (*Rättsmedicinalverket*) (2017) '[The medical age assessments are now starting up](#)' (Unofficial translation) (*Start för medicinska åldersbedömningar*), 8 March 2017.

<sup>587</sup> Sweden, Migration Agency (*Migrationsverket*), '[The Swedish Migration Agency are postponing decisions in cases where medical age assessment may be needed](#)' (Unofficial translation) (*Migrationsverket väntar med ärenden som där medicinsk åldersbedömning kan behövas*), 18 February 2017.

<sup>588</sup> Sweden, Swedish Police (*Polisen*).

<sup>589</sup> Sweden, Swedish Police (*Polisen*).

<sup>590</sup> Sweden, Amnesty International (*Amnesty*).

service. During the recording of the documentary series *Fatherland (Fosterland)* in 2014, the television team assisted a 15-year-old Syrian refugee that they met in Athens by bringing him with them to Sweden. National television later showed the incident.<sup>591</sup> The programme was used as evidence and the three employees were sentenced for smuggling of human beings in accordance with Chapter 20, Section 8 of the Aliens Act (*Utlänningslag [2005: 716]*). It states that any person who intentionally assists an alien to unlawfully enter or pass through Sweden (or the EU/EEA Member States) shall be sentenced to imprisonment for at most two years.<sup>592</sup> The court did not question that the reason for the action was humanitarian but held that the exception in the law for humanitarian reasons is very limited and that this case was not in compliance with that exception.<sup>593</sup>

According to the Swedish police (*Polisen*), the most common incidents of smuggling of human beings concern family members of asylum applicants, already residing in Sweden, who go to Germany to bring their relatives back to Sweden with them. Some taxi drivers also bring asylum applicants over the Öresund Bridge (*Öresundsbron*) as an act of kindness.<sup>594</sup>

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<sup>591</sup> Sweden, Malmö District Court (Malmö tingsrätt), 9 February 2017, [case number: B 2249 – 16](#) (Search the database for the case number in question).

<sup>592</sup> Sweden, [Aliens Act](#) (*Utlänningslag [2005: 716]*), 29 September 2005.

<sup>593</sup> Sweden, Malmö District Court, 9 February 2017, [case number: B 2249 – 16](#) (Search the database for the case number in question).

<sup>594</sup> Sweden, Swedish Police (*Polisen*).

## Stakeholders interviewed in April 2017

Country	Stakeholders interviewed
Austria	<ul style="list-style-type: none"> <li>Federal Ministry of the Interior, Department II/2, Operational Affairs; Department III/5; Department III/9 (<i>Bundesministerium für Inneres/Abteilung II/2 Einsatzangelegenheiten; Abteilung III/5 Asyl und Fremdenwesen; Abteilung III/9 Grundversorgung und Bundesbetreuung</i>);</li> <li>Federal Agency for State Protection and Counter Terrorism (<i>Bundesamt für Verfassungsschutz und Terrorismusbekämpfung – BVT</i>);</li> <li>Federal Criminal Police Office (<i>Bundeskriminalamt</i>);</li> <li>Antidiscrimination Office Styria (<i>Antidiskriminierungsstelle Steiermark</i>);</li> <li>Austrian Red Cross (<i>Österreichisches Rotes Kreuz</i>);</li> <li>Caritas Styria (<i>Caritas Steiermark</i>);</li> <li>Caritas Vienna (<i>Caritas Wien</i>).</li> </ul>
Bulgaria	<ul style="list-style-type: none"> <li>Ministry of the Interior, Directorate General Border Police (MoI – DGBP) (<i>Министерство на вътрешните работи, Главна дирекция „Гранична полиция“, МВР – ГДГП</i>);</li> <li>State Agency for Refugees (SAR) (<i>Държавна агенция за бежанците, ДАБ</i>);</li> <li>Bulgarian Red Cross (BRC) (<i>Български червен кръст, БЧК</i>);</li> <li>Refugee Support Group (RSG).</li> </ul>
Denmark	<ul style="list-style-type: none"> <li>Danish Ministry of Justice (<i>Justitsministeriet</i>);</li> <li>Danish Immigration Service (<i>Udlændingestyrelsen</i>);</li> <li>Danish Red Cross (<i>Røde Kors</i>);</li> <li>Danish Refugee Council (<i>Dansk Flygtningehjælp</i>);</li> <li>SOS Against Racism (<i>SOS mod Racisme</i>).</li> </ul>
Finland	<ul style="list-style-type: none"> <li>Amnesty Finland;</li> <li>National Police Board (<i>Poliisihallitus/Polisstyrelsen</i>);</li> <li>Finnish League for Human Rights (<i>Ihmisoikeusliitto/Förbundet för Mänskliga Rättigheter</i>);</li> <li>Finnish Ombudsman for Children (<i>Lapsiasiavaltuutettu/Barnombudsmannen</i>);</li> <li>Refugee Advice Centre (<i>Pakolaisneuvonta/Flyktingrådgivningen</i>);</li> <li>Central Union for Child Welfare (<i>Lastensuojelun Keskusliitto/Centralförbundet för Barnskydd</i>).</li> </ul>
France	<ul style="list-style-type: none"> <li>French Office for Immigration and Integration (<i>Office français de l'immigration et de l'intégration – OFII</i>);</li> <li>Border police at the airports of Roissy Charles de Gaulle and Le Bourget (<i>Police aux frontières des aéroports de Roissy Charles de Gaulle et du Bourget</i>);</li> <li>Public Defender of Rights (<i>Le Défenseur des droits</i>) (national independent administrative authority for the promotion and protection of human rights);</li> <li>National Consultative Committee on Human Rights (<i>Commission nationale consultative des droits de l'homme</i>) (national independent administrative authority for the promotion and protection of human</li> </ul>

