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UN & CoE

EU

January

January

February

February

March

25 March – The European Commission tables proposal to revise the directive on admission of students (COM(2013) 151 final)

April

March

May

April

June

30 May – In *Arslan*, the CJEU confirms that a person who applies for asylum from pre-removal detention can, under certain conditions, continue to be kept in detention

23 July – In *Suso Musa v. Malta*, the ECtHR clarifies the concept of detention “to prevent an unauthorised entry” under Article 5 (1) of the ECHR. It considers that, if a state enacts legislation explicitly authorising the entry or stay of immigrants pending an asylum application, an ensuing detention for the purpose of preventing an unauthorised entry may raise an issue about the lawfulness of detention under Article 5 (1) f of the ECHR

May

4 June – In *ZZ*, the CJEU interprets the provision of the Free Movement Directive (2004/38/EC) on notification of grounds for refusing residence, which allows Member States to refrain from disclosing certain information on grounds of state security

4 June – The European Asylum Support Office (EASO) starts a Special Support Plan in Italy

6 June – In *MA*, the CJEU rules on the application of the Dublin Regulation to unaccompanied minors, placing particular importance on the best interests of the child

17 June – The European Commission publishes the 4th Annual Report on Immigration and Asylum, calling for forward-looking policies on migration

26 June – Four revised EU asylum instruments are published in the Official Journal

July

June

August

4 July – European Parliament adopts a resolution on the impact of the crisis on access to care for vulnerable groups

September

July

October

August

November

6 December – The UN High Commissioner for Refugees launches an emergency operation to improve conditions for refugees and asylum seekers in Bulgaria

10 September – In *M.G. and N.R.*, the CJEU rules on the applicability of Article 41 (2) (a) of the Charter to decisions prolonging pre-removal detention

19 September – The CJEU rules that entry bans should normally not extend beyond five years (*Filev, Osmani*)

24 September – In *Demirkan*, the CJEU rules that the standstill clause in Article 41 of the Additional Protocol to the Ankara Agreement prevents states from imposing new and more stringent procedural or financial requirements on Turkish nationals, other than those that were already in force at the time the agreement came into being. The clause does not apply to Turkish nationals who wish to make use of – rather than provide – services

December

September

17 October – EASO starts an operation in support of Bulgaria

October

7 November – In *X, Y and Z*, the CJEU provides guidance on homosexual asylum seekers

14 November – In *Kaveh Puid*, the CJEU provides further guidance on the extent of the rights of asylum seekers subject to a transfer under the Dublin Regulation in the light of Article 4 of the Charter

29 November – The European Commission announces a grant of €5.6 million in emergency funding to deal with increased arrivals in Bulgaria

November

4 December – The European Commission adopts the Communication on the work of the Task Force Mediterranean (COM(2013) 869 final)

December

1

Asylum, immigration and integration



Almost 400 migrants died off the Italian island of Lampedusa in October 2013. That underlined how dangerous it can be for those in need of protection to reach the European Union (EU). In response to the tragedy, the European Commission set up the Task Force Mediterranean together with EU Member States. The EU also completed the second phase of the harmonisation of EU asylum laws in 2013, publishing four revised asylum instruments, including two directives on asylum procedures and reception conditions of asylum seekers, and revised Dublin and Eurodac regulations. These new EU laws do not, however, translate immediately into harmonised Member State practices. The chances that an asylum petition will be accepted still vary widely, hinging largely on the Member State in which it is lodged. The challenge is, therefore, to close this gap by identifying and addressing obstacles to common practice. The difficult negotiations that led to the EU asylum framework, for example, have created rules that are often complex, vague or unclear in their relationship to the rights set forth in the EU Charter of Fundamental Rights.

This chapter does not aim to provide a comprehensive overview of the many developments which took place in 2013 in the field of asylum, immigration and integration. For this, references to other sources are provided. After a brief description of the discussions triggered by the tragedy near Lampedusa in October 2013, the chapter focuses on three specific issues that illustrate a broader challenge to fundamental rights relating to the topics of this chapter, namely the gap between theory and practice. Although the introduction of fundamental rights safeguards at the EU level is important, this does not automatically mean that they are applied by EU Member States. Even less does it mean that such application occurs in a harmonised manner. Each of the following sections describes hurdles that need to be overcome to have EU law applied in practice. [Section 1.1](#) describes the role of the judiciary in clarifying how EU law should be applied. [Section 1.2](#) illustrates the slow pace of implementation of EU law safeguards using the example of forced return monitoring. [Section 1.3](#) looks at practical obstacles in implementation, exemplified by fees for residence permits.

On asylum, the forthcoming annual report by the European Asylum Support Office (EASO) will describe major developments in 2013. These will include the

Key developments in the area of asylum, immigration and integration

- In a Task Force Mediterranean communication, the European Commission proposes a set of actions to reduce the death toll in the Mediterranean sea following a tragic incident near Lampedusa.
- The conflict in Syria creates over 2.2 million refugees, mainly in the Middle East; two EU Member States establish ad hoc admission procedures for Syrians.
- The second phase of the harmonisation of EU asylum policies draws to a close in June 2013 with the publication of four revised instruments of EU law.
- The Court of Justice of the European Union issues seven preliminary rulings relating to asylum. In one of these, the court highlights the importance to be given to Article 24 (2) of the EU Charter on Fundamental Rights regarding the rights of the child and in particular to the best interests principle.
- The European Court of Human Rights clarifies that detention “to prevent an unauthorised entry” under Article 5 (1) f of the European Convention on Human Rights is not allowed where an asylum seeker has the right under EU law to enter and stay in a state pending examination of an asylum request.

- A code of conduct for joint return operations coordinated by Frontex is adopted, which also covers forced return monitoring.
- Negotiations on the draft Seasonal Workers Directive come to an end, with the Council of the European Union and the European Parliament reaching political agreement on the text.
- The European Commission publishes a proposal to review the directive on the admission of students, which also covers au pairs.

sudden increase of Western Balkan asylum applicants in Hungary and, more importantly, the situation in Bulgaria, where irregular border crossings and applications for international protection rose substantially in the second half of 2013, triggering an emergency response by EASO and the United Nations High Commissioner for Refugees (UNHCR). For other issues that continued to be concerns in 2013, such as immigration detention and the situation of migrants in an irregular situation, the reader may consult various publications by civil society organisations.¹ For an update on EU anti-trafficking policies, see the EU anti-trafficking website (<http://ec.europa.eu/anti-trafficking/>). For other developments in the field of legal migration and integration, the reader can consult the regular bulletins by the European Migration Network.

1.1. EU faces challenges managing sea borders

A boat carrying some 500 migrants capsized near the Italian island of Lampedusa on 3 October. The resultant deaths of 366 persons illustrated an alarming and unresolved gap in the EU's protection of individuals' core rights (see also Section 2.1, on border control and visa policy).

Although the EU is taking action to combat smuggling and trafficking in human beings, both within the EU as well as to or from third countries, it has so far done little to offer alternative ways to seek safety for those who flee persecution or serious harm. Two comprehensive reports, the first published by FRA in March 2013² and the second by the UN Special Rapporteur on the human rights of migrants in April 2013,³ describe in detail the fundamental rights challenges linked to the management of sea borders. Both reports note this management's impact on the human rights of migrants and present several suggestions on how to improve the situation.

The Special Rapporteur calls for a human rights-based approach to border management, whereby the rights of migrants should be the first consideration. Repressive measures alone have been shown to be

counterproductive, driving migrants further underground and increasing the power of smuggling rings.

- ▶ As suggested in Section 2.1, another consequence is that flows simply move from one part of the EU external border to another.

FRA ACTIVITY

Protecting fundamental rights at Europe's southern sea borders

In March 2013, FRA published the first report from its research on third-country nationals at external borders. The report notes, for example, that fishermen should not face negative consequences, including the risk of criminal proceedings for human smuggling, if they rescue migrants at sea. Cooperation with third countries should not lead to circumventing fundamental rights safeguards: joint operations with third countries must



be conditional on full respect for fundamental rights. The report, which offers some 50 opinion to address the gaps FRA identified, says that operational plans and other documents guiding joint operations or patrols with third countries must be drafted in such a way as to mitigate the risk of fundamental rights violations. In particular, guidelines should have clear provisions on the use of force, the prohibition of torture, inhuman or degrading treatment or punishment, and respect for the principle of non-*refoulement*.

Source: FRA (2013), *Fundamental rights at Europe's southern sea borders*, Luxembourg, Publications Office of the European Union (Publications Office)

Following the Lampedusa tragedy in October 2013, European leaders discussed what action to take. In a 10 October press release, the UNHCR called for 10 urgent measures to prevent further tragedies and improve burden sharing. They range from strengthening Mediterranean search and rescue capacity, through setting up a predictable mechanism for disembarkation of migrants in a safe place, to reinforcing protection systems in transit countries from where migrants embark. On 18 October, **Italy** started operation *Mare Nostrum*, deploying military vessels to increase its search and rescue capacity in the central Mediterranean. According to the Italian Ministry of Interior, by the end of 2013 *Mare Nostrum* had assisted 4,323 persons in 34 search and rescue operations.

