

Periodic data collection on the migration situation in the EU

November Highlights

1 September – 31 October 2018

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The EU Agency for Fundamental Rights has been collecting relevant data since November 2015, in light of the increasing numbers of refugees, asylum seekers and migrants entering the EU. This report focuses on the fundamental rights situation of people arriving in Member States particularly affected by large migration movements. The countries covered are: Austria, Bulgaria, Croatia, Denmark, Finland, France, Germany, Greece, Hungary, Italy, the Netherlands, Poland, Spain and Sweden. This report addresses fundamental rights concerns between 1 September – 31 October 2018.

Note on sources of information

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

Key fundamental rights concerns

Key emerging fundamental rights concerns

In the Evros region **in Greece**, at least 40 deaths (including of children) were recorded by mid-October 2018, with nearly half of the migrants having drowned in the fast-flowing Evros River, UNHCR [reported](#). This report came days after two women and one teenage girl were found dead near the Greek bank of the river. According to [UNHCR](#), more than 12,700 migrants had entered Greece by land in the Evros region in 2018 as of mid-October, which is more than double the number that crossed in 2017. This situation adds yet another challenge to the other continuing fundamental rights challenges on the Greek islands – discussed in the section on ‘Key persisting fundamental rights concerns’.

Italy provisionally adopted [Decree Law No. 113/2018](#), which substantially reforms the asylum system. The reform aims to abolish the humanitarian protection status, replacing it with new permits of shorter duration and reduced benefits, increasing the possibilities of detention and return and significantly transforming the Italian reception-system approach. In particular, the central reception centres Central Service for National Asylum-Seekers and Refugees Protection System (*Servizio centrale del sistema di protezione per richiedenti asilo e rifugiati*, SPRAR) – often highlighted as a promising practice – will only be accessible to protection-status holders. Lower quality first-level reception facilities or special reception centres (*centri di accoglienza straordinaria*, CAS) on the other hand will host asylum applicants. Moreover, the decree law limits the rights of asylum seekers to access local public services, such as vocational training. The law will remain in force if the parliament transposes it by 4 December 2018.

Automatic inadmissibility of asylum applications under certain conditions became the norm in **Hungary** as the authorities implement [the latest legislative amendments](#) of July 2018. Under the new provisions, an asylum application is to

be considered inadmissible if the person arrived from a country where he/she was not subject to persecution. In most of its inadmissibility decisions, the asylum authority based its reasoning on the fact that the applicants had arrived through Serbia. Contrary to the past, where judges overturned the so-called "[safe third country decisions](#)" in individual cases, [courts](#) reviewing the new inadmissibility decisions have little room to question the decision by the asylum authority. The Metropolitan Administrative and Labour Court turned to the Court of Justice of the European Union, [requesting](#) a preliminary ruling on whether the [July amendments](#) to the asylum law violate the EU asylum *acquis*.

Bulgaria has become the sixth EU country after **Hungary, Austria, Poland**, the Czech Republic and **Croatia** to [signal](#) that it would not sign the UN [Global Compact for Safe, Orderly and Regular Migration](#).

An emerging practice in **Poland** was that authorities, applying administrative procedural law classified files as "secret" in some immigration procedures on residence permits, which allowed them to deny access to these documents by the applicants and their legal representatives, both in the administrative and judicial review phases; the [Refugee Council](#), the Ombudsman and the [Helsinki Foundation for Human Rights](#) reported.

In **the Netherlands**, the waiting period to register an asylum claim has increased from a few weeks in 2017 to 43 weeks in 2018, according to the [Dutch Council for Refugees](#). This is happening even though the numbers of asylum seekers arriving in the country are steady. The Association of Asylum Lawyers Netherlands [attributed](#) the increase of the waiting period to staff shortages.

Key persisting fundamental rights concerns

The Reception and Identification Centres on the Aegean islands in **Greece** ('hotspots') remained severely [overcrowded](#), with the exception of the hotspot in Leros. Altogether, 16,890 people resided in accommodation facilities that have a total capacity of 6,338. The hotspot in Samos hosted nearly six times as many asylum seekers (almost 5,000) as its official capacity (850 places). The Moria facility on the island of Lesbos remained almost threefold overcrowded. The Regional Authority of the Northern Aegean, responsible for environmental and public health issues, [gave](#) the Ministry of Migration Policy 30 days to improve the situation in the Moria centre, alongside imposing a fine of 80,000 EUR; if this is not complied with, the camp will be closed. The same authority imposed a 20,000 EUR [fine](#) on the hotspot on the island of Chios (VIAL) for violating environmental standards. Nineteen NGOs [voiced](#) harsh criticism about the conditions in the hotspots on the Aegean islands, calling for sustainable solutions, decongestion and significant improvement of the living conditions.

Human smuggling remained a concern in **Hungary**. According to the [police](#), in September and October, the authorities placed into custody 14 alleged human smugglers. In several cases, smuggled people were found in the [cargo area of trucks](#) crossing the borders from Serbia.

Reports noted that the **Croatian** police continue to use force against migrants to push them back to neighbouring countries after they have crossed the Croatian border in an unauthorised manner. The Ministry of the Interior repeatedly denied the Ombudsperson access to information regarding police treatment. [UNHCR](#), the [Council of Europe](#) and Members of the [European Parliament](#) called on Croatia

to investigate allegations of collective expulsions of migrants and of excessive use of force by law enforcement officers, which have been witnessed for more than two years.

According to the Ombudsman, key issues in **Bulgaria** concern the lack of guardians for unaccompanied children; the lack of accessible infrastructure for persons with disabilities in some reception centres; the lack of specialised care facilities and support services for victims of torture or trauma; as well as the shortage of qualified personnel (social workers, psychologists and interpreters) in reception centres for asylum seekers. A further issue of concern was that some beneficiaries of international protection were still placed in reception centres, contrary to [legal requirements](#).

The Internal Security Agency in **Poland** continued to unofficially call asylum applicants to meet them in public places and to persuade them to cooperate with them as informants, according to the information provided by the 'Ocalenie Foundation' in an interview.

In **Poland**, refusing entry to asylum seekers at the land-border crossing points with Belarus (mainly at Terespol) and with the Ukraine (primarily at Medyka) remained a major concern, UNHCR, the Ombudsman for Children and NGOs reported in interviews. Furthermore, many asylum seekers and other migrants continued to end up in immigration detention as a result of poorly functioning identification and referral procedures. This occurred despite the fact that the detention of victims of violence is prohibited under Polish [immigration](#) and [asylum law](#), UNHCR, the Ombudsman and NGOs reported in interviews. Assistance to victims of violence in this area has been primarily provided by private entities (e.g. medial companies) and NGOs, given that there is no rehabilitation centre for foreigners in the country, according to the [National Prevention Mechanism](#) established under the Optional Protocol to the UN Convention against Torture.

The low quality of some first-instance asylum decisions in **Austria** remained a persistent issue, according to an interview with Caritas.

According to the Jesuit Migrant Service, a key persistent issue in **Spain** remained the restrictions of freedom of movement of asylum seekers at the reception centres in Ceuta and Melilla. They are not allowed to access the peninsula, unless authorised by the competent authority. The length of the asylum procedure of up to two years as well as the lack of training of new staff at the Asylum and Refugee Office remained challenging, according to [infoLibre](#) and interviews with several stakeholders, such as UNHCR and Save the Children.

In **France**, persistent problems included informal camps in the North of France and in Paris and the further deterioration of their living conditions; as well as the widespread use of immigration detention, including in the case of children, and the lack of alternatives in practice, several NGOs reported in interviews. Summary returns and denial of access to the asylum procedure continued at the border between France and Italy, also affecting children, both unaccompanied and with families, the National Consultative Commission on Human Rights and NGOs reported in interviews.

After several individuals of different nationalities, including some rejected asylum-seekers, allegedly killed a 35-year-old German in Chemnitz, **Germany**,

violent xenophobic demonstrations and attacks on persons with migrant backgrounds repeatedly took place, according to [media reports](#). [Amnesty International](#) stressed that the xenophobic attacks were part of a trend towards increasing xenophobia and a symptom of lacking political responses. The [Federal Minister for the Interior](#) primarily linked the incidents to shortcomings in the asylum system, indicating that some of the murder suspects should have long been removed to their countries of origin or other Dublin states. The [German Chancellor](#) on the other hand stressed that aggressive xenophobic behaviour must not be tolerated.

The [law](#) in **Sweden** imposing temporary restrictions on granting residence permits to refugees and limiting family reunification until the end of 2019 remained a major issue of concern, the Red Cross confirmed in their latest report. The [report](#) finds that the temporary law led to the separation of families for years and was detrimental to the mental health of the family members concerned. The strict requirements for family reunification are especially challenging to meet for women as statistics show they need more time to access the labour market and have a lower employment rate. The Red Cross formulated a number of recommendations, including the non-extension of the temporary law beyond 2019; the introduction of the possibility to get permanent residence permits once the temporary permit is extended; as well as removing the limitations on getting a residence permit based on particularly distressing circumstances.

