

Monthly data collection on the migration situation in the EU

January 2017 monthly report 1–31 December 2016

Highlights: 1-31 December 2016	2
1. Austria	16
2. Bulgaria.....	24
3. Denmark	33
4. Finland	44
5. France.....	53
6. Germany	62
7. Greece	71
8. Hungary	77
9. Italy.....	85
10. Netherlands	97
11. Poland.....	102
12. Slovakia	110
13. Spain	116
14. Sweden	124

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

Highlights: 1-31 December 2016

With the onset of winter across Europe, many fundamental rights risks for migrants and refugees have become increasingly acute. As temperatures continue to drop, timely humanitarian action and adequate shelter are urgently needed – particularly in Bulgaria, Hungary and Greece, where facilities are in poor condition or people are staying in tents.

New arrivals

External land and sea borders

Arrivals to Italy and Greece continue to decrease: some 8,680 persons arrive in Italy and some 1,660 in Greece. For Greece, this is a 17 % drop in arrivals compared with November 2016. In 2016, the majority of arrivals to Greece were women and children (58 %).

Many people continue trying to enter Hungary. Some 470 persons enter Hungary irregularly, including 43 children. The Hungarian police prevents 2,290 persons from climbing over the fence – significantly more than in November (1,000). The police also returns 1,400 persons who are apprehended within 8 km of the border to Serbia, where they have to wait to apply for asylum in one of the transit zones; this is slightly more than in November (1,060). Reports continue to emerge about severe violence by the police and local vigilante groups.

Arrivals in Bulgaria further decrease to some 440 persons, who are apprehended at the borders and within Bulgarian territory. A woman from Somalia who tried to reach western Europe is found dead in the Strandzha Mountains in Bulgaria; **she presumably froze to death. Several others who are apprehended, including children, suffer from frostbite.**

Slovakian authorities apprehend some 260 persons, mainly from the Ukraine.

Internal borders and airports

Sweden receives fewer than 2,000 asylum seekers, the lowest monthly figure in 2016. Among them are more than 740 children, 108 of whom are unaccompanied.

Arrivals in Austria continue at a steady level of some 2,740 persons in December, mainly coming from Afghanistan, Nigeria, Pakistan, Morocco and Iraq.

Criminal proceedings

According to the Swedish Aliens Act, any person intentionally assisting an alien to unlawfully enter or pass through Sweden shall be sentenced for human smuggling, and subject to imprisonment for up to two years. In Hungary and Poland, facilitation is also punishable without intended or actual profit.

In Sweden, a young man is sentenced to three months in prison for transporting a family with two children, whom he met at a gas station in Denmark, across the bridge to Sweden. He had not received any compensation and wanted to help the children.

In Poland, 25 proceedings for facilitation were launched in 2016; in Hungary, 27 such proceedings were launched between October and December 2016.

In Denmark and Germany, some migrants are prosecuted for trying to facilitate their relatives' entry into the country. In Denmark, persons who are found guilty of facilitation can be subject to expulsion in addition to a fine or prison sentence.

In France, criminal proceedings are launched against several persons who offered transportation or accommodation to persons irregularly entering France from Italy.

The police in Bulgaria apprehend 111 persons for smuggling. All proceedings concern persons who acted for profit. Prison sentences are issued in several cases of irregular border crossing.

Italy arrests many newly arrived persons for smuggling and some for human trafficking.

Initial registration and asylum processing

At the border

Non-governmental organisations (NGOs) in Italy continue to [report](#) that most disembarkations occur outside the hotspot system. Under these circumstances, identification practices are less clear and information on international protection cannot always be provided. This also results from an overall lack of cultural mediators and interpreters.

In Poland, more than 24,000 persons are refused entry at the border. Some 120 persons manage to have their asylum applications registered and some 50 persons their subsequent applications. Border guards reportedly continue to refuse entry to persons wishing to apply for asylum. In Terespol, this affects some 1,000 to 1,500 persons, 60 % of whom are children. NGOs report that only two to three families manage to have their applications officially registered per day, often after submitting them some 30 or more times. Facilities for interviewing applicants at the border do not ensure privacy or confidentiality.

Every day, about 120 persons wait for admission to one of the transit zones at the Hungarian-Serbian border, where admission continues to be restricted to 10 persons a day. Families wait for up to six and a half months for admission, and unaccompanied children typically wait two and a half months, according to NGOs. Despite the weather conditions, people wait for their turn outside the gates of the transit areas for several days, sleeping in self-made tents made of sticks and blankets, to avoid missing their chance for admission.

Amnesty International [reports](#) on collective expulsions, immediate returns without individual assessments and police violence in Ceuta and Melilla, Spain.

Asylum

Some 1,160 persons were relocated from Greece to other EU Member States in December 2016, the majority to France, Germany, the Netherlands and Spain.

In Germany, asylum applications further decrease by almost 20% in November, to some 26,440 applications. Applications from Afghans, Iraqis and Syrians remain the most common. The Federal Office for Migration and Refugees delivered a record 86,049 decisions in November. Nonetheless, some 490,000 asylum procedures were still pending in December.

Social workers in Germany report that some persons do not have their travel and other documents because these were withheld during their travel or at the border. Such documents are often difficult to trace because persons are not sure to which authority they submitted their documents, complicating further procedures – including possible return.

Asylum applications in Bulgaria further decrease to 815, and include some 290 from children. Apprehended persons receive insufficient information on their rights. Interpreters are often paid late and not always available beyond registration procedures.

In Finland, asylum applications continue to decrease to some 240 in December. In total, 5,651 persons applied for asylum in Finland in 2016, including more than 400 unaccompanied children.

Compared with 2015, asylum applications in France increased by 10 % in 2016. The majority of applicants come from Afghanistan, Albania, Syria and Sudan. Access to asylum procedures is reportedly difficult in France. Associations and staff without the necessary legal knowledge primarily provide information on asylum, and interpretation is often unavailable.

In Denmark, Moroccans represent the second largest nationality among the asylum seekers (after Syrians) and remain the most common nationality among unaccompanied children in November.

Denmark suspends the transfer of asylum seekers to Hungary under the Dublin Regulation due to the risk of possible rights violations. The majority are informed that their applications will be processed in Denmark because the time limits foreseen in the Dublin Regulation have passed. Other applicants, however, might be transferred as the appeal against this decision remains pending.

Overall numbers of asylum applications in Poland did not change significantly in 2016 (12,180 applications) compared with 2015 (12,060). However, applications from Armenians, Russians, Tajiks, Vietnamese and Turks (mainly Kurds) increased substantially, with Turkish applications increasing five-fold.

Similarly, in Spain, asylum applications in 2016 (14,600) did not substantially exceed 2015 figures. Procedures in some 19,320 cases remain pending.

Fewer than 20 persons applied for asylum in Slovakia in December.

In the Netherlands, 4,020 persons applied for asylum in November 2016. The majority of applications are requests for family reunification, and are mostly filed by Syrians. 59 % of those requesting family reunification are children.

The Netherlands' Ministry of Security and Justice decided that the current situation in Yemen generally constitutes a situation of indiscriminate violence within the meaning of the [Qualification Directive \(2011/95/EU\)](#).

Afghan asylum seekers increasingly receive negative decisions in Austria; many of them obtain subsidiary protection on appeal.

The Swedish Migration Agency publishes a [judicial position](#) that deems unsafe several more areas in Afghanistan due to internal conflicts.

Return

Germany returns 34 persons to Afghanistan. Courts cancel several other planned returns to Afghanistan. According to NGO reports, some of the contested cases relate to persons who have been residing in the country for years or belong to minority groups potentially at risk upon return. NGOs and some federal states also express concerns about returns to Afghanistan.

In line with its recent agreement with Afghanistan, Sweden carries out the first "test chartered return flight" to Kabul without any reported incidents.

The police in Sweden asks municipal social services to disclose information on the whereabouts of undocumented families with dependent children. As support from the Swedish Migration Agency ceases, families turn to these social services for help because they see staying in Sweden irregularly as their only option.

The Committee for the Prevention of Torture (CPT) publishes a [report](#) on a return flight from Italy to Nigeria on 17 December 2015. The CPT recommends ensuring that returns are not carried out if a court has suspended removal, a request for suspending removal is pending before a court, or a request for suspending removal is legally possible.

Police in Lower Austria carries out returns without informing the owners of accommodation facilities in advance in some cases. In one case, a child is taken from school in the middle of a lesson.

Hungary returned 190 persons in December, more than during any other month in 2016. This figure does not include the number of applicants rejected in the transit zones.

In a report on a return flight from Spain, the CPT [expresses concern](#) over the lack of adequate notice given to returnees, which should be provided in writing, in a language they understand and several days before the removal. The

returnees should also have had access to a lawyer and the possibility to make at least one phone call, free of charge.

Reception conditions

Hotspots and immigration detention

Greece increases its accommodation capacity for persons eligible for relocation and for asylum seekers with specific needs – financed through EU funds – to 20,000 places, as planned.

Reception and Identification Centres on the Greek islands remain overcrowded. At the end of December, 15,431 persons were staying on the islands; the islands' official accommodation capacity is set at 8,480 persons. Occupancy at the Vathi hotspot in Samos exceeds its capacity by about three times – resulting in many persons staying outside the actual accommodation area, without access to electricity or water. Some children have to stay with unrelated adults. Overcrowding in the containers for unaccompanied and separated children increases tensions and the risk of violence and abuse. **In the Souda camp in Chios, damage to the water and power supply systems results in insufficient heating for several days, increasing health hazards.**

The Greek Minister of Migration Policy announces that special detention facilities will be created on the Greek islands to address cases of delinquency among arrivals and to facilitate further procedures.

A [study](#) by ECRE and other NGOs on detention at Italian hotspots states that migrants are unable to challenge detention decisions, and thus maintains that such detention should be deemed arbitrary and, when it exceeds 48 hours, in breach of the Italian Constitution.

In Bulgaria, pre-removal facilities are consistently overcrowded, reaching an occupancy rate of almost 170 %.

A group of 36 Iraqis, including 15 women and 11 children, leave the reception centre in Harmanli, Bulgaria, and are apprehended while attempting to reach Romania. The men are detained in Varna, the women in Dobrich and the children at a social services facility in Dobrich. One woman had to be released twice a day to breastfeed her child before she was eventually released.

In France, house arrest is frequently applied without effectively informing the persons concerned about the legal basis for the measure – asylum law or the continuing state of emergency.

The number of persons held in immigration detention increases in Austria.

Asylum seekers in Poland, including families with children and victims of torture, are often detained pursuant to court decisions for as long as 60 days. The best interests of the child are reportedly not considered in detention decisions.

A regional court in Slovakia rules that the decision to detain a family with children for six months did not take into account the best interests of the child, as repeatedly also [criticised](#) by the United Nations (UN) Committee on the Rights of the Child. The Ministry of Interior plans to create a new family detention centre.

The Court of Instruction of Algeciras, Spain [concludes](#) that the Aliens Detention Centre (CIE) in Algeciras and annex buildings in Tarifa look like a prison and resemble a penitentiary regime. CIEs have been widely criticised for overcrowding and many other deficiencies – for example, by the Spanish Ombudsperson.

More than 100 persons escape from different CIEs in Spain and several riots take place inside them. The Interior Minister [commits](#) to improving the overall regime of the centres and sets up a working group for this purpose, including experts from various ministries and NGOs.

Safety and material conditions

In response to the November riot at the reception centre in Harmanli, Bulgaria, residents are divided by nationality. Persons from Afghanistan are accommodated in outbuildings, **some without heating, despite harsh winter conditions**. Increasing numbers of Afghan asylum seekers accommodated in Harmanli ask to be returned to their country of origin. While investigations of the riot continue, 21 asylum seekers, including three children, are charged with hooliganism and resistance against public authorities. Meanwhile, 294 police officers receive prizes for professional execution of duties during the riot.

In Italy, resistance against the reception plan approved in September 2016 persists at municipal level. According to this plan, asylum seekers should be distributed among all municipalities at a ratio of 2.5 asylum seekers per 1,000 inhabitants.

Hungary closes the reception centre in Bicske, where conditions were considered best. Residents were moved to other centres in remote locations, including the Körmend tent camp, where conditions are extremely poor. **A local priest takes in eight inhabitants from Körmend as they could no longer bear the freezing temperatures in the camp.**

France launches a tender for some 5,350 places in emergency shelter for asylum seekers and applicants under house arrest. Due to the limited reception capacity, asylum seekers continue to be placed in emergency shelters – such as hotels – which further limits their access to information, legal advice and support.

In Germany, some asylum applicants are still accommodated in emergency shelters that are not suited for long-term accommodation.

UNHCR [criticises](#) the conditions at the reception centres (CETIs) in Ceuta and Melilla, Spain as unsuitable for asylum seekers.

Healthcare and basic services

Police in Brindisi, Italy dismantle an informal settlement due to inadequate hygiene conditions and health risks. Support organisations continue to provide basic legal and healthcare assistance at Tiburtina railway station in Rome, to which many asylum seekers moved after the Baobab reception centre was dismantled.

People waiting outside the transit zones at the Hungarian-Serbian border cannot sleep due to freezing temperatures; every second person is sick, many with fever and signs of flu or colds.

Following the transfer of some 8,000 persons from informal camps in France to reception and orientation centres, ensuring access to asylum procedures, healthcare and schooling has become difficult, particularly in view of limited staff. The [circular](#) on the dismantling of the camp in Calais only foresees some “educational and sports activities” and “learning French” for unaccompanied children.

Access to education for children seeking international protection in Germany remains unsystematic. Meanwhile, limitations on access to healthcare and the local authorities’ discretion regarding authorising medical treatment reportedly have particularly adverse effects on persons with disabilities.

Language barriers pose an overarching problem in Slovakia. Requalification courses and school education, which are formally open to refugees, are in practice inaccessible without knowledge of Slovak.

Vulnerable persons

The Greek authorities have started to transfer to the mainland vulnerable persons who are not subject to return under the EU-Turkey statement. This may, however, not benefit persons with less visible vulnerabilities, such as victims of torture or persons with mental health problems.

Vulnerable persons make up almost half of the migrants in the area of Ventimiglia and Como, Italy, according to a recent [report](#). Migrants and asylum seekers in the region lack basic legal and humanitarian assistance and wait for extremely long periods before their applications are assessed. In Bologna (Emilia-Romagna), a reception centre accommodating lesbian, gay, bisexual and transgender (LGBT) asylum seekers will open shortly.

Italy issues [guidelines](#) for the identification of victims of trafficking among applicants for international protection.

Germany establishes coordinators in accommodation facilities at selected locations to promote the implementation of minimum protection standards at the local level. The systematic identification of single women, pregnant women and children in reception facilities improves, according to NGOs. However, identifying persons with less visible protection needs remains a challenge.

Reception centres in Finland cannot always ensure sufficient privacy and safety for women and children. No special measures are in place for identifying child victims of sexual violence or abuse. Victims of trafficking are not treated consistently when decisions on residence permits are taken, according to the [Non-discrimination Ombudsman](#).

Conditions for vulnerable persons are insufficient at centres for temporary stay (CETIs) in Ceuta and Melilla. For example, more than 60 persons who have applied for asylum on grounds of sexual orientation have been waiting for several months to be moved to the peninsula, according to a [report](#) by Amnesty International.

Child protection

Identification

In Germany, children made up more than one third (36 %) of all asylum applicants in 2016; more than 10 % were under four years old. Some 50,300 unaccompanied children were under the protection of youth welfare offices as of November 2016, which is similar to the numbers in August.

More than 25,770 unaccompanied children arrived in Italy in 2016.

The number of unaccompanied children applying for asylum in the Netherlands is increasing (233 in November 2016). The majority of them come from Eritrea.

Slovakia discusses legislative changes that would require age assessments of unaccompanied children only when there is a suspicion that the person is an adult.

The Swedish Migration Agency re-registers as adults many children who were earlier assessed and registered as 15- to 16-year-olds. Proving that an individual is a child through a medical assessment remains difficult, as most doctors refuse to carry out such assessments. The Swedish Migration Agency visually assesses the age of all persons claiming to be teenagers and re-registers them as adults if this is "obvious". There is no standardised method for assessing adulthood.

Questions remain in Sweden regarding the implementation of the recent agreement with Afghanistan, especially concerning children and youths from Afghanistan or from Iran with Afghan descent. Children may be returned if reception by family members, social services or UNHCR can be arranged – even if the children do not know the persons receiving them, but presumably can develop a relationship with them. Many Afghan children were born and raised as undocumented residents in Iran and have no family in Afghanistan.

Child-specific grounds for asylum are insufficiently considered in Sweden, according to NGOs. Children are not always heard in the asylum process and in some cases were unable to communicate with the Swedish Migration Agency.

In Finland, children – including unaccompanied children – increasingly get negative asylum decisions. Interviewers do not always have the necessary training to interview children.

Placement and accommodation

Although Greece's capacity to accommodate unaccompanied children is increasing, the number of places remains insufficient. At the end of 2016, 1,443 children waited for accommodation, including 309 in closed centres and 15 in protective custody (police stations).

In Italy, unaccompanied children continue to be held at hotspot facilities; x-ray screening is not applied only as a measure of last resort for age assessments; and the appointment of guardians takes a very long time, according to a [report](#) by ECRE and other organisations.

Children continue to be held in pre-removal detention in Busmantsi, Bulgaria. Some organisations believe this may have positive implications for their safety in some cases.

In Denmark, unaccompanied children who reach the age of 17 will be transferred from children's centres to other facilities, although the practical modalities remain unclear.

Cases have been registered involving unaccompanied children who applied for asylum in Sweden and then by mistake crossed the border to Denmark, triggering application of the Dublin Regulation and additional complications.

With more special facilities for unaccompanied children in Sweden being closed, children are transferred to other municipalities and again uprooted, often without sufficient information and preparation. The Red Cross continues to find children who are being hosted in adult facilities.

As the number of unaccompanied children declines in Austria, special reception facilities are reduced from 11 to eight. According to a [legal opinion](#), asylum-seeking children are entitled to the same child and youth welfare benefits as Austrian children; however, they are allocated lower daily rates.

Adult siblings may become guardians for their younger siblings in Austria. While not a frequent practice, a 19-year-old was recently appointed as guardian for an 11-year-old severely traumatised sibling.

Guardians are insufficiently available, assigned late, have different competences and may represent several dozens of children at a time, according to the Finnish Ombudsman for Children. Children are not always heard adequately when changes concerning their placement are decided. Arrangements for permanent accommodation in municipalities often take a long time.

Ad hoc administrators in France are too few in number and represent many children at a time. More than 1,600 children have been placed in reception and orientation centres (CAOMI) and are expected to be transferred across the country.

Many migrant children live on the streets in Melilla, Spain, and often experience severe violence, as a [documentary](#) illustrates.

Legal, social and policy responses

Legal changes

The CJEU [rules](#) on Spanish legislation automatically refusing residence permits to parents of Spanish children if the parents have a criminal record. The court finds that it contravenes the TFEU and the Free Movement Directive, which must be implemented in consideration of the Charter of Fundamental Rights of the European Union, including its Articles 7 and 24 (2).

The ECtHR [rules](#) in *Khlaifia and Others v. Italy* on the holding of irregular migrants who arrived in Italy in 2011 and were subsequently returned to Tunisia. The court finds that their detention violated Article 5 of the European Convention on Human Rights (ECHR) because the legal basis for the detention was unclear and because the migrants were not promptly informed of the reasons for the detention and could not appeal against it.

A court in Milan [grants](#) international protection to a Cameroonian victim of gender-based violence even though the territorial commission initially rejected the request.

The Court of Cassation in Italy recognises the possibility of forced marriage as a reason for asylum. It also deems unlawful the detention of a migrant who was not adequately informed about the right to apply for international protection.

Bulgaria [amends](#) the Foreigners Act, introducing provisions on stateless persons and permitting the use of pre-removal detention for initial identification purposes. Bulgaria also amends the Asylum and Refugees Act, allowing restrictions on asylum seekers' movements and shortening the waiting period for them to access the labour market.

The Finnish Ombudsman expresses [concern](#) about the rapidly implemented amendments to legislation on family reunification, appeal options and detention, and the particularly negative effect on asylum-seeking children.

Finland amends the Aliens Act, allowing for a decentralised handling of appeals against negative asylum decisions by administrative courts of some regions and introducing designated residence as an alternative to detention, including for children.

The Helsinki administrative court [overrules](#) a negative asylum decision, holding that, under the particular circumstances of the case (Sunni Muslim fleeing IS-controlled areas), internal relocation in Iraq is no longer an option. Similarly, the Supreme Administrative Court [excluded](#) internal relocation in Yemen as a possibility, finding that the escalation of violence posed a serious and individual threat to anyone residing in the area.

The Netherlands plans to oblige asylum seekers who obtain a residence permit to sign a 'participation declaration', committing themselves to the values of freedom, equality, solidarity and participation. Municipalities are to be entrusted with implementing the system, but it is not clear what measures would be put in place to enforce the declarations.

The Slovak President rejects a draft law to increase the quorum required for the registration of a religious community, stating that it unduly interferes with fundamental rights and freedoms.

[Amendments](#) to the Aliens Law are discussed in Austria. These would allow starting a fast-track procedure to withdraw someone's refugee status as soon as they are accused of a crime or caught in the act of committing a crime, which could be concluded before the final judgment is issued in the criminal proceedings. UNHCR expresses [concern](#) over the planned cancellation of basic care in such cases, as well as about proposed restrictions concerning family reunification, which would require families to cover the high expenses of DNA testing. Other changes foreseen to Austria's Federal Basic Care Law would allow staff at reception facilities to use coercive power to enforce house rules and prohibitions on entering.

In Denmark, a [proposed bill](#) establishes stricter conditions for persons whose application has been rejected but who cannot be removed due to the principle of *non-refoulement*, and for persons who have committed a criminal offence. A new centre in Kaershovedgaard accommodating these persons receives considerable media criticism for the level of security measures and the quality and quantity of food.

In France, NGOs express concern about a draft law that seeks to create a "decentralised" court room at the Paris airport Roissy-Charles de Gaulle, in which border police could request extensions of detentions in the waiting area.

Policy responses

Sweden extends internal border controls until 11 February 2017.

Germany extends internal border controls at the border with Austria until 12 February 2017. Between January and October 2016, 14,500 persons were refused entry at the German-Austrian border.

In response to the December terrorist attack in Berlin, German politicians are discussing a number of policy and legislative initiatives aimed particularly at stepping up returns. These include a stronger focus on pre-removal detention of rejected asylum seekers and more proactive cooperation with countries of origin.

Since November, one federal state in Germany has tested a new policy of rapid voluntary return, encouraging persons from states considered safe countries of origin to return voluntarily shortly after their arrival, already at the start of the registration procedure. At the same time, another German federal state has introduced the possibility to allow victims of right-wing violence to obtain a temporary right to stay, even if they were previously ordered to leave the country.

Finland adopts an [action plan](#) to prevent and control irregular stays; NGOs fear this further marginalises and reduces access to basic services for irregular migrants. Responsibility for ensuring necessary and emergency aid for rejected asylum seekers is assigned to the municipal level. A survey points out challenges children and pregnant women face in accessing the preventive health care to which they are entitled by law.

As of 1 January, the Finnish Immigration Agency assumes responsibility for all immigration matters, including the administration of reception centres and decisions on permit matters, guided by internal security.

Finland adopts a new [action plan](#) on combating trafficking.

The government in Finland withdraws a bill on social security benefits based on nationality after the Constitutional Law Committee deems it irreconcilable with the constitutional principle of equality.

The Netherlands announces additional measures in relation to asylum seekers from countries of origin designated as 'safe'. In addition to accelerating the asylum procedure for such persons, their right to accommodation in a shelter will be terminated immediately upon a negative asylum decision, and a 2-year EU-wide entry ban will be imposed on rejected asylum seekers coming from such countries.

In Austria, the type of "community services" that are open to asylum seekers as remunerated activities are clarified. The regions of Lower and Upper Austria reduce minimum benefits for refugees.

As part of enhanced efforts to cooperate with countries of origin, political parties in Denmark agree to appoint a special ambassador to focus on supporting returns.

The Council of Ministers in Poland cancels the Polish Migration Policy at the request of the Ministry of Interior.

Responses by civil society, local and political actors

The Greek National Commission for Human Rights (NCHR) published a critical report on the management of the migration situation, highlighting – among others – the issues of detention on the islands, provision of services addressing basic needs, and access to international protection. The [NCHR](#) and [Greek NGOs](#) that are members of the European Council for Refugees and Exiles (ECRE) also expressed serious concerns about the [recommendation of the European Commission to Member States to resume transfers to Greece under the Dublin Regulation](#).

The Prefect of Bergamo (Lombardy) as well as provincial authorities in Trentino-Alto Adige, Italy, decide to expel asylum seekers from reception facilities even if final decisions on their appeals are still pending. The municipality of Mira (Veneto) expels five asylum seekers for protesting against reception conditions,

particularly the facility management's decision to close windows with padlocks, and reprimands another ten.

The Pope meets with mayors of several towns across the EU to discuss the importance of protecting asylum seekers.

The US State Department [expresses concern](#) over the broad interpretation of terrorism applied in Hungary in the case of a Syrian national involved in clashes between the police and asylum seekers at Roeske in September 2015.

Various associations launch charity campaigns and continue to support children and vulnerable groups in Bulgaria.

Negative reactions to the readmission agreement with Afghanistan are widespread in Sweden. Generally, opponents and supporters of refugees have hardened their positions in the public debate. Petitions are launched against the 2016 changes restricting the rights of refugees, which harm families and children in particular.

During its Presidency of the Council of the European Union, Slovakia continues to promote 'effective solidarity', which permits each Member State to choose the form of its contribution to addressing the migration situation, rather than setting relocation quotas.

According to opinion polls, the vast majority of the Slovak population feels some fear of refugees; for 48 %, this fear is strong or considerable. The main reason is an expected increase in crime, followed by the refugees' presumed lack of willingness to adapt to Slovakian life, increased risk of terrorism and financial costs.

Hate speech and violent crime

The level of violent attacks directed against asylum seekers and reception and accommodation centres in Germany remains high. At least 49 persons are injured during the last quarter of 2016, five of them during arson attacks.

Several arson attacks affect reception centres in France.

Some violent attacks take place in Italy, including protests in Rome against a Moroccan family's reception in the social housing system. Three adolescents verbally attack a six year old adopted black child near Florence (Tuscany), using racist derogatory language. Lega Nord, the ruling party in Lombardy, Italy, asks municipalities in the region to report all facilities, cultural centres and prayer halls associated with the Muslim community to promote the strict regulation of Islamic worship in the region.

In the Netherlands, a councillor (*alderman*) of Rotterdam is insulted and attacked by local residents after a discussion on housing refugees in the area. A house inhabited by a refugee is targeted in an arson attack.

NGOs in Denmark report a general increase in negative rhetoric towards migrants and asylum seekers, including among politicians. One MP proposes using warning shots to turn back migrants arriving to Europe by sea.

Several demonstrations – both against and in support of migrants – take place in Denmark, some leading to violence and to arrests.

Proceedings in two cases involving so-called “refugee hunters” start in Bulgaria. Anti-migrant attitudes are mainly displayed online.

Online hate speech against migrants and refugees remains at a high level in Austria, and is reported to increase in Poland.

In response to a racist attack on a PhD student from Nigeria in Warsaw, Poland, students and faculty members write an open letter to the Minister of Science and Higher Education, demanding condemnation of the crime.

Cases of violence among asylum seekers of different nationalities or religions are reported in Finland.

Note on time-periods covered in country reports

In the following sections on specific Member States, subsections 1 and 2 report on events that took place in December 2016. All other subsections relate to October, November and December 2016. This applies for Austria, Bulgaria, Denmark, Finland, France, Germany, the Netherlands, Poland, Spain, Slovakia and Sweden.