At the EU level, the Justice and Home Affairs Council asked the European Commission to convene a task force to identify the tools which the EU has at its disposal to prevent such tragedies and which could be used in a more effective way.⁴ The European Council gave it the job of identifying priority actions to be taken in the short term based on the principles of prevention, protection and solidarity.⁵ The European Parliament stressed that the Lampedusa tragedy should be a turning point for Europe.⁶

As requested, the European Commission established the Task Force Mediterranean with EU Member States and relevant agencies, including FRA. The task force presented its results on 4 December, suggesting 38 actions which either had already begun or could start in the short term. These include measures in five areas: cooperation with third countries; reinforced refugee protection; the fight against trafficking and smuggling; better border surveillance; and enhanced solidarity with Member States dealing with high migration pressure.⁷ The actions focus on combating international crime and preventing, in cooperation with third countries, migrants from embarking on perilous crossings. Little reference is made to enhancing rescue at sea (primarily in relation to building capacities in North Africa), although the task force includes actions to strengthen border surveillance. Operational cooperation with third countries must be in full compliance with fundamental rights. On 20 December, the European Council welcomed the task force's proposed actions and called for a full-fledged effort to implement them. It also asked the European Commission to report back to the Council on their implementation.⁸

A number of the task force's actions have the potential to reduce the risk of deaths at sea or otherwise protect migrants' fundamental rights, but the opportunity for a more wide-ranging policy change in external border management was missed. Legal avenues for refugees to reach safety remain very limited, thus keeping them dependent on smugglers in many cases. Similarly, the task force is very cautious in exploring joint asylum processing by EU Member States.

The discussion in the task force raised again the issue of intra-EU solidarity, with Member States at the external borders of the EU calling for more support from other Member States. Mediterranean EU Member States highlighted the particular challenges in dealing with persons who are often traumatised following a perilous sea crossing, stressing that their humanitarian needs differ from those of applicants for international protection arriving by air. According to Eurostat (migr_asyapctza, extracted on 2 May 2014), 70 % of all asylum applications lodged in the EU in 2013 were registered in five EU Member States. In descending order of applications, Germany, France, Sweden, the United Kingdom and Italy received the lion's share of the total number of

applications – an argument used to counter the southern EU Member States' calls for more solidarity measures. The issue remained largely unresolved, possibly also because the situation in the Mediterranean would require geographically broader international solidarity.

A joint commitment by all Mediterranean states and with the support of other affected or interested countries, both within and without the EU, seems necessary to address unsafe migration by sea and to reduce the number of tragedies like the one which occurred off Lampedusa in October 2013. With its humanitarian and fundamental rights tradition, the EU would be best placed to initiate a process aiming to achieve this.

1.2. CJEU provides authoritative interpretation of EU asylum law

This section touches upon a first obstacle in implementing EU law. It describes the role of courts, and of the CJEU in particular, in clarifying and developing EU law. In the field of asylum, EU law has been adopted after long and often difficult negotiations, resulting in compromise texts which are difficult to apply, leaving the task of clarifying these provisions to the courts and practitioners. Furthermore, the law's relationship to fundamental rights enshrined in the Charter may be unclear. Despite all harmonisation efforts to date, there are major differences between how Member States adjudicate asylum claims.

The second phase of harmonisation of the EU asylum *acquis* was completed in June 2013. Although they keep the main building blocks of the *acquis* unchanged, the revisions are important from a fundamental rights point of view. The most important changes include the regulation at EU level of the detention of asylum seekers; access by the police and Europol to the Eurodac database containing fingerprints of all international protection applicants; and the strengthening of safeguards for vulnerable persons requesting asylum. In addition, the revised Dublin Regulation introduces an early warning mechanism to prevent the deterioration or collapse of asylum systems, with EASO playing a key role. The agreed legal texts are complex and often difficult to understand, even for specialists. [Table 1.1](#) lists the three most important changes relating to fundamental rights for each of the four revised instruments.

While harmonisation is progressing, overcoming the large differences in practice appears more difficult. Many EU Member States continued to implement training, quality initiatives and other measures, with the support of EASO, the UNHCR and other actors, to

Table 1.1: EU asylum instruments revised in 2013

| Revised instrument | Original instrument | Three main changes relating to fundamental rights | Geographical applicability |
|--|--|---|--|
| Dublin Regulation (EU) No. 604/2013 (recast) | Dublin Regulation (EC) No. 343/2003 | <ul style="list-style-type: none"> Prohibits transfer of asylum seekers to Member States whose asylum system are facing systemic deficiencies; offers children stronger safeguards; requires personal interview before transfer decisions taken | All EU Member States and Schengen Associated Countries (SAC) |
| Eurodac Regulation (EU) No. 603/2013 (recast) | Eurodac Regulation (EC) No. 2725/2000 | <ul style="list-style-type: none"> Gives police and Europol access to Eurodac as of 2015 to prevent, detect or investigate serious crimes; strengthens language on the duty to inform data subjects of the purpose of personal data processing; European Commission's Eurodac evaluation must also address whether law enforcement's Eurodac access has led to indirect discrimination against applicants for international protection | All EU Member States except Ireland, which is not bound by the recast version; all SAC, but further negotiations required with them regarding police access to Eurodac |
| Reception Conditions Directive 2013/33/EU (recast) | Reception Conditions Directive 2003/9/EC | <ul style="list-style-type: none"> Regulates detention of asylum seekers, introducing safeguards, but allowing detention of children under certain circumstances; requires that asylum seekers be given effective access to the labour market no later than nine months from the date of their application; introduces new safeguards for vulnerable applicants, including a duty to put in place a system to identify vulnerable persons | All EU Member States, except Denmark. Ireland and the United Kingdom are not bound by the recast version |
| Asylum Procedures Directive 2013/32/EU (recast) | Asylum Procedures Directive 2005/85/EC | <ul style="list-style-type: none"> To enhance the quality of first-instance asylum procedures, makes new provisions on staff training, gender-sensitive procedures, personal interview and special procedural guarantees for applicants with specific needs; limits application of accelerated asylum procedures; strengthens the right to an effective remedy against a negative asylum decision, requiring that removal be suspended automatically or, in limited exceptions, upon request | All EU Member States, except Denmark. Ireland and the United Kingdom are not bound by the recast version |

Note: Schengen Associated Countries (SAC) are Iceland, Liechtenstein, Norway and Switzerland.

Source: FRA, 2014

enhance the quality of asylum decisions and to bring Member State practices closer together.⁹ Nevertheless, the chances of obtaining asylum still vary considerably depending on the Member State in which an application is submitted.

Figure 1.1 compares EU Member States' national asylum authorities' decisions on three nationalities from which a significant number of persons have been granted protection by Member States. To ensure comparability, the graphs include only Member States with more than 50 decisions for a particular nationality dating from 2013. Figure 1.1 shows not only that there are substantial differences between persons granted

protection – refugee status, subsidiary protection status, humanitarian status (i.e. a form of national protection) – and those rejected. It also shows significant differences in applying the definitions of 'refugees' and 'beneficiaries of subsidiary protection', which impact on the rights and prospects of integration of those allowed to stay.

Figure 1.1 must be interpreted with caution, as divergent practices by national asylum authorities are one, but not the only, reason for the differences in the statistics. Other factors include variations in the profile of applicants from a specific country present in EU Member States, the incorrect recording of applicants' nationality



Figure 1.1: National first-instance asylum authorities' decisions on three nationalities (%)