Restricted availability or the low quality of legal aid in **Finland** continued to concern civil society actors, such as the Finnish Refugee Advice Centre and the Finnish Section of Amnesty International.

Situation at the border

The [Ministry of Foreign Affairs](#) of **Italy** requested clarification from the French government concerning an incident involving French police officers trying to drop off unaccompanied children they had apprehended in a forested area in Italy. A number of NGOs – including Amnesty International, Doctors Without Borders Italy and the Italian Red Cross – have been [reporting](#) about similar incidents. Meanwhile, [press reports](#) accuse the Italian police of informally returning migrants apprehended near the border to Slovenia.

The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) [published a report](#) on their visit to **Hungary** last autumn, which confirmed ill-treatment of migrants along the Hungarian-Serbian borders. Several migrants interviewed by the CPT confirmed that they had been physically mistreated by Hungarian police officers in the context of their apprehension and escorting back through the border fence. The CPT delegation observed the signs of the recent traumatic injuries which, in the view of the delegation's doctor, were consistent with the allegations of mistreatment.

The police in **Hungary** apprehended some 840 migrants in an irregular situation during the reporting period (this occurred close to the border in all cases). According to the data of the National Headquarters of the Police, these persons were escorted back to the outer side of the fence at the Hungarian-Serbian

border. The CPT concluded in its [latest report](#) on Hungary that although authorities often took photos of the apprehended migrants while escorting them back to the gates along the border fence, such photos were taken randomly and they did not serve the purpose of registration. Also in **Hungary**, the police and the army prevented 241 people from crossing the border into Hungary via the border fence, the National Headquarters of the Police [reported](#).

According to the [data](#) of the **Bulgarian** Ministry of the Interior, 757 persons were apprehended at the borders and within the territory. This represents a significant increase compared to the previous two months (667 persons in July and August) and the same period last year (517 persons). Almost two thirds of persons were apprehended within the country's territory; the rest were stopped at the borders with Greece and Serbia, respectively.

According to the [media](#), **Austria** announced the extension of temporary internal border controls along the borders to Hungary and Slovenia until May 2019. The parliamentary opposition [considers](#) the extension unlawful.

According to [BalkanInsight](#), several people were injured during an incident at the **Croatian**-Bosnian border of Maljevac, after more than 200 migrants, including women and children, blocked the main road, hoping to be allowed entry into Croatia. Croatian police officers fired teargas and used batons against people who threw stones at them in protest. A number of people have gone on hunger strike at the border.

The [Spanish maritime rescue](#) service reported that it saved over 520 people trying to cross from North Africa to **Spain** in just one day. According to [Reuters](#), approximately 200 people crossed the border fence from Morocco to Melilla and were taken to a reception centre. One man died of a heart attack during the flight and many others were injured. Morocco said it would return the remaining 141 migrants, who were arrested as they tried to storm the border fence.

The situation at the **French-Spanish** border remained challenging, with [80-100 migrants](#) arriving daily to the French town of Bayonne (French Basque Country). Faced with this influx of arrivals (mostly single men from Sub-Saharan Africa, but also unaccompanied children and women with children), the mayor of Bayonne [opened](#) an emergency reception centre at the end of October.

The situation at the border between **France** and Italy (in particular in the French Department of Alpes-Maritimes) remained challenging, with summary returns continuing from France to Italy. For instance, French authorities apprehended three irregular migrants and [pushed them back](#) to Italy without the approval of the Italian authorities. In other cases, summary returns did not take place at the designated points along the border but elsewhere, the National Consultative Commission on Human Rights and the NGO 'ANEFÉ' reported in interviews. After an on-site mission, several civil society organisations [reported](#) multiple human rights violations, such as the *refoulement* of 26 people from the border post in Montgenèvre to Clavière (on the Italian side of the border), without any individual examination of their situation and without giving them any possibility to apply for asylum. The vulnerability of some of the migrants was not taken into account (eight persons declared themselves children). Also, the detention of unaccompanied children in police holding cells at the border was frequent, according to the NGOs GISTI, *La Cimade* and ANAFÉ.

Several stakeholders, including [Proasyl](#) and – in interviews – the Federal Association for Unaccompanied Minors and UNHCR, raised concern about bilateral agreements between **Germany** and Greece as well as Germany and Spain aiming to return asylum seekers apprehended at the Austrian-German border directly to the state most likely responsible for their application under the Dublin Regulation without first examining the individual's claim. While this concerns only a very small number of people, the agreements are not publicly available, hence cannot be challenged in court.

The [Federal Minister of the Interior](#) of **Germany** ordered the extension of border checks at the internal border between Germany and Austria. A [legal opinion](#), commissioned by German Green Parliamentary Group representatives considers the use of Bavarian police officers at the German-Austrian border unconstitutional, as the policy undermines "the federal distribution of powers in the field of border protection".

According to [media sources](#), the Russian Border Guard has so far stopped over 800 attempts of unauthorised entry at **Finland's** eastern border this year, compared to 200 in 2017.

Asylum procedure

Figures and trends

According to [EASO](#), approximately 52,000 applications for international protection (in total) were lodged in September 2018 in the EU+ countries (EU Member States, plus Norway and Switzerland). This is a similar number as in August 2018 and a decrease of 14 % compared to September 2017.

By 31 October, a total of 102,000 persons had arrived in **Italy** by sea, and in **Greece** and **Spain** by land and sea, in 2018. These figures represent a significant decrease compared to the same period last year (149,000 persons), as reported by [UNHCR](#).

The number (55,337) of persons arriving in **Spain** between 1 January and 11 November [2018](#), however, increased by over 95 % compared to that time frame in [2017](#) (28,349), according to UNHCR.

[IOM](#) records show that 1,925 persons had lost their lives in the Mediterranean by the end of October 2018, compared to 3,139 in the entire year of 2017. The estimated death rate per 1,000 refugees coming across the Mediterranean has risen from 4 per 1,000 in 2015 to 24 per 1,000 in the first four months of 2018, according to [available data](#).

During the reporting period in **Austria**, the number of returns was almost as high as the number of asylum applications: as of 30 September, a total of 10,413 [asylum applications](#) had been filed in 2018. The number of returns during the same period was 9,278 (4,112 voluntary returns and 5,166 forced removals), according to a phone interview with the Federal Ministry of the Interior.

193 requests for international protection were submitted in **Croatia** during the reporting period – compared to some 273 requests in the same period last year, according to information received from the Ministry of the Interior. Despite the

low number of asylum applications, the asylum procedure continued to take more than two years. In 2018, by the end of the reporting period, only 203 applicants had been granted international protection.

Access to asylum procedures

According to the data provided by the Office of Immigration and Asylum in an interview, roughly one person per day was admitted to each transit zone in **Hungary**. It continues to show the extremely limited daily caps to access asylum in Hungary. In the country, people in need of protection can only apply for asylum in the transit zones. Since July 2018, once an asylum application is lodged, authorities systematically deny international protection to those who arrived via Serbia, declaring these applications inadmissible under the new rules (see also the section on “Key emerging fundamental rights concerns”).

Access to asylum in **Croatia** remained restricted. According to the Jesuit Refugee Service, police officers said to asylum seekers at the border that they had no time to take asylum requests and instructed them to proceed towards Bregana (border crossing between Croatia and Slovenia). The lack of translators, as well as the lack of defined standards for translators working in counselling and psychotherapy, remained concerns, according to an interview with the Society for Psychological Assistance.

In **Poland**, the lack of legal assistance available to asylum seekers in detention centres and open reception facilities remained an issue of grave concern, the Ombudsman, UNHCR, and multiple NGOs pointed out in interviews. This deficiency is due to funding gaps, since the Ministry of the Interior and Administration has still not announced calls for almost a year, under their national programme of the EU Asylum, Migration and Integration Fund. During a recent visit to an immigration detention centre, UNHCR observed that detainees were not aware of their legal status and did not understand the ongoing procedures, due to the lack of information.

Caritas Vienna and Caritas Styria raised concern about the planned set-up of a [Federal Agency for Care and Support \(*Bundesagentur für Betreuungs- und Unterstützungsleistungen*\)](#) in **Austria**. The Federal Ministry of the Interior would then be competent to provide legal advice to asylum seekers, while also deciding on their applications through the Federal Office for Immigration and Asylum (BFA). Lawyers and NGOs criticised the proposed agency for lacking independence.

In **France**, the average length of the waiting time before lodging an asylum application at the Paris Prefecture (at the “one-stop-shop” for asylum seekers) did not exceed three working days, in accordance with [the law](#), the NGOs *La Cimade* and *GISTI* reported in interviews. However, in Marseille, members of the Platform for the Reception of Asylum Seekers (PADA), alongside a number of NGOs, went on a [strike](#) to protest the lack of resources and the huge workload (there are three or four staff to receive 300 people a day on average), which yielded significant delays in accessing the asylum procedure. Also in France, as in previous months, authorities continued to expand the use of accelerated asylum procedures, with the intention to reduce the delays in examining the asylum applications, the NGO ‘*GISTI*’ reported. In Mayotte, due to the worsening of Franco-Comorian diplomatic relations, the immigration service on the island

stopped functioning. As a result, no asylum application has been registered and residence permits of migrant workers have not been reviewed for months, the Public Defender of Rights [reported](#).