Concerning Greece, Hungary and Italy, almost all subsections report on events that took place in December 2016. However, subsections 8 and 9 report on events that took place in October, November and December 2016.

1. Austria

1.1. Overview of the situation

Some 2,740 new arrivals entered Austria in December, according to the Federal Ministry of the Interior, Department II/2, Operational Affairs (*Bundesministerium für Inneres, Abteilung II/2 Einsatzangelegenheiten*).¹ The new arrivals' main countries of origin are Afghanistan (383), Nigeria (336), Pakistan (280), Morocco (160) and Iraq (142).² The number of new arrivals decreased in December, because of weather conditions.³

Official information on the number of new asylum applications becomes available only in mid-January. The Federal Ministry of the Interior, Department III/5, Asylum and Foreigners (*Bundesministerium für Inneres, Abteilung III/5 Asyl und Fremdenwesen*) expects that the total number of asylum seekers for the year 2016 will be about 42,000.⁴

According to Caritas Styria (*Caritas Steiermark*), the number of people in basic care facilities further declined: in the region of Styria, the number of people in basic care facilities declined by 250 persons in December.⁵

1.2. Key fundamental rights concerns

An Alien Law Amendment Act (*Fremdenrechtsänderungsgesetz 2017 – FrÄG2017*) is currently under review (for more information see section 1.4).

The number of persons in immigration detention has increased. In the Vordernberg immigration detention facility in Styria, numbers increased from about 80 persons in November to about 130 in December.⁶

Red Cross Austria (*Österreichisches Rotes Kreuz*) reports a number of deportations from accommodations in Lower Austria. The police did not inform the accommodation owners prior to this operation. Red Cross Austria has criticised one case in which the police removed a child from school in the middle of a lesson. Red Cross Austria has started information events for teachers and asylum accommodation staff on how to react in cases of deportation.⁷

In December, Austria was visited by a delegation from the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), which monitors the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention).

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

² *Ibid.*

³ Federal Ministry of the Interior, Department III/9 (*Bundesministerium für Inneres, Abteilung III/9 Grundversorgung und Bundesbetreuung*).

⁴ Federal Ministry of the Interior, Department III/5 (*Bundesministerium für Inneres, Abteilung III/5 Asyl und Fremdenwesen*).

⁵ Caritas Styria (*Caritas Steiermark*).

⁶ *Ibid.*

⁷ Red Cross Austria (*Österreichisches Rotes Kreuz*).

GREVIO will also report on violence against women in refugee situations. The delegation visited the Traiskirchen reception centre. Its report has not yet been published.⁸ The United Nations Human Rights Commission (UNHCR) visited the federal reception facilities for unaccompanied alien children (UACs) and persons with particular needs (*Sonderbetreuungsstellen des Bundes*) (see section 1.3).⁹

1.3. Children and vulnerable groups

1.3.1 Reception conditions

The number of unaccompanied children has declined. Therefore, it has become easier to organise their reception and accommodation. No challenges concerning reception conditions for children were reported.¹⁰

Accommodation facilities in Vienna were closed because of the reduction in numbers of unaccompanied children. According to Caritas Vienna, these are usually accommodated in facilities shared with specialist staff, rather than with foster-care families.¹¹

The number of federal special reception facilities for unaccompanied children (*Sonderbetreuungsstellen UMF*) was reduced from 11 to eight, as a result of the smaller numbers of children arriving in Austria. There are still two special reception facilities for persons with particular needs (*Sonderbetreuungsstellen für Personen mit besonderen Betreuungsbedürfnissen*).¹²

The UNHCR visited these facilities for unaccompanied children in December. According to the Federal Ministry of the Interior, Department III/9, Basic Care and Federal Services (*Bundesministerium für Inneres, Abteilung III/9 Grundversorgung und Bundesbetreuung*), good practices (e.g. playful methods for learning German, gratification systems, etc.) were identified and recommended for implementation at all facilities. One issue that needs improvement is to provide asylum seekers with all the information they might need – including information on victim support services, prevention of violence or social services available – in a standardised, suitable and accessible way.¹³

1.3.2 Safeguards applied at registration and in asylum and return procedures

The Federal Ministry of the Interior, Department III/9 did not report any new challenges or changes for the relevant period. An opinion on the legal situation of unaccompanied children in Austria was published by SOS Children's Villages; according to the ministry, this report supports its current approach.¹⁴

⁸ Federal Ministry of the Interior, Department III/9 (*Bundesministerium für Inneres, Abteilung III/9 Grundversorgung und Bundesbetreuung*).

⁹ *Ibid.*

¹⁰ Caritas Styria (*Caritas Steiermark*), Caritas Vienna (*Caritas Wien*), Red Cross Austria (*Österreichisches Rotes Kreuz*).

¹¹ Caritas Vienna (*Caritas Wien*).

¹² Federal Ministry of the Interior, Department III/9 (*Bundesministerium für Inneres, Abteilung III/9 Grundversorgung und Bundesbetreuung*).

¹³ *Ibid.*

¹⁴ *Ibid.*

The opinion of SOS Children's Villages on the legal situation of unaccompanied children in Austria points out that the relevant Austrian laws (Civil Code (ABGB) and the Federal Child and Youth Welfare Law (B-KJHG)) do not differentiate between Austrian and non-Austrian nationals, and therefore that asylum-seeking children are entitled to child and youth welfare to the same extent as Austrian children. It also states that the regulations on basic care (*Grundversorgung*) are not specific to child and youth welfare regulations, and therefore must be applied cumulatively; child and youth welfare must provide the required educational and psychological help in addition to the basic care regime, which aims to address basic living needs. The legal opinion concludes that the daily rates (*Tagsätze*) for unaccompanied children, which are lower than child and youth welfare provisions for Austrian children, are a problem, since unaccompanied children are entitled to the same services as Austrian children (which does not necessarily mean, however, that the daily rates need to be equivalent). The legal opinion also summarises entitlements and legal enforcement possibilities for unaccompanied children.¹⁵

Legislation on asylum procedures contains specific safeguards for unaccompanied children, e.g. concerning legal representation and the right to careful interviewing by trained personnel. The Federal Ministry of the Interior, Department III/5 considers these safeguards sufficient to ensure appropriate consideration of a child's well-being.¹⁶

Regarding the appointment of guardians, Caritas Vienna points out the problem that, some time ago, it was common practice to appoint adult siblings as guardians of their younger siblings, with the result that the child would be repatriated with his/her older sibling under the Dublin Regulation. This practice is not commonly applied today, but still happens in individual cases. Caritas Vienna intervened in a recent case, in which a 19-year-old was appointed as guardian for his severely traumatised 11-year-old brother.¹⁷

1.4. Changes in law, policy and practice

1.4.1 Changes in law or policy

No legal changes related to basic care were reported for the period October to December 2016. However, there was legal clarification of what types of activities are included in the term 'community services' (*gemeinnützige Tätigkeiten*), which are remunerated activities open to asylum seekers.¹⁸ The hotly debated draft on a special directive on the maximum number of refugees (*Sonderverordnung zur Flüchtlingsobergrenze*) did not enter into force in 2016.¹⁹

¹⁵ Austria, SOS Kinderdorf (2016), [Gutachten zu Rechtsproblemen von SOS-Kinderdorf – Österreich mit unbegleiteten minderjährigen Flüchtlingen](#), Innsbruck, 27 October 2016.

¹⁶ Federal Ministry of the Interior, Department III/5 (*Bundesministerium für Inneres, Abteilung III/5 Asyl und Fremdenwesen*).

¹⁷ Caritas Vienna (*Caritas Wien*).

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

¹⁹ Caritas Styria (*Caritas Steiermark*), Austria, [Verordnung der Bundesregierung zur Feststellung der Gefährdung der Aufrechterhaltung der öffentlichen Ordnung und des Schutzes der inneren Sicherheit](#).

Based on § 36 (1) of the Asylum Law (*Asylgesetz*),²⁰ the government together with the parliament can declare by directive that the maintenance of public order and national security is in danger due to migration events. The benchmark defined for 2016 (37,500 asylum applications) was not reached that year.²¹

An Alien Law Amendment Act (*Fremdenrechtsänderungsgesetz 2017 – FrÄG2017*), proposed by the Federal Ministry of the Interior (*Bundesministerium für Inneres*), is currently under review.²² Red Cross Austria has criticised the short review period, which fell partly during the Christmas holidays (20 December to 18 January).²³ The Alien Law Amendment Act includes a draft amendment to the Asylum Law (*Asylgesetz 2005*), specifying that a procedure to withdraw refugee status is started as soon as a refugee is accused of a crime or caught in the act of committing a crime. This withdrawal procedure is planned to be a fast-track procedure, to be finished at the latest within one month from the final judgment in criminal proceedings.²⁴

The draft amendment to the Federal Basic Care Law (*Grundversorgungsgesetz – Bund 2015*) specifies that personnel in accommodation facilities are entitled to exercise coercive power (*Befehls- und Zwangsgewalt*) in order to enforce house rules and security, e.g. to expel a person who does not comply with the facility's house rules. According to the Federal Ministry of the Interior, Department III/5, the personnel entitled to such coercive power would be, for instance, the staff of private security companies that are contracted to manage accommodation facilities, such as ORS Service GmbH.²⁵

The draft amendment also specifies that an application for family reunification must be assessed by the relevant embassy, if the applicant is a relative of the refugee.²⁶ According to the explanations to the draft, the embassy must do so using certificates and similar documents, or DNA analysis. The embassy has to provide the opportunity for DNA analysis, if the applicant asks and pays for it.²⁷

The maximum number of asylum applications, thoroughly discussed in relation to the draft for the special directive on the maximum number of refugees, was not included in the draft amendment.²⁸

There is a directive that asylum seekers who receive a negative decision at the first instance are obliged to take counselling about voluntary return. In Styria,

²⁰ Austria, Asylum Law (*Bundesgesetz über die Gewährung von Asyl (Asylgesetz 2005 – AsylG 2005)*), [BGBl. I Nr. 100/2005, last amendment BGBl. I Nr. 24/2016](#).

²¹ Austria, Federal Ministry of the Interior (2016), '[Bis Ende November 32.295 Asylanträge zugelassen](#)', press release, 13 December 2016.

²² Federal Ministry of the Interior, Department III/9 (*Bundesministerium für Inneres, Abteilung III/9 Grundversorgung und Bundesbetreuung*); Federal Ministry of the Interior, Department III/5 (*Bundesministerium für Inneres, Abteilung III/5 Asyl und Fremdenwesen*).

²³ Red Cross Austria (*Österreichisches Rotes Kreuz*).

²⁴ Federal Ministry of the Interior, Department III/5 (*Bundesministerium für Inneres, Abteilung III/5 Asyl und Fremdenwesen*). See also: [explanations to the draft to the Alien Law Amendment Act 2017 \(Fremdenrechtsänderungsgesetz 2017 – FrÄG 2017\)](#) '279/ME XXV. GP – Ministerialentwurf – FrÄG 2017 – Erläuterungen'.

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ Austria, [Explanations to the draft to the Alien Law Amendment Act 2017 \(Fremdenrechtsänderungsgesetz 2017 – FrÄG 2017\)](#) '279/ME XXV. GP – Ministerialentwurf – FrÄG 2017 – Erläuterungen'.

²⁸ Federal Ministry of the Interior, Department III/5 (*Bundesministerium für Inneres, Abteilung III/5 Asyl und Fremdenwesen*).

Caritas is responsible for this counselling and confirms the attendance of asylum seekers to the authorities. If a person does not take any counselling, the directive allows the authorities to restrict basic care allowances (until the person lodges an appeal against the negative decision). According to Caritas Styria, this has been executed in very few cases.²⁹ The Alien Law Amendment Act (*Fremdenrechtsänderungsgesetz 2017 – FrÄG2017*) specifies a fine of €5,000, or a custodial sentence if a fine cannot be collected, for not attending counselling on voluntary return.³⁰

In Lower and Upper Austria, minimum benefit allowances (*Mindestsicherung*) were reduced for refugees. These decisions enter into force by January 2017.³¹ Caritas Vienna expressed concern that, without a follow-up agreement between the federal government and the regions for needs-based minimum benefits, health insurance for beneficiaries of minimum benefits (including refugees) would no longer be guaranteed. In the meantime, a special agreement was decided upon to ensure the continuation of the health insurance regime for beneficiaries of minimum benefits until 31 December 2018 (through an amendment of Section 1 Z 20 – Directive on health insurance for persons who are included in health insurance according to § 9 ASVG³²).³³

1.4.2 Changes in practice

Red Cross Austria reported the observation that asylum procedures for Syrians now take longer than before.³⁴ According to Caritas Vienna, all Syrian nationals situated in Vienna who applied for asylum in 2015 have been invited to interview at the Federal Office for Immigration and Asylum (*Bundesamt für Fremdenwesen und Asyl*). Currently, there is a focus on scheduling interviews for Iraqi nationals. For both these nationalities, asylum procedures are usually finished within 15 months. The downside of this approach is that asylum procedures for applicants of other nationalities take much longer (about three years).³⁵

According to Caritas Styria (*Caritas Steiermark*), asylum applications by Afghan nationals are decided in an increasingly restrictive way. There have been a number of fully negative asylum decisions in the first instance.³⁶ To date, the appellate court has decided in most cases to grant subsidiary protection to rejected asylum seekers of Afghan nationality.³⁷ It remains to be seen to what extent deportations will be carried out based on the new agreement between the EU and Afghanistan.³⁸ So far, there has not been any deportation from Austria to Afghanistan.³⁹

²⁹ Caritas Styria (*Caritas Steiermark*).

³⁰ Caritas Vienna (*Caritas Wien*).

³¹ Red Cross Austria (*Österreichisches Rotes Kreuz*).

³² Austria, [*Verordnung des Bundesministers für soziale Verwaltung vom 28. November 1969 über die Durchführung der Krankenversicherung für die gemäß § 9 ASVG in die Krankenversicherung einbezogenen Personen*](#), BGBl. Nr. 420/1969, last amendment BGBl. II Nr. 439/2016.

³³ Caritas Vienna (*Caritas Wien*).

³⁴ Red Cross Austria (*Österreichisches Rotes Kreuz*).

³⁵ Caritas Vienna (*Caritas Wien*).

³⁶ Caritas Styria (*Caritas Steiermark*).

³⁷ Caritas Vienna (*Caritas Wien*).

³⁸ Caritas Styria (*Caritas Steiermark*).

³⁹ Caritas Vienna (*Caritas Wien*).

The number of persons in immigration detention has increased significantly (see section 1.2).⁴⁰

1.5. Social response

The Federal Agency for State Protection and Counterterrorism (*Bundesamt für Verfassungsschutz und Terrorismusbekämpfung*, BVT) provided the following information on selected demonstrations in favour of migrants. The number of participants was not available for any of these demonstrations.

Demonstrations reported for October:

- Vienna: a demonstration against deportations was held.

Demonstrations reported for November:

- Vienna: a demonstration was held under the slogan "*Flüchtlinge bleiben – FPÖ vertreiben*" ("Refugees stay – Expel Freedom Party Austria").
- Vienna: a demonstration was held under the slogan "*Flüchtlinge rein – FPÖ raus*" ("Refugees in – Freedom Party Austria out").
- Vienna: a demonstration against deportations was held under the slogan "Let them stay".

Demonstrations reported for December:

- Vienna: Two demonstration were held under the slogan "*Flüchtlinge rein – FPÖ raus*" ("Refugees in – Freedom Party Austria out").

The issue was strongly present during the campaigns for the presidential elections. Red Cross Austria does not identify any other changes in public discourse.⁴¹

In Styria, the local branch of the Austrian Freedom Party (FPÖ) based its campaign for local elections in Graz on anti-migrant sentiments ("Are you a stranger in your own country?").⁴²

1.6. Hate speech and violent crime

The prevalence of online hate speech increased during campaigns for the presidential elections, and remains on a constant high level. Hate speech is directed towards Muslims, asylum seekers and migrants. There have been no changes in the kind of online hate speech during the last three months.⁴³

The BVT provided the following information on selected cases of racist, xenophobic and related incidents against migrants and people in need of international protection.

Incidents reported for October:

- Hutten, Lower Austria: graffiti of a swastika and the slogan "No refugees" were reported.

⁴⁰ Caritas Styria (*Caritas Steiermark*).

⁴¹ Red Cross Austria (*Österreichisches Rotes Kreuz*).

⁴² Caritas Styria (*Caritas Steiermark*).

⁴³ Antidiscrimination office Styria (*Antidiskriminierungsstelle Steiermark*).

- St. Johann, Tyrol: stickers saying "*Masseneinwanderung stoppen*" ("Stop mass immigration") were applied by the *Identitäre Bewegung Österreich* (IBÖ).
- Burgenland: graffiti saying "SS" and "*Syrersau*" ("Syrian pig") were written on the medical practice of a doctor engaged in refugee support.
- Vienna: the IBÖ disrupted celebrations of the 20th anniversary of Muslim Youth Austria (*Muslimische Jugend Österreichs*) by setting up a banner saying "*Islamismus gehört nicht zu Österreich*" ("Islamism does not belong to Austria").
- Lanzendorf, Lower Austria: two firecrackers exploded in front of an accommodation facility for asylum seekers. No inquiries were made, and no damage was caused.
- Maria Taferl, Lower Austria: the IBÖ disrupted an event during the election campaign of Mr Van der Bellen, who was standing for the presidency. Signs were held up saying "*Heuchler*" ("Hypocrite").

Incidents reported for November:

- Mödling, Lower Austria: graffiti of a swastika and "88" were written in a street in front of an accommodation facility for refugees.
- Kapfenberg, Styria: a banner saying "*Remigration ist die Option*" ("Remigration is the option") was set up at a shopping mall.
- Himberg, Lower Austria: accommodation for asylum seekers was attacked with an incendiary device. No persons were injured; the building's facade was damaged.

Incidents reported for December:

- Vienna: the monument of Maria Theresia was veiled with a burka. A sign saying "*Islamisierung – Nein danke*" ("Islamisation – No thank you") was put up as well.
- Bad Goisern, Upper Austria: the window of an accommodation facility for refugees was broken with a stone.
- Linz, Upper Austria: the IBÖ put up a banner saying "*Grenzen dicht – Remigration*" ("Close the borders – remigration") at a scaffolding.
- Passail, Styria: a note turned up in an accommodation facility for asylum seekers saying "*Ich töte euch, Asylschweine*" ("I will kill you, asylum pigs").

The Antidiscrimination Office Styria reported 33 cases from October to December in Styria. Two thirds of those cases were verbal attacks, the others physical attacks, including bodily injuries. Eight cases were reported to the police.⁴⁴

With regard to the federal reception centres, the Federal Ministry of the Interior, Department III/9 reports only one minor incident, in which a person threw a stone at a facility.⁴⁵

Red Cross Austria does not report any incidents in its facilities.⁴⁶

⁴⁴ Antidiscrimination office Styria (*Antidiskriminierungsstelle Steiermark*).

⁴⁵ Federal Ministry of the Interior, Department III/9 (*Bundesministerium für Inneres, Abteilung III/9 Grundversorgung und Bundesbetreuung*).

⁴⁶ Red Cross Austria (*Österreichisches Rotes Kreuz*).

The Antidiscrimination Office Styria (*Antidiskriminierungsstelle Steiermark*) does not report any violent incidents during demonstrations.⁴⁷

1.7. Policies against smuggling of human beings

No proceedings were launched against persons who have provided help for humanitarian reasons, or against other people who did not facilitate irregular entry or stay for profit.⁴⁸

The Federal Criminal Police Office (*Bundeskriminalamt*) provided further information on human trafficking, in the context of the refugee flows. From October to December 2016, the office launched further activities to identify victims of human trafficking in accommodation for refugees and asylum seekers.⁴⁹ These include sensitisation measures for the staff of such accommodations, and talks with interpreters working in them.⁵⁰ The Federal Criminal Police Office plans to employ persons with migrant backgrounds as interpreters for its work in accommodation facilities for refugees and asylum seekers. Including such persons in police work is expected to ease migrants' fear of cooperating with the police.⁵¹ Further measures to identify victims of human trafficking were taken in red-light districts, but no correlation with the nationalities of recent migration flows could be identified among female prostitutes. However, there are some young Afghan men (but not children) working as prostitutes, but no cases of exploitation could be identified among them.⁵² There is no connection between begging people and the recent migration flows, nor is there an indication that unaccompanied children are exploited to commit crimes.⁵³ The Federal Criminal Police Office increasingly investigates cases of trafficking by way of freight trains (via the Balkans and Italy).⁵⁴ It reports that the Joint Operational Office of Europol is working well and supports investigations into human trafficking.⁵⁵ The Federal Criminal Police Office reports that cooperation with Turkey in criminal investigations is impossible at the moment.⁵⁶

⁴⁷ Antidiscrimination office Styria (*Antidiskriminierungsstelle Steiermark*).

⁴⁸ Federal Criminal Police Office (*Bundeskriminalamt*).

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

2. Bulgaria

2.1. Overview of the situation

In December 2016, a total of 437 persons were apprehended at the borders and within the territory of the country, which was a significant decrease from the previous reporting period. The number of persons apprehended while trying to enter the country was 72. Almost all of them were apprehended at the border with Turkey. Most of these people were from Syria (more than 55 %) and Afghanistan. The number of persons apprehended while trying to leave the country was 72. Another 894 persons who were already registered in the automated fingerprint identification system were also apprehended while trying to leave Bulgaria. Almost all of them were apprehended at the border with Serbia. Most of these people were from Afghanistan (almost 55 %), Pakistan, Iraq and Syria. Within the territory of the country, the police apprehended 293 persons.⁵⁷

During the reporting period, a total of 815 persons applied for asylum, including 570 men and boys (of whom 97 were aged between 0 and 13 years, 82 aged between 14 and 17 years, 321 aged between 18 and 34 years, 69 aged between 35 and 64 years and one aged 65 years or older) and 245 women and girls (of whom 90 were aged between 0 and 13 years, 20 aged between 14 and 17 years, 93 aged between 18 and 34 years, 41 aged between 35 and 64 years and one aged 65 years or older). The predominant nationalities of the asylum applicants were Syrian (more than 35 %), Iraqi (more than 25 %), Pakistani (almost 20 %) and Afghan (about 13 %).⁵⁸

The police found the dead body of a Somali woman in the Strandzha Mountains. The investigation is still ongoing and there is no official information about the cause of death. However, according to media reports, most probably the woman died of frostbite. She was trying to reach western Europe together with 31 other migrants (25 from Afghanistan, three from Pakistan and three from Somalia). The rest of the group was arrested on 1 January 2017. Two of the three Somalians in the group, aged 16 and 14 years, had frostbite on their arms and legs and were admitted to hospital.⁵⁹

2.2. Key fundamental rights concerns

There were no new fundamental rights concerns during the reporting period. All previously reported issues (anti-migrant attitudes, insufficient information about newcomers' rights, concerns regarding the living conditions in reception centres) persist.⁶⁰

⁵⁷ Ministry of the Interior, Directorate General Border Police. The statistics cover the period from 8 a.m. on 1 December 2016 to 8 a.m. on 29 December 2016.

⁵⁸ State Agency for Refugees.

⁵⁹ Mediapool Online (2017), '[Police found the dead body of a Somali woman in Strandzha](#)' ('Полицията откри труп на жена от Сомалия в Странджа'), 2 January 2017.

⁶⁰ Refugee Support Group.

The authorities continued to investigate the riot that took place in the reception centre in Harmanli at the end of November 2016. Two more Afghans and one Iraqi were charged with hooliganism and resistance against the acts of public authorities. Previously, hooliganism charges had been brought against 18 Afghans, three of whom were below 18 years of age.⁶¹ Meanwhile, 294 police officers were given awards for the professional execution of their duties during the riot.⁶²

In General Toshevo, 15 Iraqi women and 10 Iraqi men were detained in custody for illegally attempting to travel from Bulgaria to Romania. They were in two groups, which also included 11 children between one and 14 years of age. The 36 Iraqis had left the reception centre in Harmanli. Some of the adults and all of the children had no identity documents. The children were placed in a social care facility in Dobrich, while the adults were charged for illegally crossing the border and placed in pre-trial detention: the women were placed in the pre-trial detention unit in Dobrich and the men were sent to a pre-trial detention facility in Varna.⁶³ The case gained publicity because one of the women had to be taken out of detention two times a day to breastfeed her child. The child was separated from the mother because, under Bulgarian law, children below the age of 14 cannot be prosecuted and therefore cannot be subject to pre-trial detention. The issue of whether or not children and mothers had to be placed separately was raised. According to media reports, several of the detainees received suspended sentences and one was imprisoned. The breastfeeding woman was released from custody.⁶⁴

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

2.3.1 Registration and identification

Volunteers working with asylum seekers reported that apprehended migrants are not provided with sufficient information about their rights. The interpreters, who are engaged primarily for the initial registration procedures, complained that their remuneration was often delayed. Some of them even filed lawsuits against the State Agency for Refugees (SAR) (*Държавна агенция за бежанците, ДАБ*). The lack of interpreters affects the quality of interpretation,

⁶¹ Prosecutor's Office of the Republic of Bulgaria (Прокуратура на Република България) (2016), '[The Regional Prosecutor's Office in Harmanli brought charges against three more foreigners for the unrest in the registration and reception centre in Harmanli](#)' ('Районна прокуратура - Харманли привлече като обвиняеми още трима чужди граждани за безредиците в Регистрационно-приемателния център в гр. Харманли'), Press release, 16 December 2016.

⁶² Ministry of the Interior (Министерство на вътрешните работи) (2016), '[294 police officers not having allowed escalation of tension in the registration and reception centre in Harmanli were given prizes for professional execution of their duties with an order of the interior minister](#)' ('294 полицейски служители, недопуснали ескалация на напрежението в РПЦ - Харманли, са наградени за професионално изпълнение на служебните си задължения със заповед на вътрешния министър'), Press release, 30 November 2016.

⁶³ Prosecutor's Office of the Republic of Bulgaria (Прокуратура на Република България) (2016), '[The court ordered detention in custody of 25 Iraqis upon request of the Regional Prosecutor's Office in General Toshevo](#)' (По искане на Районната прокуратура в Генерал Тошево съдът задържа под стража 25 иракчани), Press release, 13 December 2016.

⁶⁴ Capital Weekly (2016), '[Breastfeeding in custody](#)' ('Да кърмиш под стража'), 30 December 2016.

while their use in registration procedures sometimes results interpretation being unavailable during other stages, for example during voluntary return.⁶⁵

2.3.2 Asylum procedure

Nothing new to report.

2.3.3 Return procedure

During the reporting period, a total of 658 irregular migrants left Bulgaria: 221 persons left the country voluntarily, 285 persons were returned under programmes for voluntary assisted return, 145 persons were subject to forced return, and seven persons were sent to another Member State under the Dublin Regulation.⁶⁶

Volunteers working in Harmanli reported that an increasing number of asylum seekers from Afghanistan asked if they could be returned to their country of origin because they were disappointed with what they saw in Europe. They no longer wanted to go back to Turkey and restart their trip to Western Europe via another route. At the same time, most of these people were reluctant to take part in the return procedures organised by their national government or the International Organization for Migration (IOM).⁶⁷

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

2.4.1 Reception conditions and capacity

During the reporting period the SAR increased the capacity of reception centres from 5,190 at the beginning of October to 5,490 at the end of December. At the end of 2016 the occupancy rate of the reception centres was about 80 %.⁶⁸

In the reception centre in Harmanli, the management divided the people by nationality. The measure was in response to the riot in November 2016. Afghans were accommodated in a different part of the centre from the one used by the asylum seekers from Syria and from other countries. The Afghans' part is surrounded by a fence and has a separate exit. Syrian asylum seekers remained in the main building, which has better living conditions. Persons from Afghanistan live in outbuildings, in some of which there is no heating.⁶⁹

Medical examinations were held after the reception centre in Harmanli was placed under quarantine. They found no serious infectious diseases, so the quarantine was lifted. A total of 128 asylum seekers underwent examinations: 91 men, 16 women and 21 children. The most often registered cases were pyoderma (36 cases), scabies (26 cases), varicella (18 cases, mostly in children

⁶⁵ Refugee Support Group.