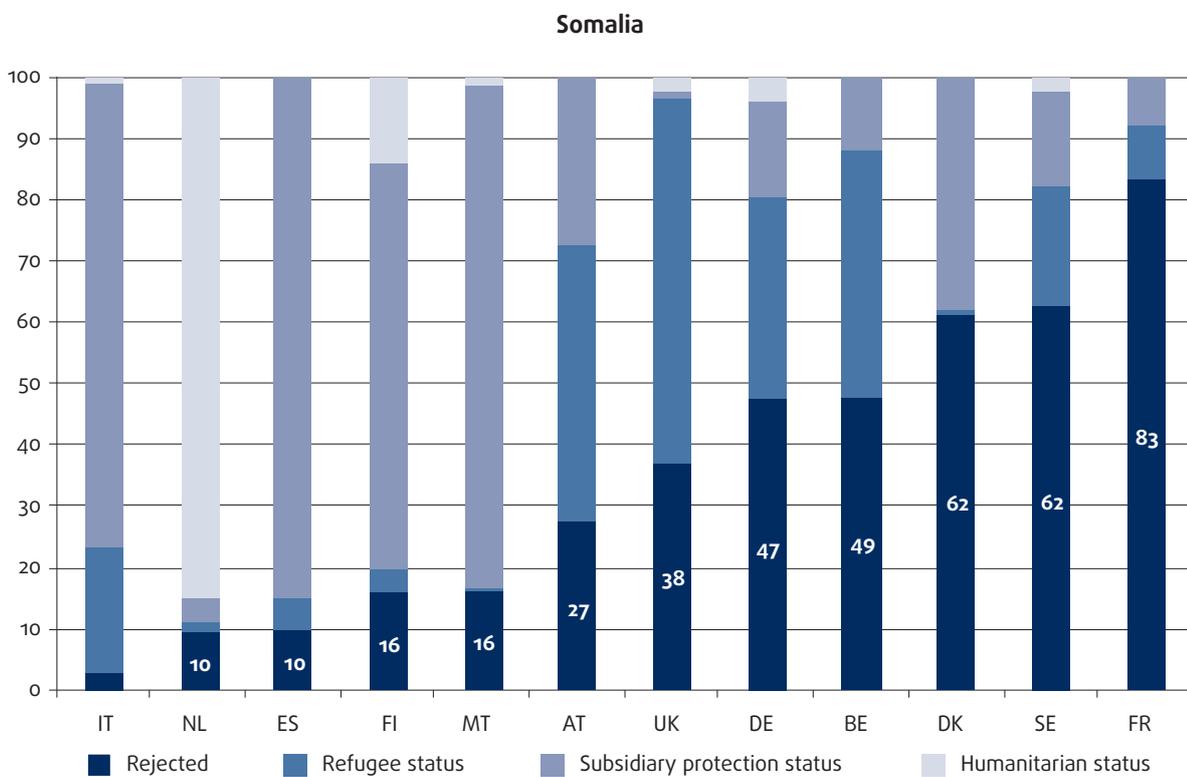
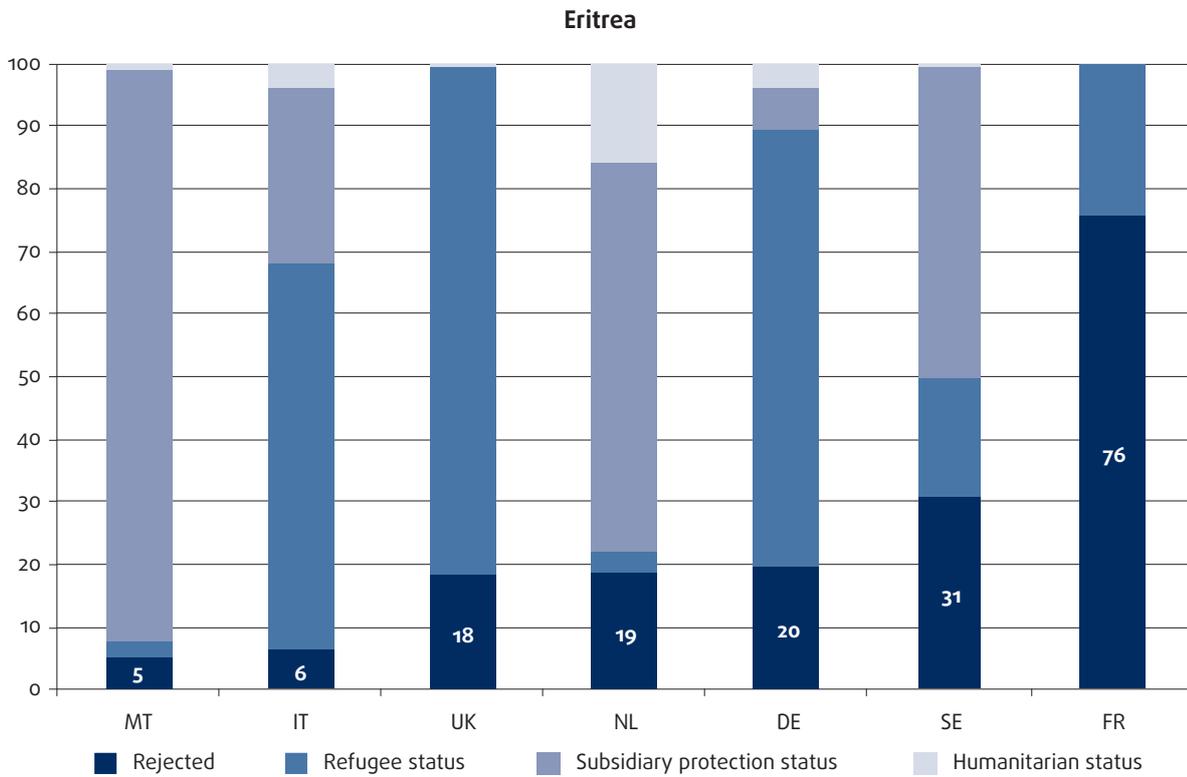
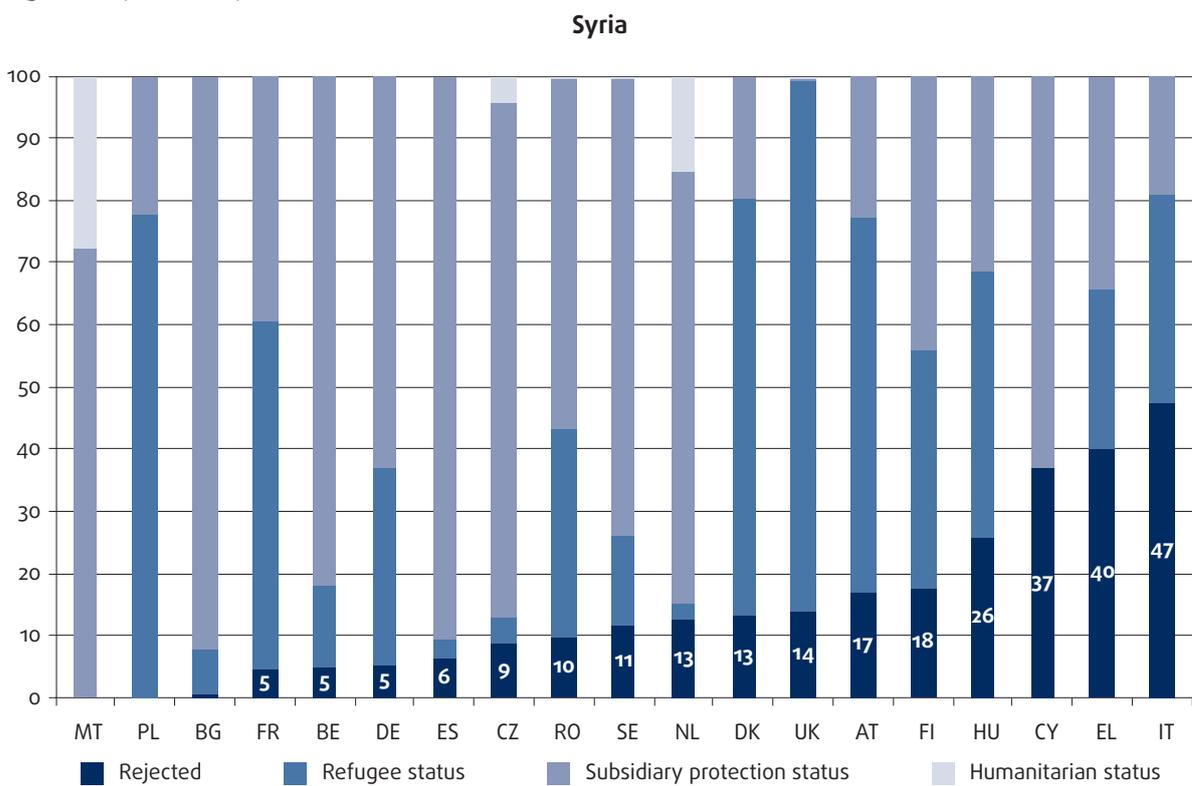


Figure 1.1: (continued)



Notes: The data cover only three nationalities and include only EU Member States with more than 50 decisions taken on each of these nationalities in 2013. Data on humanitarian status not available for Austria, Belgium, Bulgaria, France and Hungary.

Source: Eurostat, migr_asycdfsta, data extracted on 24 March 2014

and the fact that Dublin transfers may be recorded as negative decisions.

National courts and the CJEU continued to play an important role in clarifying and interpreting EU law. National courts in 2013 submitted eight requests to the CJEU for preliminary rulings relating to the asylum *acquis*.¹⁰ These primarily concern the interpretation of the Qualification Directive. Unlike in previous years, no new case on the interpretation of the Dublin Regulation was submitted to the CJEU in 2013.

At the same time, in 2013, the CJEU issued seven judgments, providing guidance on the application of the Dublin Regulation (four), the Qualification Directive (one), the Asylum Procedures Directive (one) and the possibility of prolonging pre-removal detention under the Return Directive in case a person in return procedures seeks asylum (one). Table 1.2 outlines the main elements of the CJEU rulings.

The increasing role the CJEU plays in interpreting the EU asylum *acquis* indicates that practitioners have many questions on its application. By the end of 2013, the CJEU had ruled on 20 requests for preliminary rulings submitted by national courts. Since its first two rulings on asylum in 2009, there is a clear upward trend over

the past five years in the number of CJEU rulings in the field, as Figure 1.2 illustrates.

As Figure 1.2 illustrates, a comparatively large number of judgments (eight) relates to the interpretation of the Dublin Regulation (cases listed in yellow). Persons in Dublin procedures were also the subject of two ECtHR judgments on the return of a Somali from the Netherlands to Italy and of a Sudanese from Austria to Hungary.¹¹ Although the ECtHR did not object to either of these transfers, the cases illustrate that the application of EU asylum law continues to raise questions concerning its compatibility with basic human rights.

Half of the CJEU judgments listed in Figure 1.2 relate to the Qualification Directive. As described in the FRA 2012 Annual report, the questions referred to the CJEU concern clarifications on the situation of Palestinians, cessation and exclusion from refugee status and the scope of persons entitled to subsidiary protection. In addition, two judgments provide more clarity on the meaning of persecutions on the grounds of religion and sexual orientation.