The **Danish** Immigration Service observed that the Danish Refugee Appeals Board has changed its practice regarding the asylum application of stateless Palestinians. For those who have had access to UNRWA protection, the Appeals Board considers that they can only be protected by the Refugee Convention if they had to leave UNRWA's operating area involuntary. In such event, the person is automatically covered by the Refugee Convention.

[Amnesty International](#) and [Human Rights Watch](#) reported that Venezuelan asylum seekers in Curaçao are not able to apply for asylum and endure human rights violations, such as of the right to be informed of the reasons for detention and to freedom from ill-treatment. Curaçao, an island in the Caribbean Sea, is not bound by the 1951 Refugee Convention, its 1967 Protocol or the EU asylum law; but, as a constituent country of **The Netherlands**, Curaçao is bound by the European Convention on Human Rights (ECHR). The Dutch Minister of Foreign Affairs [stated](#) that the migration and asylum policies are the responsibility of individual countries of the Kingdom. In a [letter](#), Human Rights Watch urged the Curaçaoan and the Dutch Authorities to ensure the protection of asylum seekers and to safeguard their rights in detention.

According to the **Finnish** Immigration Service, a new electronic service was opened for counsels and representatives of asylum seekers. The e-service aims to improve data security and make faster the exchange of documents between applicants' legal counsels and representatives and the Finnish Immigration Service. The [project](#) has been supported by the European Asylum, Migration and Integration Fund (AMIF).

Reception

Reception capacity

Sufficient reception capacity was available in **Austria, Bulgaria, Denmark, Finland, Germany, Hungary and Poland**.

The reception system's capacity in **France** remained unable to provide accommodation for all asylum seekers in the country (the total number of asylum applicants remained close to 110,000 people), the NGO '*GISTI*' reported in an interview. To remedy this problem, the Prefecture of the Île-de-France region [announced](#) the creation of 1,200 additional places to accommodate asylum seekers and refugees so as to avoid the re-emergence of the dismantled informal camps in Paris.

The number of asylum seekers in **Poland** to whom the asylum authority grants social assistance (e.g. housing and information on health care) continued to decrease. Roughly 50 % of all asylum seekers (some 1,630 persons) received funds to live outside of open reception centres (in private accommodation), the Polish Office for Foreigners stated. However, the sum provided by [law](#) is too low compared to living costs and thus needs to be increased, NGOs pointed out in interviews.

Although the Central Agency for the Reception of Asylum Seekers had planned in [March 2018](#) to reduce the reception capacity in **the Netherlands**, it recently announced [in the media](#) to be immediately looking for 5,000 reception places for asylum seekers and agreed with several municipalities to re-open old reception centres. For the agency, the increase of occupied places in the centre is due to the shortage of the housing market and the longer waiting periods within the asylum procedure. The Dutch Council for Refugees confirmed the analysis of the Central Agency for the Reception of Asylum Seekers on [social media](#).

Reception conditions

In **Greece**, the NGO Refugee Rights Europe conducted a survey with more than 300 asylum seekers hosted in the hotspot on the island of Lesbos. According to the [report](#), "the lack of safety and security was a major concern among all of the respondents, and particularly so at Moria, with [two-third of the respondents] saying they 'never feel safe' inside the camps and another [one-fifth] that they 'do not feel very safe'". Almost half of the respondents experienced some form of police violence, too.

In **Italy**, the Association for Legal Studies on Immigration (ASGI) filed a [complaint](#) against a decision of the Municipality of Lodi (Lombardy), according to which third-country nationals must declare their income and submit an official certification (to be released by the relevant consular authorities) detailing their properties in their country of origin in order to be entitled to social benefits.

A town mayor in the south of **Italy**, known for his innovative approach to welcoming asylum seekers, was put under house arrest for allegedly favouring illegal migration, according to [Reuters](#). Allegedly the mayor had organised arranged marriages between local citizens and immigrant women, bypassing rules for migrants to be granted entrance to Italy.

The latest [CPT report](#) on the visit to **Hungary** in autumn 2017 states that living conditions in the two transit zones (Röszke and Tompa) are satisfactory; however, their overall design is too carceral, which is not adequate for accommodating unaccompanied children and families with children.

Access to healthcare remained a persistent issue in **Croatia** for both asylum seekers and persons granted international protection, according to the Rehabilitation Centre for Stress and Trauma.

In Lower **Austria**, asylum seekers are not allowed to leave their accommodation all day, except for visits to medical doctors, the authorities, or in order to go to work, according to [media reports](#). Red Cross Austria reported in an interview that the Lower Austrian government also requested accommodation providers to keep inventories of the asylum seekers' belongings, including the type of mobile phone or other technical devices.

In a report of the [Council of Europe](#), the Special Representative on migration and refugees, who conducted a fact-finding mission to Spain in March 2018, praised the reception conditions for refugees and asylum seekers in mainland **Spain** and the support offered by the authorities for learning Spanish. The reception facilities in Melilla and Ceuta, however, including those for unaccompanied children, remain severely overcrowded.

Informal camps persist in **France** – both in Paris, with 700 migrants living near Porte d'Aubervilliers under worrying sanitary conditions; and in the north of the country, with 450-500 migrants in Calais – several NGOs and [media sources](#) reported. In Grande-Synthe, which is currently the largest informal camp, [two evacuation operations](#) took place during the reporting period. As part of these operations, 60 migrants in an irregular situation were detained and face removal to Iraq, where they would be at risk of inhuman or degrading treatment, according to the NGO [La Cimade](#).

In **Sweden**, the housing shortages in many municipalities affect beneficiaries of international protection. Several municipalities faced difficulties in finding accommodation for individuals to whom housing is to be provided, the National Board of Health and Welfare reported in an interview. For example, in the municipality of Solna, protection status holders whose rental contracts were terminated by the municipality after two years protested against their homelessness by camping outside their old flats, according to [media sources](#).

In an [interview](#), the mayor of Rotterdam in **the Netherlands** announced that the city would no longer host asylum seekers from safe countries of origin in local reception centres as he attributed the rise of theft and other incidents to their presence.

The **Danish** Immigration Service continues to close reception centres because of the lower amount of asylum seekers. The decision is based on financial and practical reasons, but the Danish Refugee Council notes that it can have an impact on asylum seekers as they are moved and have to adapt to their new surroundings.

Vulnerable persons

During their visit to the hotspots in **Greece**, Amnesty International [documented](#) very poor living conditions in the Reception and Identification Centres and their negative effects, especially on pregnant women and babies, victims of gender-based violence and LGBTI people. The same NGO published [another report](#), based on interviews with 100 women and girls living in reception centres for asylum applicants on the Greek mainland and in the hotspots. The main concerns for this group include the risk of sexual harassment when using the bathroom or toilet, as well as the lack of adequate information and female interpreters, the latter constituting a major obstacle to accessing essential services, such as health care and legal aid. Also in Greece, the National Commission for Human Rights [called for](#) authorities to take vulnerable people from the hotspots to appropriate shelters in the mainland.

There was still no protocol for the identification of vulnerable people in **Croatia**, according to the society for psychological assistance. Victims of torture were often accommodated with the general population of asylum seekers. Support services were not available on a regular basis, particularly as funding to NGOs specialised in this field is reduced, according to the Rehabilitation centre for stress and trauma.

The **Bulgarian** Ombudsperson stated in an interview that there was still a lack of accessible infrastructure for persons with disabilities in some reception centres, insufficient specialised care facilities and support services for victims of

torture or trauma, and a shortage of qualified personnel (social workers, psychologists and interpreters) in reception centres.

According to an interview with the German Caritas Association, persons with special protection needs are not adequately identified in Lower Saxony, **Germany**. Psycho-social centres for refugees and victims of torture lacked the capacity to treat all persons in need. The centre in Cologne, for instance, currently has a waiting list of 1.5 years. These comments are in line with a [study](#) published by AOK, a German health-insurance provider, which found that three quarters of all protection seekers in Germany have experienced violence and multiple traumas.

In accordance with the [recent legislative amendments](#) in **Sweden** granting temporary residence permits to unaccompanied children and young adults under certain conditions (covering those who arrived in Sweden before the end of November 2015), [1,060](#) such residence permits were issued between the law's entry into force in July and the end of October. They allow young people to stay in Sweden for studies at upper secondary level, even though their asylum claims have been rejected.