⁶⁶ Ministry of the Interior, Directorate General Border Police. The statistics cover the period from 8 a.m. on 29 September 2016 to 8 a.m. on 29 December 2016.

⁶⁷ Refugee Support Group.

⁶⁸ State Agency for Refugees.

⁶⁹ Refugee Support Group.

aged between one and eight years), acute viral infection (15 cases) and dermatitis (16 cases).⁷⁰ Those who underwent the examinations received passes allowing them to freely leave the area where the centre was. Volunteers and non-governmental organisations (NGOs) donated clean linen and blankets for the children in the Afghan part of the camp. The centre expects to receive more donations in order to prevent the spread of dermatological and hygiene-related diseases.⁷¹

In the reception centres in Sofia, conditions remained unchanged during the reporting period. Volunteers reported a shortage of clothes for boys between eight and 16 years.⁷²

2.4.2 Vulnerable persons

Nothing new to report.

2.4.3 Child protection

Despite the efforts of the authorities to avoid this practice, some children are accommodated in the pre-removal detention centre in Busmantsi. According to volunteers, this practice has some favourable implications for the safety of the children, particularly of boys, because pre-removal detention centres are guarded by the police and this prevents children being mistreated by other asylum seekers, which happens more often in the open reception centres.⁷³

Volunteers, with the support of an Afghan asylum-seeking teacher, opened an 'Afghan school' in the reception centre in Harmanli. The SAR provided a separate room for the classes. The school has 70 pupils divided into four groups: small children (boys and girls), teenage boys, men and women.⁷⁴ The old playschool continues to function, but only within the 'non-Afghan' part of the camp, and has about 200 children.⁷⁵

2.4.4 Immigration detention

During the reporting period, pre-removal detention facilities were constantly overcrowded. At the beginning of October, occupancy rates reached almost 170 %. Since then, the number of detainees gradually decreased and at the end of December occupancy rates fell to 102 %.⁷⁶ As of 29 December 2016, pre-removal detention centres accommodated a total of 1,226 persons. The majority of detainees were from Afghanistan (more than 60 %), Pakistan, Syria and Iraq.⁷⁷

⁷⁰ Military Medical Academy (Военно-медицинска академия) (2016), '[MMA specialists found no mass infection among refugees at the center in Harmanli](#)' ('Специалисти от ВМА не откриха масова зараза сред бежанците в центъра в Харманли'), Press release.

⁷¹ Refugee Support Group.

⁷² *Ibid.*

⁷³ *Ibid.*

⁷⁴ For more information, see: <https://lydblog.wordpress.com/2016/12/28/afghan-school-at-work/>.

⁷⁵ Refugee Support Group.

⁷⁶ Ministry of the Interior, Directorate General Border Police. The statistics cover the period from 8 a.m. on 29 September 2016 to 8 a.m. on 29 December 2016.

⁷⁷ Ministry of the Interior, Directorate General Border Police.

Caritas Bulgaria (*Каритас България*) started recruiting volunteers to organise regular visits and different activities for the people accommodated in the pre-removal detention centre in Busmantsi. The activities are expected to take place once a week and to include English language lessons, introduction to Bulgaria's culture, and language and creative games for children.⁷⁸

2.5.Changes in law, policy and/or practice

2.5.1 Changes in law or policy

The parliament adopted amendments to the Foreigners in the Republic of Bulgaria Act (*Закон за чужденците в Република България*). The amendments (1) introduce the status of 'stateless person' and laid down the rules and procedure for granting such status and (2) introduce short-term pre-removal detention of irregular migrants (up to 30 days) for the purpose of their initial identification.⁷⁹ Another amendment to the same law, introduced through the newly adopted Countering of Terrorism Act (*Закон за противодействие на тероризма*), authorises the border control authorities and the authorities exercising administrative control of foreigners to conduct interviews with foreigners residing in the territory of Bulgaria.⁸⁰

Two sets of amendments to the Asylum and Refugees Act (*Закон за убежището и бежанците*) were also adopted. The first amendment (1) enables the authorities to restrict the right to free movement of asylum seekers to certain pre-defined zones and to place persons in closed reception centres if they have left their zones more than once and (2) shortens from nine to three months the period after which asylum seekers with pending proceedings are allowed to access the labour market, including through publicly funded employment programmes.⁸¹ The second amendment introduces a shorter deadline (one month instead of three months) for depriving foreigners of international protection on the grounds of suspected involvement in terrorism.⁸²

The SAR and the Ministries of the Interior of Bulgaria and the Czech Republic signed memoranda of understanding. Under those memoranda, Bulgaria will receive €550,000 to reinforce its border control and €200,000 to improve the reception centre in Harmanli in view of the needs of children and vulnerable groups.⁸³

⁷⁸ Caritas Bulgaria.

⁷⁹ Bulgaria, [Amendments to the Foreigners in the Republic of Bulgaria Act](#) (Закон за изменение и допълнение на Закона за чужденците в Република България), 6 December 2016.

⁸⁰ Bulgaria, [Countering of Terrorism Act](#) (Закон за противодействие на тероризма), 22 December 2016, § 7.

⁸¹ Bulgaria, [Amendments to the Foreigners in the Republic of Bulgaria Act](#) (Закон за изменение и допълнение на Закона за чужденците в Република България), 6 December 2016, § 57.

⁸² Bulgaria, [Countering of Terrorism Act](#) (Закон за противодействие на тероризма), 22 December 2016, § 6.

⁸³ Ministry of the Interior (Министерство на вътрешните работи) (2016), '[Memoranda of understanding were signed between the Ministries of Interior of Bulgaria and the Czech Republic and the SAR](#)' ('Меморандуми за разбирателство бяха подписани между Министерствата на вътрешните работи на България и Чехия и ДАБ'), Press release, 29 November 2016.

2.5.2 Changes in practice

The Ministry of the Interior (MoI) (*Министерство на вътрешните работи*, МВР) and the Association of Bulgarian International Truck Carriers started a campaign to inform lorry drivers how to prevent illegal migrants getting into their lorries. The campaign consists of practical guidelines in Bulgarian, English and Turkish.⁸⁴

2.6. Social response to the situation

People from the village of Lessovo protested against plans to build a refugee centre near their village. They claimed to be worried because of the recent riot in Harmanli.⁸⁵

Nationalists protested in Sofia against illegal migrants and demanded government action against 'refugee criminality'. They also demanded that refugee centres be closed, irregular migrants be transported to their home states and police take more serious action at spots where many foreigners are present.⁸⁶

The Council of Refugee Women in Bulgaria (CRWB) (*Съвет на жените бежанки в България*, СЖББ) organised a Christmas charity campaign "Give a Smile" (*"Подари усмивка"*) to collect toys for children of refugee families accommodated at external addresses. The organisation also participated in the campaign "Welcome to the Bulgarian School" (*"Добре дошли в българското училище"*) and provided 17 asylum-seeking children, enrolled in Bulgarian schools, with textbooks, notebooks and backpacks. Through its permanent humanitarian centre, the organisation continued to regularly collect and distribute donations for asylum seekers.⁸⁷

The organisation continued to give 'open lessons' in schools explaining who the refugees are and why are they leaving their countries. The aim of the initiative is to educate children in tolerance from a very early age.⁸⁸

In November to December 2016, the Trust for Social Achievement (TSA) and the Initiative for Social Empowerment (ISE) organised the Colourful Bulgaria Christmas Fair (*Коледен базар "Цветна България"*). The initiative enabled NGOs working with vulnerable groups, including migrants, to take part in the

⁸⁴ Ministry of the Interior (Министерство на вътрешните работи) (2016), '[Start of a project by MoI and the association of international truck carriers to inform truck drivers against illegal migrants entering their vehicles](#)' ('Стартира проект на МВР и АЕБТРИ за информиране на водачите на камиони срещу проникване в превозните им средства на нелегални мигранти'), Press release, 29 December 2016.

⁸⁵ Dimitrova, V. (Димитрова, В.) (2016), '[A protest in Lessovo against a migrant camp of closed type](#)' ('Протест в Лесово срещу мигрантски лагер от затворен тип'), Nova TV, 6 December 2016.

⁸⁶ Hristov, N. (Христов, Н.) (2016), '[Nationalists in Sofia protested against illegal migrants](#)' ('В София националисти протестираха срещу нелегалните мигранти'), Bulgarian National Radio, 19 November 2016.

⁸⁷ Council of Refugee Women in Bulgaria.

⁸⁸ *Ibid.*

traditional Christmas market in Sofia.⁸⁹ The CRWB and Caritas Bulgaria used that opportunity to sell handmade souvenirs and collect funds for the refugees.⁹⁰

The Red House Centre for Culture and Debate organised a second round of reading of literary pieces dealing with the topic of migration. The initiative, called Migraton, was part of a project on creating a pilot model for working with migrant and local communities through art, culture and psychosocial support.⁹¹

Caritas Sofia received a Volunteer Initiative prize for its mentorship programme for foreigners who have received international protection and live in Sofia. The prize was given by the National Alliance for Volunteer Action and the Tulip Foundation.⁹²

2.7. Hate speech and violent crime

Anti-migrant attitudes continued to exist, but there were no violent incidents.⁹³ Anti-migrant attitudes were manifested mainly in the form of online hate speech. Such manifestations were observed both among known far-right activists and among the general population.⁹⁴

In November 2016, pre-trial proceedings were initiated against the well-known 'refugee hunter' Gospodin Valev. He was charged with propagating and inciting discrimination, violence and hate on the grounds of nationality and ethnicity through media and information systems.⁹⁵

The case against another 'refugee hunter', Petar Nizamov, also known as Perata, was brought to trial. In April 2016, Perata illegally deprived three Afghan men of their liberty. At the beginning of 2016, he organised via Facebook an informal group of "civilian units to protect Bulgarian mothers and faith", aiming to patrol borders and "catch" migrants. The Afghan victims had crossed the fence on the Bulgarian-Turkish border. Perata and his accomplices tied their hands, beat them and then freed them, ordering them to go to Turkey without notifying the police about their actions.⁹⁶

⁸⁹ Initiative for Social Empowerment (2016), '[Invitation and registration form for sponsored participation in the Christmas Fair 2016](#)' ('Покана и Регистрационна форма за спонсорирано участие в Коледен Базар 2016').

⁹⁰ For more information, see [the programme of the fair at the website of Colourful Bulgaria](#).

⁹¹ For more information, see [the Facebook page of the initiative](#).

⁹² Caritas Bulgaria. For more information, see the [press release at the website of Caritas Bulgaria](#).

⁹³ Refugee Support Group.

⁹⁴ *Ibid.*

⁹⁵ Prosecutor's Office of the Republic of Bulgaria (Прокуратура на Република България) (2016), '[The Regional Prosecutor's Office in Sredetz opened pre-trial proceedings against Mr Gospodin Valev for propagating and inciting discrimination](#)' ('Районна прокуратура –Средец образува досъдебно производство срещу Господин Вълев за проповядване и подбуждане към дискриминация'), Press release, 15 November 2016.

⁹⁶ Prosecutor's Office of the Republic of Bulgaria (Прокуратура на Република България) (2016), '[The Regional Prosecutor's Office in Malko Tarnovo brought to court Mr Petar Nizamov, charged with illegal deprivation of liberty of three men from Afghanistan](#)' ('Районна прокуратура – Малко Търново предаде на съд Петър Низамов, който е обвинен в противозаконно лишаване от свобода на трима мъже от Р. Афганистан'), Press release, 5 October 2016.

2.8. Policies against smuggling of human beings

During the reporting period the police apprehended 111 persons for smuggling of human beings.⁹⁷ In November 2016, as a result of a joint operation by the police, intelligence services and public prosecutors, a smuggling channel from Bulgaria via Serbia to western Europe was dismantled.⁹⁸ All proceedings for smuggling were initiated against persons who acted for profit.⁹⁹

2.9. Criminal proceedings against migrants and asylum seekers

The Regional Prosecutor's Office in Silistra (*Районна прокуратура – Силистра*) imprisoned four Iraqi women, who were sentenced to three months each for illegally crossing the border from Bulgaria to Romania.¹⁰⁰

The Regional Prosecutor's Office in Oryahovo (*Районна прокуратура – Оряхово*) reached an agreement with three Iraqis, who received suspended sentences of six months' imprisonment each for illegally travelling from Bulgaria to Romania.¹⁰¹

Two Pakistanis were sentenced to five months in prison and fined for attempting to exit Bulgaria across the border with Greece. They will also serve three-month suspended sentences for a previous illegal crossing. Five other foreigners received suspended sentences of five months and two others of six months for illegally crossing the Bulgarian-Greek border, and all seven were fines.¹⁰²

An 18-year-old Iraqi was sentenced to six months of suspended imprisonment for attempting to cross the Danube bridge in Ruse from Bulgaria to Greece. He was sent to a refugee centre.¹⁰³

⁹⁷ Ministry of the Interior, Directorate General Border Police. The statistics cover the period from 8 a.m. on 29 September 2016 to 8 a.m. on 29 December 2016.

⁹⁸ Ministry of the Interior (Министерство на вътрешните работи) (2016), '[A joint operation by MOI, SANS and the Prosecutor's Office dismantled a channel for illegal taking of migrants out of Bulgaria via Serbia to Western Europe](#)' ('При съвместна операция на МВР, ДАНС и прокуратурата е разбит канал за незаконно извеждане на мигранти от България през Сърбия към Западна Европа'), Press release, 18 November 2016.

⁹⁹ Ministry of the Interior, Directorate General Border Police.

¹⁰⁰ Prosecutor's Office of the Republic of Bulgaria (Прокуратура на Република България) (2016), '[The Regional Prosecutor's Office in Silistra set into execution four effective sentences against Iraqi women having illegally exited Bulgaria towards Romania](#)' ('Районната прокуратура в Силистра приведе в изпълнение 4 ефективни присъди срещу иракчанки, преминали незаконно границата на България в посока Румъния'), Press release, 7 November 2016.

¹⁰¹ Prosecutor's Office of the Republic of Bulgaria (Прокуратура на Република България) (2016), '[Punishments for illegal support and crossing of Bulgarian border on cases led by the Regional Prosecutor's Offices in Kostinbrod and Oryahovo](#)' ('Наложени наказания за незаконно подпомагане и преминаване през границата на България по дела, водени от Районните прокуратури в Костинброд и Оряхово'), Press release, 18 November 2016.

¹⁰² Prosecutor's Office of the Republic of Bulgaria (Прокуратура на Република България) (2016), '[Effective imprisonment sentences for foreigners for illegal crossing of the country's border](#)' ('Ефективни наказания „Лишаване от свобода“ за чужди граждани за незаконно преминаване през границата на страната'), Press release, 28 December 2016.

¹⁰³ Prosecutor's Office of the Republic of Bulgaria (Прокуратура на Република България) (2016), '[An Iraqi citizen, having exited Bulgaria without permission by competent authorities was sentenced after an agreement with the Regional Prosecutor's Office in Rousse](#)' ('Иракски гражданин, излязъл през границата на Република България без разрешение на надлежните органи на властта, е осъден след споразумение с Районна прокуратура – гр. Русе'), Press release, 20 December 2016.

Two Iraqi men and two Iraqi women received effective prison sentences of three months each for crossing the Bulgarian border going to Romania. They will also serve previous suspended sentences of another three months each.¹⁰⁴

¹⁰⁴ Prosecutor's Office of the Republic of Bulgaria (Прокуратура на Република България) (2016), ['After agreements with the Regional Prosecutor's Office in Silistra four Iraqis having crossed Bulgarian border without due permission will serve imprisonment for three months each'](#) ('След споразумения с Районната прокуратура в Силистра четирима иракчани, преминали българската граница без разрешение, ще изтърпят наказания лишаване от свобода за срок от 3 месеца'), Press release, 30 November 2016.

3. Denmark

3.1. Overview of the situation

From 27 November 2016 until 1 January 2017, at least 200 migrants are estimated to have entered Denmark.¹⁰⁵

Approximately 285 persons applied for asylum in Denmark between 28 November 2016 and 1 January 2017. In 2016, in comparison with the previous year, Denmark experienced a significant decrease in the number of asylum seekers. The 6,228 asylum applications registered in Denmark in 2016 represent 29 % of the figure for 2015 (21,316 asylum applications).¹⁰⁶

Unaccompanied children continue to represent a large proportion of the total number of asylum seekers. According to the internal figures of the Danish Red Cross (*Røde Kors*), 30 % of the applicants in November 2016 were unaccompanied children, marking a small increase from 28 % in October 2016.¹⁰⁷

According to official statistics, 20 % of the asylum applications submitted in 2016 until 30 November were from unaccompanied children, whereas in 2015 these accounted for only 10 %.¹⁰⁸

The main (non-EU) countries of origin in November 2016 for all asylum applications were Syria, Morocco and Afghanistan. For unaccompanied children, the countries were Morocco and Eritrea and Algeria.¹⁰⁹

3.2. Key fundamental rights concerns

3.2.1 Monitoring of asylum centres

Monitoring of facilities hosting asylum seekers, including centres for children, has been subject to severe criticism in the fourth quarter of 2016.

A number of general concerns have been raised, including in relation to:

- insufficient frequency and scope of the monitoring;

¹⁰⁵ Denmark, information available in Danish at the [website of the Danish National Police](#) (*Rigspolitiet*): The numbers are an estimate by the Danish National Police based on weekly reports from two police districts. The estimate is subject to uncertainty, as the police only carry out border control on a limited number of trains, buses etc.

¹⁰⁶ Denmark, information available in Danish at the [website of the Ministry of Immigration and Integration](#) (*Udlændinge- og Integrationsministeriet*): The 2016 number is based on data available up until 30 November 2016 (5.976) and weekly reports for the remaining period of 2016. As the numbers for the period after November 2016 is only available on a weekly basis (five weeks), and thereby includes three days in November 2016 and one day in January 2017, a daily average during those weeks has been added to the numbers available until 30. November 2016 ($5.976 + (285/35 \times 31) = 6.228$).

¹⁰⁷ Information provided by the Danish Red Cross (*Røde Kors*) by interview on 5 January 2017. The statistics from the Danish Red Cross are not necessarily equivalent to the official statistics – the numbers from the Danish Red Cross are calculated differently.

¹⁰⁸ Denmark, information available in Danish at the [website of the Ministry of Immigration and Integration](#) (*Udlændinge- og Integrationsministeriet*).

¹⁰⁹ *Ibid.*

- uncertainty about the supervision responsibilities concerning monitoring arrangements, including among applicants;
- insufficient follow-up on reports;
- overall management of the centres and in particular the child centres.

As a result, a new supervision concept is currently being drafted.¹¹⁰

Additionally, the independent National Audit Office of Denmark (*Rigsrevisionen*) will assess the operation of the asylum centres (reportedly not only as a result of the recent reports). The Danish Refugee Council (*Dansk Flygtningehjælp*) has stressed that this assessment will focus on financial aspects and not, for example, on whether or not the operators are sufficiently qualified to manage conflicts.¹¹¹

3.2.2 Dublin transfers to Hungary

Since October 2015, a number of cases concerning Dublin transfers to Hungary have been suspended by the Danish immigration authorities, in particularly because of uncertainty about whether or not Hungary would return the applicants to Greece or Serbia in violation of their rights.

On 27 November 2016, 482 applicants' cases were suspended. On 28 November 2016, the 10 % of the applicants who had waited longest for a decision on which Member State was responsible for them had on average been waiting for 526 days. Because they had exceeded the time limits set out by the Dublin Regulation, approximately 350 applicants were informed at the end of November 2016 that their cases would be processed in Denmark.¹¹² This decision was subject to political criticism, but it was also highlighted by the Danish Institute for Human Rights as positive that these applicants finally received a decision.¹¹³

Another group of 30 applicants, whose time limits would elapse at a later stage, did not receive this decision. The Danish Immigration Service (*Udlændingestyrelsen*) (first instance) has instead now determined that the applicants can be transferred to Hungary. The Danish Refugee Council plans to appeal against the decisions to the Danish Refugee Appeals Board (*Flygtningenævnet*) on behalf of the applicants, but has criticised the lack of background information shared by the authorities, as a large amount of

¹¹⁰ The Danish Parliament (*Folketinget*), [Åbent samråd i Udlændinge- og Integrationsudvalget om forholdene på børneasylcentre i Danmark](#), Transmission, 1 December 2016, available in Danish.

Information provided by the Danish Refugee Council (*Dansk Flygtningehjælp*) by interview on 2 December 2016 and 4 January 2017 and by the Danish Red Cross (*Røde Kors*) by interview on 1 December 2016. Radio24syv (2016), ['Udlændingestyrelsen forfulgte ikke advarsel om svigt af asylbørn'](#), 2 December 2016, available in Danish. ['Udlændingestyrelsen trækkes ind i asyl-skandale'](#), 1 December 2016, available in Danish. ['Nye afsløringer i Langeland-sagen: Endnu et børnecenter svigtede flygtningebørn'](#), 29 November 2016, available in Danish and ['Hidtil hemmeligholdt rapport: Langelands asylsystem plaget af racisme, vrede og nepotisme'](#), 28 November 2016, available in Danish.

¹¹¹ Radio24syv (2016), ['Landets asylcentre kulegraves af Rigsrevisionen'](#), 30 December 2016, available in Danish and information provided by the Danish Refugee Council (*Dansk Flygtningehjælp*) by interview on 4 January 2017.

¹¹² Denmark, the Danish Parliament (*Folketinget*), the Immigration and Integration Committee, [Udlændinge- og Integrationsudvalget 2016-17, UII, Alm.del endeligt svar på spørgsmål 101](#), 16 December 2016, available in Danish.

¹¹³ E.g. Politiken (2016), ['Regeringen dropper nu at sende asylansøgere retur til Ungarn'](#), 4 December 2016, and Politiken (2016), ['Asylansøgere bliver alligevel ikke sendt retur til Ungarn'](#), 5 December 2016, available in Danish.

information was anonymised, hindering the Danish Refugee Council in drafting the appeal.¹¹⁴

3.3. Children and vulnerable groups

3.3.1 Reception conditions

Conditions at centres for unaccompanied children, including increased powers on the use of force

In November 2016, the Government, the Danish People's Party (*Dansk Folkeparti*), the Liberal Alliance (*Liberal Alliance*) and the Conservative People's Party (*Det Konservative Folkeparti*) agreed on the state budget (*Finanslovsaftalen*) for 2017. The agreement included a number of elements relevant to the conditions at asylum centres for unaccompanied children:

- re-establishing smaller centres;
- establishing rules for the drafting of house rules at the centres;
- reducing the children's allowances if they violate the house rules;
- stricter reduction of allowances, e.g. if the children do not cooperate in the processing of their asylum applications;
- establishing rules on the use of force, including physical force, in relation to unaccompanied children; the staff at the centres will be allowed to search the children and their rooms, e.g. for illegal drugs;
- if an unaccompanied child poses severe danger to him-/herself or others, it would be possible to place the child – if necessary by force – at an institution which can take care of the child and where the child can be restrained.¹¹⁵

As for the increased use of force, the Danish Red Cross has stated that it already has guidelines on the use of force at the centres which it operates (latest revised version adopted on 31 August 2016), and does not see a need for additional permission to use force, emphasising that conflicts are solved through pedagogical work with the children instead.¹¹⁶

Transfer of unaccompanied children at the age of 17

In order to implement parts of the agreement on the new budget for 2017, it has been decided that unaccompanied children at the age of 17 years will be transferred from children's centres to other accommodation centres which are not exclusively for children. The Danish Red Cross, which operates some of the centres and nominates guardians for the children, has stressed that, even after a constructive debate with the authorities, a number of elements remain unclear. This includes what centres the children will be placed in, and what the practical implications will be, including in terms of financing child-specific measures, such

¹¹⁴ Information provided by the Danish Refugee Council (*Dansk Flygtningehjælp*) by interview on 4 January 2017.

¹¹⁵ Denmark, the Government, the Danish People's Party (*Dansk Folkeparti*), the Liberal Alliance (*Liberal Alliance*) and the Conservative People's Party (*Konservativ Folkeparti*), '[Aftale mellem regeringen, Dansk Folkeparti, Liberal Alliance og Det Konservative Folkeparti: Finansloven for 2017](#)' (18 November 2016)', p. 12+13, available in Danish.

¹¹⁶ Information provided by the Danish Red Cross (*Røde Kors*) by interview on 5 January 2017.

as the availability of staff 24 hours a day. The Danish Red Cross therefore focuses on ensuring that the needs of this group as children are still met. However, it also points out that, depending on its implementation, this decision might result in smoother transfers from children's centres to adult centres for this group than previously. The Danish Red Cross has previously had good experiences with linking these young applicants to families and is therefore also discussing this element with the authorities.¹¹⁷

Monitoring asylum centres

See above. Although this is a general problem, the Danish Refugee Council has stressed that the most serious problems have been encountered at children's centres.¹¹⁸

Unaccompanied children with street-oriented behaviour

Although this is not a new challenge, the Danish Red Cross has stated that, including during the last months of 2016, one of the specific issues linked to accommodation was that some unaccompanied children have street-oriented behaviour. This group of children differs from other unaccompanied children, as they have often lived on the street and in rough conditions. They face different fundamental challenges that are not directly related to their asylum cases, e.g. in terms of adopting a structured daily schedule in relation to meals or education. This group requires significant resources and tailored social measures.¹¹⁹

Based on reports of theft at local supermarkets, burglary and drug-related offences by these children, the Danish Immigration Service has initiated a number of steps, including speeding up the processing of the cases of this group of children.¹²⁰

Accommodation of families at a departure centre

In December 2016, four families with children were transferred to the Sjaelsmark departure centre, where until then children had not been accommodated.¹²¹

3.3.2 Safeguards applied at registration and in asylum and return procedures

Social services in relation to asylum seekers

An analysis and clarification was published in July 2016 by the (then) Ministry of Social Affairs and the Interior (*Social- og Indenrigsministeriet*) following a period

¹¹⁷ Information provided by the Danish Red Cross (*Røde Kors*) by interview on 1 December 2016 and 5 January 2017.

Denmark, the Danish Immigration Service (*Udlændingestyrelsen*) (2016), '[Færre driftsoperatører på børnecenterområdet i 2017](#)', Press release, 28 November 2016, available in Danish.

¹¹⁸ Information provided by the Danish Refugee Council (*Dansk Flygtningehjælp*) by interview on 4 January 2017.

¹¹⁹ Information provided by the Danish Red Cross (*Røde Kors*) by interview on 5 January 2017.

¹²⁰ Denmark, the Ministry of Immigration and Integration (*Udlændinge- og Integrationsministeriet*), '[Inger Støjberg strammer op over for uledsagede mindreårige i Center Sandholm](#)', Press release, 12 December 2016.