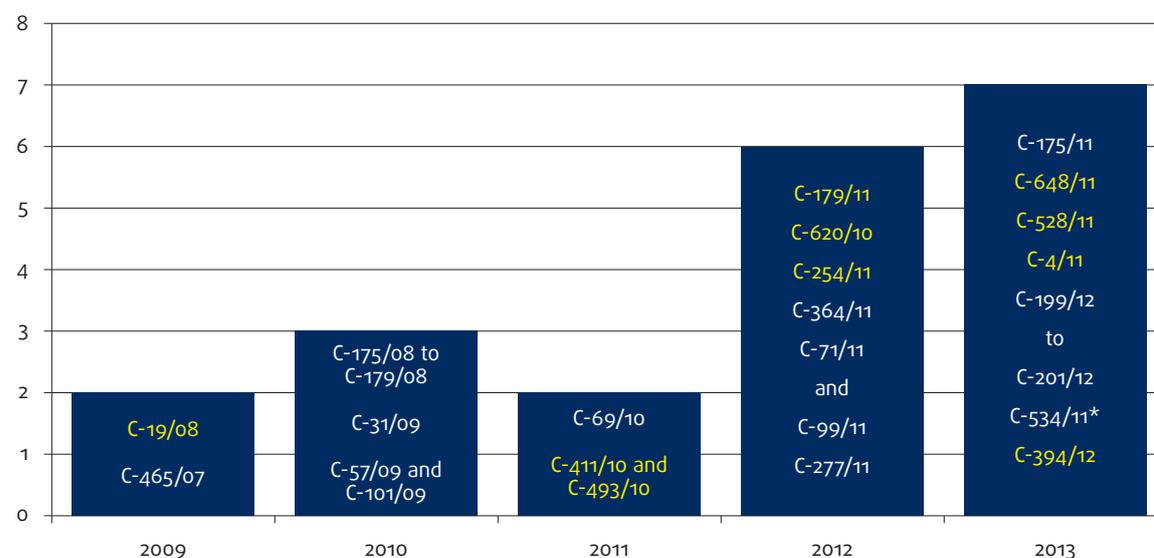
The body of CJEU and ECtHR case law related to asylum is growing. Coupled with very detailed, but often unclear,

Table 1.2: CJEU 2013 preliminary rulings on the EU asylum *acquis*

| Case reference | Judgment |
|--|--|
| <i>H. I. D. and B. A. v. Refugee Applications Commissioner and Others</i> , Case C-175/11, 31 January | Asylum Procedures Directive (2005/85/EC) Article 23 (3) and (4) of the directive allows Member States to prioritise or process applicants from a certain country of origin through accelerated procedures, but the basic principle and guarantees set out in Chapter II of that directive must be complied with |
| <i>Mehmet Arslan v. Policie ČR, Krajské ředitelství policie Ústeckého kraje, odbor cizinecké policie</i> , Case C-534/11, 30 May | Return Directive (Directive 2008/115/EC) The directive does not apply to persons seeking international protection as long as they are in the asylum procedure If asylum seekers lodge an application from pre-removal detention, EU Member States may keep them in detention if, after an assessment on a case-by-case basis of all the relevant circumstances, the application is found to have been made solely to delay or jeopardise the enforcement of the return decision and it is objectively necessary to prevent the person concerned from permanently evading return |
| <i>Zuheyr Frayeh Halaf v. Darzhavna agent-sia za bezhantsite pri Ministerskia savet</i> , Case C-528/11, 30 May | Dublin Regulation (EC) No. 343/2003 If an EU Member State is not indicated as responsible by the criteria in Chapter III of the regulation, it <u>is allowed</u> to examine an application for asylum even though no circumstances exist which establish that the humanitarian clause in Article 15 of that regulation is applicable. Such possibility is not conditional on the Member State responsible under those criteria having failed to respond to a request to take back the asylum seeker concerned The Member State in which the asylum seeker is present is not obliged, during the process of determining the Member State responsible, to ask the Office of the UNHCR to present its views |
| <i>MA and Others v. Secretary of State for the Home Department</i> , C-648/11, 6 June | Dublin Regulation (EC) No. 343/2003 Where an unaccompanied minor with no member of his or her family legally present in the territory of an EU Member State has lodged asylum applications in more than one Member State, the Member State in which that minor is present after having lodged an asylum application there is to be designated the 'Member State responsible' The CJEU noted that the effect of Article 24 (2) of the Charter on the rights of the child, in conjunction with Article 51(1) thereof on the Charter's field of application, is that the child's best interests must also be a primary consideration in all decisions adopted by the Member States relating to the issue at stake in this concrete case |
| <i>Minister voor Immigratie en Asiel v. X, Y and Z</i> , C-199/12 to C-201/12, 7 November | Qualification Directive (Directive 2004/83/EC) and its application to homosexuals: <ul style="list-style-type: none"> · homosexuals can be regarded as a particular social group; · the criminalisation of homosexual acts per se does not constitute an act of persecution, unless applied also in practice; · when assessing an application for refugee status, the competent authorities cannot reasonably expect an asylum seeker to return to his or her home country and – to avoid the risk of persecution – conceal his homosexuality there or exercise reserve in the expression of his sexual orientation |
| <i>Bundesrepublik Deutschland v. Kaveh Puid</i> , Case C-4/11, 14 November | Dublin Regulation (EC) No. 343/2003 Dublin transfers to an EU Member State with systemic deficiencies in the asylum procedure and in the conditions for the reception of asylum seekers are not allowed. In such cases, the Member State in which the applicant is present does not have to take responsibility under Article 3 (2) of the Dublin Regulation, but must examine if other Dublin criteria are applicable |
| <i>Shamso Abdullahi v. Bundesasylamt</i> , Case C-394/12, 10 December | Dublin Regulation (EC) No. 343/2003 An asylum seeker can call into question the transfer to the Member State of first entry into the EU only by pleading systemic deficiencies in the asylum procedure, and in the conditions for the reception in that Member State, that provide substantial grounds for believing that the applicant for asylum would face a real risk of being subjected to inhuman or degrading treatment within the meaning of Article 4 of the EU Charter of Fundamental Rights |

Source: <http://curia.europa.eu>

Figure 1.2: CJEU preliminary rulings on asylum, by number of cases, 2009–2013



Notes: * Refers to Directive 2008/115/EC on returns, but also affects detention of persons seeking international protection. Cases in yellow relate to the application of the Dublin Regulation.

Source: <http://curia.europa.eu>

EU legislation, that makes this area of law complex. The applicable law must be made known to legal practitioners, to ensure harmonised application throughout the EU, respectful of the safeguards enshrined in the ECHR and the Charter of Fundamental Rights.

Even more often, national courts are asked to interpret and apply the EU asylum *acquis*. Domestic case law in EU Member States clarifies how fundamental rights provisions included in EU legislation are to be applied in practice. Asylum offices and other parts of the national administration dealing with asylum issues usually follow the line taken by domestic higher courts. Hence, their judgments have a direct impact on what happens on the ground. The collection and comparison of national case law in this field is therefore of great value, especially in the asylum area, where EU law plays a crucial role. In 2013, FRA asked its Franet partners to communicate up to five judgments where national courts made use of the Charter of Fundamental Rights. Around a fifth of the judgments communicated concerned asylum and migration issues, making this policy field an area where national courts are most likely to use the Charter in their reasoning ► (see Chapter on the EU Charter of Fundamental Rights).

European and national courts play an essential role in clarifying and developing EU law. They can also ensure that due weight is given to fundamental rights. In *MA* (C-648/11), for example, the CJEU clarified that states are to give primary consideration to the child's best interests in all decisions relating to the provision of the Dublin Regulation (Article 6). The guidance courts

provide is one important element needed to bridge the gap between the law and the reality on the ground.

Promising practice

Making national case law on asylum more accessible

The Irish Refugee Council, in partnership with the European Council on Refugees and Exiles (ECRE) and the Hungarian Helsinki Committee, set up a database collecting case law on the EU asylum *acquis*. By allowing searches by theme, it helps legal practitioners, including asylum lawyers and judges, identify relevant cases from other jurisdictions pertaining to a particular issue. The high download figures confirm the need for such a tool: from September to December 2013, 11,500 visitors accessed the database 15,071 times, downloading 1,426 files.

The project was funded by the European Commission's European Refugee Fund. Initially launched in 2012, the database was reinvigorated in September 2013. At the end of 2013, it contained 633 domestic cases from 17 EU Member States, in addition to all relevant CJEU cases and selected cases from the ECtHR. National cases are selected in the light of their importance in the application and interpretation of EU asylum law. The database contains English and original-language case summaries as well as the full cases.

Source: www.asylumlawdatabase.eu/en

FRA ACTIVITY

Providing practitioners with guidance on European asylum, borders and immigration law

FRA published its second handbook on European law together with the ECtHR in June 2013. It covers the field of asylum, borders and immigration in English, French, German and Italian. The handbook



is intended to assist practitioners in navigating complex EU legislation and the substantial CJEU and ECtHR case law. For each topic, applicable EU legislation and provisions of the ECHR as well as the body of case law by the two European courts are presented next to each other, helping

the reader to see where the two systems converge and where they diverge. In the first six months after its publication, all 3,000 English-language print copies of the handbook were distributed, in addition to over 2,000 copies in French, German and Italian. During the same period, the handbook was accessed on the FRA website 17,000 times. This illustrates the strong interest among lawyers and other legal practitioners in such a tool. A second edition of the handbook, including the recast activities, and other language versions will appear in 2014.