Child protection

Figures and trends

As of 30 September, according to the [National Centre for Social Solidarity](#) (EKKA), some 3,400 unaccompanied children were estimated to be in **Greece**, the majority of whom were boys aged between 14 and 18 years. Most of them are Pakistanis, followed by Afghans and Syrians. A total of 2,363 unaccompanied children were on waiting lists for appropriate shelter. Of these, 430 remained in Reception and Identification Centres; 178 were in open accommodation centres; and 90 in 'protective custody', mainly at police stations. The total number of available places for unaccompanied children in all of Greece has only marginally increased (1,195 places, compared to 1,191 places previously). These figures demonstrate a persisting protection gap over the past year.

According to the [Ministry of the Interior](#), by 15 October 2018, 3,330 unaccompanied children had arrived in **Italy** since the beginning of 2018.

Reception conditions for children

Civil society organisations continued to support asylum-seeking children in **Bulgaria**. For instance, the Council of Refugee Women stated in an interview that they carried out a campaign titled "Welcome to the Bulgarian School 2018" to collect donations to support refugee children for the new school year, which started mid-September. Similarly, in the framework of the "[We Play and Learn](#)" project, Caritas Sofia continued to provide classes in Bulgarian language, geography, biology and art to asylum-seeking children, coupled with sessions on children's rights and responsibilities.

In an interview, the German Caritas Association expressed concerns about limited access to education in initial reception facilities for children over 16 years in Lower Saxony, **Germany**. The German Caritas Association also reported that in Lower Saxony, while unaccompanied children are brought to specialised

facilities upon identification, accompanied children often spend longer periods of time with their families in initial reception facilities, which raises concerns as to responding to children's special needs. In Bavaria, the number of cases where children are determined "not suitable for guardianship" because of criminal offences, drug offences, prostitution or mental health has increased and there is a lack of specialised facilities for these children.

Reception conditions for children in **Spain** remained poor. In particular, the Hortaleza Protection Centre for Children in Madrid has been chronically overcrowded, according to [TeleMadrid](#). [The Province](#) reported that in northern Spain unaccompanied children as young as 10 have been forced to sleep at police stations as arrivals overwhelm reception centres.

The saturation of accommodation facilities for unaccompanied children across **France** remained a concern, as not all such children are guaranteed shelter, the Public Defender of Rights and the NGO 'GISTI' reported in interviews.

In **Sweden**, neither the Swedish Migration Agency nor the municipalities are responsible for providing housing for those unaccompanied children and young adults who are eligible for temporary residence permits to finish their studies at the upper secondary level, these authorities stated in interviews. As a result, this group will have difficulties in finding housing on their own due to the scarcity of housing alternatives, various [media sources](#) reported.

Guardianship for unaccompanied children

In **Italy**, the Authority for the Protection of Childhood and Adolescence (*Autorità Garante per l'Infanzia e l'Adolescenza*, AGA) launched a [project](#) aimed at monitoring [voluntary guardianship](#). The initiative, which is funded by the Asylum, Migration and Integration Fund (AMIF) and the Italian Ministry of the Interior, aims to: provide updated statistical data on voluntary guardianship, create an institutional network to support voluntary guardians, and provide [training](#), for example, with unaccompanied children as trainers.

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

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

In an interview, the Ombudsman for Children in **Poland** highlighted a number of shortcomings in the functioning of the guardianship system. For instance, the guardian's powers only last for the duration of the asylum procedure, and there are no criteria set out in law to appoint guardians for unaccompanied children. In

practice, appointing a guardian is extremely burdensome, because it is only allowed once parents are officially deprived of parental authority. The guardianship system is still based on the voluntary work of NGO staff, who are often appointed as ad hoc guardians.

The Ministry of Economic Affairs and Employment of **Finland** published a [study](#) reviewing the Finnish system of legal guardianship of unaccompanied children. Annually, approximately 100–700 unaccompanied children arrive in Finland, while in 2015, the number was over 3,000. Short time frames for the appointment of a guardian, the commitment of many experienced guardians and relatively low costs were among the positive findings of the study. Room for improvement was found regarding the shared coordination of the system among two administrative branches, problems relating to the independence of the guardians (since their fees are paid by the Finnish Immigration Service) as well as lack of training, qualification requirements and external supervision of the guardians.

Safeguards and specific support measures

In **France**, 80 % of migrant children living in squats, emergency housing or temporarily with relatives do not attend school, according to a [joint statement](#) published by the National Consultative Commission on Human Rights and a number of NGOs.

In **Sweden**, the financial support to upper-secondary-level migrant students (within the age range of 16-20) remained problematic. Although they are entitled to certain social benefits, municipalities lack the necessary system to administer such benefits, which are supposed to be reimbursed by the Swedish Migration Agency, the National Board of Health and Welfare reported in an interview. In addition, due to the delays in processing their applications for temporary residence permits for studies at upper secondary level, these youngsters were not able to start school in autumn 2018 in absence of the necessary permits, the Swedish Red Cross pointed out in interviews.

In **the Netherlands**, 117,613 people signed [a petition](#) for a more lenient application of the Children's Amnesty, a residence permit for children whose asylum application has been rejected and who have been living in the country for more than five years.

Age assessments

In **Sweden**, a [recent study](#) analysed the age-assessment methods applied by the National Board of Forensic Medicine, based on the medical age assessment of some 9,600 male asylum seekers. The study found that 85 % of this group were assessed as being adults, and that one third of all children may have been wrongly assessed as adults.

Missing children

In **Austria**, as of 1 October 2018, 500 missing children with non-EU citizenship were registered in the Schengen Information System (SIS II). Out of these, 121 are between the age of 0 to 14, and 379 are between the age of 14 and 18, according to the Federal Ministry of the Interior.

In **Sweden**, 159 asylum-seeking and migrant children went missing during the reporting period, according to the Swedish Migration Agency.

Family reunification

According to the [Federal Association for Unaccompanied Minors](#), the Federal Foreign Office in **Germany** indicated that the Court of Justice of the European Union's [judgment](#) of 12 April 2018 (case C-550/16) regarding access to family reunification for unaccompanied children does not apply to Germany, but only to the specific case of the Netherlands where the case had emerged. The EU court held that an unaccompanied child who attains the age of majority during the asylum procedure retains their right to family reunification.

Several stakeholders in **Germany**, including the Jesuit Refugee Service, Federal Association for Unaccompanied Minors, Migration Commission of the German Bishops' Conference and IOM, raised concern in interviews about the provisions regulating [family reunification for persons under subsidiary protection](#), which came into force in August 2018. Issues of concern include the long separation periods, the fact that underage siblings are excluded, as well as the cap of 1,000 subsidiary protection status holders per month being entitled to reunify with their family.

Immigration detention

The total number of people held in immigration-related detention in **Greece**, islands included, was 6,608 at the end of September; of these, 3,238 were asylum seekers and 178 were unaccompanied children, according to the data of the Hellenic Police Headquarters. All this represents an increase since summer. The majority of detainees originated from Afghanistan, Bangladesh and Pakistan.

In **Italy**, the new [Decree Law No. 113/2018](#) envisages the extension of the maximum detention period in regional repatriation centres (*centri di permanenza per il rimpatrio*, CPR) from 30 days (90 days in case identification is pending) to 180 days. The act introduces the possibility of detaining asylum seekers for 30 days for identification purposes without any judicial review. Asylum seekers can be detained in specific areas of the hotspots, in reception facilities and at police headquarters. After 30 days, if they cannot be identified, they can be detained in a CPR facility for 180 days. If there are no places available in the CPR facility, migrants awaiting the enforcement of their return can be detained at police headquarters and international airports. The hotspot of Trapani (Sicily), Italy, was officially turned into a [CPR facility](#).

In **Hungary**, 46 people were placed in pre-removal detention during the reporting period (almost the same number as in the previous period), according to the data of the Office of Immigration and Asylum and the National Headquarters of the Police. Given that the transit zones at the border with Serbia remain the only location to lodge an asylum application and all migrants in an irregular situation who have been apprehended on Hungarian soil are escorted back to the other side of the border fence, the designated pre-removal and asylum detention centres continued to be almost empty, according to the Office of Immigration and Asylum. For this reason, the asylum detention centre in Nyírbátor was closed at the end of October.

The **Croatian** Law Centre reported that the detention centre Ježevo was fully occupied.

According to the [Ministry of the Interior](#), the number of people placed in pre-removal detention in **Bulgaria** increased (with 301 new detainees in the reporting period), the majority of them from Afghanistan. The Ministry of the Interior stated in an interview that some of the construction and renovation works in the detention facility in Busmantsi, Sofia (funded by the EU Asylum, Migration and Integration Fund) were completed. This included the renovation of sleeping quarters, corridors, toilets and common areas, as well as the replacement of the outdoor lighting.

Pre-removal detention of families with children and unaccompanied children aged 15-18 years, including for prolonged periods, persisted in **Poland**, the Ombudsman for Children and UNHCR reported in interviews.

Immigration detention continued to be on the rise in **France**. According to the NGO 'La Cimade', the administrative detention centres (*centres de rétention administrative* – CRA) are at full capacity. At the end of September 2018, the number of detainees in CRAs increased by 55 % in Rennes, 41 % in Toulouse, 20 % in Bordeaux and more than 30 % in Cayenne and Guadeloupe compared to last year, the same NGO [reported](#). A Tunisian man committed suicide in a CRA in Haute-Garonne, where his pre-removal detention had been extended by 15 days, [media sources](#) and NGOs reported.