Country	Stakeholders interviewed
	<p>rights);</p> <ul style="list-style-type: none"> <li>• Service centre for migrants in Calais (<i>Plateforme de service aux migrants à Calais</i>);</li> <li>• La Cimade (<i>Comité inter mouvements auprès des évacués</i>);</li> <li>• Immigrant Information and Support Group (<i>Le Groupe d'information et de soutien des immigrés</i>);</li> <li>• Anafé (<i>Association nationale d'assistance aux frontières pour les étrangers</i>);</li> <li>• Human Rights League (<i>Ligue des droits de l'homme</i>);</li> <li>• France Land of Asylum (<i>France Terre d'Asile</i>);</li> <li>• The voice of the child (<i>La voix de l'enfant</i>);</li> <li>• Catholic Relief (<i>Secours catholiques</i>).</li> </ul>
Germany	<ul style="list-style-type: none"> <li>• Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (<i>Bundesministerium für Familie, Senioren, Frauen und Jugend</i>);</li> <li>• Federal Ministry of the Interior (<i>Bundesministerium des Inneren</i>);</li> <li>• Federal Association for Unaccompanied Minor Refugees (<i>Bundesfachverband Unbegleitete Minderjährige Flüchtlinge</i>);</li> <li>• Jesuit Refugee Service (<i>Jesuiten Flüchtlingsdienst</i>);</li> <li>• Federal Police (<i>Bundespolizei</i>);</li> <li>• German Red Cross (<i>Deutsches Rotes Kreuz</i>);</li> <li>• German Caritas Association (<i>Deutscher Caritasverband</i>).</li> </ul>
Greece	<ul style="list-style-type: none"> <li>• Asylum Service Greece (<i>Υπηρεσία Ασύλου</i>);</li> <li>• UNHCR Greece (<i>Υπατη Αρμοστέία του ΟΗΕ για τους Πρόσφυγες, γραφείο Ελλάδας</i>);</li> <li>• Médecins Sans Frontières (<i>Γιατροί χωρίς Σύνορα</i>);</li> <li>• Médecins du Monde (<i>Γιατροί του Κόσμου</i>);</li> <li>• International Organization for Migration (<i>Διεθνής Οργανισμός Μετανάστευσης – IOM</i>);</li> <li>• National Centre for Social Solidarity (<i>Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης</i>).</li> </ul>
Hungary	<ul style="list-style-type: none"> <li>• Ministry of the Interior;</li> <li>• Ministry of Human Capacities;</li> <li>• Immigration and Asylum Office;</li> <li>• National Police Headquarters;</li> <li>• General Attorney's Office;</li> <li>• County Court of Szeged (<i>Szegedi Törvényszék</i>);</li> <li>• MigSzol;</li> <li>• MigSzol Szeged;</li> <li>• Hungarian Association for Migrants;</li> <li>• UNHCR.</li> </ul>
Italy	<ul style="list-style-type: none"> <li>• Ministry of the Interior;</li> <li>• Association for Legal Studies on Immigration (<i>Associazione per gli studi giuridici sull'immigrazione – ASGI</i>);</li> <li>• Italian Refugee Council (<i>Consiglio Italiano per i Rifugiati</i>);</li> <li>• Doctors Without Borders Italy (<i>Medici Senza Frontiere Italia</i>);</li> <li>• Save the Children Italia Onlus;</li> <li>• UNHCR;</li> </ul>