Source: <http://fra.europa.eu/en/theme/asylum-migration-borders>

are, however, taking much longer than initially envisaged, given that the deadline to transpose the directive expired in December 2010.

Five years after the adoption of the Return Directive and three years after the transposition period expired, one third of EU Member States still need to put in place an effective return-monitoring system. This time lag illustrates the importance of following up and supporting Member States in the implementation of EU rules, particularly when these are new and little experience is available. The European Commission carried out important related work in 2013, through its regular meetings with Member States and bilateral discussions with them. It will, however, need to continue such work in the future.

The Parliamentary Assembly of the Council of Europe recommended setting up common rules covering “independent, neutral, transparent and effective monitoring procedures” to extend to the entire removal process.¹³ The Council of Europe’s Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published its report on the monitoring of a return flight in 2012, commenting on issues such as escort staff’s use of restraints and the need for a ‘fit to fly certificate’.¹⁴

Third-country nationals who do not fulfil the conditions for entering or staying in the EU receive a return decision, which the authorities may enforce if it is not complied with voluntarily. The implementation of a return decision must respect the principle of non-*refoulement* and take due account of the best interests of the child, family life and the third-country national’s health status.¹⁵ Depending on individual circumstances, EU Member States should facilitate voluntary return by extending the period for voluntary departure. They may, for example, consider children attending schools or family and social ties.¹⁶ In 2013, Frontex-coordinated operations alone returned 2,159 persons to their home countries. This is only a small portion of the total number of forced removals that Member States carried out directly. Spain, for instance, chartered 153 return flights and coordinated only six through Frontex in 2012.¹⁷

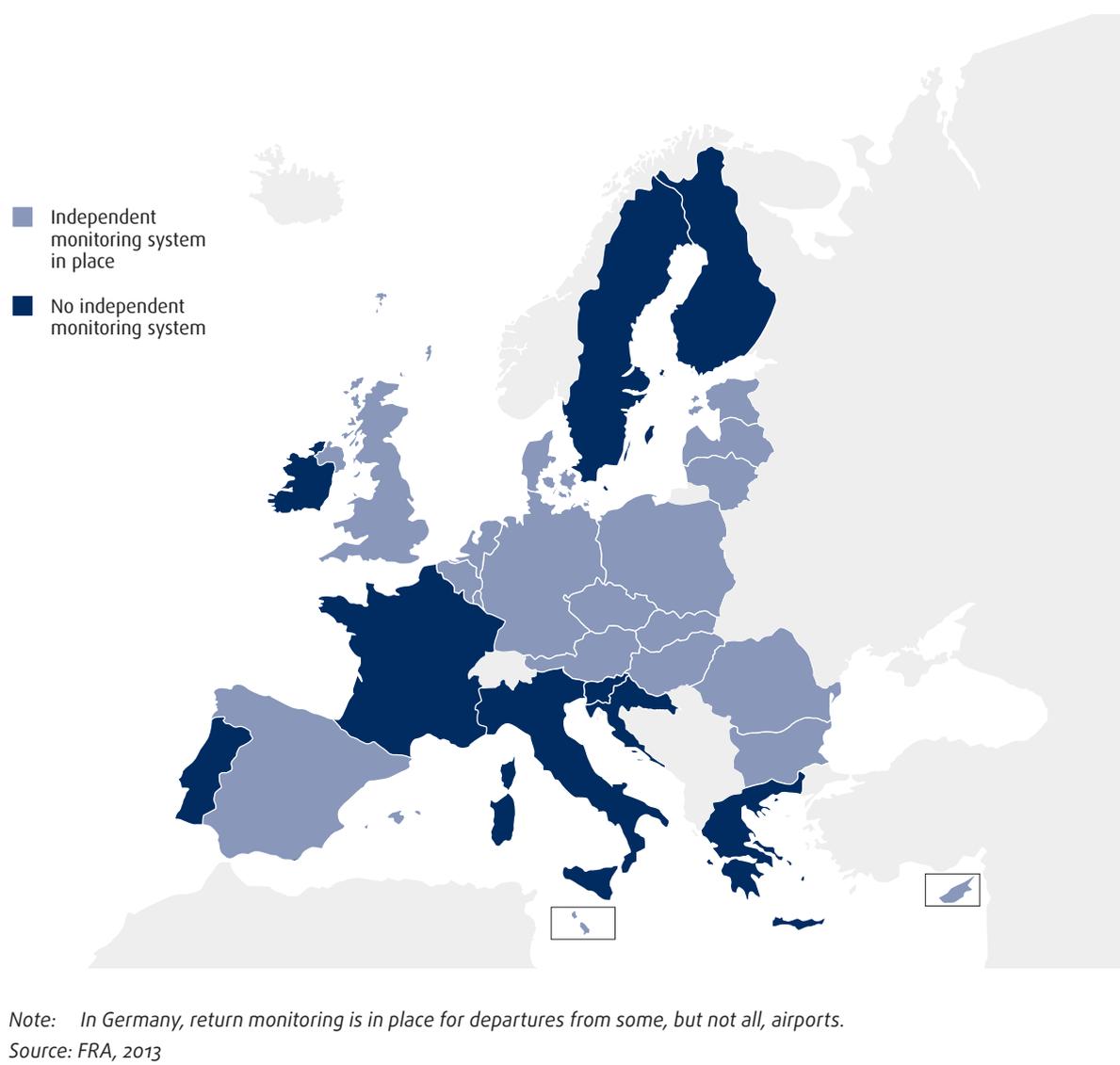
FRA considers that systems of forced return monitoring are effective if they cover all removal activities, from before departure to arrival and reception in the destination country, and if an organisation – independent from the authorities enforcing return – carries them out on an ongoing basis (in other words excluding pilot projects).¹⁸

Based on these criteria, the number of EU Member States providing for effective return monitoring, either by legislation or cooperation agreements with third parties, rose from 15 at the end of 2012 to 19 at the end of 2013 (see Figure 13). These mechanisms did not include regular on-board observation in all cases in 2013.

1.3. Member States slow to implement EU law safeguards: the example of effective return-monitoring systems

The second section illustrates the slow pace with which Member States apply EU legal safeguards in practice. To do so, it analyses the implementation of a specific provision of the Return Directive (2008/115//EC), namely Article 8 (6) on effective return monitoring. The directive introduced this new fundamental right safeguard; very few Member States had effective return-monitoring systems in place before 2008.¹² Once the directive was adopted in 2008, almost all EU Member States needed to amend their national legislation and adapt their practice to the new rule. These Member State changes

Figure 1.3: Independent forced return monitoring systems, by EU Member State



In 2013, two EU Member States, **Bulgaria** and **Poland**, established a legal basis for return monitoring. In **Bulgaria**, the Ombudsman as well as representatives of national or international NGOs may be invited to observe.¹⁹ In practice, local NGO monitoring, funded by the European Return Fund, remained limited in 2013 to observing the transport from the detention centre to the airport departure hall. In **Poland**, NGO monitoring is a well-established practice extending also to on-flight observations. A new Act on Foreigners provides a legal basis for return monitoring.²⁰ **Malta** extended the remit of the Board of Visitors of Detained Persons to monitoring “proceedings relating to the involuntary return” at the very end of 2012, thereby granting the board a wide yet unspecified scope of action.²¹ In **Spain**, the Ombudsman has taken an increasing part in monitoring several phases of return flights, including on-board monitoring of a Frontex-coordinated operation for the first time.

The **United Kingdom**, like **Ireland**, is not bound by the Return Directive. Nevertheless, it is among the Member States that provide for effective monitoring. In **Germany**, return monitoring is in place for removals departing from some, but not all, airports. **Slovakia** continues to provide in law for the possibility of independent monitoring by NGOs, but it has yet to use this possibility in practice.

Not included in these 19 EU Member States are those which implement monitoring mainly by an agency belonging to the branch of government responsible for return (**Portugal**,²² **Sweden**²³) as well as Member States where monitoring has continued to be carried out on an informal basis (**Finland**²⁴). Ombudsmen in **Finland** and **Sweden** are empowered to observe return operations, but they have not yet done so. Five Member States lack effective monitoring systems: **Croatia**, **France**, **Greece**, **Italy** and **Slovenia**.

In two of the EU Member States excluded from these 19, however, the structure and operation of monitoring systems were pending finalisation of legislation. **Finland** proposed a bill amending the Aliens Act, which assigns the Ombudsman the duty of monitoring the removal process. In **Greece**, based on the law providing for a monitoring system to be operated under the Greek Ombudsman,²⁵ the Ombudsman submitted a recommendation on the functioning of a comprehensive monitoring system; this will be used as a basis for the Common Ministerial Committee of the Minister of the Interior and the Minister of Public Order to regulate the organisation and function of the system. The recommendation provides for monitoring by the Ombudsman, who can cooperate with NGOs acting under his/her supervision. The Return Fund is expected to finance such a mechanism. Amendments to the Aliens Act in **Slovenia** were prepared in 2013, including provisions on the monitoring of forced returns by independent organisations or institutions.²⁶ In late 2013, **Swedish** media discussed the need to establish an effective forced return monitoring system as a requirement to participate in Frontex operations.