The [Ministry for Children, Family, Refugees and Integration](#) in North Rhine-Westphalia, **Germany**, responded to a [report](#) of the National Agency for the Prevention of Torture about the immigration detention centre in Büren, denying any of the alleged fundamental rights infringements. According to the report, the centre applied unfounded solitary confinement, imposed disproportionate restrictions on leaving the cells, showed insensitivity when undressing inmates and examining their genital areas during initial examinations, and conducted surveillance in restrooms. In an immigration detention centre in Pforzheim, the German Caritas Association reported that it was only granted very restricted access to inmates to carry out consultations.

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

In its [submission](#) to the United Nations Committee against Torture, Amnesty International pointed out the automatic detention of asylum seekers at the Schiphol International Airport in **the Netherlands**. Asylum seekers remained detained at the airport during their procedure, which can take up to six weeks. The NGO also expressed concern about the Netherlands' practice of detaining asylum seekers for more than the legal maximum of 18 months.

In **Finland**, the Immigration Service [announced](#) the setting up of a new immigration detention unit in the Oulu reception centre. The new unit will have 30 beds and start operating in the summer of 2019. The capacity of the two detention units currently operating in Helsinki and in Joutseno – 109 beds – is not sufficient, according to the Immigration Service.

Return

The police in **Greece** carried out some 345 removals in September; the vast majority of returnees were Albanians (sent back to their home country) and Syrians (readmitted by Turkey). As reported in an interview, IOM Greece conducted almost 450 assisted voluntary returns in September, primarily to Iraq, Georgia and Pakistan. Also in Greece, the Ombudsman published [its annual report](#) on returns for 2017, which highlighted a 60 % increase in the use of immigration detention compared to the year before, without a corresponding increase in the number of returns of such detainees. The Ombudsman also noted various shortcomings concerning the readmission procedure to Turkey (e.g. the lack of timely information to returnees; lack of interpreters; and gaps in verifying returnees' health status).

In a [monitoring report](#), the Authority for the Protection of People who are Detained or Deprived of their Personal Freedom identified the following fundamental rights concerns during return flights from **Italy**, Belgium, and Switzerland to Nigeria: authorities not informing returnees regarding the date and final destination of the journey; absence of interpreters and cultural mediators on board of the flight; and inadequate coordination between the authorities involved in the different stages of the return operations. Moreover, the report expresses concern about the practice of returning migrants to third countries that have not implemented national mechanisms for the prevention of torture or other inhumane or degrading treatment.

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

According to [UNHCR](#), there were 1,078 reported pushbacks from **Croatia** into Serbia in September and [809](#) from 1-14 October.

In **Bulgaria**, the [number of returnees](#) was 195 (mostly Iraqi nationals). They either returned voluntarily or under assisted voluntary return programmes; or were subject to removal, including readmission procedures.

In many cases, administrative courts in **Poland** reviewing return decisions did not grant suspensive effect to the appeals, although Polish [administrative law](#) allows for the temporary suspension of their enforcement in case of judicial review, the Ombudsman for Children and NGOs reported in interviews. However, the ECtHR imposed two interim measures under Rule 39, ordering the authorities not to expel the persons concerned pending the examination of their cases, several NGOs pointed out.

The [UN High Commissioner for Human Rights](#) raised concern about countries prioritising the return of migrants from Europe without ensuring that key international human rights obligations are upheld. The Office announced that it would dispatch a team to **Austria** to assess recent developments in this area. Five Afghans and one Iranian who were scheduled to be returned from Austria were brought to hospitals in critical condition, according to [media reports](#). They

had set fire to their cells in a detention centre in protest of their removal, stating they would rather die in Austria than be returned to their home countries.

According to an interview with Caritas Vienna, different judges in **Austria** use different sources of country-of-origin information and provide inconsistent arguments for returns to Afghanistan. The Provincial Court of Vienna disqualified an expert on Afghanistan from further serving as judicially sworn and court-certified expert, according to [media reports](#).

No follow-up monitoring of the individuals' whereabouts or their well-being takes place after returnees from **Germany** are handed over to IOM and Afghan authorities in Kabul, according to the [German government's reply](#) to a parliamentary question.

Save the Children released a [report](#) about children returning to Afghanistan, which illustrates the return procedures in **Sweden**, Norway and **Germany** during the past five years. According to the study, out of the 53 interviewed children and young adults in Afghanistan, almost three-quarters emphasised that they had not felt safe during the return procedure; more than half reported various forms of coercion or violence; one out of five indicated that, after their return, various armed groups attempted to recruit them by force; and almost no-one was provided with a reintegration plan.

In **Sweden**, the number of voluntary returns was 815, including 162 people returning voluntarily to Afghanistan. Meanwhile, Swedish authorities carried out 442 removals, including 30 forced returns to Afghanistan (two of them children), according to the data of the Swedish Migration Agency.

The **Dutch** Immigration and Naturalisation Service [postponed](#) the removal of a family as the mother filed a subsequent asylum claim based on the ground that she was too westernised to be safe in Afghanistan.

In **Finland**, the police announced that they have temporarily stopped the execution of forced returns to Iraq due to Iraqi officials declining to receive any failed asylum seekers who are returned against their will, according to [media sources](#).

The **Finnish** Immigration Service updated its [guidelines on Afghanistan](#) considering the situation in Kabul to have deteriorated to the extent that internal flights to Kabul can be considered only on a case-by-case basis and regarding only two groups of applicants, namely 1) "healthy and able-bodied unmarried men who are not particularly vulnerable in any way" and 2) "working age, healthy and childless married couples who are not particularly vulnerable and who have a safety net in Kabul". Returns to Afghanistan were suspended in September pending the revision of the guidelines.

Legal responses

Case law

Court of Justice of the European Union (CJEU)

The CJEU [confirmed](#) the General Court's decision not to annul the **EU-Turkey statement**. According to the court, the appeal against the order was too

general, unclear and incoherent, failing to precisely state the legal flaws in the General Court's reasoning.

In a preliminary ruling initiated by the Sophia Administrative Court, **Bulgaria**, the CJEU [ruled](#) that the applications lodged separately by the members of a family cannot be subject to a single assessment. The question concerned the interpretation of [Article 4 of the recast Qualification Directive](#) and the assessment of applications for international protection of family members, in cases where those applications are based on the same facts.

In another preliminary ruling initiated by the Sophia Administrative Court, **Bulgaria**, the CJEU [held](#) that an applicant who applied for asylum on religious grounds does not have to provide evidence to support all elements included in the concept of "religion" to substantiate his beliefs. It is sufficient when the applicant supports the claim in a credible manner. The prohibition of acts contrary to the state religion can constitute an "act of persecution" when in practice accompanied by penalties such as execution or imprisonment in the country of origin. If this is the case is for the national court to determine.

In a preliminary ruling initiated by the Budapest Administrative and Labour Court, **Hungary**, the CJEU [held](#) that a person can be excluded from subsidiary protection on the ground of "serious crime". The assessment of the seriousness of the crime cannot be based on the sole criterion of the crime penalty under national law. In order to assess the seriousness of the crime, the competent national authority must carry out a full investigation into all of the circumstances of the individual case concerned.

The CJEU [ruled](#) in a preliminary request of the Milan Tribunal, **Italy**, that a national appeal procedure against a first instance decision confirming the rejection of an asylum application can be initiated without suspensive effect. The first instance court decides whether to give suspensive effect to its decision after having assessed whether or not the claims raised in the appeal against the judgment are well founded.

In two preliminary rulings initiated by the Council of State, the **Netherlands**, the CJEU reiterated its previous finding on the right to an effective remedy and case law of the European Court of Human Rights (ECtHR). According to both courts, Member States are required to set up one level of judicial appeal against a negative asylum decision with automatic suspensive effect. However, Member States are [not required](#) to set up a second level of judicial appeal, nor [to give](#) automatic suspensive to that remedy. If such a second level of appeal exists, national courts determine whether the proceedings should be given a suspensive effect, in accordance with the principle of equivalence.

European Court of Human Rights (ECtHR)

The ECtHR [ruled](#) that **the Netherlands** did not violate Article 3 (prohibition of torture and inhuman or degrading treatment) of the European Convention on Human Rights (ECHR) by deciding to remove a Moroccan national convicted of preparing terrorist offences to Morocco. The court did not find the applicant at risk of torture and ill-treatment in Morocco based on the applicant's criminal offence.

National case law

The Constitutional Court of **Austria** [initiated](#) an assessment of the constitutionality of a law of the regional state Burgenland cutting social minimum benefits (*Mindestsicherung*) for persons who have legally stayed in Austria for less than five years.