¹²¹ Denmark, the Danish Immigration Service, '[Ændret beboersammensætning på Udrejsecenter Sjaelsmark](#)', Press Release, 20 December 2016, available in Danish.

of uncertainty regarding the scope of the Act of Social Services (*Serviceoven*) and the Danish Aliens Act (*Udlændingeloven*), in relation to asylum seekers and foreigners without a legal residence.¹²² Additionally, the ministry sent a draft of amended guidelines for public consultation in October 2016.¹²³ The Danish Refugee Council, among others, highlighted it as positive that the relation between the Act on Social Service and the Danish Aliens Act would become clearer. It however also criticised the fact that a number of uncertain points remain, and expressed concerns over some of the ministry's conclusions in the light of Denmark's international obligations, e.g. the UN Convention on the Rights of the Child. The Danish Refugee Council also reported that some children in practice seem to lack certainty on important issues, such as what assistance they are entitled to and who shall provide it.¹²⁴

Lengthy periods of case processing

The Danish Refugee Council has highlighted long waiting periods in two or three cases in which rejected asylum seekers (families with accompanying children) applied for a residence permit on the grounds of the best interests of the child. These applications were filed almost two years ago. According to the Danish Refugee Council, this clearly indicates that the Danish Immigration Service has general discussions relating to these cases.¹²⁵

3.4. Changes in law, policy and practice

3.4.1 Changes in law or policy

Stricter conditions for persons on tolerated stay and for expelled criminals

In November 2016, the (at the time) Minister for Immigration, Integration and Housing (*Udlændinge-, Integrations- og Boligministeren*) presented a bill introducing stricter conditions for persons on tolerated stay (persons who have not been granted a residence permit but who cannot be returned because of the principle of non-*refoulement*, and hence have been granted exceptional leave to remain) and persons facing expulsion because they have committed a crime. The suggested amendment, which is currently before the Danish Parliament, includes, among other provisions:

- a new notification obligation;
- the possibility to serve the punishment at the place of accommodation; and

¹²² Denmark, the Ministry of the Social Affairs and the Interior (*Social- og Indenrigsministeriet*) (2016), [Analyse af servicelovens anvendelsesområde i forhold til udlændinge med processuelt eller ikke lovligt opholdsgrundlag](#), published 29 June 2016, Sagsnr. 2015-6337, available in Danish, and the Ministry of the Social Affairs and the Interior (*Social- og Indenrigsministeriet*) (2016), [Meddelelse om servicelovens anvendelsesområde i forhold til asylansøgere og udlændinge uden lovligt ophold](#), Letter, 1 July 2016, Sagsnr. 2015-9324, available in Danish.

¹²³ Denmark, Public Consultation on Draft Guidelines 3 to the Danish Act on Social Services – Guidelines on special support to children and young people and their families ([Høring over udkast til vejledning 3 til serviceloven – Vejledning om særlig støtte til børn og unge og deres familier](#)), 14 October 2016, available in Danish.

¹²⁴ Danish Refugee Council (*Dansk Flygtningehjælp*), [Høringssvar vedrørende udkast til vejledning om særlig støtte til børn og unge og deres familier \(vejledning nr. 3 til serviceloven\)](#), available in Danish. Information provided by the Danish Refugee Council (*Dansk Flygtningehjælp*) by interview on 2 December 2016 and 4 January 2017.

¹²⁵ Information provided by the Danish Refugee Council (*Dansk Flygtningehjælp*) by interview on 4 January 2017.

- the introduction of a new option to remand a person in custody if the person repeatedly violates reporting, notification and residence obligations, and the introduction of greater financial consequences for violating the obligations.¹²⁶

A number of organisations have expressed serious concerns over the suggested amendments. The Danish Refugee Council has criticised them as aiming to make staying under these conditions even more intolerable and as being disproportionate to the aim, which is to monitor the whereabouts of the persons.¹²⁷ The Danish Institute for Human Rights has stated that there is a significant risk that the suggested stricter conditions in combination with previous amendments can constitute – or turn into – a violation of human rights.¹²⁸

Amended regulation on expulsion

In December 2016, the Danish Parliament passed an amendment to the regulation on expulsion of foreigners in the Danish Aliens Act. The amendment relates to the deliberation of whether or not there are reasons why foreigners sentenced for certain offences cannot be expelled. As a result of the amendment, expulsion shall take place unless such expulsion constitutes “with certainty” a violation of Denmark’s international obligations.¹²⁹ It has been argued that the legal effects of inserting the words “with certainty” are questionable and that the reason for the amendment is therefore rather to send a political signal.¹³⁰

Revoking the residence permit for Somalians

In September 2016, the Danish Refugee Appeals Board upheld five decisions from the Danish Immigration Service to refuse to extend residence permits for Somalians, extensions that had been requested because of changes in the situation in Somalia. The Danish Immigration Service then announced that it would assess revoking or refusing the extension of residence permits in some 1,200 cases concerning Somalians. The Danish Immigration Service has at this stage closed 400 cases and not revoked or refused extensions in these cases. These cases have been closed either because the applicant had been granted a

¹²⁶ Denmark, [Bill no. 59 of 9 November 2016 on amending the Danish Aliens Act, the Act on Serving Punishment and the Criminal Code](#) (enhanced control with foreigners on tolerated stay and expelled criminals, including establishing an obligation to notify, toughen punishment, serving in leg irons and special possibility to detain, and amending the rules on appeal) (*Lovforslag nr. 59 af 9. november 2016 om ændring af udlændingeloven, lov om fuldbyrdelse af straf m.v. og straffeloven* (Styrket kontrol med udlændinge på tålt ophold og kriminelle udviste, herunder indførelse af underretningspligt, skærpet straf, afsoning i fodlænke og særlig adgang til varetægtsfængsling, og ændring af klageadgang)), available in Danish.

¹²⁷ Information provided by the Danish Refugee Council (*Dansk Flygtningehjælp*) by interview on 28 October 2016.

¹²⁸ The Danish Institute for Human Rights (2016), [Høring over udkast til forslag til lov om ændring af udlændingeloven, lov om fuldbyrdelse af straf m.v. og straffeloven](#) (Styrket kontrol med udlændinge på tålt ophold og kriminelle udviste, herunder indførelse af underretningspligt, skærpet straf, afsoning i fodlænke og særlig adgang til varetægtsfængsling), Legal brief, 28 October 2016, available in Danish.

¹²⁹ Denmark, [Act No 1744 of 27 December 2016 on amending the Danish Aliens Act](#) (amending the regulation on expulsion etc.) (*Lov nr. 1744 af 27. December 2016 om ændring af udlændingeloven* (*Ændring af udvisningsreglerne m.v.*)), available in Danish.

¹³⁰ Information provided by the Danish Refugee Council (*Dansk Flygtningehjælp*) by interview on 28 October 2016, and for example the Danish Institute for Human Rights (2016), [Høring over udkast til forslag til lov om ændring af udlændingeloven](#) (*Ændring af udvisningsreglerne m.v.*), Legal Brief, 26 October 2016, available in Danish.

residence permit on individual grounds and not because of the general situation in Somalia, or because the person had left Denmark, had disappeared or was deceased. A few cases have determined that the residence permit could not be revoked. The remaining cases are still pending.¹³¹

Criticism has been raised in relation to the assessment of the situation in Somalia, including from the UNHCR. The cases also include refugees admitted as part of Denmark's quota (quota refugees) and, although the Danish Refugee Council assesses that their residence permits can be revoked in accordance with Danish regulation, the council emphasises that the quota system is considered a permanent solution and Denmark is therefore "crossing a new line" in the immigration area by considering revoking the residence permits of quota refugees.¹³²

3.4.2 Changes in practice

Return of rejected asylum seekers

The political agreement on the new Financial Act also contains a section on strengthening cooperation and dialogue with the relevant countries of origin in order to return more rejected asylum seekers. The agreement includes the appointment of a Danish ambassador to focus on supporting returns, including returns as a permanent part of foreign policy, increasing the motivation to return voluntarily, and working to establish reception centres for unaccompanied children in countries of origin.¹³³

Identity controls between Denmark and Sweden

Although not a change, it was reported by the Danish Red Cross that the 2016 identity controls between Denmark and Sweden have led to a number of adverse situations for unaccompanied children who have previously applied for asylum in Sweden. In these cases, children who were heading to other parts of Sweden by train failed to leave the train before crossing the border to Denmark. Nothing in the cases suggests that this was other than by accident. They could not return immediately to Sweden because of the document controls and therefore were channelled into the Dublin procedure, which can last for a considerable time. This led to frustration among the children, some of whom considered swimming back to Sweden. Because of the long procedures, some of the children had to move between different centres. The Danish Red Cross also reported a case of a girl who feared that she might miss a scheduled asylum interview in Sweden as a result of her enforced stay in Denmark.¹³⁴

¹³¹ Denmark, the Danish Refugee Appeals Board (*Flygtningenævnet*), [Principielle afgørelser i fem sager om nægtelse af forlængelse af opholdstilladelse til somaliske statsborgere](#), Press Release, 16 September 2016, available in Danish, the Danish Immigration Service (*Udlændingestyrelsen*), [Udlændingestyrelsen undersøger opholdstilladelser til somaliere](#), Press Release, 16 September 2016, available in Danish and the Danish Parliament (*Folketinget*), the Immigration and Integration Committee, [Udlændinge- og Integrationsudvalget 2016-17, UUI, Alm.del endeligt svar på spørgsmål 225](#), 2 January 2017, available in Danish.

¹³² Information provided by the Danish Refugee Council (*Dansk Flygtningehjælp*) by interview on 28 October 2016.

¹³³ Denmark, the Government, the Danish People's Party (*Dansk Folkeparti*), the Liberal Alliance (*Liberal Alliance*) and the Conservative People's Party (*Konservativ Folkeparti*), '[Aftale mellem regeringen, Dansk Folkeparti, Liberal Alliance og Det Konservative Folkeparti: Finansloven for 2017](#)' (18 November 2016)', p. 14+15, available in Danish.

¹³⁴ Information provided by the Danish Red Cross (*Røde Kors*) by interview on 5 January 2017.

Foreigners on tolerated stay transferred to a departure centre

In October 2016, the transfer of persons on tolerated stay (persons who have not been granted a residence permit but who cannot be returned because of the principle of non-*refoulement*, and hence have been granted exceptional leave to remain) to the departure centre in Kaershovedgaard was initiated. However, not all persons who were instructed to move did so. On 19 October, 11 out of 24 persons were reportedly transferred in accordance with the decisions. It has been reported that one person stated that the transfer would prevent him from maintaining his family life with his partner and three children because of the geographical placement of the departure centre, and has therefore not participated in the transfer.¹³⁵

3.5. Social response

According to information provided by the Danish National Police, two police districts outside Copenhagen experienced demonstrations in the reference period. In one district the demonstration was in favour of migrants and 50 persons participated. In the other district, a two-day demonstration by 100–200 people took place, concerning the treatment of refugees from Syria.¹³⁶

Additionally, a demonstration (with the participation of some 100 people) and a counterdemonstration (with the participation of some 200 people) took place in Copenhagen on 3 December. The demonstration was arranged by the group For Freedom – previously known as Pegida – whose main focus is to counter what it perceives as the “Islamisation of Denmark”. Another demonstration also arranged by For Freedom took place on 17 December and was also met by counterdemonstrations (see also section 3.6 below on violent incidents during demonstrations).

Living conditions in Kaershovedgaard

The living conditions in Kaershovedgaard (a new departure centre for people on tolerated stay, persons facing expulsion because they have committed crimes and rejected asylum seekers) have been heavily criticised in the media. In particular the supervision measures and the quality and quantity of the food attracted criticism.¹³⁷

Suspension of accepting quota refugees

Prior to the reference period, the Danish Government decided to suspend accepting quota refugees through the UNHCR (Denmark is taking around 1,500 quota refugees over a period of three years). The reason behind the decision was, according to the Minister for Immigration and Integration, problems integrating the foreigners already residing in Denmark.¹³⁸ The decision has been

¹³⁵ TVMidtvest (2016), '[Udlændinge på tålt ophold flytter ind på Kærshovedgaard](#)', 6 October 2016, available in Danish, Jyllands-Posten (2016), '[Amnesty: strengere regler får ikke folk på tålt ophold frem i lyset](#)', 19 October 2016, available in Danish, and Politiken (2016), '[Brændende kærlighed sviner ad helvede til, men smager skidegodt](#)', 23 November 2016, available in Danish.

¹³⁶ Information provided by the Ministry of Justice (*Justitsministeriet*) by e-mail on 6 January 2017.

¹³⁷ TVMV, '[Beboer på Kærshovedgård: Mange bliver psykisk syge](#)', 3 January 2017, available in Danish.

¹³⁸ Politiken (2016), '[Inger Støjberg: Der er kommet alt for mange asylansøgere](#)', 11 September 2016, available in Danish. The Local (2016), '[Denmark suspends quota refugee programme](#)', 22 November 2016, available in English.

discussed and criticised by a number of organisations and politicians, including during the reference period.¹³⁹

Increase in public remarks stigmatising migrants and asylum seekers

Based on monitoring media coverage, Report Hate (*Anmeld Had*) generally sees an increase in the number of public remarks that stigmatise migrants and asylum seekers.¹⁴⁰ One example is the remarks made in December 2016 by a member of parliament, Kenneth Kristensen, who proposed that warning shots should be fired at refugees arriving at Europe's external borders by boat, to force them to sail back.¹⁴¹

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

3.6. Hate speech and violent crime

During the demonstration on 3 December 2016 organised by For Freedom, mentioned in section 3.5 on demonstrations, 11 persons were arrested.¹⁴² The demonstration was met with a counterdemonstration, which led to violent incidents followed by arrests. The persons were arrested on grounds of assault against a police officer, vandalism and violation of the Administrative Order on Public Order and Safety (*Ordensbekendtgørelsen*). All persons arrested were participants in the counterdemonstration and were labelled by the police as far-left extremists.¹⁴³

On 17 December 2016, several violent incidents occurred in connection with a demonstration arranged by For Freedom, also mentioned above. Three persons were arrested.¹⁴⁴ They were arrested for assault against a police officer, resisting arrest and violation of the Administrative Order on Public Order and Safety. The police could not confirm whether the persons were taking part in the demonstration itself or the counterdemonstration.¹⁴⁵

Monitoring by the Danish National Police (*Rigspolitiet*) shows no major changes concerning online hate speech.¹⁴⁶

¹³⁹ For example, Globalnyt (2016) '[FN-forbundet: Stop for kvoteflygtninge undergraver Danmarks troværdighed](#)', 13 October 2016, available in Danish, DR (2016), '[Thorning kritiserer Danmarks stop for kvoteflygtninge](#)', 11 December 2016, available in Danish and Denmark, the Danish Parliament, [Beslutningsforslag nr. B 17, fremsat den 25. oktober 2016 af Johanne Schmidt-Nielsen \(EL\), Pernille Skipper \(EL\), Søren Søndergaard \(EL\) og Nikolaj Villumsen \(EL\), forslag til folketingsbeslutning om fortsat modtagelse af kvoteflygtninge](#)', available in Danish (the suggestion was rejected on 19 December 2016).

¹⁴⁰ Information provided by Report Hate (*Anmeld Had*) by interview on 20 December 2016.

¹⁴¹ The Guardian (2016), '[Warning shots should be fired to deter EU-bound migrants, says Danish MP](#)', 9 December 2016, available in English.

¹⁴² TV2, '[11 anholdt i Nørrebro-demonstrationer – én for vold mod betjent](#)', 3 December 2016, available in Danish.

¹⁴³ *Ibid.*

¹⁴⁴ TV2, '[Tre anholdt under For Frihed-demonstration på Nørrebro](#)', 17 December 2016, available in Danish.

¹⁴⁵ *Ibid.*

¹⁴⁶ Information provided by the Ministry of Justice (*Justitsministeriet*) by e-mail on 6 January 2017.

According to the Director of Public Prosecutions (who, however, does not have separate data on online hate speech), no incidents of hate speech were reported in December 2016. In November 2016 six incidents were reported, and in October 2016 seven cases were reported.¹⁴⁷ According to Report Hate (*Anmeld Had*) there has been an increase in the number of websites and groups in social media which are openly anti-migrant and use aggressive rhetoric to foster hostility towards migrants and asylum seekers.¹⁴⁸

The Danish Red Cross has reported that it has not recorded an increase or any specific trend in attacks on migrants or asylum seekers. In December, there was one case of an unprovoked assault, but there was no evidence that the assault was due to the victim's status as an asylum seeker or his skin colour. The Danish Red Cross has not had any newly reported incidents of vandalism in its reception and accommodation centres; the last such case was in 2015.¹⁴⁹

3.7. Policies against smuggling of human beings

Statistics for the period from 3 October 2016 until 1 January 2017 from the Danish temporary border control at the border with Germany show that 17 persons were charged with human smuggling. The information, however, does not indicate in which cases the motive was humanitarian and in which it was for profit.¹⁵⁰

Four relevant cases were reported by the Public Prosecutor for the period from October to December 2016:

- The City Court gave the defendant a 40-days suspended sentence and expelled him for assisting his ex-wife, son-in-law, two children and grandchild to gain illegal entry.
- The High Court fined the defendant DKK 10,000 (approximately €1,300) for assisting his/her younger brother and the brother's friend (both 13 or 14 years old) to gain illegal entry.
- The defendant was sentenced by the High Court to 40 days' imprisonment and expelled for assisting his/her sister and brother-in-law and their two children to gain illegal entry.
- Four defendants were acquitted by the City Court of assisting several foreigners with travelling through Denmark to Sweden. The four persons claimed to have acted on the basis of humanitarian considerations and as a protest against the Danish refugee policy. The court did not find sufficient evidence to convict them. The prosecutor has appealed to the High Court.¹⁵¹

In September 2016, the High Court fined a Danish author and her husband DKK 25,000 (approximately €3,300) each for having transported a person

¹⁴⁷ *Ibid.*

¹⁴⁸ Information provided by Anmeldhad.dk by phone interview on 20 December 2016.

¹⁴⁹ Information provided by the Danish Red Cross (*Røde Kors*) by interview on 5 January 2017.

¹⁵⁰ Denmark, information available in Danish at the [website of the Danish National Police](#) (*Rigspolitiet*).

¹⁵¹ Information provided by the Ministry of Justice (*Justitsministeriet*) by e-mail on 6 January 2017.

without a legal residence through Denmark for humanitarian reasons. In doing so, the High Court increased the fine of DKK 22,500 (approximately €3,000) previously imposed by the City Court. In December 2016, the couple received a decision that they cannot appeal to the Supreme Court, as the case had not been assessed on its substance.¹⁵²

The Danish Immigration Service stated that if a person is sentenced to a punishment not greater than a fine, and the person has resided in the country legally for less than six months, the Danish Immigration Service can administratively expel the person. No information is available on the number of such cases during the reference period, but it is the experience of the Danish Immigration Service that, in the vast majority of these cases, the foreigner has a family relation to the person he/she has assisted and often it is stated in the cases that he/she has not received any payment for the assistance.¹⁵³

The Danish Refugee Council has also reported that it had been contacted by a refugee residing in Denmark who had illegally transported his wife across the border from Germany and was subsequently apprehended in Denmark. The refugee was concerned about his residence permit and received guidance from the Danish Refugee Council in this manner. The organisation was not involved in subsequent criminal proceedings and has no information on further developments in the case.¹⁵⁴

¹⁵² Tv2 (2016), '[Lisbeth Zornig får forhøjet bøde for menneskesmugling](#)', 22 September 2016, available in Danish, and Politiken (2016), '[Lisbeth Zorning er dømt for menneskesmugling](#)', 22 September 2016, available in Danish.

¹⁵³ Information provided by the Ministry of Justice (*Justitsministeriet*) by e-mail on 6 January 2017.

¹⁵⁴ Information provided by the Danish Refugee Council (*Dansk Flygtningehjælp*) by interview on 4 January 2017.

4. Finland

4.1. Overview of the situation

No exceptional numbers of arrivals are reported for the months of October to December.¹⁵⁵ A total of 339 asylum applications were lodged in October 2016, 319 in November and 240 in December.¹⁵⁶ The full year figure for 2016 is 5,651 asylum applications.¹⁵⁷ The commonest nationalities of persons applying for asylum in 2016 were Iraqi (22 %), Afghan (13 %), Syrian (11 %), Somali (8 %) and Eritrean (5 %). Between 1 January and 31 December 2016, some 400 unaccompanied children applied for asylum in Finland.¹⁵⁸ The top countries of origin of these unaccompanied children were Afghanistan, Syria, Iraq and, Somalia.¹⁵⁹

4.2. Key fundamental rights concerns

The following key fundamental rights concerns were reported for the month of December:

- Protection of rejected asylum seekers: serious concern was expressed about the risk of marginalisation and the lack of access to rights and services of the increasing group of rejected asylum seekers staying in Finland without a residence permit.¹⁶⁰ A government action plan to prevent and control illegal stay, which was adopted on 16 December 2016,¹⁶¹ was criticised for its strong focus on voluntary return, protective measures and increased monitoring.¹⁶² As it is proposed that voluntary return is

¹⁵⁵ A press release by the Finnish Border Guard indicates that in November two border crossings by asylum-seekers were detected at the Russian land border and nine asylum-seekers were reported to have arrived by air through the external borders. Finnish Border Guard ([Rajavartiolaitos/Gränsbevakningsväsendet](#)), ['Katsaus Rajavartiolaitoksen toimintaan, tammi-marraskuu 2016'](#) [Overview of the Border Guard operations in January-November 2016], Press release, 5 December 2016.

¹⁵⁶ Finnish Immigration Service (*Maahanmuuttovirasto/Migrationsverket*), [Statistics on asylum and refugees](#), Weekly statistics.

¹⁵⁷ Finnish Immigration Service (*Maahanmuuttovirasto/Migrationsverket*), [Statistics on asylum and refugees](#), Total figures by nationality. Per the Finnish Immigration Service (*Maahanmuuttovirasto/Migrationsverket*), as of 16 November, 1500 applicants were waiting for their asylum interview and 7000 applicants were waiting for an asylum decision. Finland, The Finnish Immigration Service (*Maahanmuuttovirasto/Migrationsverket*), [Customer bulletin](#), 16 November 2016.

¹⁵⁸ Finnish Immigration Service (*Maahanmuuttovirasto/Migrationsverket*), [Statistics on asylum and refugees](#), Unaccompanied children- asylum applicants by nationality.

¹⁵⁹ *Ibid.*

¹⁶⁰ Refugee Advice Centre (*Pakolaisneuvonta/Flyktingrådgivningen*), ['Järjestöt: Oikeuksien rajoittaminen ei ratkaise paperittomuutta'](#) [Organisations: Restricting rights will not solve paperlessness], common statement by fourteen Finnish NGOs, 22 December 2016; Amnesty Finland, ['Amnesty: Puolueet pettivät lupauksensa lapsille'](#) [Amnesty: Parties failed their promise to children], Press release, 23 December 2016; and Meri Korniloff and Jasmiina Jokinen, Finnish Refugee Council (*Suomen Pakolaisapu/Finlands Flyktinghjälp*), ['Oikeuksien polkeminen ei ratkaise paperittomuutta'](#) [Undermining rights does not solve paperlessness], Finnish League for Human Rights (*Ihmisoikeusliitto/Förbundet för Mänskliga Rättigheter*) blog, 16 December 2016.

¹⁶¹ Finland, Finnish Ministry of the Interior (*Sisäministeriö/Inrikesministeriet*), [Toimenpidesuunnitelma laittoman maassaoleskelun ehkäisyyn ja hallintaan](#) [Action plan to prevent and control illegal stay], 16 December 2016.

¹⁶² Refugee Advice Centre (*Pakolaisneuvonta/Flyktingrådgivningen*), ['Järjestöt: Oikeuksien rajoittaminen ei ratkaise paperittomuutta'](#) [Organisations: Restricting rights will not solve paperlessness], common statement by fourteen Finnish NGOs, 22 December 2016; and Amnesty Finland, ['Amnesty: Puolueet](#)

marketed, e.g., in the context of emergency services, the plan was also said to further contribute to the marginalisation of the paperless by creating further disincentives for accessing services and fundamental rights.¹⁶³

- Access to the right to health remains a challenge for undocumented migrants.¹⁶⁴ In addition, a survey published in December points out that in autumn 2016 some asylum-seeker children and pregnant women had difficulty gaining access to publicly provided preventative healthcare to which they were entitled by law.¹⁶⁵ Inconsistencies in guidance provided to municipalities and shortcomings in coordination, as well as scarcity of resources, were reported as some of the causes of this.¹⁶⁶
- Protection of particularly vulnerable groups and individuals: criticism was expressed about the introduction of designated residence (*lapsen asumisvelvollisuus*) as an alternative for detention for children aged from 15 to 17 and with an enforceable expulsion order.¹⁶⁷ In a statement to the Government,¹⁶⁸ the Finnish Ombudsman for Children (*lapsiasiavaltuutettu/barnombudsmannen*) expresses concern over the rapid amendments made to the legislation regarding, for example, family reunification, the possibility of complaining about negative asylum decisions, and detention, which have practically without exception weakened the position of asylum-seeking children. The ombudsman regrets that Finland has joined several other European countries in a race to lower the level of asylum seekers' rights to appear less attractive and finds this very troublesome from the perspective of the rights of the child.¹⁶⁹
- Increasing internal tensions and some incidents of violence among asylum seekers and groups of asylum seekers at reception centres are sources of

[pettivät lupauksensa lapsille](#) [Amnesty: Parties failed their promise to children], Press release, 23 December 2016.

¹⁶³ Refugee Advice Centre (*Pakolaisneuvonta/Flyktingrådgivningen*), ['Järjestöt: Oikeuksien rajoittaminen ei ratkaise paperittomuutta'](#) [Organisations: Restricting rights will not solve paperlessness], common statement by fourteen Finnish NGOs, 22 December 2016.

¹⁶⁴ Meri Korniloff and Jasmiina Jokinen, Finnish Refugee Council (*Suomen Pakolaisapu/Finlands Flyktinghjälp*), ['Oikeuksien polkeminen ei ratkaise paperittomuutta'](#) [Undermining rights does not solve paperlessness], Finnish League for Human Rights (*Ihmisoikeusliitto/Förbundet för Mänskliga Rättigheter*), Blog, 16 December 2016. The same concern was expressed by the Finnish Human Rights Centre (*Ihmisoikeuskeskus/Människorättscentret*), which noted that 'In the current national legislation, the access of undocumented migrants to health care is limited to emergency health care only. At the minimum, and to better comply with human rights obligations, access to other preventive health care services considered necessary by the health care professionals should be provided'. [Finland's Third Universal Periodic Review, April-May 2017, Individual submission from the Human Rights Centre/Finland's National Human Rights Institution](#), Issue Number IOK/23/2016-2, 22 September 2016.

¹⁶⁵ National Institute for Health and Welfare (*Terveyden ja hyvinvoinnin laitos/Institutet för hälsa och välfärd*), ['Turvapaikanhakijoiden terveydenhuollon toteutuminen 2015 – 2016'](#) [The realisation of the right to health for asylum-seekers in 2015-2016] (2016), pp. 27-28, available in Finnish; and National Institute for Health and Welfare (*Terveyden ja hyvinvoinnin laitos/Institutet för hälsa och välfärd*), ['Turvapaikanhakijat koettelivat terveydenhuollon valmiutta'](#) [The readiness of the health care system was tested by the arrival of asylum-seekers], Press release, 16 December 2016.

¹⁶⁶ National Institute for Health and Welfare (*Terveyden ja hyvinvoinnin laitos/Institutet för hälsa och välfärd*), ['Turvapaikanhakijoiden terveydenhuollon toteutuminen 2015 – 2016'](#) [The realisation of the right to health for asylum-seekers in 2015-2016] (2016), pp. 27-28, available in Finnish.

¹⁶⁷ Aliens' Act (*ulkomaalaislaki/utlänningslag*) (301/2004), as amended 20 December 2016.

¹⁶⁸ Finnish Ombudsman for Children (*Lapsiasiavaltuutettu/Barnombudsmannen*) (2016), ['Lapsiasiavaltuutetun arviolausunto valtioneuvostolle lasten oikeuksien ja hyvinvoinnin akuuttitilasta'](#) [Statement to the Government by the Finnish Ombudsman for Children on the state of children's rights and wellbeing] LAPS/55/2016, 20 December 2016.