Promising practice

Cooperating with monitoring system in destination country

Return-monitoring mechanisms in Germany and Spain have been able to cover post-return phases by cooperating with the Ombudsman office in Serbia in its function as NPM. For Germany, such post-return monitoring was extended in 2013 to most Frontex-coordinated returns to Serbia.

How often monitors are on the return flights varies among EU Member States. In 2013, not all Member States which had a system in place actually had a return flight accompanied. Only 11 of the 19 EU Member States which FRA considers to have effective return-monitoring systems had monitors on board either systematically or occasionally: **Austria**, the **Czech Republic**, **Denmark**, **Estonia**, **Hungary**, **Lithuania**, **Luxembourg**, the **Netherlands**, **Poland**, **Spain** and the **United Kingdom**. In **Germany**, although no monitors accompanied return flights, the church-led monitoring forum at Düsseldorf Airport continued to cooperate with the National Preventative Mechanism (NPM) established under the Optional Protocol to the Convention against Torture (OPCAT) in Serbia, thereby covering post-return monitoring. The regional interior ministry in North Rhine-Westphalia, including Düsseldorf Airport, issued a new checklist for preparing, carrying out and documenting forced returns in 2013.²⁷

Among those EU Member States that have effective monitoring systems in place, eight publish the

observers' findings, at least in part (**Bulgaria**, the **Czech Republic**, **Denmark**, **Germany**, the **Netherlands**, **Poland** and the **United Kingdom**). Other Member States share the results internally with the institutions involved. In **Austria**, for example, reports are forwarded to the *Volksanwaltschaft* (Ombudsperson and National Prevention Mechanism under OPCAT).

Promising practice

Using synergies between the National Preventative Mechanism and forced return monitoring

A legal expert from the National Ombudsman in Denmark regularly observes return operations, as part of its role since April 2011 to monitor forced returns. In 2013, it monitored 15 return operations, including in seven cases the actual return flight. The Ombudsman considered that these operations were all handled in line with fundamental rights.

The Ombudsman's monitoring role is linked to its function as the National Preventative Mechanism (NPM) under OPCAT. Synergies with its mandate as NPM consist in the build-up of solid human rights expertise as a common assessment basis, knowledge of police and holding facilities and methodological expertise in inspections. The Ombudsman publishes annual reports on forced return monitoring, which include recommendations to the police relating to, for example, the documentation of work in connection with forced returns or the revision of internal guidelines. The reports are available at: <http://en.ombudsmanden.dk/publikationer/summary/>.

A similar practice has evolved in Spain, where the Ombudsman office in its capacity as NPM monitors several phases of return operations, including treatment on the plane, and issues recommendations concerning forced returns. Annual reports are available at: www.defensordelpueblo.es/es/Documentacion/Publicaciones/anual/index.html.

Monitors were present on more than half of the joint return operations (JROs) that Frontex coordinated in 2013, including monitoring the flight on board. Over the past three years, however, the number of observers has not increased. This may be partly because the Member States organise the operations to invite observers, which may happen systematically, rarely or not at all depending on the Member State, as well as because of the availability of observers.

Having an effective forced return monitoring system in place is a prerequisite for participating in Frontex-coordinated JROs. The participation of an EU Member State without such a system may ultimately be postponed or cancelled.²⁸ However, eight Member

Table 1.3: Number of Frontex-coordinated joint return operations (JROs) with monitors present

| Year | Number of JROs and total number of returnees | Number of JROs with monitors present on board | Percentage of JROs with monitors present | Percentage of returnees in monitored JROs |
|------|--|---|--|---|
| 2011 | 39 JROs with 2,059 returnees | 23 JROs with 1,147 returnees | 59 | 56 |
| 2012 | 38 JROs with 2,110 returnees | 23 JROs with 1,059 returnees | 60 | 50 |
| 2013 | 39 JROs with 2,152 returnees | 20 JROs with 937 returnees | 51 | 44 |

Source: Frontex, 2014

States which lack effective monitoring systems, according to the FRA's assessment, *participated* in 36 of a total of 39 joint return flights in 2013. Four of them (**France, Ireland, Italy and Sweden**) were responsible for *organising* seven of these operations. More than half of the persons returned in JROs in 2013 (1,215 of a total 2,152 returnees) were returned without monitoring on the flight.

In some cases, the organising EU Member State invited observers from other Member States to monitor the return on its behalf, which is possible under the *Code of Conduct for Joint Return Operations coordinated by Frontex*.²⁹ In 2013, **Germany, Sweden, France and Spain** made use of this possibility. The first two invited observers from **Austria**, and the last two invited observers from the **Netherlands and Belgium**, to monitor the return operations they had organised. In addition, **Germany, Ireland, and Spain** exceptionally assigned monitors to individual Frontex-coordinated flights. They included representatives from the authorities in **Germany** and the Ombudsman in **Spain**.

A European Commission project launched in 2013, implemented by the International Centre for Migration Policy Development, aims to elaborate a training manual and a set of guidelines to be used by all monitors, based on existing best practice, and to design a framework for a European pool of forced return monitors. Frontex and FRA participate as observers in the project.

In 2013, the availability of guidelines and training for effective monitoring continued to differ significantly. Some EU Member States have developed specific guidelines for observers or refer to guidance provided in legal and policy documents.³⁰ Others rely on the experience of the monitoring organisation, which may not be possible for organisations recently assigned a monitoring function. The NGO that monitors returns in **Bulgaria**, for example, has limited experience in migration issues. The participating organisations in **Poland** each apply their own tools. To date, no specific

guidelines or training apply in **Malta**, which currently applies the standards used for monitoring detention conditions. European guidelines and monitoring tools, including from the Committee on the Prevention of Torture, which is increasingly focusing on forced returns, would be useful.³¹

Specific operational criteria for effective return monitoring were set out in the *Frontex Code of Conduct for Joint Return Operations coordinated by Frontex*, adopted on 7 October 2013, which was prepared with the support of the Consultative Forum of Frontex, composed of 15 organisations, including EU agencies (such as FRA and EASO), international organisations and NGOs. These criteria relate to respect for the fundamental rights of returnees, the use of coercive measures, fitness to travel and return monitoring, among others. The code applies only to Frontex-coordinated returns, which amounted to 39 flights with the participation of 20 Member States in 2013. Frontex's Fundamental Rights Officer also started observing forced return operations in her monitoring function.

1.4. Some Member States require excessive or disproportionate fees for residence permits – an example of practical obstacles for migrant integration

Encouraging and improving migrant integration is an important tool to build a stronger and inclusive Europe, but a number of obstacles, which might appear trivial, such as excessive fees, often stand in the way. *Europe 2020: A strategy for smart, sustainable and inclusive growth* underlined the potential benefits of improved migrant integration in the labour markets.³² This means

closing the gap between migrants and the general population in regard to employment, education, poverty and social inclusion.³³ Integration as part of building social cohesion means not only including immigrant, but also recognising their contributions to social capital and giving them access to it. Migrants should be enabled to take full advantage of their potential. As ever more of the population has an immigrant background, diversity needs to be embraced within social cohesion. This means also tackling discrimination, racism and xenophobia by promoting more equal and diverse societies ► (see [Chapter 5](#) on equality and non-discrimination).

The CJEU has also pointed out that “excessive and disproportionately” high fees for residence permits, in the context of the Long-Term Residence Directive, hinder the right of residence and create yet another obstacle to integration.³⁴ The court noted that “[c]harges which have a significant financial impact on third-country nationals who satisfy the conditions laid down by Directive 2003/109 for the grant of those residence permits could prevent them from claiming the rights conferred by that directive [...]”. The court also noted that “it is apparent from recitals 4, 6 and 12 that its principal purpose is the integration of third-country nationals who are settled on a long-term basis in the Member States.”³⁵ Excessive and disproportionate fees for residence permits may create obstacles that negatively affect the integration process, which is beneficial both for achieving the mid- and long-term EU social inclusion objectives and for building trust between migrants and Member States in cohesive and inclusive societies.

Because integration is a long-term process, the length of residence of the migrant in the country is an important factor, as is family unity. The Zaragoza integration indicators include long-term residence among those relevant to active citizenship.³⁶ The proportion of immigrants who have acquired permanent or long-term residence status is relevant against this background, as they mostly enjoy the same socioeconomic rights and responsibilities as nationals.