In **Hungary**, the Metropolitan Administrative and Labour Court turned to the CJEU, [requesting](#) a preliminary ruling on whether the [recent amendments](#) to the asylum law violate the EU asylum *acquis*. As the referring court suspended the judicial review of the rejected asylum claim while waiting for the CJEU's ruling, other reviewing courts across the country also [suspended](#) their procedures.

In **Poland**, the Supreme Administrative Court [delivered](#) 12 judgments in cases concerning refusal-of-entry decisions issued to asylum seekers at the border in Medyka and Terespol. All of these judgments annulled refusal-of-entry decisions issued by border guards (they were annulled mainly on account of formal and procedural flaws). Also in **Poland**, the Voivodship Administrative Court in Warsaw [held](#) that the best interests of the child must be taken into account in return procedures by all authorities concerned, which also means that authorities need to take all appropriate measures to promote the physical and psychological recovery and social integration of migrant child victims of violence.

Two courts in **France** prevented the sending back of asylum seekers to Italy on account of the latter's allegedly dysfunctional asylum system. The Melun Administrative Court [ruled](#) that the Italian authorities themselves stated that they were unable to process asylum claims in compliance with refugee law. In another ruling, the Administrative Court of Pau [argued](#) that, based on reports from the UN Human Rights Committee, *Médecins Sans Frontières* and Amnesty International, the "Italian asylum system and the material reception conditions for asylum seekers [have] systematic failures, exposing [asylum seekers] to the risk of inhuman or degrading treatment."

In **France**, the Constitutional Council [dismissed](#) all constitutional complaints against the new law "for controlled immigration, an effective right to asylum and successful integration". The new law will enter into force in January 2019, with some provisions only taking effect as of March 2019.

The Higher Administrative Court of North Rhine-Westphalia, **Germany**, [declared](#) the "[residence rule](#)" (*Wohnsitzzuweisung*) unlawful, if applied as a general obligation on refugees to reside in the municipality or district where their asylum procedure was conducted.

The Migration Court of Appeal in **Sweden** [ruled](#) that the recent [legislative amendments](#) on granting temporary residence permits for unaccompanied children and young adults under certain conditions need to be applied even if the applicants are not able to provide full proof of their identity.

In **the Netherlands**, the Administrative Jurisdiction Division of the Council of State [ruled](#) that the appeal of a Kurdish asylum-seeking woman from Iraq was well-founded. The State Secretary's decision to reject the claim was based on the applicant's inability to speak Arabic. The appeal stated that the State Secretary failed to address a report submitted by the applicant regarding the situation of Iraqi Kurdish women in Iraq forced to stay home and failed to

investigate if her alleged long-term stay indoors could explain her weak command of the language.

The District Court of The Hague, **the Netherlands**, [annulled](#) an applicant's Dublin transfer decision to Italy. According to the applicant, a new decree has affected reception conditions in Italy. The court held that the government did not take into consideration the consequences of the decree and therefore did not sufficiently substantiate the absence of structural deficiencies in the reception framework in Italy.

The United Nations Committee on the Rights of Persons with Disabilities [observed](#) that **Denmark** failed to fulfil its obligations under the United Nations Convention on the Rights on Persons with Disabilities when rejecting the family reunification application of a Danish citizen with disabilities and his Ukrainian wife. The family reunification application was rejected by the Immigration Service on the ground that the Danish citizen was not able to support himself financially.

In **Finland**, the [Turku Court of Appeal](#) upheld an earlier judgment of the Pirkanmaa District Court banning the activities of the Nordic Resistance Movement (*Pohjoismainen vastarintaliike*) and the Nordic Tradition (*Pohjoinen Perinne*) group as fundamentally contrary to law. The court referred to the Nordic Resistance Movement's anti-immigrant, anti-minorities and anti-Semitic activities, as well as several convictions for violence, as justifying a ban on its activities in the public interest.

The Helsinki District Court sentenced the founder and editor-in-chief of the racist and anti-immigrant website *MV-lehti* to 22 months imprisonment on 16 criminal counts, including two counts of aggravated incitement against an ethnic group, as reported by the [National Police Board](#). The judgment is not final.

The [Finish Supreme Court](#) ruled on the possibility to return an unaccompanied child to Iraq, where his family resides. The Finnish Immigration Service had rejected the minor's application for international protection, deciding that the child would be better placed in a familiar environment in Baghdad. As the authorities had not sufficiently ascertained the safety of the child's return and the appropriateness of the reception conditions, the court ruled that the decision must be annulled and the case must be remitted to the Finnish Immigration Services for reconsideration.

Cases on criminalisation of humanitarian assistance to migrants on the move

In **Greece**, following the arrest of two volunteers in Lesvos who were charged with migrant smuggling and put into pre-trial detention, 60 national and international civil society organisations issued a [joint press release](#) against the criminalisation of humanitarian assistance to migrants in need. According to the signatories, Member States' practices criminalising solidarity with migrants on the move go against fundamental European values of justice and human rights.

National legislation

The Asylum Service in **Greece** adopted a new decision on the geographical restrictions imposed on asylum seekers who arrive at the Aegean islands; it

[introduced](#) exceptions to these restrictions for certain vulnerable persons and Dublin transferees. Since the decision's publication in early October, the Greek Asylum Service has actually exempted all new arrivals falling under these two categories from the restrictions on movement.

In **Italy**, the new [Decree Law No. 113/2018](#) – which abolishes the humanitarian protection status and changes the reception system – introduced a number of new types of residence permits of shorter duration and with limited rights and benefits. These include a 'special protection' residence permit of one year; and a residence permit for 'temporary disaster in the country of origin', with a duration of six months. These residence permits cannot be converted into work permits.

The government in **Hungary** [extended](#) the duration of the 'state of emergency due to mass migration' affecting the whole country until March 2019 – despite the very low number of arrivals.

According to the [media](#), **Croatia** put up fences and concrete blocks at 13 roads crossing the borders to Bosnia and Herzegovina and Serbia to prevent illegal border crossings, improve border surveillance and fight smuggling. The government also adopted a [new Protocol on the treatment of unaccompanied children](#).

The federal government of **Austria** [withdrew](#) asylum seekers' right to access apprenticeship schemes three months after admission to the asylum procedure.

The **Spanish** Congress of Deputies approved a legal [decree](#) that expands access to healthcare to undocumented migrants.

The Federal Association for Unaccompanied Minors in **Germany** raised concern in an interview about a [new legislative proposal](#)'s aim to include duties of cooperation in withdrawal procedures for recognised refugees and asylum-seekers without ensuring safeguards for particularly vulnerable groups.

Several legislative initiatives under preparation in **Finland** are seen to contribute to increasing the risk of *refoulement* – particularly the [draft proposal](#) to tighten the criteria for admissibility of subsequent applications. The government proposed [amendments to the Aliens Act](#) to the effect of speeding up the process of enforcement of return decisions in criminal cases and cases involving risks for the public order or security. A [government bill](#) introducing aggravated penalties for violations of entry bans was submitted to parliament.

Policy responses

In **Greece**, a [joint statement of cooperation](#) was signed between the Ministry for Migration Policy, UNHCR, EASO and the European Commission's Structural Reform Support Service, aiming at the administrative, technical and operational strengthening of the Reception and Identification Service.

According to [news sources](#), during the Group of Six (G6) summit in France, the Minister of the Interior of **Italy** declared his intention to open humanitarian corridors to allow people in need of protection to safely fly to Italy and apply for asylum. He welcomed a group of some 50 migrants UNHCR had evacuated from Niger at the airport, reiterating that Italy is keeping its doors open for those who escape wars, [media](#) reported.

During the [Ministerial Conference on Security and Migration](#) organised by the Austrian Presidency of the Council, according to [media reports](#), the Ministry of the Interior of **Italy** and **Austria** backed a proposal for refugees to be processed on board ships rather than brought to shore in Europe.

The **Austrian** Ministry of the Interior and the **Danish** Ministry of Immigration and Integration declared a "vision for a better protection system in a globalized world". The [paper](#) suggests shifting the policy focus away from asylum seekers who have the resources and are physically strong enough to come to Europe, to providing protection only to "the most vulnerable migrants" in countries of first reception near conflict areas.

In **Bulgaria**, the first-ever career forum for asylum seekers took place in the town of Harmanli; it was organised by UNHCR and CATRO, in partnership with the State Agency of Refugees, the latter reported. Employers from the region had the opportunity to personally meet asylum seekers, with the support of integration experts from UNHCR and NGOs.

Also in **Bulgaria**, UNHCR started publishing a regular [online information bulletin](#) aimed at assisting judges hearing migration- and asylum-related cases, as well as legal representatives of migrants and asylum seekers, in properly applying international, EU and national legal standards, including the latest case law of the ECtHR and the CJEU.

The President of **France** [refused](#) to permit the 'Aquarius' NGO rescue ship to disembark in the port of Marseille at the end of September. However, according to the [Prime Minister's Office](#), France will receive 18 of the 58 migrants who were on board of the ship (which ultimately docked in Malta).