¹⁶⁹ Finnish Ombudsman for Children (*Lapsiasiavaltuutettu/Barnombudsmannen*) (2016), ['Lapsiasiavaltuutetun arviolausunto valtioneuvostolle lasten oikeuksien ja hyvinvoinnin akuuttitilasta'](#) [Statement to the Government by the Finnish Ombudsman for Children on the state of children's rights and wellbeing] LAPS/55/2016, 20 December 2016.

concern.¹⁷⁰ Cases of violence among asylum seekers targeting Christian asylum seekers at or near reception centres and, in Helsinki, repeated confrontations between asylum seekers of different nationalities (mainly Iraqis and Afghans) in public places were reported.¹⁷¹

4.3. Children and vulnerable groups

4.3.1 Reception conditions

The Finnish Ombudsman for Children points out with concern the shortage of guardians, the delays in assigning guardians for unaccompanied children, the varying levels of qualification of guardians, and the fact that one guardian may have dozens of children to represent.¹⁷²

Challenges were reported with regard to the respect for the principles of the best interests of the child and the right of the child to be heard when decisions on changes in the placement of unaccompanied children are made. Such concerns are all the sharper because places for unaccompanied children in reception accommodation have been cut, and more will go.¹⁷³ Particular challenges, e.g. in terms of integration, access to services and continuity of education, were stated in the context of relocating children after they have been issued with a residence permit and as the responsibility for handling their accommodation shifts from the Finnish Immigration Service (*Maahanmuuttovirasto/Migrationsverket*) to the Centres for Economic Development, Transport and Environment (*Elinkeino-, liikenne- ja ympäristökeskus/Närings-, trafik- och miljöcentralen*).¹⁷⁴ Delays are

¹⁷⁰ Interview 5 January 2017 with National Police Board (*Poliisihallitus/Polisstyrelsen*).

¹⁷¹ *Ibid.*

¹⁷² Finnish Ombudsman for Children (*Lapsiasiavaltuutettu/Barnombudsmannen*) (2016), '[Lapsiasiavaltuutetun arviolausunto valtioneuvostolle lasten oikeuksien ja hyvinvoinnin akuuttitilasta](#)' [Statement to the Government by the Finnish Ombudsman for Children on the state of children's rights and wellbeing] LAPS/55/2016, 20 December 2016 and Finland, Ombudsman for Children (*Lapsiasiavaltuutettu/Barnombudsmannen*) (2016), '[Lapsiasiavaltuutetun lausunto ihmiskaupan uhrien auttamisjärjestelmää koskeneen lainsäädäntömuutoksen vaikutuksista sekä uhrien auttamiseen ja tunnistamiseen liittyvistä mahdollisista puutteista](#)' [Statement by the Finnish Ombudsman for Children on the implications of the amendments to the system of assistance for victims of human trafficking and possible shortcomings related to the recognition and assisting of victims] LAPS/185/2014, 7 November 2016. See, similarly, Finland, Ombudsman for Children (*Lapsiasiavaltuutettu/Barnombudsmannen*), '[Lapsiasiavaltuutetun arvio yksin maahan tulleiden turvapaikkaa hakevien lasten oikeuksien ja hyvinvoinnin toteutumisesta](#)' [Evaluation by the Ombudsman for Children on the realisation of the rights of unaccompanied children seeking asylum in Finland] LAPS/33/2015, 16 June 2016. Also, challenges in the recruitment and the training of guardians, and in the consistency in the guidance provided to guardians were noted. Interviews 3 November 2016 and 5 January with Central Union for Child Welfare (*Lastensuojelun Keskusliitto/Centralförbundet för Barnskydd*).

¹⁷³ Interviews 2 December 2016 and 5 January with Central Union for Child Welfare (*Lastensuojelun Keskusliitto/Centralförbundet för Barnskydd*). Among the reception centres to close are seventeen reception units for unaccompanied children. In addition, accommodation capacity will be reduced at four units for children. In the autumn 2016, the accommodation capacity in supported housing units and group homes intended for accompanied children was reduced by over 800 beds in total. Finnish Immigration Service (*Maahanmuuttovirasto/Migrationsverket*), Press releases, [30 May 2016](#), and [28 December 2016](#).

¹⁷⁴ Finland, Ombudsman for Children (*Lapsiasiavaltuutettu/Barnombudsmannen*) (2016), '[Lapsiasiavaltuutetun lausunto ihmiskaupan uhrien auttamisjärjestelmää koskeneen lainsäädäntömuutoksen vaikutuksista sekä uhrien auttamiseen ja tunnistamiseen liittyvistä mahdollisista puutteista](#)' [Statement by the Finnish Ombudsman for Children on the implications of the amendments to the system of assistance for victims of human trafficking and possible shortcomings related to the recognition and assisting of victims] LAPS/185/2014, 7 November 2016; and interview 5 January with Central Union for Child Welfare (*Lastensuojelun Keskusliitto/Centralförbundet för Barnskydd*).

reported in arranging permanent accommodation in municipalities for unaccompanied children with residence permits.¹⁷⁵

Challenges regarding privacy and safety for women and children at reception centres were reported.¹⁷⁶ In 2016, 18 rape cases (there is no information on the age of the victims), 13 cases of sexual abuse of children and four cases of aggravated sexual abuse of children were registered at reception centres (the victims of sexual abuse and aggravated sexual abuse were of Afghan, Iraqi and Syrian nationalities).¹⁷⁷ Cases of violence and racist speech targeting migrant women in public places were also reported.¹⁷⁸

4.3.2 Safeguards applied at registration and in asylum and return procedures

Criticism was expressed regarding the amendment of the Aliens Act (*ulkomaalaislaki/utlänningslag*)¹⁷⁹ on 20 December 2016 to include designated residence) as an alternative to detention for children (aged 15 to 17 and with an enforceable expulsion order), who can be ordered to stay within the area around a specific reception centre.¹⁸⁰ The introduction of designated residence was criticised for not creating a real alternative for detention of children but rather expanding the use of interim measures, and was found to contradict the principle of the best interests of the child.¹⁸¹

The Central Union for Child Welfare (*Lastensuojelun Keskusliitto/Centralförbundet för Barnskydd*) points with concern to the lack of special measures for the identification of child asylum seekers and migrant children who are victims of sexual violence or abuse and the lack of a harmonised system for their care. It calls for the social and healthcare system to take more responsibility for caring for and supporting such children.¹⁸²

¹⁷⁵ Finland, Ombudsman for Children (*Lapsiasiavaltuutettu/Barnombudsmannen*) (2016), [‘Lapsiasiavaltuutetun lausunto ihmiskaupan uhrien auttamisjärjestelmää koskeneen lainsäädäntömuutoksen vaikutuksista sekä uhrien auttamiseen ja tunnistamiseen liittyvistä mahdollisista puutteista’](#) [Statement by the Finnish Ombudsman for Children on the implications of the amendments to the system of assistance for victims of human trafficking and possible shortcomings related to the recognition and assisting of victims] LAPS/185/2014, 7 November 2016. See, also, Finland, Ombudsman for Children (*Lapsiasiavaltuutettu/Barnombudsmannen*), [‘Lapsiasiavaltuutetun arvio yksin maahan tulleiden turvapaikkaa hakevien lasten oikeuksien ja hyvinvoinnin toteutumisesta’](#) [Evaluation by the Ombudsman for Children on the realisation of the rights of unaccompanied children seeking asylum in Finland] LAPS/33/2015, 16 June 2016.

¹⁷⁶ Interview 29 November 2016 with Monika-Multicultural Women’s Association Finland (*Monika Naiset liitto*).

¹⁷⁷ Interview 5 January 2017 with National Police Board (*Poliisihallitus/Polisstyrelsen*).

¹⁷⁸ Interview 3 November 2016 with Ministry of the Interior (*Sisäministeriö/Inrikesministeriet*); and interview 29 November 2016 with Monika-Multicultural Women’s Association Finland (*Monika Naiset liitto*).

¹⁷⁹ *Aliens’ Act* (*ulkomaalaislaki/utlänningslag*) (301/2004), as amended 20 December 2016. The text of the amending Act as adopted by Parliament is available in Finnish.

¹⁸⁰ Chapter 7, Section 121(b), Aliens’ Act (*ulkomaalaislaki/utlänningslag*) (301/2004), as amended 20 December 2016. The maximum length of such designated residence is one week with the possibility to extend the time with another week.

¹⁸¹ Amnesty Finland, [‘Amnesty: Puolueet pettivät lupauksensa lapsille’](#) [Amnesty: Parties failed their promise to children], Press release, 23 December 2016; interview 1 December 2016 with Amnesty Finland; interview 2 December 2016 with Central Union for Child Welfare (*Lastensuojelun Keskusliitto/Centralförbundet för Barnskydd*); and interview 29 November 2016 with Refugee Advice Centre (*Pakolaisneuvonta/Flyktingrådgivningen*).

¹⁸² The Central Union for Child Welfare (*Lastensuojelun Keskusliitto/Centralförbundet för Barnskydd*), [‘Seksuaalista väkivaltaa kokeneiden turvapaikanhakijalasten tunnistamisen ja hoidon tulisi olla](#)

At the more general level, concern was raised about the increasing number of negative asylum decisions concerning children, including unaccompanied children.¹⁸³ In addition, the fact that asylum interviewers do not always have the necessary professional competency to interview children, and traumatised children in particular, was reported as a challenge that may have an impact on the assessment of best interests in the asylum procedures.¹⁸⁴

A further concern was the increase in the number of cases involving exploitation and trafficking, with particular concern for Nigerian victims of trafficking for sexual exploitation.¹⁸⁵ Criticism was expressed about the lack of consistency and predictability in the application of the Aliens Act (*ulkomaalaislaki/utlänningslag*) with regard to trafficking victims: in deciding on residence permits for trafficking victims the risk of repeat victimisation was not sufficiently recognised; there were no clear guidelines on how residence permits were issued to victims of trafficking and the decisions were often not sufficiently justified.¹⁸⁶ It was reported that the individual situations and vulnerability of trafficking victims were in many cases not recognised or the assessment of the individual situation was inconsistent.¹⁸⁷ The particular vulnerability of children of trafficking victims was emphasised and it was stated that the ability of trafficking victims to take care of their children was not adequately assessed in residence permit decisions.¹⁸⁸ It was also noted that the position of child victims of trafficking was not sufficiently taken into account in the legislation concerning assistance provided to trafficking victims.¹⁸⁹ Shortcomings in coordination between different authorities, as well as the regional differences in the assistance provided to victims, were pointed to as further challenges in this regard.¹⁹⁰

4.4. Changes in law, policy and practice

4.4.1 Changes in law or policy

-
- [järjestelmällisempää](#) [The identification and care of asylum seeker children who have experienced sexual violence should be more systematic], Statement, 3 October 2016.
- ¹⁸³ Finnish Ombudsman for Children (*Lapsiasiavaltuutettu/Barnombudsmannen*) (2016), [‘Lapsiasiavaltuutetun lausunto ihmiskaupan uhrien auttamisjärjestelmää koskeneen lainsäädäntömuutoksen vaikutuksista sekä uhrien auttamiseen ja tunnistamiseen liittyvistä mahdollisista puutteista’](#) [Statement by the Finnish Ombudsman for Children on the implications of the amendments to the system of assistance for victims of human trafficking and possible shortcomings related to the recognition and assisting of victims] LAPS/185/2014, 7 November 2016. Also, interview 1 December 2016 with Amnesty Finland; and interview 29 November 2016 with Refugee Advice Centre (*Pakolaisneuvonta/Flyktingrådgivningen*).
- ¹⁸⁴ Interview 29 November 2016 with Refugee Advice Centre (*Pakolaisneuvonta/Flyktingrådgivningen*).
- ¹⁸⁵ Finland, the Finnish Non-Discrimination Ombudsman (*Yhdenvertaisuusvaltuutettu/Diskrimineringsombudsmannen*), Memorandum (2016), [Women of Nigerian origin in Finland who have been subjected to trafficking for sexual exploitation](#), 26 October 2016.
- ¹⁸⁶ *Ibid.*
- ¹⁸⁷ *Ibid* and interview 29 November 2016 with the Refugee Advice Centre (*Pakolaisneuvonta/Flyktingrådgivningen*).
- ¹⁸⁸ Finland, the Finnish Non-Discrimination Ombudsman (*Yhdenvertaisuusvaltuutettu/Diskrimineringsombudsmannen*), Memorandum (2016), [Women of Nigerian origin in Finland who have been subjected to trafficking for sexual exploitation](#), 26 October 2016. ; and Central Union for Child Welfare (*Lastensuojelun Keskusliitto/Centralförbundet för Barnskydd*), [Statement](#), 14 November 2016.
- ¹⁸⁹ Central Union for Child Welfare (*Lastensuojelun Keskusliitto/Centralförbundet för Barnskydd*), [Statement](#), 14 November 2016.
- ¹⁹⁰ Monika-Multicultural Women’s Association Finland (*Monika Naiset liitto*), [Statement](#), 15 November.

A government action plan to prevent and control illegal stay was adopted on 16 December 2016.¹⁹¹ The municipalities are instructed, for example, to secure emergency aid and necessary care for rejected asylum seekers residing in the country and to guide them to the return system.¹⁹²

In October, Finland and Afghanistan signed a joint declaration on voluntary and involuntary return of Afghan asylum seekers.¹⁹³ Similar cooperation is being discussed with Iraq and Somalia.¹⁹⁴ Forced returns to Iraq were started in November 2016.¹⁹⁵

Legislative amendments dated 29 June 2016 and 16 December 2016 came into force from the beginning of 2017, giving effect to strategy and organisational changes in the role of the Finnish Immigration Service.¹⁹⁶ As of 1 January 2017 the agency became a 'super agency' for all immigration matters: it took over the administration of the reception centres owned by the Finnish state as well as the handling of permit matters for foreign nationals that have previously been handled by the police.¹⁹⁷ An increasingly visible emphasis on the internal security of the country and readiness to respond to unstable environments is said to guide the agency's vision and strategy.¹⁹⁸

In addition to the reductions announced in May (5,700 beds) and September 2016 (2,200 beds),¹⁹⁹ the Finnish Immigration Service declared in October that the accommodation capacity at reception centres will be reduced by 1,800 beds by the end of April 2017.²⁰⁰ Based on an estimate that the need for accommodation capacity will continue to decrease noticeably in 2017, a further reductions of 2,400 beds was announced on 28 December 2016, to take effect by the end of June 2017.²⁰¹

A legislative amendment was adopted on 21 December 2016 to enable the employment of security officers at reception centres to support the police in maintaining order and security. The amendment entered into force on 1 January 2017.²⁰²

¹⁹¹ Finland, Finnish Ministry of the Interior (*Sisäministeriö/Inrikesministeriet*), [Toimenpidesuunnitelma laittoman maassaoluskelun ehkäisyyn ja hallintaan](#) [Action plan to prevent and control illegal stay], 16 December 2016.

¹⁹² Finland, Finnish Ministry of the Interior (*Sisäministeriö/Inrikesministeriet*), [Press release](#), 19 December 2016.

¹⁹³ Finland, Finnish Ministry of the Interior (*Sisäministeriö/Inrikesministeriet*) (2016), '[Finland and Afghanistan signed a joint declaration on the return of Afghan asylum seekers](#)', Press release, 06 October 2016.

¹⁹⁴ Finland, Finnish Ministry of the Interior (*Sisäministeriö/Inrikesministeriet*), [Press release](#), 21 December 2016.

¹⁹⁵ Helsingin Sanomat, '[Suomi on aloittanut pakkopalautukset Irakiin – yksittäisiä palautuksia tehdään viikoittain](#)' [Finland has started forced returns to Iraq], 21 December 2016.

¹⁹⁶ Act on the Finnish Immigration Service (*laki Maahanmuuttovirastosta/lag om Migrationsverket*) (156/1995), as amended 16 December 2016, and Aliens' Act (*ulkomaalaislaki/utlänningsslag*) (301/2004), as amended 29 June 2016 and 16 December 2016.

¹⁹⁷ Finnish Immigration Service (*Maahanmuuttovirasto/Migrationsverket*), [Press release](#), 8 December 2016.

¹⁹⁸ *Ibid.*

¹⁹⁹ Finnish Immigration Service (*Maahanmuuttovirasto/Migrationsverket*), [Press release](#), 28 December 2016.

²⁰⁰ Finnish Immigration Service (*Maahanmuuttovirasto/Migrationsverket*), [Press release](#), 31 October 2016.

²⁰¹ Finnish Immigration Service (*Maahanmuuttovirasto/Migrationsverket*), [Press release](#), 28 December 2016.

²⁰² Finland, Finnish Ministry of the Interior (*Sisäministeriö/Inrikesministeriet*) (2016), '[Lakimuutos tuo järjestyksenvalvojat turvaamaan järjestystä vastaanottokeskuksiin](#)' [Law amendment brings security officers to reception centres], 21 December 2016, Private Security Services Act (*laki yksityisistä turvallisuuspalveluista/lag om privata säkerhetstjänster*) (1085/2015) as amended 21 December 2016.

Through a legislative amendment adopted on 12 December 2016, the handling of appeals on decisions related to international protection was decentralised so that, in addition to the Helsinki Administrative Court, the Administrative Courts of Turku, Eastern Finland and Northern Finland can handle such appeals.²⁰³

Subsequent to a recent ruling by the Helsinki Administrative Court (*Helsingin hallinto-oikeus/Helsingfors förvaltningsdomstol*), the Finnish Immigration Service (*Maahanmuuttovirasto/Migrationsverket*) is to ease its view on asylum requests for applicants from the city of Mosul in Iraq.²⁰⁴ The ruling overturned the service's decision to deny asylum to an Iraqi fleeing intensifying conflict in the city and entails that in cases with the same circumstances (Sunni Muslim fleeing IS-controlled areas) the option of internal relocation in Iraq can no longer be proposed to deny international protection for similar applicants.²⁰⁵ The Supreme Administrative Court (*korkein hallinto-oikeus/högsta förvaltningsdomstolen*) recently gave a similar ruling in a case of an asylum seeker fleeing the escalated conflict in Yemen, stating that the violence in the area had escalated to the degree that it caused anyone residing in the area a serious and individual threat, hence excluding the possibility of internal relocation.²⁰⁶

The Aliens Act (*ulkomaalaislaki/utlänningslag*) was amended on 20 December 2016 to include designated residence and designated residence for children as alternatives to detention.²⁰⁷

The government adopted a new action plan on combating trafficking during the reference period.²⁰⁸

4.4.2 Changes in practice

A group of 25 NGOs calls for an increase in Finland's quota for resettlement.²⁰⁹

The viability of introducing further requirements for family reunification was assessed, indicating that the potential introduction of such further requirements would in practice have a marginal impact given the already introduced requirement of sufficient means of subsistence.²¹⁰

²⁰³ Aliens' Act (*ulkomaalaislaki/utlänningslag*) (301/2004), as amended 12 December 2016.

²⁰⁴ *Yle uutiset*, '[Court ruling forces immigration officials to relax asylum policy for Mosul Iraqis](#)' 24 November 2016.

²⁰⁵ *Ibid* and Finland, Helsinki Administrative Court (*Helsingin hallinto-oikeus/Helsingfors förvaltningsdomstol*), 16/1267/71, 18 November 2016. See, also, Finland, [Supreme Administrative Court](#) (*korkein hallinto-oikeus/högsta förvaltningsdomstolen*), KHO 2016:194, 30 November 2016.

²⁰⁶ Finland, Supreme Administrative Court (*korkein hallinto-oikeus/högsta förvaltningsdomstolen*), [KHO 2016:220](#), 29 December 2016.

²⁰⁷ Aliens' Act (*ulkomaalaislaki/utlänningslag*) (301/2004), as amended 20 December 2016.

²⁰⁸ Finland, Finnish Ministry of the Interior (*Sisäministeriö/Inrikesministeriet*), [New action plan to combat human trafficking](#), 18 October 2016, available in Finnish.

²⁰⁹ Amnesty Finland, [Press release](#), 14 November 2016.

²¹⁰ Finnish Government Communications Department (*Valtioneuvoston viestintäosasto/Statsrådets kommunikationsavdelning*), '[Study: introduction of additional requirements would be of little consequence for family reunification of beneficiaries of international protection](#)', Press release 565/2016, 21 December 2016.

The National Police Board (*Poliisihallitus/Polisstyrelsen*) will seek a court order to suspend the operation of the far-right organisation the Nordic Resistance Movement (*Pohjoismainen vastarintaliike/Nordiska Motståndsrörelsen*).²¹¹

In November, the government withdrew its bill on social security benefits based on nationality grounds after the Constitutional Law Committee (*perustuslakivaliokunta/grundlagsutskottet*) stated that the bill stood in conflict with the constitutional principle of equality.²¹²

4.5. Social response

An unusually high number of demonstrations were organised during the reporting period:²¹³

- 26 November (Helsinki): a demonstration by the Finland first! (*Suomi ensin*) movement (some 50 anti-immigration demonstrators) and a counterdemonstration (some 20 participants);²¹⁴
- 6 December 2016 (Finnish Independence Day) (Helsinki): a demonstration organised by the Nordic Resistance Movement (some 200 participants) and a counterdemonstration (some 3,000 participants),²¹⁵ and a procession by the far-right organisation 612 (some 2,000 participants);²¹⁶
- 10 December 2016 (Asikkala): an anti-immigration demonstration near a reception centre (some 40 participants);²¹⁷
- 12 December 2016 (Heinola): a demonstration by Finland first! (some 50 participants);²¹⁸
- December 2016 (Tampere): a demonstration in favour of migrants (some 200 participants) and an anti-immigration counterdemonstration (some 50 participants);²¹⁹
- December 2016 (Joensuu): a demonstration in favour of migrants and a demonstration against them (no data on the number of participants).²²⁰

On a broader level, it is noted that the Finnish Chancellor of Justice (*oikeuskansleri/justitiekansler*) estimates that an unusually high number of legislative proposals with constitutional problems (including a proposal on social

²¹¹ National Police Board (*Poliisihallitus/Polisstyrelse*), [Press release](#), 22 December 2016.

²¹² Finland, Constitutional Law Committee (*perustuslakivaliokunta/grundlagsutskottet*), [Opinion 55/2016](#), 24 November 2016. For the decision on withdrawal, see, Finnish government (*Valtioneuvosto/Statsrådet*) '[Hallituksen kirjelmä eduskunnalle hallituksen esityksen \(169/2016 vp\) peruuttamisesta](#)' [Letter to the Parliament on the withdrawal of Government Bill (169/2016 vp)], Government plenary session 24 November 2016. For criticism on the proposal, see, '[Järjestöt: STM:n lakiesitys perusoikeuksien vastainen – ulkomaalaisille alempi peruspäiväraha kuin suomalaisille](#)' [Organizations: Ministry's bill proposal is contrary to fundamental rights - lower basic allowances for foreigners than for Finnish citizens].

²¹³ Interview 5 January 2017 with National Police Board (*Poliisihallitus/Polisstyrelsen*).

²¹⁴ [Helsingin Sanomat](#), 29 November 2016.

²¹⁵ Police of Finland (*Poliisi/Polisen*), [Press release](#), 6 December 2016.

²¹⁶ *Ibid.*

²¹⁷ Interview 5 January 2017 with National Police Board (*Poliisihallitus/Polisstyrelsen*).

²¹⁸ *Ibid.*

²¹⁹ *Ibid.*

²²⁰ *Ibid.*

benefits based on nationality, which was later withdrawn)²²¹ have been presented to Parliament by the current government.²²²

The Finnish Resistance Movement (*Suomen Vastarintaliike*) merged with the Nordic Resistance Movement.²²³

4.6. Hate speech and violent crime

The demonstrations listed above did not give rise to violent incidents.²²⁴ On 30 December 2016, a man was sentenced to two years' imprisonment for aggravated assault committed in September 2016 in the context of a demonstration organised by the Finnish Resistance Movement, a far-right organisation.²²⁵

Online confrontations between different nationalist groupings escalated during December.²²⁶

Some incidents of violence or threats of violence against asylum seekers by far-right organisations in public places were registered in December.²²⁷ Two persons were caught on suspicion of making illegal threats outside a reception centre in December.²²⁸

4.7. Policies against smuggling of human beings

Under Chapter 17, Section 8(2) of the Finnish Criminal Code (*Rikoslaki/Strafflag*) (19.12.1889/39) an act does not constitute arrangement of illegal immigration where, "when taking into account in particular the humanitarian motives of the person committing it or his or her motives relating to close family relations, and the circumstances pertaining to the safety of the foreigner in his or her home country or country of permanent residence, and when assessed as a whole, it is to be deemed committed under mitigating circumstances".

²²¹ Government bill (*hallituksen esitys/regeringsproposition*) (169/2016 vp), 29 September 2016.

²²² See, e.g., Helsinki Times, '[Chancellor of Justice: Government's draft bills beset with constitutional problems](#)', 19 December 2016.

²²³ Interview 30 November 2016 with National Police Board (*Poliisihallitus/Polisstyrelsen*).

²²⁴ Interview 5 January 2017 with National Police Board (*Poliisihallitus/Polisstyrelsen*).

²²⁵ [Helsingin Sanomat](#), 30 December 2016.

²²⁶ Interview 5 January 2017 with National Police Board (*Poliisihallitus/Polisstyrelsen*).

²²⁷ *Ibid.*

²²⁸ Eastern Uusimaa Police Department (*Itä-Uudenmaan poliisilaitos/Polisinrättningen i Östra Nyland*), [Press release](#), 19 December 2016.

5. France

5.1. Overview of the situation

In 2016, the French Office for the protection of refugees and stateless persons (OFPRA) registered some 85,240 requests for asylum, of which some 77,890 were first applications (children included) and some 7,360 were re-examinations. Excluding children, some 70,050 decisions were taken, which represents an increase of 12.9 % compared to 2015.²²⁹ Applicants mainly come from Sudan, Afghanistan, Syria, Haiti and Albania.

5.2. Key fundamental rights concerns

Two particular events mark the asylum and migration situation in France:

1. Several camps known as ‘wild’ camps, as they were built outside the public framework, were dismantled:
 - in the north of France in Calais: on 24 October, between 6,400 and 8,100 people were evacuated, according to figures recorded, including approximately 1,500 children;
 - in the north at Grande-Synthe: the authorities planned to progressively evacuate approximately 1,000 people;
 - in Paris: 3,852 people were evacuated from an informal camp at the Stalingrad underground station on 4 November, according to the Prefecture of Police.
2. The state of emergency was extended because of events related to terrorism.

These events underline various points outlined below.

5.2.1 Asylum and its effects on access to healthcare and education

The dismantling of migrant camps led to the evacuation of more than 8,000 adults to reception and orientation centres (*centres d'accueil et d'orientation*, CADs) across France.²³⁰ These operations generate significant difficulties in access to the right to asylum due to the increase in requests. That is especially the case in the Île-de-France region.²³¹

Through a ratcheting-up effect, the situation leads to a lack of access to healthcare, for both adults and children, especially as regards psychological support (see section 5.4). This is due to the lack of personnel at the CAD.²³²

²²⁹ Figures communicated by the OFPRA.

²³⁰ Interview with Cimade, January 4, 2017.

²³¹ Interview with the GIP-Habitat and Interventions Social, December 21, 2016.

²³² France, CNCDH, [Declaration](#), 8 November 2016.

Access to education is similarly limited. On 1 November 2016 the Ministry of Justice issued a circular relating to the exceptional implementation of a national measure for orientation of unaccompanied children within the framework of the operations of dismantling camps in Calais, which does not contain any provisions on their access to education. It considers only certain “educational and sports activities”, as well as “learning French”.²³³

5.2.2 Hate speech

See Section 5.7.