The European Parliament has also acknowledged that long-term residence entitlement is a key prospect for integration and that entry and residence must be governed by clear, fair and non-discriminatory rules, which must conform to the standards of the rule of law at national and EU levels. When immigrants take up and use equal rights and responsibilities, they send a strong signal to themselves and others about their sense of belonging in the country.³⁷

The EU has harmonised its immigration procedure for certain types of immigration through the adoption of a number of instruments, namely the Long-Term Residence Directive (Directive 2003/109/EC),³⁸ the Single Permit Directive (Directive 2011/98/EU),³⁹

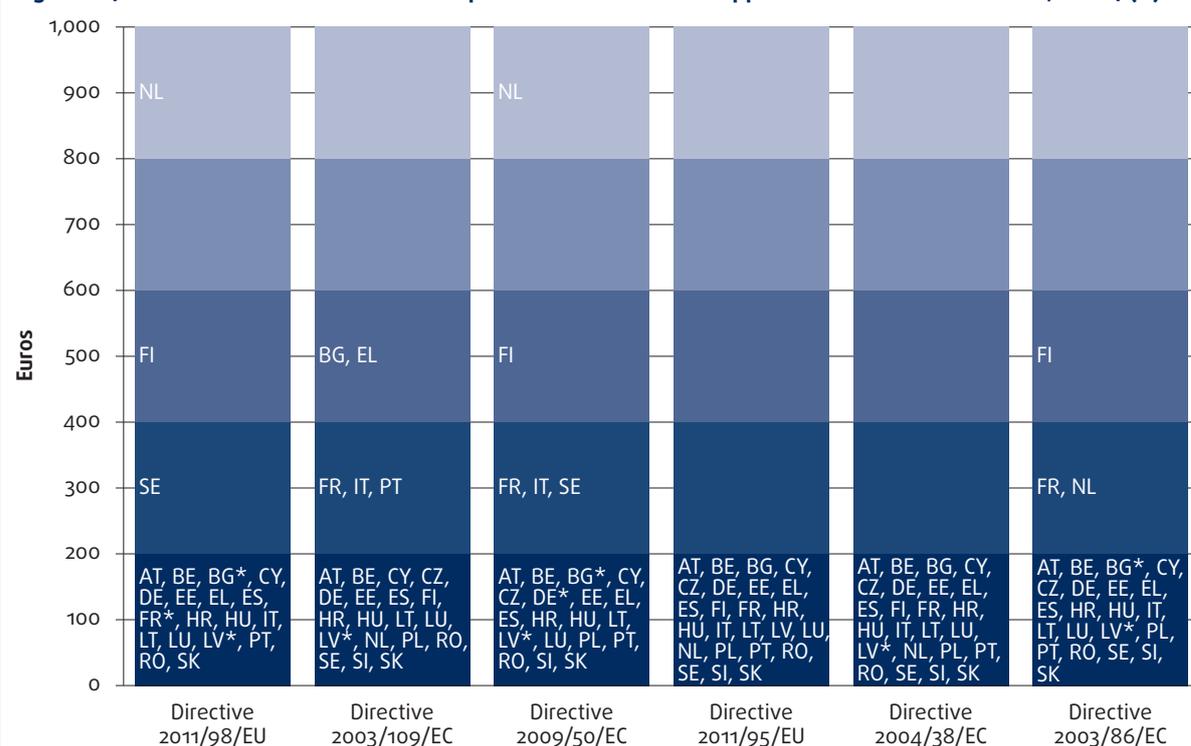
the ‘EU Blue Card’ Directive for highly skilled migrants (Directive 2009/50/EC)⁴⁰ and the Researcher Directive (Directive 2005/71/EC).⁴¹ Third-country nationals can join their lawfully resident family members, if the conditions laid down in the Family Reunification Directive are fulfilled (Directive 2003/86/EC).⁴² Similarly, once granted protection status, refugees and their family members are issued residence permits (Directive 2011/95/EU).⁴³ Family members of EU nationals, including third-country nationals, enjoy the right to free movement and residence in the EU (Directive 2004/38/EC).⁴⁴ Students, school pupils, unremunerated trainees and volunteers⁴⁵ also enjoy special admission rules, but their stay is not long-term and their integration is not particularly promoted through access to equal treatment rights.

EU legislation does not determine the fee to be paid for a residence permit, but the Single Permit Directive states that the fee shall be “proportionate” and “based on the services actually provided for the processing of applications and the issuance of permits”.⁴⁶ In practice, disproportionally high fees may create obstacles to access the rights included in the directive. Disproportionally high fees and frequent renewals may add up to considerable sums for large or low-income families, an important part of the migrant workforce which is either low-skilled or employed in positions not matching the individuals’ skills.

EU Member States collect the fees for receiving, processing and issuing a decision on the residence status. They often collect an additional fee when issuing the identity document that proves this residence status. In addition to the permit fee, if subject to visa obligations, the third-country national may be required to pay a visa fee. When the permits expire, renewal fees will have to be paid.

In practice, fees vary substantially depending on the EU Member State and type of permit. As [Figure 1.4](#) shows, the fee for the same permit can be several times higher in one Member State than in another. Member States’ fees for a particular permit may also vary from applicant to applicant depending on the length of stay, purpose of residence, processing time and place of application (for instance at an embassy or in the Member State, or in a decentralised authority, such as a state or municipality). Needless to say, the general price level varies between the Member States. In the CJEU case referred to above, the court was of the opinion that the fee may vary depending “on the type of residence applied for and the verifications which the Member State is required to carry out in that respect”, but that they cannot be “excessive in the light of their significant financial impact” on the nationals applying for the permit.⁴⁷ To illustrate the disproportionate nature of fees, it compared the lowest fee for a long-term residence permit, which was about seven times as high as the cost of a national identity card.

Figure 1.4: Overview of fees collected for permits issued to main applicants under six directives, EU-24 (€)



Notes: The directives covered are the Single Permit Directive (Directive 2011/98/EU), the Long-Term Residence Directive (Directive 2003/109/EC), the Directive for Highly Qualified Third-Country Nationals (Directive 2009/50/EC) and those for issuing permits to refugees (Directive 2011/95/EU), family members of EU nationals (Directive 2004/38/EC) and of third-country nationals (Directive 2003/86/EC).

The Single Permit Directive (Directive 2011/98/EU) does not apply in the Czech Republic, Poland and Slovenia.

The United Kingdom is not included in the table, as it is not bound by any of the directives listed. Ireland is bound only by Directive 2005/71/EC and Denmark by Directive 2004/38/EC; they are also not included in the table. Malta is not included in the table.

The fees in EU Member States marked with * extend beyond one unit of the scale: in **Bulgaria**, the fee varies between €107 and €230, in **Germany** between €100 and €250, in **France** between €19 and €260, in **Latvia** between €114 and €359 for Directives 2011/98/EU, 2003/109/EU and 2004/38/EC, and between €85 and €313 for Directives 2009/50/EC and 2003/86/EC.

Source: See Annex 'Fees (€) for residence permit issued under respective directive, 25 EU Member States, end 2013'

In **Hungary**, for instance, the fee for the main permit holder is €60 for a single permit and for highly qualified third-country nationals, and €33 for a long-term residence permit. In **Spain**, the main permit holder need pay only €26 for a single permit, or for permits for researchers or highly qualified third-country nationals, whereas employers contribute €194–€388 to these permits, depending on the third-country national's salary.

In other EU Member States, the fees could be 10 times as high. In **Bulgaria**, the fee for a long-term residence permit is €511 and €107–€230 for a single permit and for highly qualified third-country nationals. In **Finland**, the fee for a single permit is €500, and for a highly qualified third-country national it is €425. In the **Netherlands**, the fee for these permits is €861.

The fees under the Free Movement Directive⁴⁸ are lowest in **Hungary** (€3–€32), **Romania** (€3) and **Slovakia** (€5) and highest in **Finland** (€114) and **Latvia** (€114–€359). Under the Family Reunification Directive,⁴⁹ they are lowest in **Spain** (€10) and highest in **Finland** (€425).

Slightly more than half of the EU Member States do not collect fees for issuing residence permits to refugees or beneficiaries of subsidiary protection.

As Figure 1.4 illustrates, most Member States collect not more than €200 for these permits, whereas Finland, Greece and the Netherlands collect considerably higher amounts for some permits.

Outlook

The risk that migrants including children may die in their quest for a better life in the EU has yet to be allayed. The prevention of such tragedies in future is an absolute priority. The Task Force Mediterranean has prepared actions to guarantee rescue obligations as part of surveillance operations; 2014 will show how far they are successful or if more comprehensive steps need to be taken. If more far-reaching decisions are needed, the year will also make clear whether or not there is a political will to take them, such as opening up legal channels for protected entries.

Changes to most pieces of EU legislation in this field are to be finalised. This is only a first step to introducing changes on the ground. The same is true of fundamental rights safeguards, which have often been adopted after difficult negotiations. In its submission on the future of Home Affairs policies, FRA highlights the need to focus on ensuring that legislation is effective and functions well. EU and Council of Europe standards on fundamental and human rights, which are woven into the fabric of EU law, need to be

applied in practice. Border guards, consular officials, immigration officers and asylum officers, as well as other persons taking decisions affecting individuals on a daily basis, need simple and practical tools to help them in their roles.

In the year to come, the different EU bodies and agencies will be called on to contribute to the realisation of EU laws according to their mandate and capacity. It is essential that all those concerned give fundamental rights safeguards a central role: the European Commission when it supervises and assists Member States with the transposition and implementation of EU law; the Council of the European Union when it discusses, for example, the follow-up actions taken by the Task Force Mediterranean; and the European Parliament when exercising its mandate. Similarly, EU agencies, including Frontex and EASO in particular, will be requested to embed fundamental rights ever more deeply into their daily work with Member States. FRA's expertise will continue to be required. The concerted support of all relevant actors is needed to bridge the yawning gap between law and practice. This must be the focus of work in 2014.