The **Dutch** National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children reported in its annual [monitor](#) that more than a third of all the victims prefer the asylum procedure over the Human Trafficking Residence Scheme. Particularly women apply for asylum because of the higher procedural costs of the Scheme, the obligation to substantiate their nationality, and the lower chances of obtaining a permanent residence permit. As the Scheme is not used by the victims, the police cannot collect information about human traffickers to be used for prosecution.

Responses by civil society, local and political actors

The Hungarian Helsinki Committee [challenged the constitutionality](#) of the new **Hungarian** law that introduced the "[special tax related to migration](#)" and a new crime into the [Hungarian Criminal Code](#) on "aiding and supporting illegal migration" before the Constitutional Court. The same NGO also [filed a petition](#) on the same subject-matter before the European Court of Human Rights (claiming violations of Articles 10, 11, 13, 14 and 18 of the European Convention on Human Rights).

According to a survey cited in the [Washington Post](#), **Spain** is the most welcoming country in Europe for migrants, with 86 % of Spanish adults in favour of taking in people fleeing violence and war.

Some 100 Nordic Resistance Movement (*Pohjoismainen vastarintaliike*) members assembled in a demonstration in Helsinki, **Finland**, according to the [media](#). The

police was unable to interfere, as the [Turku Appeal Court](#)'s ruling is not yet enforceable. Nine members of the movement were arrested.

Hate speech and violent crime

In **Greece**, seven people were injured and a man died of massive head injuries sustained during a fight between rival groups of Syrians and Afghans in the refugee camp at Malakasa (East Attica), [media sources](#) and the NGO [Greek Forum for Refugees](#) reported. According to this NGO, the bad living conditions, combined with the remote location of the camp, make people feel insecure and in despair about their future. Also in Greece, a monument set up in Lesbos in memory of the asylum seekers who perished at sea was destroyed by vandals, as reported by the [media](#) and the [Observatory of Racist Crimes](#). Police investigations were ongoing at the end of the reporting period. The NGO Refugee Support Aegean published a [timeline](#) on the rise of xenophobic and racist incidents during the past six months, documenting all incidents that have taken place on the islands; these include the vandalism of the monument in Lesbos, police officers verbally attacking an elderly woman at the Moria facility, and local parents' xenophobic demonstrations against refugee children attending schools in Chios.

The [UN High Commissioner for Human Rights](#) announced that it would dispatch teams to **Italy** to assess the reported sharp increase in acts of violence and racism against migrants, persons of African descent and Roma. [Chronicles of Ordinary Racism](#) – an organisation that carries out daily monitoring of hate crime incidents in Italy – registered at least one episode of racism a day until September 2018. The reported incidents include, for example, a black person being denied the opportunity to rent an apartment in Padua; and two young men shooting with an air pistol from their car, wounding a 27-year-old Pakistani in Castelfranco Emilia. The NGO Lunaria [reported](#) 68 acts of physical violence against migrants from April to September 2018, compared to 19 during the same period the year before. The Minister of the Interior on [Facebook](#) declared his intention to impose a curfew of 9 pm for all 'ethnic shops and activities', based on the assumption that these kinds of businesses attract drug dealers.

In **Hungary**, a young local and his friend from Scotland (of Iranian origin) bumped the side mirror of another car while parking in the city of Szombathely (in the north-western part of the country). While the Scottish boy and his friend stopped and got out of the car to talk to the owner of the damaged car, the owner's family attacked the Scottish boy, punching him in the face and calling him names. The attacked boys made a video of the incident and lodged a complaint with the Hungarian police, enclosing the video; however, the criminal procedure was terminated as, according to the police, the complaint was not well-founded, [media sources](#) reported.

In **Bulgaria**, a British citizen was beaten up by football fans because of his skin colour. According to the victim, the attackers imitated monkey noises while beating him. Investigations, however, classified the case as a medium bodily injury with no racist motivation, [media sources](#) reported.

The ruling party in **Poland** released a new [anti-immigrant commercial](#) a few days prior to the local elections. It imagined what Poland were to look like in

2020 should the opposition come to power and push a pro-immigrant agenda, envisaging violence, rioting on the streets and the total dissolution of Polish society. The Ombudsman [requested](#) the prosecutor's office in Warsaw to initiate proceedings to determine whether the commercial was aimed at inducing hatred or other strong negative emotions towards migrants and refugees.

In their last [report](#) for the United Nations, the Group of Experts on Afro-descendants concluded that discrimination through racial profiling is an endemic issue in **Spain**. The report concludes that Afro-descendants are repeatedly assumed to be undocumented migrants and are arrested in public-street controls more often than people with other ethnic origins.

The [UN High Commissioner for Human Rights](#) deemed worrying the recent outbreak of anti-migrant violence in **Germany**, which appears to have been stoked by xenophobic hate speech. According to the [Amadeu Antonio Foundation and Stern](#), as of 28 October, 565 attacks on protection seekers and reception centres – of which 153 caused bodily injuries – had been registered in 2018. In a [response](#) to a parliamentary question of the party Alternative for Germany (AfD), the Federal Government indicated that, in the first half of 2018, there were 16 politically motivated attacks on immigrant reception facilities by German nationals; and 457 offences against asylum seekers or refugees themselves, of which 118 were violent.

The National Police Board in **Finland** reported incidents of violence or threats of violence involving asylum seekers to have continued at previous levels of approximately 30 incidents per week. Most of the incidents have occurred at the reception centres and concern violence or threats of violence between asylum seekers or against the staff. Several cases of violence against individual asylum seekers by local residents outside the centres were also reported. The National Police Board further noted an increase in the activities of the anti-immigration vigilante group Soldiers of Odin, which openly supports the Nordic Resistance Movement. Gatherings of some 10–20 members of the group have been organised in public places in different locations around the country.

ANNEX – Stakeholders interviewed in October 2018

Country	Stakeholders interviewed
Austria	<ul style="list-style-type: none"> • Federal Ministry of the Interior, Department III/9 (<i>Bundesministerium für Inneres, Abteilung III/9 Grundversorgung und Bundesbetreuung</i>); • Austrian Ombudsman Board (<i>Volksanwaltschaft</i>); • Federal Ministry of the Interior, Department III/5 (<i>Bundesministerium für Inneres, Abteilung III/5 Asyl und Fremdenwesen</i>); • Federal Ministry of the Interior, Criminal Intelligence Service, Competence Centre for Missing Children (<i>Bundesministerium für Inneres, Bundeskriminalamt, Kompetenzzentrum für Abgängige Personen</i>); • Antidiscrimination Office Styria (<i>Antidiskriminierungsstelle Steiermark</i>); • Caritas Vienna (<i>Caritas Wien</i>); • Caritas Styria (<i>Caritas Steiermark</i>); • Austrian Red Cross (<i>Österreichisches Rotes Kreuz</i>).
Bulgaria	<ul style="list-style-type: none"> • Ministry of the Interior, Analysis and Policies Directorate, Borders and Migration Unit (MoI – APD – BMU) (<i>Министерство на вътрешните работи, Дирекция „Анализи и политики“, Отдел „Граници и миграция“, МВР – ДАП – ОГМ</i>); • State Agency for Refugees (SAR) (<i>Държавна агенция за бежанците, ДАБ</i>); • Ombudsman of the Republic of Bulgaria (<i>Омбудсман на Република България</i>); • State Agency for Child Protection (SACP) (<i>Държавна агенция за закрила на детето, ДАЗД</i>); • Prosecution Office of the Republic of Bulgaria (PORB) (<i>Прокуратура на Република България, ПРБ</i>); • UNHCR Bulgaria; • Caritas Bulgaria (<i>Каритас България</i>); • Council of Refugee Women in Bulgaria (CRWB) (<i>Съвет на жените бежанки в България, СЖББ</i>).
Croatia	<ul style="list-style-type: none"> • Ministry of Interior (<i>Ministarstvo unutarnjih poslova</i>); • Children's Attorney (<i>Pravobraniteljica za djecu</i>); • Croatia, Ombudsperson's Office (<i>Ured pučke pravobraniteljice</i>); • Croatian Government's Office for Human Rights and the Rights of National Minorities (<i>Ured za ljudska prava i prava nacionalnih manjina Vlade RH</i>); • Croatian Law Centre (<i>Hrvatski pravni Centar</i>); • Croatia, Centre for Peace Studies (<i>Centar za mirovne studije</i>); • Croatia, Rehabilitation centre for stress and trauma (<i>Rehabilitacijski centar za stres i traumatu</i>); • Croatia, Welcome Initiative (<i>Inicijativa Dobrodošli!</i>); • Croatia, Jesuit Refugee Service (<i>Isusovačka služba za izbjeglice</i>); • Croatia, Society for psychological assistance (<i>Društvo za psihološku pomoć</i>); • Centre for Missing and Abused Children (<i>Centar za nestalu i zlostavljanu djecu</i>).
Denmark	<ul style="list-style-type: none"> • Danish Ministry of Justice (<i>Justitsministeriet</i>), including the Danish National Police (<i>Rigspolitiet</i>); • Danish Immigration Service (<i>Udlændingestyrelsen</i>), including the Statistical Unit, the Office for Finances and Accommodation, the Centre for Asylum and the Office for Accommodation Conditions; • Danish Refugee Council (<i>Dansk Flygtningehjælp</i>);