5.2.3 Freedom of movement/right to defence

According to the Immigrant Information and Support Group (*Groupe d'information et de soutien des immigrés*, GISTI), migrants in various situations, particularly persons to be returned, are placed under house arrest without access to information, which makes it difficult for them to defend themselves. This is one of the consequences of the reinforced control of internal movement in the Schengen area, and the legal basis is notably uncertain: it is sometimes not known whether this type of measure is made possible by European legislation or it originates from the state of emergency in France.²³⁴

5.2.4 Discrimination

Several associations that were contacted report ethnic profiling in stop-and-search checks in sensitive geographical areas (near dismantled camps). In Calais, foreigners in regular situations have been stopped in this way and sometimes prevented from boarding trains even though they are in possession of a travel ticket.²³⁵

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

5.3.1 Registration and identification

In the final quarter of 2016, asylum seekers faced significant difficulties in having their application registered, particularly in Paris.²³⁶ The increase in asylum seekers makes it difficult to ensure effective provision of information, which results in many persons being ‘locked in’ to undocumented status. It is primarily civil society organisations that provide information on asylum. At the same time, administrative staff in the camps are mainly social workers, not lawyers specialised in law relating to foreigners, and there are not enough interpreters available for the languages needed.²³⁷

²³³ France, Ministry of Justice (*Ministère de la justice*), [Circular NOR JUSD1631761C](#) (*Circulaire NOR JUSD1631761C*).

²³⁴ Interview with the GISTI, 26 December 2016.

²³⁵ *Ibid.*

²³⁶ *Ibid.*

²³⁷ Interview with the GIP-Habitat and Interventions Social, December 21, 2016.

5.3.2 Asylum procedure

Several interviewees stress the length of the procedure. On average, OFPRA provides a response at the end of 3.3 months, a duration which extends to 6.8 months in the event of an appeal against the decision.

According to CIMADE, France and Germany have the same proportion of refusals to applications, but France extends more protection to nationals of Albania, Kosovo*²³⁸ or other countries considered safe by OFPRA.²³⁹ In this respect, France is particularly popular with the nationals of the Balkan countries. The director of the French Office for Immigration and Integration (OFII) has spoken of the possibility of examining their applications faster to tackle the backlog of procedures, in particular for Albania, whose nationals are seldom recognised as eligible for asylum (84 % refusals in the first 11 months). These nationals could in future know the outcome of their application within two weeks of submitting it. More generally, the statistics from OFPRA relating to the use of fast-track procedures fall in line with the previous months, confirming the exceptionally high rate during 2016 (1,526 applications in October; 1,537 in November).

Finally, 'Dublin' asylum seekers (persons who are transferred back to France under the Dublin Regulation) have, as CIMADE reports, come to represent a significant proportion of requests for asylum in France. According to OFPRA statistics, 17,529 Dublin procedure applications were delivered during the first 11 months of 2016, that is to say 24.8 % of requests for asylum (26.9 % for the mainland where the regulation applies), with a clear increase starting in June (2,164 in October; 2,307 in November).

5.3.3 Return procedure

A considerable number of persons in return procedures are placed under house arrest without any real information about their rights and obligations within the framework of the Dublin procedure, by which individuals are returned to the first Member State they crossed into.²⁴⁰

Moreover, according to CIMADE migrants from Calais are detained in reception centres.²⁴¹ The same association states that on 26 September the Ministry of the Interior launched an invitation to tender for the creation of 5,351 places in emergency accommodation. However, the provider must commit to accommodating people who have submitted an application for asylum but also people having clearly expressed the intention to do so. The provider must plan to accommodate 'Dublin' applicants who may be placed under house arrest during and after the examination of their application, and to report any failure in the detainees' obligation to report to the authorities.²⁴²

²³⁸ References to Kosovo* are marked with an asterisk to indicate that this designation is without prejudice to positions on status, and is in line with UN Security Council Resolution 1244 (1999) and the International Court of Justice Advisory Opinion on Kosovo's declaration of independence.

²³⁹ Interview with Cimade, January 4, 2017.

²⁴⁰ Interview with the GISTI, 26 December 2016.

²⁴¹ France, La CIMADE, Press Release '[Dublin: moving towards a clamp down in France?](#)' (*Communiqué de presse « Dublin : vers un durcissement en France ? »*), 11 December 2016.

²⁴² *Ibid.*

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

5.4.1 Reception conditions and capacity

One of the major challenges is to ensure the capacity to receive asylum seekers in adapted accommodation. From this point of view, the actors consulted are united in pointing out the shortage of places in reception centres for asylum seekers (*Centres d'accueil pour demandeurs d'asile*, CADA). Migrants are thus placed in other emergency accommodation in the best possible way, and in particular in hotels. This does not make it possible for them to benefit from support for better access to their rights (advice and information) as they could within the framework of the CADA. The problem which arises is consequently that asylum seekers are treated differently depending on the geographical area. That generates discrimination insofar as the chances of obtaining asylum are statistically higher for individuals accommodated in these centres.²⁴³

5.4.2 Vulnerable persons

Several of the associations interviewed emphasised that they lack the resources to identify the psychological problems of the migrants they deal with. Concerning adults, the association *Secours islamique* bemoans this lack of resources on two levels: 'general legal provisions clog up the system and cause problems in particular situations (delays and denial of healthcare to migrants in public hospitals, especially because their residency is irregular); and there are regional laws that complicate matters (three or four in Île-de-France).²⁴⁴ Concerning children, the association *La voix de l'enfant* considers it regrettable that no systematic psychological follow-up relating to their situation is assured.²⁴⁵

5.4.3 Child protection

Following the recent dismantling of the migrant camps, especially that near Calais, it was difficult to identify and orientate unaccompanied children, assigning them to establishments for adults (reception and orientation centres) and for children (reception and orientation centres for unaccompanied children, *centres d'accueil et d'orientation pour mineurs isolés*, CAOMI). The GISTI raises the issue of physical/visual identification, with the consequence that children are directed towards centres for adults and are mixed with them.²⁴⁶ Moreover, there is a lack of lawyers to explain to children their rights in their language. After their recording by the administration, children should be dispersed across the country and an ad hoc administrator should intervene to represent and defend them. However, these actors, whose role is defined by the 1 November 2016 circular of the Ministry of Justice relating to the exceptional implementation of a national measure for orientation of unaccompanied children within the framework of the operations of dismantling camps in Calais,²⁴⁷ are too few in

²⁴³ Interview with the GISTI, 26 December 2016.

²⁴⁴ Interview with Secours islamique, 26 December 2016.

²⁴⁵ Interview with La voix de l'enfant, 20 December 2016.

²⁴⁶ France, La CIMADE, Press Release '[Dublin: moving towards a clamp down in France?](#)' (*Communiqué de presse « Dublin : vers un durcissement en France ? »*), 11 December 2016.

²⁴⁷ France, Ministry of Justice (*Ministère de la justice*), [Circular NOR JUSD1631761C](#) (*Circulaire NOR JUSD1631761C*).

number, so they are overburdened.²⁴⁸ Associations could stand in for these, and therein now resides a central reason for effective representation. After a period of three months, the children of the CAOMI are in theory redirected towards the child welfare providers (ASE), to be protected by common law. However, because there are more than 1,600 children in the CAOMI, certain actors, in particular the Public Defender of Rights, expect the transition to be difficult.²⁴⁹ It should be noted in addition that some children have fled the CAOMI to try to go to the United Kingdom by their own means.²⁵⁰ Finally, various rights are affected: the right to health, the right to education and the right to an effective defence.

5.4.4 Immigration detention

Children continue to be held in centres for administrative detention (*centres de rétention administrative*, CRAs), establishments for foreigners whose right to remain in France the administration does not recognise, and whom it has been decided to remove forcibly. Certain associations point to a loophole: although the President of the Republic has stated that children would not be held in these establishments, the detention of the parents involves the de facto detention of their children. The situation is particularly difficult in the overseas territory of Mayotte, where children are deported without any real examination of their situation and are associated to fictitious adults.²⁵¹

5.5. Changes in law, policy and/or practice

5.5.1 Changes in law or policy

The period covering the months of October, November and December was marked by intense activity in the production of legal instruments, which are non-legislative but administrative. Two processes can be distinguished. On the one hand, various laws aim to effect the provisions of laws adopted during the year and in particular of the important law No 2016-274 of 7 March 2016 relating to the law on foreigners in France, including various provisions relating to the fight against illegal immigration (entry, stay, work, removal, etc.).²⁵² On the other hand, the determination of the national authorities to manage asylum is demonstrated in the dismantling of the 'wild' migrant camps, the creation of controlled centres to replace these, and the related development of a significant exceptional measure instituting various ad hoc organisations/establishments. This development of derogatory mechanisms is feared by associations, which

²⁴⁸ Interview with La voix de l'enfant, 20 December 2016.

²⁴⁹ Interview with the office of the Defender of the rights of the child, 8 December 2016.

²⁵⁰ Interview with La voix de l'enfant, 9 December 2016.

²⁵¹ Interview with the GISTI, 26 December 2016; [Circular NOR JUSD1631761C](#) (Circulaire NOR JUSD1631761C).

²⁵² France, [Decree No. 2016-1457 for the application of law No. 2016-274 of 7 March 2016 relating to the law for foreigners in France and carrying various provisions relating to the fight against illegal immigration](#) (*Décret No. 2016-1457 pris pour l'application de la loi n° 2016-274 du 7 mars 2016 relative au droit des étrangers en France et portant diverses dispositions relatives à la lutte contre l'immigration irrégulière*), 28 October 2016; France, [Decree n° 2016-1458](#) (*Décret n° 2016-1458*), 28 October 2016; France, Ministry of Interior (*Ministère de l'intérieur*), [Circular NOR : INTV1631686J](#) (Circulaire NOR : INTV1631686J), 2 November 2016.

argue that the growth of ad hoc and short-term solutions risks not being adequate to solve the humanitarian crisis of which the refugees are victims.²⁵³

In parallel, the French authorities are working to push the voluntary return of migrants who had settled in the 'wild' camps by providing increased assistance to offer to asylum seekers, to give them more attractive incentives to leave. An order of 9 November 2016 raises the ceiling for this type of incentive from € 350 to, in theory, between € 350 and € 1,850.²⁵⁴

Of the draft laws discussed, a particularly controversial one was the wish of the Ministry of Justice to provide a legal mechanism by the opening a 'decentralised' courtroom within an airport zone (Roissy Charles de Gaulle). It would be used for hearings of people whose detention in a 'waiting area' the border police were asking the judge to prolong. The room would be managed by the border police, with difficult access for both the public and lawyers. This legal arrangement would be likely, according to an association, to breach several of the principles of a fair hearing, in particular the principles of the apparent impartiality of the jurisdiction and the public nature of the proceedings, as well as the right to an effective defence.²⁵⁵

5.5.2 Changes in practice

According to various representatives of associations, several of whom were interviewed for this investigation, the determination shown in the closing of the 'wild' migrant camps is also shown in parallel by reinforced controls in particular around the zones where the asylum seekers are brought to submit their applications.²⁵⁶ 'Operations of dissuasion' have been carried out with people who are waiting to obtain appointments with 'reception services' and prefectures: they have been arrested, and have sometimes been deprived of their freedom of movement by being placed in detention centres. To avoid this, associations demand that the authorities accept the presumption of refugee status.

Moreover, the police have practised ethnic profiling (according to physical appearance) in the areas where border controls have recently been reinforced (in the north, for the border with the United Kingdom; in the south, for the border with Italy). In the same sense as mentioned above (5.2.3) there is a legal blur between the framework of European policies and the French legislation for the state of emergency related to the terrorist threat.²⁵⁷

²⁵³ France, French Coordination for the Right to asylum (*Coordination Française pour le Droit d'Asile*), Press release '[The Government must get out of the impasse and show political courage to protect refugees](#)' ('*Le Gouvernement doit sortir de l'impasse et faire preuve de courage politique pour protéger les réfugiés*'), 22 November 2016.

²⁵⁴ France, [Decree relating to the amount supplementary allowance applicable for requests for assistance to return home presented until 31 December 2016](#) (*Arrêté relatif au montant d'allocation forfaitaire majoré applicable aux demandes d'aide au retour présentées jusqu'au 31 décembre 2016*), 9 November 2016.

²⁵⁵ [Internet site of the GISTI](#).

²⁵⁶ France, French Coordination for the Right to asylum (*Coordination Française pour le Droit d'Asile*), Press release '[The Government must get out of the impasse and show political courage to protect refugees](#)' ('*Le Gouvernement doit sortir de l'impasse et faire preuve de courage politique pour protéger les réfugiés*'), 22 November 2016.

²⁵⁷ Interview with the GISTI, 26 December 2016.

5.6. Social response to the situation

Because of the publicity related to dismantling the 'wild' migrant camps, but especially because the people evacuated have been distributed across France, many demonstrations have taken place.

Demonstrations were organised against the creation of reception facilities in certain districts of Paris and the surrounding area and rural zones. In some cases, the demonstrations were organised, or supported, by the National Front, a very influential far-right party. Thus, in the town of Louveciennes in the department of Yvelines (bordering Paris), on 2 October 2016 nearly 1,000 people demonstrated against the project to create a reception zone for migrants. In the rural town of Pierrefeu in the department of the Var (southeastern France), between 700 and 800 people took part on 8 October 2016 in a "citizens' walk" against the creation of a reception centre for migrants to accommodate 60 asylum seekers arriving from Calais. Other demonstrations brought together fewer participants.

In response, demonstrations in favour of receiving migrants were organised in the same cities. Approximately 100 people in Louveciennes and 200 in Pierrefeu gathered on the same days to express their support for asylum seekers. Other citizens' initiatives were sometimes launched in parallel, such as one in Dijon to exempt migrants from French lessons.

The topicality of asylum has prompted very widespread media coverage, in both national daily newspapers and local newspapers, covering developments in the situation concerning the 'wild' camps and the political and public repercussions (demonstrations against the reception of migrants or pro-migrant demonstrations). Concerning the public debate, the associations interviewed, as well as certain public authorities, speak in unison of the phenomenon of "trivialising" the hostility towards asylum seekers and more generally migrants.²⁵⁸ This appears in various ways, in particular in the marches that are frequently organised or supported by the National Front, or even by opposition campaigns as in the town of Béziers, where the mayor (reputed to be close to the far right) arranged for posters with the wording "This is it. They are coming" ("*Ça y est. Ils arrivent*") explicitly referring to migrants. It also appears in the adoption at the local level, by the bodies in charge of the management of towns, of motions opposing the reception of migrants, as in the town of Pierrefeu. Regularly people, including associations working for poorly housed persons, have argued against treating migrants more favourably than homeless people of French nationality. Ultimately, hostility towards migrants, even racism, is tending to become acceptable as "a simple" opinion.

Although support committees for migrants have emerged on social networks, developments within the voluntary sector especially translate into an increase in activities already developed by well-known national associations: organisation or support of pro-migrant counterdemonstrations; denunciation of situations

²⁵⁸ Interview with the GIP-Habitat and Interventions Social, December 21, 2016.

concerning, for example, children;²⁵⁹ analysis of legal instruments; support for individuals; assistance to migrants more generally (publication of official statements,²⁶⁰ setting up of petitions, legal initiatives); etc.

5.7. Hate speech and violent crime

Certain demonstrations organised against or in favour of migrants have generated various forms of violence. Groups of migrants have fought each other. A journalist was assaulted on 2 November 2016 in Paris during the dismantling of the 'wild' camp at Stalingrad underground station. There has been violence between migrants and the police, for example on 1 October in Calais, or between demonstrators and police, such as during a confrontation between anti-migrant and pro-migrant demonstrators in Marseilles on 3 November 2016, or when stones were thrown on 2 October 2016 near Calais.

The internet has been an instrument for popularising hate speech against foreigners. Although the phenomenon is difficult to assess overall, the GISTI points to the development of hate speech on social networks and in comments posted under articles and videos shared online.²⁶¹ This type of activity in France has been typified by comments condemning journalists for the opinions they hold.²⁶²

During anti-migrant demonstrations, placards with hostile comments were identified, sometimes with illustrations, such the heads of pigs. The sexual assault of an elderly woman by a child migrant on 13 November 2016 in Arzon, in the department of Morbihan, led to violence and the desecration of a reception centre for child migrants by members of the public. In addition, several establishments intended to support asylum seekers were burnt. That happened to an establishment being considered for the reception of migrants from Calais in Arès (department of the Gironde), on the night of 13–14 October 2016, and to a reception centre for migrant workers in Boulogne-Billancourt (department of the Hauts-de-Seine) on the night of 15–16 November 2016, which was apparently struck by arson and where one person died. An attempt at arson was aborted at a reception centre for migrants at Loubeyrat, in Puy-de-Dôme, on the night of 23–24 October 2016.

5.8. Policies against smuggling of human beings

Assistance provided to migrants can be penalised by several criminal laws, whose principle is provided for by Article L.622–1 of the Code of Entry and Stay of Foreigners and the Right to Asylum (CESEDA), which provides that "Any person who, by direct or indirect assistance, facilitates or attempts to facilitate the irregular entry, movement or stay of a foreigner in France will be punished

²⁵⁹ France, GISTI, [Minors of Calais: out of the mud, but not the arbitrary](#) (*Mineurs de Calais: sortis de la boue, mais pas de l'arbitraire*), 24 October 2016.

²⁶⁰ France, Passeurs d'hospitalité, [Crimes of solidarity, here and elsewhere](#) (*Délit de solidarité, ici et ailleurs*), 30 November 2016.

²⁶¹ France, Préfet de la Gironde, [Vandalism of the EDF CCAS at Arès](#) (*Dégradations au CCAS d'EDF d'Arès*), 14 October 2016.

²⁶² France, France 3, [Some of your comments on Facebook on the arrival of migrants in the area are intolerable](#) (*Certains de vos commentaires sur Facebook sur l'arrivée des migrants dans la région sont insupportables*), 27 October 2016.

by five years imprisonment and a fine of 30,000 euros". In recent months, this procedure has been brought against several individuals who live in the valley of Roya, to the northeast of Nice in the Alpes-Maritime region, close to the French–Italian border, where border controls were re-established following the attacks in Paris of 13 November 2015. They were accused of accommodating children who were trying to enter France via Italy, from Africa. A 45-year-old university professor is charged with having helped three Afghan girls by trying to drive them to a station so that they could go to Marseilles, where they had a medical appointment, taking care to keep them away from the 20-km zone where checks are carried out. His trial is planned for 6 January 2017. A farmer who was involved in setting up a camp for migrants is also charged and will be in court on 4 January 2017. Considered 'border runners' by the administration, these individuals call for acts of solidarity with the local association Roya Citizen, and other national associations such as the League for Human Rights. Three other people will be in court in April 2017 for such acts.

It should be noted that recent cases bring into play more indirect offences such as the organisation of illegal demonstrations (acquitted),²⁶³ participation in a demonstration with the face hidden, violence against agents of the public authority,²⁶⁴ insults, etc. Some of the associations interviewed have monitored the cases listed.²⁶⁵

5.9. Criminal proceedings against migrants and asylum seekers

Because of the reinforcement of border controls, the number of refusals of entry increased significantly, according to CIMADE. This trend makes it possible to put forward an approximate figure of 45,000 refusals, at the border with Italy in particular. The public data relating to the situation of individuals and proceedings undertaken, however, will not be available in France until March.

²⁶³ France, GISTI, [Two organisers of a demonstration in support of exiles](#) (*Deux organisateurs d'une manifestation de soutien aux exiliés*), 9 November 2016.

²⁶⁴ France, GISTI, [Press Release](#) (*Communiqué*).

²⁶⁵ France, GISTI, [Crimes of solidarity](#) (*Les délits de la solidarité*); France, La Cimade, [Crimes of solidarity](#) (*Les délits de solidarité*).

6. Germany

6.1. Overview of the situation

In November 2016, 17,566 persons in need of international protection were registered in the EASY-System, compared with 15,178 in October. The EASY-System is an IT application for the initial allocation of asylum seekers to the 16 federal states according to a quota. The Federal Ministry of the Interior (*Bundesministerium des Innern*) points out that missing or multiple registrations within the EASY-System may be possible and that EASY figures are usually rather too high.²⁶⁶

The persons registered in November 2016 are mostly Syrian (some 2,500), Eritrean (some 2,000), Afghan (some 1,500), Iraqi (some 1,400) and Nigerian (some 700).²⁶⁷

Between January and November 2016, 73.7 % of all asylum seekers were younger than 30 years and 36.1 % were younger than 18 years. More than 10 % were younger than four years. About one third of all initial applications were submitted by women.²⁶⁸

As of 1 November 2016, some 50,300 unaccompanied children and some 13,300 young adults (*junge Volljährige*) were under the protection of the youth welfare offices. According to the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (*Bundesministerium für Familie, Senioren, Frauen und Jugend*, BMFSFJ) no further information about age and country of origin is available at the moment.²⁶⁹

A total of 26,438 applications for asylum were submitted in November 2016.²⁷⁰ This figure is almost 20 % lower than the 32,640 applications in October 2016.²⁷¹

In November 2016, the Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge*, BAMF) registered 24,574 initial applications (*Erstanträge*) predominantly submitted by Afghan, Syrian and Iraqi citizens and 1,864 follow-up applications (*Folgeanträge*). The corresponding figures for October were 30,864 initial applications and 1,776 follow-up applications.²⁷²

The number of applications for asylum submitted by asylum seekers from Serbia, Albania, Kosovo*, Bosnia and Herzegovina, Montenegro, and Macedonia increased slightly in November 2016 (3,079) from October 2016 (2,478). Furthermore, their share of 11.6 % of all asylum applications increased from the previous month (7.6 %).

²⁶⁶ Federal Ministry of the Interior, [press releases](#), 9 December 2016. All hyperlinks were accessed on 5 January 2017.

²⁶⁷ *Ibid.*

²⁶⁸ BAMF: [Aktuelle Zahlen zu Asyl](#), October 2016, p. 7.

²⁶⁹ Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (*Bundesministerium für Familie, Senioren, Frauen und Jugend*), 30 November 2016 and 23 December 2016.

²⁷⁰ Federal Ministry of the Interior, [press releases](#) 9 December 2016.

²⁷¹ *Ibid.*

²⁷² *Ibid.*

6.2. Key fundamental rights concerns

6.2.1 Asylum procedures and decisions

Social workers in reception centres report that frequently problems occur because of missing receipts for passports and further personal documents, which were withheld at the border or in other federal states. It is often impossible to trace passports or other personal documents, as it is unclear whether they were submitted in emergency shelters (*Notunterkünfte*) or to the police, security staff or immigration authorities.²⁷³

Pro Asyl and 11 welfare associations, lawyers' associations and human rights organisations have published a 'Memorandum for Fair and Careful Asylum Procedures in Germany'. The alliance calls for speedy handling of asylum applications, but urges high quality standards, as it has detected quality deficiencies both at the beginning of the procedure as well as in the interviews and the decisions.²⁷⁴

It must be emphasised that the authors of the memorandum already identified most of the deficiencies in 2005. Since many of the deficiencies in the BAMF continue to exist, it is to be assumed that they are structural deficiencies that cannot be explained only by the increased application rates in 2015 and 2016. Nevertheless these structural deficiencies were exacerbated by increased application numbers combined with ad hoc policies in the BAMF, for example the use of new and undertrained staff.²⁷⁵

Asylum procedures continue to take a long time. At the end of November 2016, some 500,000 asylum procedures were pending, compared with some 547,000 in October 2016. Most of them (some 474,000) are initial applications.²⁷⁶

At the same time, asylum procedures of applicants from southeast European states such as Serbia, Albania, Kosovo*, Bosnia and Herzegovina, Montenegro, and Macedonia are so accelerated that decent and independent counselling sessions with the applicants are not regularly possible.²⁷⁷

6.2.2 Deportation

According to the Federal Ministry of the Interior more than 12,500 Afghan citizens living in Germany are obliged to leave the country. The German and Afghan governments signed a joint declaration on cooperation on migration issues on 2 October 2016 in order to facilitate expulsions, so called voluntary returns and repatriation of Afghan citizens.²⁷⁸ Furthermore, Afghanistan now

²⁷³ German Caritas Association (*Deutscher Caritasverband*), 22 December 2016.

²⁷⁴ [Memorandum for fair and thorough asylum procedures in Germany](#) (*Memorandum für faire und sorgfältige Asylverfahren in Deutschland*), 30 November 2016.

²⁷⁵ *Ibid*, p. 5.

²⁷⁶ Federal Ministry of the Interior, [press releases](#), 9 December 2016.

²⁷⁷ Federal Roma Association (*Bundes Roma Verband*), [press releases](#), 22 November 2016. Please see also <http://gruene-oberbayern.de/2016/10/15/are-1-fuer-eine-menschenwuerdige-fluechtlingspolitik/>.

²⁷⁸ Federal Ministry of the Interior, [press releases](#), 2 October 2016.

accepts European documents, which are issued in Germany, in lieu of a passport (*Passersatzpapiere*).²⁷⁹

On 15 December 2016 the federal police (*Bundespolizei*) deported 34 Afghan citizens from Frankfurt to Kabul. They were transported from Hamburg, North Rhine-Westphalia, Bavaria, Baden-Württemberg and Saarland, accompanied by 93 police officers, one interpreter and medical staff. They were met by representatives of the Afghan Ministry of Refugees, the IOM, an NGO for psychosocial care and the German embassy. The European Border Management Agency, Frontex, bears the cost of this measure.²⁸⁰

This deportation provoked several demonstrations before, during and after the expulsion (see also section 6.5). Several of the 50 planned deportations were cancelled in urgent legal procedures, one of them by the Federal Constitutional Court (*Bundesverfassungsgericht*)²⁸¹, for legal and medical reasons. Some federal states, such as Berlin, Brandenburg, Bremen, Lower Saxony, Rhineland-Palatinate, Schleswig-Holstein and Thuringia, have raised concerns about deportation to Afghanistan. According to NGO reports, among the deportees were persons who had lived in Germany for several years, one even for 21 years, and members of the Hindu minority.²⁸²

Some refugee-counselling centres have registered increasing demands for counselling with regard to deportation issues, predominantly in accommodation facilities for applicants from so called 'safe states of origin' (*sichere Herkunftsländer*). In these accommodation facilities, deportation measures by the police frequently take place and are observed by other residents.

Further increased demand for counselling is registered in respect of so-called voluntary return (*freiwillige Rückkehr*). In many cases the procedure is delayed because it is impossible to trace passports or other documents or to transfer them from one authority to another. In some cases they are lost. This problem is exacerbated by the fact that many asylum seekers are not aware to which institutions their documents were handed over, and that they did not receive any receipts or information about their whereabouts.²⁸³

6.2.3 Accommodation

Although the numbers of asylum seekers are decreasing, many of them are still accommodated in emergency shelters (*Notunterkünfte*), where usually safety measures are lacking, standards for sanitary facilities are low, and they are short of privacy for families, child-friendly spaces, access to education and leisure activities. The stakeholders did not provide exact figures. However, it is estimated that in Berlin at least three of these shelters still exist and that the situation for the refugees is getting more difficult because of the low living standards and the long time periods, sometimes more than one year, for which people are accommodated in shelters.²⁸⁴ There are still 400 refugees

²⁷⁹ Federal Ministry of the Interior, [Fact Sheet](#).

²⁸⁰ Federal Ministry of the Interior, [press releases](#), 15 December 2016.

²⁸¹ Federal Constitutional Court, [14 December 2016](#).

²⁸² Pro Asyl, [16 December 2016](#).

²⁸³ German Caritas Association (*Deutscher Caritasverband*), 22 December 2016.