Country	Stakeholders interviewed
	<ul style="list-style-type: none"> <li>• Italian Red Cross (<i>Croce Rossa Italiana</i>);</li> <li>• Jesuit Refugee Service Centro Astalli;</li> <li>• Community of Sant'Egidio (<i>Comunità di Sant'Egidio</i>);</li> <li>• Melting Pot Europa;</li> <li>• Borderline Sicilia.</li> </ul>
Netherlands	<ul style="list-style-type: none"> <li>• Ministry for Security and Justice: central information point, providing information on behalf of the Immigration and Naturalisation Service, the Immigration Police, the Central Agency for the Reception of Asylum Seekers (all members of the so-called 'Alien Chain');</li> <li>• MiND, the Dutch Reporting Point for Discrimination on the Internet;</li> <li>• National Support Point for Undocumented Migrants (<i>Stichting LOS</i>);</li> <li>• National Police Asylum Taskforce.</li> </ul>
Poland	<ul style="list-style-type: none"> <li>• Association for Legal Intervention (<i>Stowarzyszenie Interwencji Prawnej – SIP</i>);</li> <li>• The Helsinki Foundation for Human Rights (<i>Helsińska Fundacja Praw Człowieka – HFHR</i>);</li> <li>• UNHCR;</li> <li>• HateStop (<i>Stowarzyszenie Projekt: Polska</i>);</li> <li>• Ministry of the Interior and Administration (<i>Ministerstwo Spraw Wewnętrznych i Administracji</i>);</li> <li>• Ombudsman for Children (<i>Rzecznik Praw Dziecka</i>);</li> <li>• Border Guard (<i>Straż Graniczna</i>);</li> <li>• Head of the Office for Foreigners (<i>Szef Urzędu do spraw Cudzoziemców</i>).</li> </ul>
Slovakia	<ul style="list-style-type: none"> <li>• Ministry of the Interior of the Slovak Republic;</li> <li>• Office of Border and Alien Police of the Police Presidium;</li> <li>• Central Office of Labour, Social Affairs and Family;</li> <li>• refugee centres in Humenné and Opatovská Nová Ves;</li> <li>• Marginal;</li> <li>• Human Rights League;</li> <li>• Islamic Foundation;</li> <li>• Slovak Humanitarian Council;</li> <li>• International Organization of Migration (IOM), Bratislava.</li> </ul>
Spain	<ul style="list-style-type: none"> <li>• Asylum and Refuge Office of the Ministry of the Interior (<i>Oficina de Asilo y Refugio del Ministerio del Interior</i>);</li> <li>• Jesuit Migrant Service (<i>Servicio Jesuita Migrantes – SJM</i>);</li> <li>• Spanish Committee of UNHCR (<i>Comité español de la Agencia de la ONU para los Refugiados – ACNUR</i>);</li> <li>• Spanish Refugee Aid Commission (<i>Comisión Española de Ayuda al Refugiado – CEAR</i>);</li> <li>• Acoge;</li> <li>• Accem;</li> <li>• Oxfam Intermón;</li> <li>• Save the Children.</li> </ul>
Sweden	<ul style="list-style-type: none"> <li>• Swedish Migration Agency (<i>Migrationsverket</i>);</li> <li>• Swedish Police Authority (<i>Polismyndigheten</i>);</li> <li>• National Board of Health and Welfare (<i>Socialstyrelsen</i>);</li> </ul>

Country	Stakeholders interviewed
	<ul style="list-style-type: none"> <li>• Swedish Association of Local Authorities and Regions (<i>Sveriges kommuner och landsting</i>);</li> <li>• Swedish Red Cross (<i>Röda korset</i>);</li> <li>• Save the Children Sweden (<i>Rädda Barnen</i>);</li> <li>• Amnesty International Sweden.</li> </ul>