Country	Stakeholders interviewed
	<ul style="list-style-type: none"> • Danish Red Cross (<i>Dansk Røde Kors</i>); • United Nations High Commissioner for Refugees (UNHCR); • SOS against Racism (<i>SOS mod Racisme</i>).
Finland	<ul style="list-style-type: none"> • Amnesty International Finnish Section; • Central Union for Child Welfare (<i>Lastensuojelun keskusliitto/Centralförbundet för barn</i>); • Finnish Immigration Service (<i>Maahanmuuttovirasto/Migrationsverket</i>); • Finnish Refugee Advice Centre (<i>Pakolaisneuvonta/Flyktingrådgivningen</i>); • IOM Finland; • National Police Board (<i>Poliisiylhallitus/Polisstyrelsen</i>); • Non-discrimination Ombudsman (<i>Yhdenvertaisuusvaltuutettu/Diskrimineringsombudsmannen</i>); • Ombudsman for Children (<i>Lapsiasiavaltuutettu/Barnombudsmannen</i>).
France	<ul style="list-style-type: none"> • Ministry of the Interior (<i>Ministère de l'Intérieur</i>); • Public Defender of Rights (<i>Le Défenseur des droits – DDD</i>); • National Consultative Commission on Human Rights (<i>Commission nationale consultative des droits de l'homme - CNCDH</i>); • Doctors of the world - France (<i>Médecins du Monde</i>); • France Land of Asylum (<i>France Terre d'Asile</i>); • Human Rights League (<i>Ligue des Droits de l'Homme</i>); • National Association of Border Assistance for Foreigners (<i>Association nationale d'assistance aux frontières pour les étrangers, ANAFÉ</i>); • La Cimade (<i>Inter-Movement Committee for evacuees - Comité inter mouvements auprès des évacués</i>); • The Immigrant Information and Support Group (<i>Groupe d'information et de soutien des immigrés, GISTI</i>); • Service centre for migrants in Calais (<i>Plateforme de service aux migrants à Calais</i>).
Germany	<ul style="list-style-type: none"> • Jesuit Refugee Service (JRS); • Federal Association for Unaccompanied Minors (<i>Bundesfachverband Unbegleitete Minderjährige Flüchtlinge e.V., BumF</i>); • Migration Commission of the German Bishops' Conference (<i>Migrationskommission, Deutsche Bischofskonferenz, DBK</i>); • German Institute for Human Rights; • Berlin Office of the United Nations High Commissioner for Refugees (UNHCR); • Berlin Office of the International Organisation for Migration (IOM); • German Caritas Association (<i>Deutscher Caritasverband, DC</i>); • Administration of the Berliner Senate for Education, Youth and Family, Department for Youth and Family, Section for Unaccompanied Minors, (BSEYF).
Greece	<ul style="list-style-type: none"> • Greek Asylum Service (<i>Υπηρεσία Ασύλου</i>); • The Greek Ombudsman (<i>Συνήγορος του Πολίτη</i>); • Hellenic Police Headquarters (<i>Αρχηγείο Ελληνικής Αστυνομίας</i>); • Racist Violence Recording Network (<i>Δίκτυο Καταγραφής Ρατσιστικής Βίας</i>); • International Organization for Migration (<i>Διεθνής Οργανισμός Μετανάστευσης</i>);

Country	Stakeholders interviewed
	<ul style="list-style-type: none"> • Hellenic League for Human Rights (<i>Ελληνική Ένωση για τα Δικαιώματα του Ανθρώπου</i>); • Greek Council for Refugees (<i>Ελληνικό Συμβούλιο για τους Πρόσφυγες</i>). • National Centre for Social Solidarity (Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης)
Hungary	<ul style="list-style-type: none"> • Ministry of the Interior (<i>Belügyminisztérium</i>); • Ministry of Human Capacities (<i>Emberi Erőforrások Minisztériuma</i>); • National Headquarters of the Police (<i>Országos Rendőr-főkapitányság</i>); • Immigration and Asylum Office (<i>Bevándorlási és Menekültügyi Hivatal</i>); • Cordelia Foundation for the Rehabilitation of Torture Victims (<i>Cordelia Alapítvány a Szervezett Erőszak Áldozataiért</i>); • United Nations High Commissioner for Refugees, Regional Representation for Central Europe (Budapest); • MigSzol; • Hungarian Association for Migrants (<i>Menedék Migránsokat Segítő Egyesület</i>).
Italy	<ul style="list-style-type: none"> • Ministry of the Interior; • Authority for the Protection of People who are Detained or Deprived of their Personal Freedom (<i>Garante nazionale per i diritti delle persone detenute o private della libertà personale</i>); • Association for Legal Studies on Immigration (<i>Associazione per gli studi giuridici sull'immigrazione – ASGI</i>); • Italian Refugees Council (<i>Consiglio Italiano per i Rifugiati – CIR</i>); • NGO 'Doctors for Human Rights' (<i>Medici per i diritti umani – MEDU</i>); • United Nations High Commissioner for Refugees (UNHCR); • Jesuit Refugee Service 'Centro Astalli'; • Community of Sant'Egidio (<i>Comunità di Sant'Egidio</i>); • 'Melting Pot Europa' project; • Freedom and Civil Rights Italian Coalition (<i>Coalizione Italiana Libertà e Diritti Civili – CILD</i>); • Recreational and Cultural Italian Association (<i>Associazione Ricreativa e Culturale Italiana – ARCI</i>); • Chronicles of Ordinary Racism (<i>Cronache di ordinario razzismo</i>).
Netherlands	<ul style="list-style-type: none"> • Ministry for Security and Justice: central information point, providing information on behalf of: Immigration and Naturalisation Service, Aliens Police, Central Agency for the Reception of Asylum Seekers (all members of the so-called 'Alien Chain'); • Defence for Children the Netherlands; • Dutch Council for Refugees (<i>Vluchtelingenwerk Nederland</i>); • Amnesty International - Netherlands; • NIDOS; • Stichting LOS; • UNICEF the Netherlands; • Pharos, Dutch Centre of Expertise on Health Disparities; • MiND-the Dutch Reporting Point for Discrimination.
Poland	<ul style="list-style-type: none"> • Association for Legal Intervention (Stowarzyszenie Interwencji Prawnej, SIP); • Helsinki Foundation for Human Rights (<i>Helsińska Fundacja Praw Człowieka – HFPC</i>); • United Nation High Commissioner for Refugees, Office in Poland (UNHCR);

Country	Stakeholders interviewed
	<ul style="list-style-type: none"> • Ombudsman (<i>Rzecznik Praw Obywatelskich – RPO</i>); • Head of the Office for Foreigners (<i>Szef Urzędu do spraw Cudzoziemców – UDSC</i>); • Halina Nieć Legal Aid Center (<i>Stowarzyszenie Centrum Pomocy Prawnej im. Haliny Nieć</i>); • Ocalenie Foundation (<i>Fundacja Ocalenie</i>); • Rule of Law Institute Foundation (<i>Instytut na rzecz Państwa i Prawa, FIPP</i>); • Ombudsman for Children (<i>Rzecznik Praw Dziecka – RPD</i>); • Human Constanta.
Spain	<ul style="list-style-type: none"> • Asylum and Refugee Office of the Spanish Ministry of the Interior (<i>Oficina de Asilo y Refugio del Ministerio del Interior – OAR</i>); • Directorate-General for Integration and Humanitarian Attention, Secretary of State for Migration, Minister of Labour, Migration and Social Security (<i>Dirección General de Integración y Atención Humanitaria, Secretaria de Estado de Migraciones, Ministerio de Trabajo, Migraciones y Seguridad Social</i>); • Spanish Ombudsman (<i>Defensor del Pueblo</i>); • UNHCR (<i>Oficina de la Agencia de la ONU para los Refugiados en España – ACNUR</i>); • Spanish Committee of UNICEF (<i>Comité español de UNICEF</i>); • Jesuit Migrant Service (<i>Servicio Jesuita Migrantes, SJM</i>); • Spanish Refugee Aid Commission (<i>Comisión Española de Ayuda al Refugiado – CEAR</i>); • Save the Children NGO; • Chair of Refugees and Forced Migrants of Comillas ICAI-ICADE, INDITEX (<i>Cátedra de Refugiados y Migrantes Forzados de Comillas ICAI-ICADE, INDITEX</i>).
Sweden	<ul style="list-style-type: none"> • National Board of Health and Welfare (<i>Socialstyrelsen</i>); • Swedish Police (<i>Polisen</i>); • Swedish Migration Agency (<i>Migrationsverket</i>); • Save the Children Sweden (<i>Rädda barnen</i>); • Swedish Red Cross (<i>Röda korset</i>); • Amnesty Sweden.