²⁸⁴ German Red Cross (*Deutsches Rotes Kreuz*), 2 January 2017.

accommodated in the International Congress Centre (*Internationaler Congress-Center*) in Berlin, which is not suitable for accommodation.²⁸⁵

6.3. Children and vulnerable groups

6.3.1 Reception conditions

First of all it must be emphasised that to date there are neither systematic nor mandatory procedures to identify vulnerable persons and applicants with special reception needs in reception centres, nor are protection plans fully implemented. However, there are a few model and pilot projects. There is no nationwide harmonised approach.

The BMFSFJ, the United Nations Children's Fund (UNICEF) and several NGOs have developed minimum standards for children, adolescents and women in refugee camps.²⁸⁶ They are recommendations but not mandatory standards. In order to promote the implementation of protection plans, coordinators were placed in 25 refugee accommodation facilities throughout Germany. The coordinators oversee the implementation of protection plans on the local level. The programme was prolonged for one further year. Hence, in 2017 about 75 further accommodation units are to be equipped with coordinator positions, in order to implement protection plans.²⁸⁷

In the reception centres (*Erstaufnahmeeinrichtungen*) the systematic identification of single women, children and pregnant women has improved, according to Caritas. In spite of this improvement the identification of vulnerable persons with no visible special protection needs often takes place later on, sometimes in the further counselling process. This delays provision for special needs in the asylum procedure, accommodation and supply. In order to improve the situation, more and more staff are trained by specialised counselling centres, for example to identify and protect victims of human trafficking as soon as possible.²⁸⁸

Some stakeholders point out that it would be helpful to invest more in trained staff and in suitable accommodation facilities for vulnerable persons in order not to implement but to standardise protection plans as well as procedures to identify vulnerable persons and applicants with special reception needs in reception centres.²⁸⁹

Various social workers and accommodation operators of Caritas report that, overall, little is done to maintain the accommodation facilities. Necessary restoration measures are delayed or have not yet been implemented in many places. Furthermore, in at least one city, a new and separate accommodation facility for vulnerable persons does not provide enough wheelchair-accessible

²⁸⁵ Jesuit Refugee Service (*Jesuiten Flüchtlingsdienst, JRS*), 4 January 2017.

²⁸⁶ BMFSFJ/UNICEF: [Minimum standards for the protection of children, adolescents and women in refugee camps](#).

²⁸⁷ Ministry for family, seniors, women and youth, [Schutzkonzepte in Flüchtlingsunterkünften](#).

²⁸⁸ German Caritas Association (*Deutscher Caritasverband*), 22 December 2016.

²⁸⁹ E.g. German Red Cross (*Deutsches Rotes Kreuz*), 2 January 2017.

places and its sanitary conditions are worse than in the older, non-specialised accommodation.²⁹⁰

According to the Federal Association for Unaccompanied Minor Refugees (*Bundesfachverband unbegleitete minderjährige Flüchtlinge*), in some municipalities and districts the operators of reception centres and refugee accommodation cooperate closely with youth welfare offices. This means that the operators' social workers inform the youth welfare offices and then the youth welfare offices get into contact with the operators in order to detect possible violations of the welfare of the (accompanied) child. However, according to the Federal Association for Unaccompanied Minor Refugees this procedure is an exception. In most cases the youth welfare offices are not involved and present in reception centres (*Erstaufnahmezentrum*) or other accommodation facilities.²⁹¹

The schooling of school-age children is still unsystematic.²⁹²

Deficiencies in access to healthcare are reported. Although a few federal states and municipalities have introduced the insurance card (*Gesundheitskarte*), there are some bureaucratic obstacles, especially for asylum applicants living in reception centres, to getting access to medical specialists.²⁹³ Even more important is the fact that the access healthcare for asylum applicants is very limited, as according to the Asylum Seekers' Benefit Act (*Asylbewerberleistungsgesetz*, AsylbLG) only medical treatment for acute illness and pain is covered (§ 4 AsylbLG). It is up to the local authorities to use their discretion when deciding. Very often applications are rejected or it takes the authorities a very long time to decide.

The Medinet Gießen, Hessen, a human rights association whose aim is to improve access to medical assistance for refugees and migrants, stresses deficiencies in medical treatment as well as in asylum procedures for applicants with illnesses and disabilities. For example, an asylum seeker with severe disabilities had to stay three months in a reception centre. According to the asylum applicant and the Medinet Gießen, heavy pains in the back and legs were not treated and the asylum procedure was not accelerated.²⁹⁴

6.3.2 Safeguards applied at registration and in asylum and return procedures

See above.

²⁹⁰ German Caritas Association (*Deutscher Caritasverband*), 22 December 2016.

²⁹¹ Federal Association for Unaccompanied Minor Refugees (*Bundesfachverband Unbegleitete Minderjährige Flüchtlinge*), 24 November 2016.

²⁹² German Caritas Association (*Deutscher Caritasverband*), 22 December 2016.

²⁹³ German Red Cross (*Deutsches Rotes Kreuz*), 2 January 2017.

²⁹⁴ Medinet – Network for medical refugee support, Gießen, Hesse (*Medinetz - Netzwerk medizinische Flüchtlingshilfe Gießen*), 10 December 2016.

6.4. Changes in law, policy and practice

6.4.1 Changes in law or policy

The Federal Ministry of the Interior applied for the extension of the temporary controls at Germany's borders. The temporary border controls by the federal police were introduced in September 2015 and were prolonged several times. The latest extension was limited until November 2016 and has now been prolonged by the EU Council of Ministers until February 2017.²⁹⁵ The Federal Ministry of the Interior intensified border controls between Austria and Germany with effect from 15 December 2016. In this case the federal police, the authority that is responsible for the border controls, is assisted by the Bavarian state police (*Bayrische Bereitschaftspolizei*). Between January and October 2016 some 18,700 persons were turned back at German borders, 14,500 of them at the Austrian–German border.²⁹⁶

The new president-designate of the BAMF intends to inform asylum seekers from so-called 'safe states of origin' about possibilities to return at the very start of the registration procedure in arrival centres (*Ankunftscentren*). In one of the 25 arrival centres, in Lebach, Saarland, this new policy of rapid voluntary return (*freiwillige Rückkehr*) is being tested in a pilot project that began on 15 November 2016.²⁹⁷

On several occasions the possibility has been discussed of giving the right to stay (*Bleiberecht*) in Germany to victims of right-wing violence who have been forced to leave the country. This was to prevent victims of right-wing violence from losing their right of residence and at the same time to signal to the perpetrators that they will not be successful in expelling refugees. A secure residence status is also necessary for the successful treatment of traumatised victims of right-wing violence and their involvement in legal procedures against the perpetrators.

On 21 December 2016, Brandenburg became the first federal state to allow its immigration offices to use their discretion in favour of victims of right-wing violence. The main objective of the decree is to support foreigners who are subject to a final deportation order and who are victims of a violent hate crime by using discretion on the basis of the applicable law. Those victims of right-wing violence who have been forced to leave the country or who have to prolong their residence permit can now get – in certain specified circumstances – a temporary right to stay (*Aufenthaltserlaubnis*).²⁹⁸ Asylum seekers whose application is still pending or persons with refugee or subsidiary protection status are very likely to be unaffected as long as they are not obliged to leave the country, e.g. because their asylum application has been refused.

6.4.2 Changes in practice

See Sections 6.2 and 6.4.

²⁹⁶ Federal Ministry of the Interior, press releases, [14 December 2016](#) and Reuters, [21 September 2016](#).

²⁹⁷ Tagesschau, *Asylpläne des BAMF, Hin und weg?*.

²⁹⁸ See http://bravors.brandenburg.de/verwaltungsvorschriften/erl_nr_8_2016.

6.5. Social response

Several demonstrations in favour of migrants as well as against them took place.

The various demonstrations and actions with regard to the deportation of Afghan citizens can be highlighted (see also Section 6.2). For example, at Frankfurt Airport, Hessen, some 350 persons demonstrated on 10 December²⁹⁹ and several hundred on 14 December.³⁰⁰

Furthermore, on 15 December the Linke parliamentary group in the Hamburg parliament protested in the parliament against Hamburg's involvement in the deportation of Afghan citizen and was therefore excluded from the current session.³⁰¹

There were also demonstrations against migrants, predominantly in response to the terrorist attack at Berlin's Breitscheidplatz Christmas market on 19 December, when an articulated lorry was used to plough into a crowd and killed 15 persons. For example, in Dresden, Saxony, some 100 persons demonstrated on 21 December.³⁰²

Migration and asylum is an everyday issue in media coverage and public debate. Besides regular information about certain developments on these issues, the reports deal with human rights aspects as well as further restrictions on migrants and refugees.

To highlight just two problem aspects, the issue of deportation/number of refugees in Germany and the issue of security/terrorism should be mentioned. Several politicians argue in the media that deportations, including to Afghanistan, are necessary in order to maintain public acceptance of immigration and/or to keep the German asylum system functioning.³⁰³

Several reports and politicians conflate the danger of terrorist attacks with asylum issues, predominantly regarding the issue of deportations. German authorities have been criticised for failing to deport Anis Amri, the Tunisian citizen believed to have been behind the attack at Berlin's Breitscheidplatz on 19 December, despite his asylum application being rejected. The Federal Minister for the Interior called for a nationwide effort on the issue of deportation, suggesting that centralised departure centres should be set up to hold asylum seekers in the weeks or days leading up to their expulsion. Furthermore, he

²⁹⁹ See <http://hessenschau.de/gesellschaft/demo-am-flughafen-gegen-abschiebungen-nach-afghanistan.demo-flughafen-abschiebung-100.html>.

³⁰⁰ See <http://www.fnp.de/rhein-main/Das-war-los-bei-der-Demo-am-Flughafen-Frankfurt-Die-Menschen-wollen-nicht-sterben.art801.2374194> and <http://www.zeit.de/gesellschaft/zeitgeschehen/2016-12/demonstration-abschiebungen-afghanistan-stop-bundesverfassungsgericht>.

³⁰¹ See <http://www.ndr.de/nachrichten/hamburg/Buergerschaft-Turbulente-Haushaltsdebatte.haushalt556.html> and <http://www.ndr.de/nachrichten/hamburg/Grote-verteidigt-Sammel-Abschiebungen.abschiebung716.html>.

³⁰² MDR Sachsen: *Der Hass schaukelt sich hoch*. 21 December 2016.

³⁰³ See <http://www.shz.de/deutschland-welt/politik/hamburgs-innensenator-grote-verteidigt-sammelabschiebung-nach-afghanistan-id15606771.html>, <http://www.tagesspiegel.de/politik/umstrittene-asylpolitik-de-maiziere-nennt-abschiebung-von-afghanen-richtig-und-notwendig/14980722.html>, http://www.deutschlandfunk.de/afghanistan-diese-abschiebung-ist-hochproblematisch.694.de.html?dram:article_id=374060 and http://www.deutschlandfunk.de/cem-oezdemir-zu-sicherheitsvorschlaegen-gruene.694.de.html?dram:article_id=375557.

intends to add further causes of deportation detention to the law, especially for rejected and so-called dangerous asylum seekers.³⁰⁴

6.6. Hate speech and violent crime

Pro Asyl and the Amadeu Antonio Foundation recorded two violent incidents in Saxony that took place in October 2016.³⁰⁵ According to the Amadeu Antonio Foundation and Pro Asyl there are many demonstrations and rallies against refugees. However, their account is limited to demonstrations in which justifiable incidents (not having announced the rally to the authorities, hate speech/incitement of the people (*Volksverhetzung*), Hitler salutes, attacks on pro-refugee demonstrators, press or police, etc.) have taken place.

To protect their journalists, some media organisations refrain from presenting the names of reporters of right-wing demonstrations, for fear of violent attacks.³⁰⁶

From 3 October to the end of December 2016 (last updated 2 January 2017), Pro Asyl and the Amadeu Antonio Foundation recorded:³⁰⁷

- 41 violent attacks directed against asylum seekers, with at least 44 persons injured;
- eight arson attacks against reception and accommodation centres, with at least five persons injured;
- 37 “other attacks” against reception and accommodation centres, e.g. damage to property.

They list only attacks specifically against refugees. Further attacks have taken place against migrants – or Germans whom the attackers assumed were migrants – and German Muslims, Jews, Sinti, Roma and other minorities. These are reported, for example, monthly online by the initiative *Netz-gegen-Nazis*.³⁰⁸

According to the Federal Ministry of the Interior, the number of criminal offences against asylum seekers and their accommodation is still high but has been decreasing since February 2016.³⁰⁹

6.7. Policies against smuggling of human beings

Numerous proceedings have been initiated against persons accused of smuggling persons or of facilitating entry to Germany. As there are very diverse facets of

³⁰⁴ See <http://www.faz.net/aktuell/politik/inland/innenminister-de-maiziere-leitlinien-fuer-einen-starken-staat-in-schwierigen-zeiten-14601852.html>.

³⁰⁵ See <https://www.mut-gegen-rechte-gewalt.de/service/chronik-vorfaelle>, http://www.polizei.sachsen.de/de/MI_2016_45345.htm?utm_source=twitterfeed&utm_medium=twitter, <https://raa-sachsen.de/index.php/chronik-details/dresden-blasewitz-3462.html>.

³⁰⁶ E.g. MDR Sachsen: Der Hass schaukelt sich hoch. 21 December 2016 <http://www.mdr.de/sachsen/dresden/pegida-mahnwache-nach-berlin-attentat-100.html> and <http://www.augenzeugen.info/proteste-in-dresden-wenn-journalisten-nur-noch-anonym-berichten/> <https://www.mut-gegen-rechte-gewalt.de/service/chronik-vorfaelle>

³⁰⁷ <http://www.netz-gegen-nazis.de/>

³⁰⁸ <http://www.bmi.bund.de/SharedDocs/Kurzmeldungen/DE/2017/01/kriminalitaet-im-kontext-von-zuwanderung-lageuebersicht-3-16.html>

human smuggling, it is very difficult to detect specific cases of proceedings against suspected smugglers, especially those initiated against persons or organisations acting on humanitarian grounds or against other people who did not facilitate irregular entry or stay for profit.³¹⁰

The human rights organisation Borderline-Europe³¹¹ emphasises that smuggling should be understood not only as a consequence of organised crime, but also as a response to an extremely restrictive immigration system that blocks the movement of refugees. In many cases, smuggling becomes the only choice for persons who are forced to leave their countries.

A lawyer points out that those smugglers who are concerned not with earning money and maximising profits but with humanitarian support often cannot organise entry to Germany without large amounts of money. Furthermore, they are frequently prosecuted like ordinary criminals.³¹² Other reports indicate that those smugglers are prosecuted only for assistance (*Beihilfe*) and therefore receive lower penalties.³¹³

According to Borderline-Europe, these specific cases often are not spectacular and are not covered by the media. Often persons of the same region of origin and, in recent times, relatives try to facilitate entry to Germany. For example, two Syrian brothers were mentioned who tried to facilitate entry to Germany for their relatives who have been waiting in Syria's neighbouring countries for family reunification. It is assumed that persons in similar cases who are accused of smuggling often have no access to counselling centres and lawyers.³¹⁴

The stakeholders did not provide any information about specific cases. However, there are several media reports about this issue in general.³¹⁵

³¹⁰ E.g. <http://daserste.ndr.de/panorama/aktuell/Syrischer-Fluchthelfer-kaempft-gegen-Verurteilung-als-Schleuser,syrien642.html>, <http://www.nds-fluerat.org/wp-content/uploads/2016/12/20161203130720.pdf>, <http://www.zeit.de/gesellschaft/2016-11/fluechtlinge-migration-ausbildung-bildung-fluchtursachen> and <http://www.bild.de/regional/muenchen/bundespolizei/nimmt-zehn-mutmassliche-schleuser-fest-43422200.bild.html>

³¹¹ <http://www.borderline-europe.de/>

³¹² http://www.borderline-europe.de/sites/default/files/features/2015_10_NAGLER_Entkriminalisierung_fuer_Fluchthelfer.pdf and <http://www.nds-fluerat.org/21948/pressemitteilungen/fluchthilfepreis-geht-an-franziska-hagelstein/> <http://dip21.bundestag.de/dip21/btd/18/064/1806445.pdf>

³¹³ Borderline-Europe, 22 December 2016.

³¹⁵ [Merkur.de: Polizei fasst gesuchten Schleuser](http://merkur.de: Polizei fasst gesuchten Schleuser), 30 December 2016; [Welt.de: Freispruch im Kölner Schleuser-Prozess](http://welt.de: Freispruch im Kölner Schleuser-Prozess), 20 December 2016; [Süddeutsche.de: Türkischer Schleuser bettelt um Gnade](http://sueddeutsche.de: Türkischer Schleuser bettelt um Gnade), December 2016.

7. Greece

7.1. Overview of the situation

By 31 December 2016, 173,447 refugees and migrants had crossed the sea to Greece in 2016, with most arrivals having taken place in the first three months of the year. Most of those who travelled this route originated from the Syrian Arab Republic (47 %), Afghanistan (24 %) and Iraq (15 %), and they collectively accounted for approximately 86 % of all arrivals by sea. In December 2016, 1,662 refugees and migrants arrived by sea, an average of 54 per day, marking a drop of 17 % from arrivals in November 2016. Arrivals in December 2016 dropped by 98 % compared with the same month in 2015 and the total arrivals by sea in Greece in 2016 dropped by 80 % compared with arrivals in 2015.³¹⁶

7.2. Key fundamental rights concerns

Nothing new to report.

7.3. Fundamental rights issues in relation to registration and channelling into different procedures, including hotspots and relocation process

7.3.1 Registration and identification

Nothing new to report.

7.3.2 Asylum procedure

In December 2016, the Asylum Service registered 6,716 asylum applications: 4,204 were from men and 2,512 were from women. The majority of the applicants originated from Syria (3,043), followed by Afghanistan (1,076) and Iraq (757). The majority of applications were recorded in Thessaloniki (1,519), while on the islands most applications were registered in Lesbos (604), followed by Chios (547), Samos (255), Leros (102) and Kos (34).³¹⁷

During December 2016, 1,163 individuals were relocated from Greece to other Member States: 644 were male and 519 were female. The majority of relocations were to France (323), Germany (236), Spain (198) and the Netherlands (111).³¹⁸

7.3.3 Return procedure

December 2016 saw 436 registrations in the IOM programme of Assisted Voluntary Return and Reintegration. A total of 417 people were returned: 329 were men, 66 were women and 22 were children, one of them unaccompanied.

³¹⁶ UNHCR Weekly reports.

³¹⁷ Asylum Service.

³¹⁸ IOM Greece.

The majority of individuals registered and returned originated from Pakistan, Iraq, Algeria and Georgia.³¹⁹

Information from the Hellenic Police regarding forced returns was not provided.

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

7.4.1 Reception conditions and capacity

Greece increased its accommodation capacity for persons eligible for relocation and for asylum seekers with specific needs – financed through EU funds – to 21,057 places as of 31 December 2016, surpassing the initial goal of 20,000 places by mid-December 2016. The programme had benefited a total of 23,047 persons. The programme, which started in January 2016, provides housing to candidates for the EU Emergency Relocation Mechanism and to asylum seekers with specific needs.³²⁰

Cash assistance, as part of the humanitarian aid provided by different agencies, will be implemented in the urban areas of Athens and Thessaloniki by early 2017. In campsites, food distribution is likely to continue and individuals will receive cash for other needs, until safe cooking facilities can be provided and catering can be discontinued.³²¹

During the reporting period, efforts to prepare the sites for winter continued. Tents were replaced with prefab family housing units, sites which are not suitable for winter were evacuated, tents adapted for winter were provided and electricity and other infrastructure were upgraded.³²²

Reception and identification centres (RICs) in the islands continued to be overcrowded and their maximum capacity was overstretched. By the end of December, 15,431 individuals were in the islands, whereas the official maximum capacity is 8,480.³²³

Conditions were particularly difficult in Samos, where around 1,730 people were residing at the Vathy RIC, which has capacity for only 606. Up to 900 people were estimated to be sleeping in up to 400 small tents and 29 large 10-person tents provided by the army. A further 300 people were sleeping in tents in the 'extended area' of the RIC, which lacks access to the island's electrical and water systems, is poorly illuminated and is prone to landslides. As a result of lack of space, some children are obliged to either share the adult sleeping areas or overcrowd the containers; 19 unaccompanied and separated children are crammed in each container, which results in increased tensions, violent outbursts and increased risk of abuse.³²⁴

³¹⁹ *Ibid.*

³²⁰ UNHCR Greece.

³²¹ Ministry for Migration Policy.

³²² UNHCR Greece.

³²³ See [Brief situation of refugee flows on East islands.](#)

³²⁴ UNHCR Weekly reports.

In the middle of December 2016, the Souda camp in the island of Chios was without electricity and water supply for several days because of damage to the water and power supply systems. Temperatures in the island were low, reaching 2 °C, and people accommodated in the camp were unable to keep themselves warm.³²⁵

The Minister for Migration Policy, Ioannis Mouzalas, gave a press conference on the current situation of refugees and migrants in the country. As regards the situation in the mainland, he stated that no one is sleeping in a tent without heating or is exposed in the cold. At the moment there are 36 sites across Greece, which accommodate 500–600 people on average, apart from four sites that accommodate 1,500 people each and two that accommodate 2,500 people each. For people living in the islands, he stated that the situation is not good and that the authorities have started to transfer vulnerable people, who are excluded from the provisions of the EU–Turkey agreement, to the mainland. The minister also stated that small detention facilities (for 100 to 200 people) will be created in the islands. These are necessary to address incidents of delinquency in each refugee wave, and to facilitate asylum procedures.³²⁶

In some of the sites, such as Elliniko in the Attica region, the coordination meetings held by the Ministry of Migration Policy are from now on held in Greek, which de facto excludes non-native speakers.³²⁷

7.4.2 Vulnerable persons

The Médecins Sans Frontières (MSF) Head of Mission in Greece gave an interview to the Athens-Macedonian News Agency (ANA) stating that conditions in camps on the mainland have improved. However, he noted that the camps are partly or fully evacuated without proper coordination between the various bodies, so health professionals working at the camps lose track of their patients and this leads to interruptions in treatment, especially for those in long-term treatment for mental problems or other chronic conditions.³²⁸

Only people with visible vulnerabilities are transferred to the mainland. People such as patients with mental health disorders or victims of torture are excluded from referrals.³²⁹

7.4.3 Child protection

Greece still does not have enough capacity to accommodate unaccompanied children. As of 28 December 2016, there were 1,443 children on the waiting list to be referred to the National Centre for Social Solidarity (EKKA) for accommodation. The total number of available places for unaccompanied children has reached 1,256. The estimated total number of unaccompanied children currently residing in Greece is 2,300, based on referrals to EKKA as of

³²⁵ See <http://greece.greekreporter.com/2016/12/19/chios-refugee-camp-without-water-electric-power/>.

³²⁶ See [Policy Minister at a press conference on developments in refugee-immigrant issue](#).

³²⁷ MSF-Doctors Without Borders.

³²⁸ See <http://greece.greekreporter.com/2016/12/31/conditions-for-refugees-on-islands-are-regrettable-and-infuriating-says-msf-head-in-greece/>.

³²⁹ MSF-Doctors Without Borders.

28 December 2016. The total number of unaccompanied children referrals to EKKA from 1 January 2016 to 28 December 2016 was 5,139: 4,697 were boys and 442 were girls.³³⁰

As of the end of December, 2,413 children had been relocated from Greece. Among them, 191 unaccompanied and separated children had been relocated or were in the process of being relocated. Forty-four accompanied children had been returned to Turkey through the EU–Turkey agreement.³³¹

7.4.4 Immigration detention

More and more people are detained on the islands. Some 120 people were detained in section B of the Moria Centre in Lesbos. People who belong to a nationality with a low refugee recognition rate are routinely detained. Access to healthcare is limited, since there is not an organised referral system for the detainees.³³²

The number of people held under administrative detention in December 2016 was 3,088. The Moria Centre is not included in the count, since the overcrowding makes it unclear who is currently detained. In December 2016, 33 unaccompanied children were in detention centres awaiting referral to accommodation shelters.³³³

7.5. Changes in law, policy and/or practice

7.5.1 Changes in law or policy

Nothing new to report.

7.5.2 Changes in practice

Nothing new to report.

7.6. Social response to the situation

The National Commission for Human Rights (NCHR) published a report after visiting six sites at land and sea borders. It finds that there are de facto violations of the human rights of applicants for international protection, resulting from the massive and indiscriminate detention in the islands of the eastern Aegean and the lack of timely and effective access to both international protection and decent accommodation, health and education. In addition, the rights to judicial objection to detention and access to asylum are not respected in accordance with the law. At the same time, successive incidents mainly in the sites in the eastern Aegean islands and the often uncontrollable violent incidents occurring in accommodation centres in the mainland contribute to the

³³⁰ National Centre for Social Solidarity (EKKA).

³³¹ UNICEF: Refugees and migrant children in Greece.

³³² MSF-Doctors Without Borders.

³³³ Hellenic Police Headquarters.

exacerbation of racism and xenophobia in parts of the Greek population and will create barriers to the reception and hosting system for refugees.³³⁴

The NCHR issued a statement regarding the European Commission's fourth recommendation on the resumption of Dublin transfers to Greece. The NCHR learned with great concern of the recommendations of the European Commission to reactivate refugee return mechanism within the system of Dublin Regulation.³³⁵ The NCHR stresses that all reception and refugee protection mechanisms in the country are under tremendous pressure, especially because a large number of asylum seekers are trapped in Greek territory (in particular in the islands) as a result of the EU–Turkey agreement, to which the NCHR has repeatedly voiced its objections.³³⁶

Solidarity Now, the Greek Council for Refugees and Aitima, which are members of the European Council for Refugees and Exiles, addressed a letter to the President of the European Commission and the Greek Minister for Migration Policy regarding the gradual resumption of Dublin transfers to Greece. The three organisations raise detailed objections regarding the legality of the proposed measures and their impact on the fundamental rights of persons arriving in the Greek islands and subject to Dublin returns.³³⁷

On 15 December 2016, the Hellenic League for Human Rights and Solidarity Now held a press conference regarding the extradition of eight Turkish military officers who had allegedly participated in the 15 July 2016 attempted coup in Turkey. During the press conference, statements were issued on the importance and necessity of not extraditing the Turkish officers given the collapse of the rule of law in Turkey and the reasonable indications that they will be subjected to persecution and inhumane treatment.³³⁸

7.7. Hate speech and violent crime

Nothing new to report.

7.8. Policies against smuggling of human beings

The Border Protection Directorate and the Illegal Migration Control Division at the Hellenic Police headquarters do not have any records of such proceedings. The Aliens and Border Protection Branch has not yet provided any information.

³³⁴ See http://www.nchr.gr/images/pdf/apofaseis/prosfuges_metanastes/kentra_filoxenias_autopsia.pdf.
³³⁵ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20161208/recommendation_on_the_resumption_of_transfers_to_greece_en.pdf.
³³⁶ http://www.nchr.gr/images/pdf/nea_epikairothta/Dublin_statement_gr.pdf.
³³⁷ <http://www.solidaritynow.org/en/letter-president-european-commission/>.
³³⁸ http://www.hlhr.gr/wp-content/uploads/2016/12/1253_deltio_typoy_ekdosh_8_toyrkvn_final_greek.pdf.

7.9. Criminal proceedings against migrants and asylum seekers

The Border Protection Directorate and the Illegal Migration Control Division at the Hellenic Police headquarters do not have any records of such proceedings. The Aliens and Border Protection Branch has not yet provided any information.