Annex

Table A: Fees for residence permits issued under respective directive, 24 EU Member States, 2013 (€)

| EU Member State | Directive 2011/98/EU | Directive 2003/109/EC | | Directive 2009/50/EC | | Directive 2011/95/EU | |
|-----------------|----------------------|--|------------------------------|--|------------------------------|----------------------|------------------------------|
| | Single permit | Long-term resident third-country nationals | ... and their family members | Highly qualified third-country nationals | ... and their family members | Refugees | ... and their family members |
| AT | 120 (120) | 170 | 120 (120) | 120 | 120 (120) | 0 | 0 |
| BE | 12 | 12 | 12 | 12 | 12 | 12 | 12 |
| BG | 107-230 | 511 | 107-230 | 107-230 | 107-230 | 23 | 107-230 |
| CY | 120 | 200 | n/a | 50 | n/a | - | - |
| CZ | n/a | 93 (37) | 93 (37) | 130 | 130 (37) | 0 | 112 |
| DE | 100-110 | 135 (55) | 100-135 (50-67) | 100-250 | 100-135 (55) | 100-135 (55) | 100-135 (55) |
| EE | 24-160 | 64 (24) | 64 (24) | 86-100 | 64-65 (24-25) | 0 | 0 |
| EL | 150 | 600 | 150 | 150 | 150 | 0 | 0 |
| ES | 26 | 42 | 42 | 26 | 26 | 10 | 0 |
| FI | 500 | 156 | 425 (200) | 425 | 425 (200) | 0 | 0 |
| FR | 19-260 | 260 | 260 | 260 | 260 | 19 | 19 |
| HR | 98-150 | 98-150 | 98-150 | 98-150 | 98-150 | 0 | 98-150 |
| HU | 60 | 33 | 33 | 60 | 60 | 0 | 60 |
| IT | 153-173 | 273 (74) | 153-173 (74) | 273 | 153-173 (74) | 43 | 153-173 |
| LT | 116 | 71 | 116 | 116 | 116 | 0 | 116 |
| LV | 114-359 | 114-359 | 114-359 (28-171) | 85-313 | 114-359 | 78-199 | 78-199 |
| LU | 50 | 50 | 50 | 50 | 50 | 0 | 0 |
| NL | 861 | 152 | 152 | 861 | 228 | 0 | 0 |
| PL | n/a | 165 | 93 | 93 | 93 | 12 | 93 |
| PT | 149 | 321 | 149 | 199 | 149 | 0 | 0 |
| RO | 180 | 60 | 179 | 180 | 120 | 0 | 179 |
| SE | 224 | 112 | 112 (56) | 224 | 112 (56) | 0 | 0 |
| SI | n/a | 107 | 12 | 66 | 66 | 0 | 0 |
| SK | 170 (0) | 170 (0) | 137 (0) | 170 (0) | 170 (0) | 0 | 0 |

Notes: Amounts are expressed in euros. Other currencies have been converted to euros according to exchange rates at end 2013. Figures in brackets are fees for children (normally, but not always, applying to person younger than 18 years).

Fees reflected in the table include the total fees for the first application. The total fee includes fees for application, processing, granting and issuing the permit (identification card) and for Italy also revenue stamps. It does not include visa fees. Fees for renewals are not covered.

In Belgium, an administrative fee is added, which varies according to the municipality. Reduced fees may apply to certain nationalities, for example in Portugal for nationals of countries belonging to the Community of Portuguese Language Countries (except for East Timor) or in the Netherlands for Turkish nationals. In Spain, the employers contribute €194 to €388 to the total residence fee, in addition to the fee paid by the applicant, for a single permit, and for permits for researchers and highly qualified third country nationals.

Table A1: (continued)

| Directive 2004/114/EC | | | | Directive 2005/71/EC | | Directive 2004/38/EC | Directive 2003/86/EC |
|-----------------------|----------------|------------------------|------------|----------------------|------------------------------|--------------------------------|---|
| Students | School pupils | Unremunerated trainees | Volunteers | Researchers | ... and their family members | Family members of EU nationals | Family members of third-country nationals |
| 120 (120) | 120 (120) | 120 (120) | 120 (120) | 120 | 120 (120) | 56 | 120 (120) |
| 12 | 12 | 0 | 0 | 12 | 12 | 12 | 12 |
| 107-230 | 107-230 | 107-230 | n/a | 107-230 | 107-230 | 9 | 107-230 |
| 34 | 34 | 34 | 34 | 100 | n/a | 20 | 200 |
| 93 | 93 (37) | 93 (37) | 93 (37) | 93 | 93 (37) | 0 | 93 (37) |
| 80-110 | 80-110 (40-65) | 80-110 | 80-110 | 80-250 | 100-135 (55) | 23-29 | 135 (55) |
| 64-65 | 64-65 | 64-65 | 64-65 | 96-100 | 64-65 (24-25) | 31-35 | 64-65 (24-25) |
| n/a | n/a | n/a | n/a | 150 | 150 | 0 | 150 (0) |
| 15 | 15 | 15 | 15 | 26 | 26 | 10 | 10 |
| 300 | 200 | 425 | 425 | 425 | 425 | 114 | 425 (200) |
| 77 | 77 | 77 | 0 | 260 | 260 | 0 | 260 (135) |
| 150-98 | 98-150 | 98-150 | 98-150 | 98-150 | 98-150 | 98-150 | 98-150 |
| 60 | 60 | 60 | 60 | 60 | 60 | 3-32 | 60 |
| 153 | 153 | 153-173 | 153 | 153-173 | 153-173 (74) | 32 | 153-173 (74) |
| 0 | 0 | 0 | 0 | 116 | 116 | 29 | 116 |
| 85-313 | 85-313 | 85-313 | 114-359 | 114-359 | 114-359 (0) | 114-359 (28-171) | 85-313 |
| 50 | 50 | 50 | 50 | 50 | 50 | 0 | 50 |
| 304 | 304 | 760 | 42-604 | 304 | 228 | 42 | 228 |
| 93 | 93 | n/a | n/a | 93 | 93 | 0 | 93 |
| 149 | 149 | 149 | 149 | 149 | 149 | 15 | 149 |
| 120 | 120 | 120 | 120 | 120 | 120 | 3 | 179 |
| 112 | 56 | 112 | 112 | 112 | 112 (56) | 0 | 168 (84) |
| 66 | 13 | 66 | 13 | 66 | 66 | 12 | 12 |
| 40 | 5 | 5 | 5 | 5 | 5 | 5 | 137 (0) |

The United Kingdom is not included in the table, as it is not bound by any of the directives listed. Ireland is bound only by Directive 2005/71/EC and Denmark by Directive 2004/38/EC; they are also not included in the table. Malta is not included in the table. In Sweden, Directive 2004/114/EC is not fully implemented, as only students are included, whereas school pupils, unremunerated trainees and volunteers are excluded categories.

Member States' fees for a particular permit may vary depending on the length of stay, purpose of residence, processing time and place of application (for instance at an embassy or in the Member State).

n/a not applicable.

Sources: **Austria**, Fee Act (Gebührengesetz), BGBl 267/1975 as amended by BGBl I 70/2013, Sections 6 and 8; **Belgium**, Fees for electronic residence cards (Prijs van de elektronische vreemdelingenkaarten); **Bulgaria**, Tariff No. 4 for fees collected in the system of the Ministry of the Interior under the State Fees Act (Тарифа 4 за таксите, които се събират в системата на Министерството на вътрешните работи по Закона за държавните такси), 10 March 1998; **Croatia**, Act on Amendments to the Administrative Fees Act (Zakon o izmjenama i dopunama Zakona o upravnim pristojbama) (2010), Official Gazette (Narodne novine) No. 60/2010; **Czech Republic**, Act No. 634/2004 Coll., on administrative fees, as amended, Items 116–118 (Zákon č. 634/2004 Sb., o správních poplatcích, ve znění pozdějších předpisů, položky 116–118); **Cyprus**, Aliens and Immigration Law Cap. 105 (Ο περί Αλλοδαπών και Μεταναστεύσεως Νόμος Κεφ. 105); **Estonia**, State Fees Act (Riigilõivuseadus), 22 April 2010; **Finland**, Decree by the Ministry of the Interior on payments for services by the Immigration Service (Sisäasiainministeriön asetus Maahanmuuttoviraston suoritteiden maksullisuudesta)/ Inrikesministeriets förordning om Migrationsverkets avgiftsbelagda prestationer, No. 1038/2012) and Decree by the Ministry for the Interior on the grounds of payment for services by the police in 2013 (Sisäasiainministeriön asetus poliisin suoritteiden maksullisuudesta vuonna 2013/Inrikesministeriets förordning om polisens avgiftsbelagda prestationer år 2013, No. 850/2012); **France**, Code of entry and stay of foreigners and asylum rights (CESEDA – Code de l’entrée et du séjour des étrangers et du droit d’asile), Art. L512-1, L552-1, L522-2; **Germany**, Residence regulation (Aufenthaltsverordnung, Kapitel 3 –Gebühren (§§ 44–54)); **Greece**, Law 3386/2005, Codification of Legislation on the Entry, Residence, and Social Integration of Third Country Nationals in Greek Territory (Κωδικοποίηση νομοθεσίας για την είσοδο, διαμονή και κοινωνική ένταξη υπηκόων τρίτων χωρών στην Ελληνική Επικράτεια) (OG Α’ 212/23 August 2005; **Hungary**, Decree of the Minister of Justice and Law Enforcement No. 28/2007 (V. 31.) IRM on the fees of procedures relating to the entry and stay of persons enjoying free movement and residence and third-country nationals (28/2007. (V. 31.) 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