8. Hungary

8.1. Overview of the situation

In December 2016, 474 people crossed the border irregularly into Hungary and were apprehended by the police more than eight kilometres from the southern borders.³³⁹ This shows a slight increase from November, when 448 irregular immigrants were apprehended. Eighty-three per cent of the new arrivals were male and 17 % were female. There were 43 people below 18 years of age, five of whom were classified as unaccompanied children.³⁴⁰ The police do not keep statistics about the number of persons with disabilities.³⁴¹ Most of the new arrivals who crossed the Hungarian border irregularly in December came from Afghanistan, Syria and Algeria.³⁴²

In accordance with the deeper border control policy (also called the '8 km law'), which entered into force on 5 July 2016, the police are entitled to send irregular migrants apprehended within eight kilometres of the southern border back to the Serbian side of the border fences, to make them wait until they can submit their claims for asylum in one of the transit zones.³⁴³ In December, the police enforced the deeper border control policy against 1,403 people who were apprehended in Hungarian territory within eight kilometres of the southern border. This is an increase from November, when 1,061 people were apprehended. Authorities do not count these people in the statistics as new arrivals; therefore, they are not included in the 474 people who arrived irregularly in Hungary in December.³⁴⁴ According to the police, the enforcement of the new deeper border control policy is very effective, as it has made it almost impossible to enter Hungary irregularly through the southern borders. In enforcing the deeper border control policy, the police automatically turn irregular migrants back to Serbia.³⁴⁵ Civil society organisations have raised concerns about this policy, as, based on interviews they conduct with people at the Serbian side of Hungary's southern border, many people claim that they were subjected to brutality and violence by the Hungarian police and by local vigilante groups.³⁴⁶ NGOs also believe the number of new arrivals did not truly decrease in December, nor did it remain constant, as the statistics on how many people the police apprehended within eight kilometres of the southern borders (1,403) prove that many people are still desperately trying to enter the EU through Hungary.³⁴⁷

Since 5 July 2016, the police have also been publishing on their website the number of people they prevent from entering the country. In December, they

³³⁹ National Police Headquarters.

³⁴⁰ *Ibid.*

³⁴¹ *Ibid.*

³⁴² *Ibid.*

³⁴³ Article 2 of [Act XCIV of 2016 on amending laws necessary to conduct asylum procedures at the border in a wide scope](#) (2016. évi XCIV. törvény a határon lefolytatott menekültügyi eljárás széles körben való alkalmazhatóságának megvalósításához szükséges törvények módosításáról).

³⁴⁴ National Police Headquarters.

³⁴⁵ *Ibid.*

³⁴⁶ MigSzol.

³⁴⁷ UNHCR Hungary. MigSzol.

prevented 2,290 people from crossing the border into Hungary.³⁴⁸ This number shows a significant increase from November, when they stopped 1,001. This category covers people who attempted to enter into Hungary illegally, most commonly through the border fences, and whom the police or the army prevented from doing so. NGOs are extremely concerned that it is not clear what the police take the term 'preventing from entering' to mean, given that the measures they take to keep people away from the fences are not known.³⁴⁹

8.2. Key fundamental rights concerns

Nothing to report.

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

8.3.1 Registration and identification

The authorities claim that they registered and fingerprinted all new arrivals in December. They report that most people did not object to these procedures and were cooperative. The authorities registered only a few cases in which people raised concerns or showed resistance. The authorities claim they were able to resolve these successfully by explaining the purpose and importance of registration and fingerprinting to the persons concerned. The authorities emphasised that they did not have to use force in any of these cases.³⁵⁰

The number of persons waiting to enter Hungary through one of the two transit zones, located at the Hungarian–Serbian border (Röszke and Tompa), was around 120 people per day in December.³⁵¹ Civil society organisations report that people are so worried about missing their chance for admission that they come to the outside area of the transit zones around 10 days before their names are called by the Hungarian authorities. They leave the reception camps in Serbia and move into the makeshift tents they have built from sticks and blankets outside the transit zones. They are willing to freeze for days just to get to the gates on time.³⁵²

People waiting for admission into the two transit zones mainly get information about the asylum procedure and their options for obtaining refugee status in Hungary from the civil society organisations and local aid groups that provide assistance to them, but not from the authorities. Most of them get proper information about the Hungarian asylum system only once they are admitted to the transit zone and they meet a representative of the UNHCR's implementing partner, the Hungarian Helsinki Committee (*Magyar Helsinki Bizottság*), or the Governmental Office (*Kormányhivatal*).³⁵³

³⁴⁸ National Police Headquarters.

³⁴⁹ MigSzol.

³⁵⁰ National Police Headquarters.

³⁵¹ UNHCR Hungary.

³⁵² MigSzol.

³⁵³ UNHCR Hungary.

8.3.2 Asylum procedure

In December, 629 people applied for asylum. This shows a slight decrease in the number of applications from November, when there were 649. The asylum seekers were mainly from Afghanistan (221), Syria (158), Iraq (56), Pakistan (54) and Algeria (47). The authorities registered 78 asylum seekers coming from various countries in Africa (e.g. Morocco, Tunisia, Somalia).³⁵⁴ The majority of these applications were from people entering Hungary through one of the two transit zones along the Hungarian–Serbian border; however, some of them applied for asylum after being apprehended by the police elsewhere in the country (152 of the asylum seekers applied for asylum as part of the police procedure).³⁵⁵

In December, the Office of Immigration and Nationality made 27 positive decisions (accepting the asylum claims) and 940 negative decisions (rejecting the claims). The office terminated the process in 1,250 of the ongoing cases, given that the applicants had left the country. There are no statistics available on when these procedures started.³⁵⁶

The County Court of Szeged (*Szegedi Törvényszék*), on 9 December 2016, annulled a decision by the Office of Immigration and Nationality, which on the basis of the Dublin procedure aimed to return an asylum seeker to Greece; in so doing, the court set back Hungarian efforts to return asylum seekers to Greece. The office subsequently decided that, as of 15 December 2016, no asylum procedure in the transit zones shall be suspended based on Eurodac matches in Greece. Instead, the safe third country concept shall be applied if the persons came from Serbia.³⁵⁷

8.3.3 Return procedure

The authorities returned more people in December than in any other month in 2016.

The Office of Immigration and Nationality returned 41 people in December. This corresponds to the number of people whose asylum claims were rejected and, therefore, the Office expelled them from the country. This number, however, does not include those who submitted their asylum claims in one of the transit zones and got a negative decision shortly before they could leave the transit zones to be accommodated in open refugee camps or detention centres. There is no information on the target countries.³⁵⁸

The police, on the other hand, returned 148 people³⁵⁹ in December, to the following countries: Romania (116), Ukraine (23), Serbia (7), Slovakia (1) and Montenegro (1).³⁶⁰ There is no information about these people's nationalities. The police typically carry out court orders and return people who were denied entry in criminal proceedings or whose appeals against the Office of Immigration

³⁵⁴ Office of Immigration and Nationality.

³⁵⁵ National Police Headquarters.

³⁵⁶ Office of Immigration and Nationality.

³⁵⁷ UNHCR Hungary.

³⁵⁸ Office of Immigration and Nationality.

³⁵⁹ Office of Immigration and Nationality together with Police returned 189 persons in December.

³⁶⁰ National Police Headquarters.

and Nationality's negative decisions (rejecting their asylum claims) are rejected in court reviews.

NGOs continue to report multiple cases of violent and abusive incidents against people who do not want to queue for admission into the transit zones, and who have attempted to cross the border illegally. Civil society organisations believe that most of these incidents are committed by local vigilante groups or staff members of the authorities. Civil society organisations are extremely worried that the authorities do not seem to pay attention to these incidents and are not willing to investigate them.³⁶¹

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

8.4.1 Reception conditions and capacity

The transit zones along the Serbian borders (Röszke and Tompa) were active in December.³⁶² Admission to the transit zones continued to be slow that month, given that only 10 people per day could enter each transit zone. In addition, the transit zones no longer accept new arrivals at weekends.³⁶³ Around 90–100 people could enter the transit zones in a typical week in December.³⁶⁴

The number of people waiting in the areas outside the transit zones was around 120 per day in December. People stayed in makeshift tents and relied on the assistance provided by Hungarian and Serbian civil society organisations.³⁶⁵ The waiting period for families to access the transit zones ranges from two and a half to six and a half months. Unaccompanied children typically need to wait for two and a half months, whereas the waiting time for single men is six and a half months. In addition to waiting in reception facilities in Serbia, families spend up to 11 days in makeshift tents before being admitted into the transit zones.³⁶⁶

The media coverage of the conditions outside the transit zones revealed that people cannot sleep at night, because of the freezing temperatures; they only go to sleep after the sun comes up. Every second person was found to be sick, many of them had a fever and almost all of them showed signs of cold or flu. People cut down trees in the border zones to stoke fires. This may lead to an ecological disaster later and may also cause a problem in the summer, when there will not be any trees to provide shade to those waiting for admission.³⁶⁷

Inside the transit zones, the UNHCR and the Hungarian Helsinki Committee provide asylum seekers with information and counselling on their rights and obligations in relation to the border and Dublin procedures, and the implications of the safe third country principle.³⁶⁸

³⁶¹ MigSzoL.

³⁶² National Police Headquarters.

³⁶³ Office of Immigration and Nationality.

³⁶⁴ MigSzoL.

³⁶⁵ UNHCR Hungary.

³⁶⁶ UNHCR Hungary, MigSzoL.

³⁶⁷ [Surviving Christmas in no-man's land](#) (*Túlélni a karácsonyt a senkiföldjén*).

³⁶⁸ UNHCR Hungary.

The Dean of the Faculty of Medicine at the University of Szeged allowed the NGO MigSzol to clean and disinfect hundreds of blankets at the university's laundry service free of charge. These blankets were used by refugees in the camps in front of the transit zones. This way, instead of being thrown out as rubbish, they could be re-used by refugees in need.³⁶⁹

On 7 December 2016, civil society organisations received reports that people in the Bicske open refugee camp were being moved to other camps. The closing of the Bicske camp had been announced previously; however, precise information about the exact closing time was not made available. On 7 December 2016, around 60 people (asylum seekers and refugees) were accommodated in the Bicske camp. Twenty-three people were taken to the Körmend tent camp, 20 to Kiskunhalas and 20 to Balassagyarmat.³⁷⁰ Bicske was considered to be the best-functioning open reception facility in the country, and its proximity to Budapest helped the integration of the refugees. The Körmend open refugee camp offers the worst conditions in the country. The tents there are completely unsuitable for people to live in, particularly in the extremely cold days of December. The authorities provide the inhabitants with wood to burn and to warm themselves. NGOs are worried that the wood-burning fireplaces in the tents could cause a fire and may kill people. The conditions in the Kiskunhalas and Balassagyarmat camps are slightly better; however, they are far from satisfactory. The Kiskunhalas open refugee camp has only containers, which are not adequate for the harsh winter conditions. All three camps are in remote places and they are isolated from local populations. Civil society organisations fear that these camps will result in further exclusion of people who are trying to start a new life in Hungary.³⁷¹ The Office of Immigration and Nationality has never provided an official explanation of the reasons for closing the Bicske camp. The only unofficial explanation by the Office was that there were not enough people needing accommodation and, thus, there was simply no need for that camp. Civil society organisations opposed this argument, claiming that around 6,500 people were stuck in Serbia as a consequence of the Hungarian border policy. NGOs believe that this action is part of a deliberate destruction/sabotage of the Hungarian asylum system.³⁷²

8.4.2 Vulnerable persons

While the authorities claim that they grant priority access to families and vulnerable groups (typically to unaccompanied and separated children) in the transit zones along the Serbian borderline, NGOs report that it can take up to two and a half months for these groups to be admitted. Therefore, the UNHCR assists the authorities with identifying vulnerable persons and urges officials to grant them priority access.³⁷³

8.4.3 Child protection

Nothing new to report.

³⁶⁹ MigSzol.

³⁷⁰ *Ibid.*

³⁷¹ UNHCR Hungary.

³⁷² MigSzol.

³⁷³ UNHCR Hungary.

8.4.4 Immigration detention

Alien-police detention was ordered by the Office of Immigration and Nationality and the police against 68 and 34 people, respectively, in December.³⁷⁴ Alien-police detention is ordered in cases where a person is about to be deported. This happens when the Office of Immigration and Nationality, or the court, expels somebody.³⁷⁵

In December, the Office of Immigration and Nationality ordered asylum detention against 151 people. Four of them were women and seven were children. There were 254 people overall in asylum detention on 31 December 2016.³⁷⁶ The Office typically orders the asylum detention of claimants, in order to prevent them from leaving the country before the asylum request is judged.

Civil society organisations experience that the authorities release more and more people from asylum detention and relocate them into one of the remaining open refugee camps that offer terrible living conditions. NGOs believe that this policy further encourages asylum seekers to leave the country (as they can freely leave the open refugee camps) towards western Europe.³⁷⁷

8.5. Changes in law, policy and/or practice

8.5.1 Changes in law or policy

Nothing new to report.

8.5.2 Changes in practice

Civil society organisations still report incidents in which local vigilante groups catch people, beat them and push them back to the Serbian side of the border. NGOs are worried that the authorities do not investigate these incidents.³⁷⁸

8.6. Social response to the situation

MigSzol held a protest in Budapest on 3 December 2016 as a response to the harsh sentence (10 years' imprisonment) that the County Court of Szeged (*Szegedi Törvényszék*) imposed against Ahmed H. who was accused of committing a terrorist act during the infamous 'Röszke Battle' on 16 September 2015. About two hundred people joined the demonstration, bringing musical instruments and banners and making a loud noise. The protest ended early when members of a radical right-wing association, Arrow of the Hungarians (*Magyarok Nyilai*), also gathered in the same square to protest about something unrelated to the migration situation. Thanks to the increased police presence, the two groups could not approach each other; however, both ended their protests earlier than planned.³⁷⁹

³⁷⁴ Office of Immigration and Nationality. National Police Headquarters.

³⁷⁵ Article 54 of [Act II of 2007 on the admission and stay of third country nationals](#) (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), 2 February 2016.

³⁷⁶ Office of Immigration and Nationality.

³⁷⁷ MigSzol.

³⁷⁸ MigSzol.

³⁷⁹ They were protesting for freeing Ahmed H. ([Ahmed H. szabadulásáért tüntettek Budapesten](#)).

The United States of America's Department of State released a short press statement on 6 December 2016, in which it expressed its concerns about the prosecution and sentencing of Ahmed H. It criticised the broad interpretation of what constitutes 'terrorism' in Hungary. The U.S. Department of State urged the Hungarian Government to conduct a transparent investigation, with input from independent NGOs, into the events at Röszke and to review the cases of Ahmed H. and those similarly convicted.³⁸⁰ The statement attracted much media attention across Hungary.³⁸¹ The Hungarian Ministry of Justice (*Igazságügyi Minisztérium*) objected to the "intervention" of the United States, and stressed that the courts in Hungary are independent.³⁸²

On 17 December 2016, a group of volunteers, Let's Help the Refugees Together (*Segítsünk Együtt a Menekülteknek*) donated sleeping bags and blankets to the refugees in the Körmend open reception camp, in which people are freezing because of the spartan conditions (military tents, no insulation on the ground, wood-burning fireplaces instead of proper heating).³⁸³

A Catholic priest accommodated eight inhabitants of the Körmend refugee camp in the community house of the church. The priest justified his actions with reference to the emails he got from the refugees who were freezing in the camp. He emphasised that he accommodated not only Catholic refugees but also Muslims, Baptists and a Kurdish individual.³⁸⁴

In the town of Káposztásmegyer, 25 families joined together to assist a refugee woman from Cameroon to find a home before Christmas. They rented a flat for the woman and agreed to pay the rent for her.³⁸⁵

8.7. Hate speech and violent crime

Nothing new to report. There were no reported violent incidents during demonstrations supporting or against migrants in December.³⁸⁶

8.8. Policies against smuggling of human beings

Between October and December 2016, the police apprehended and initiated new criminal proceedings against 27 people who were accused of committing the crime of human smuggling. The perpetrators were nationals of Hungary, Romania, Ukraine, Kosovo*, Afghanistan and Serbia.³⁸⁷ The Hungarian Criminal Code orders that human smuggling activities be punishable even in cases in which the perpetrator facilitating their irregular entry or stay is not acting for

³⁸⁰ [Sentencing by Hungarian Court of Ahmed Hamed](#), U.S. Department of State.

³⁸¹ [America is concerned about the sentence of Ahmed H.](#) (*Amerikát aggasztja Ahmed H. ítélete*).

³⁸² [The Ministry of Justice's response to the statement of the U.S. State Department](#) (*Az Igazságügyi Minisztérium válasza az amerikai külügyminisztérium közleményére*).

³⁸³ MigSzol.

³⁸⁴ [The priest in Körmend accommodated refugees](#) (*Menekülteket fogadott be a körmendi plébános*).

³⁸⁵ MigSzol.

³⁸⁶ National Police Headquarters.

³⁸⁷ *Ibid.*

profit.³⁸⁸ The activities of volunteers helping refugees (e.g. inviting them to stay in their homes, transporting them with their cars, lending them their mobile phones) can also be interpreted as participating in human smuggling under Hungarian criminal law. Such crimes are punishable with several years of imprisonment; however, to date these sanctions have not been applied to volunteers helping refugees.³⁸⁹

8.9. Criminal proceedings against migrants and asylum seekers

In the period examined (October to December 2016), the police registered 129 persons who had either climbed over or ducked under the fences installed at the Serbian–Hungarian border.³⁹⁰ The number of criminal proceedings initiated, however, decreased significantly as a result of the establishment of the deeper border control policy ('8 km law'). When the police apprehended people within eight kilometres of the Serbian and Croatian borders, they escorted them back behind the fences, and they initiated only one criminal proceeding for unauthorised border fence crossing. The District Court of Szeged (*Szegedi Járásbíróság*) held one criminal trial for unauthorised border fence crossing. The defendant was a national of Kosovo*; he was found guilty and sentenced to a two-year entry ban.³⁹¹

Between October and December 2016, the police initiated criminal proceedings against 133 people who were suspected of having committed the crime of forging public documents when they tried to enter Hungary.³⁹²

³⁸⁸ Article 353 of [Act C of 2012 on the Criminal Code](#) (2012. évi C. törvény a Büntető Törvénykönyvről).

³⁸⁹ National Police Headquarters.

³⁹⁰ *Ibid.*

³⁹¹ County Court of Szeged.

³⁹² National Police Headquarters.

9. Italy

9.1. Overview of the situation

According to the data on arrivals published by the Ministry of the Interior, a total of 8,688 people arrived in Italy by sea in December 2016.³⁹³ The number of arrivals from January to the end of December 2016 increased by 17.94 % from 2015 and by 6.66 % from 2014.

According to the UNHCR, in the week 12–18 December 4,225 refugees and other migrants arrived by sea in Italy – a substantial increase from the 1,859 who arrived the previous week. As of 18 December, 6,461 refugees and migrants had arrived in Italy that month: an average of 359 per day compared with 453 per day on average in November, and nearing the 9,637 who arrived in the month of December 2015.³⁹⁴

Since the beginning of the year, the port with the highest number of people disembarked is Augusta, Sicily (25,624), followed by Pozzallo, Sicily (18,970), Catania, Sicily (17,989), Messina, Sicily (15,188), Palermo, Sicily (15,083), Trapani, Sicily (15,040), Reggio Calabria, Calabria (15,020), Lampedusa, Sicily (11,557), Cagliari, Sardinia (7,540), Crotone, Calabria (6,980), Taranto, Apulia (6,770), Vibo Valentia, Calabria (5,043), Salerno, Campania (4,402), Brindisi, Apulia (4,037), Corigliano Calabro, Calabria (3,567) and Porto Empedocle, Sicily (3,511). The only officially established hotspots are located in Pozzallo, Trapani, Lampedusa and Taranto.³⁹⁵ The main countries of origin declared upon disembarkation are Nigeria (21 %), Eritrea (11 %), Guinea (7 %), Gambia (7 %), Côte d'Ivoire (7 %), Senegal (6 %), Mali (6 %), Sudan (5 %), Bangladesh (4 %) and Somalia (4 %). The other 22 % includes people who have not been identified yet.

From the beginning of the year until 31 December 2016, 25,772 unaccompanied children reached Italy's shores.

On 23 December 2016, a young foreigner, who was walking along the rail track, was hit by the train running from Ventimiglia to Nice.³⁹⁶

9.2. Key fundamental rights concerns

Apart from the ongoing debate concerning the capacity and organisation of the Italian reception system, as well as the continuous protests at municipal level against the arrival of asylum seekers, the political debate in December revolved around the change of government following the constitutional referendum that took place on 4 December 2016, and the political programme of the new

³⁹³ All the information in the present paragraph is available at: <http://www.libertacivilimmigrazione.dlci.interno.gov.it/it/documentazione/statistica/cruscotto-statistico-giornaliero>.

³⁹⁴ Information available at UNHCR Weekly Update - Europe's Refugee Situation (12-18 December).

³⁹⁵ Data are updated as of 31 December 2016.

³⁹⁶ Information available at: <http://www.lastampa.it/2016/12/23/edizioni/imperia/migrante-morto-sui-binari-travolto-da-un-treno-a-latte-5EjpYzNnxMpUkc00AyE1PP/pagina.html>

Minister for the Interior. His first declaration seems to show continuity with his predecessor about the policies to be implemented within the Italian borders; the main evidence of this consideration is the prompt approval of the new criteria for the organisation of the reception system, which had been proposed by the former government, as well as of the new criteria for the role Italy is bound to play at EU level, calling for the full and quick implementation of the solidarity principle and of the relocation programme.

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

9.3.1 Registration and identification

On 8 December 2016, the European Commission decided to close the infraction procedure initiated against Italy, since Italian authorities had managed to identify almost 100 % of incoming migrants.³⁹⁷

As for the situation within Italian hotspots, in a press release issued in December 2016, the NGO Borderline Sicilia described the situation in the facilities located in Sicily: the NGO considers that newly arrived migrants are discriminated against on the basis of their nationality, and refers to the issuance of deferred removal orders or the implementation of immediate transfers to local identification and expulsion centres (*centri di identificazione ed espulsione*, CIEs) for those belonging to nationalities that are less likely to be eligible for international protection, such as Moroccans and Ivorians. Moreover, according to the NGO, many unaccompanied children are wrongly registered as adults by Italian authorities, and they are consequently not guaranteed adequate protection as children.³⁹⁸

At the beginning of December 2016, a relevant report was published by the European Council on Refugees and Exiles (ECRE) together with the major European refugee protection organisations, including the Italian Refugee Council (*Consiglio Italiano per i Rifugiati*, CIR). The report is entitled 'The implementation of the hotspots in Italy and Greece'.³⁹⁹ Regarding Italy, the report stresses that most disembarkations happen in areas outside the hotspot system, where identification and reception practices are less clear and where it is not always possible to provide information concerning international protection prior to identification; moreover, information on asylum, migration and related issues is mostly provided by international organisations. The Ministry of the Interior assigned this task to the IOM and the UNHCR.

According to the report, migrants are often not provided with enough information before the completion of pre-identification and identification

³⁹⁷ Information available at: <http://stranieriinitalia.it/attualita/attualita/attualita-sp-754/identificazioni-al-100-chiusa-la-procedura-di-infrazione-contro-l-italia.html> and <http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=SB25042.TIF&subcod=20161209&numPag=1&>.

³⁹⁸ Information available at: <http://siciliamigranti.blogspot.it/2016/12/morti-respinti-e-vulnerabili-trattenuti.html>.

³⁹⁹ Available in English at: <http://cir-onlus.org/images/pdf/HOTSPOTS-Report-5.12.2016..pdf>. See also CIR's [commentary on the report](#).

procedures, as, for example, interpretation is not available or access to international organisations is possible only after identification. In the first months of the hotspot approach, pre-identification using the so-called 'information sheet' may have undermined access to asylum procedures in some cases, according to the report. There is an overall lack of cultural mediators and interpreters, which weakens the provision of information concerning the right to asylum. The report stresses that, in some cases, coercive measures, including physical force and prolonged detention, are used if people refuse to undergo the fingerprinting procedure; moreover, since Italy has not approved any legislative provisions on detention in hotspots, this practice is to be deemed arbitrary and, when it exceeds 48 hours, it shall be considered in breach of the Italian Constitution also because the migrants concerned do not have access to an effective remedy to challenge the deprivation of liberty to which they are subjected. Regarding unaccompanied children, the report outlines that age assessment is frequently carried out through X-ray screening, which is not considered a method of last resort; moreover, they are often held in hotspots – along with other vulnerable subjects – for prolonged periods of time before they are transferred to specialised reception facilities; finally, eligible children do not yet have access to the relocation procedure, as procedures to be followed remain unclear.

On 18 December 2016, the NGO WeWorld published another report, entitled 'Restricted rights: Northern Lampedusas: Ventimiglia and Como', which deals with fundamental rights violations in Ventimiglia (Liguria) and Como (Lombardy).⁴⁰⁰ The report describes the situation of migrants and asylum seekers stuck at the northern Italian border, trying to continue their journey towards other EU Member States. According to this NGO, in the two towns, migrants lack basic legal and humanitarian assistance. This is partly provided by two International Red Cross temporary reception facilities, which they consider an inadequate response to the problem. Moreover, WeWorld refers to the long time required to assess international protection applications, which forces these people to wait several months in limbo. Finally, it stresses that almost half of the migrants and asylum seekers living in the area belong to vulnerable groups (children, women, and victims of torture and trafficking) and should thus be guaranteed adequate protection and support. The attention of public authorities, however, seems to be mainly focused on preventing secondary movements towards other EU Member States: the Ministry of the Interior has declared its intention to reinforce checks and surveillance on train stations located close to the Brenner Pass in order to prevent irregular migrants from crossing the border.⁴⁰¹

9.3.2 Asylum procedure

The European Commission and Eurostat have released interesting statistics concerning asylum and relocation in Italy. According to Eurostat,⁴⁰² during the

⁴⁰⁰ Available in Italian at: www.weworld.it/wp-content/uploads/2016/12/Brief-Report-1_2016-20161130.pdf. See also [Commentary on the report](#).

⁴⁰¹ Information available at: www.interno.gov.it/it/notizie/maggiore-vigilanza-nelle-stazioni-bolzano-e-brennero.

⁴⁰² Information available at: www.europeanmigrationlaw.eu/documents/Eurostat-AsylumApplicationsintheEU-ThirdQuarter2016.pdf.

third quarter of 2016, 34,600 first-time applicants for international protection were registered in Italy (10 % of the total number in the EU), a 28 % increase on the previous quarter: at the moment, there are 570 international protection applicants per 1,000,000 inhabitants. The most numerous nationalities among applicants are Nigerian (8,450 applicants, 24 %), Pakistani (3,195 applicants, 9 %) and Eritrean (2,805 applicants, 8 %). At the end of September 2016, international protection applications awaiting assessment amounted to 81,300. According to the European Commission,⁴⁰³ 1,950 people had been effectively relocated to other EU Member States by 6 December 2016; this figure seems quite low considering that 5,839 relocation applications had been formally filed, and that a total of 34,953 relocation transfers from Italy were expected following the decisions of the Council of the European Union.

Regarding asylum policies, on 15 December 2016 the National Commission for the Right to Asylum (*Commissione Nazionale per il Diritto d'Asilo*)⁴⁰⁴ released the Code of Conduct for the Staff of the National Commission and the Territorial Commissions for the Recognition of International Protection (*Codice di Condotta per il personale della Commissione Nazionale e delle Commissioni Territoriali per il riconoscimento della protezione internazionale*).⁴⁰⁵ The code sets out ethical and professional conduct rules to be complied with by presidents, members, support staff and interpreters. The code was prepared in cooperation with the UNHCR.⁴⁰⁶ The first meeting of the informal network Without Asylum (*SenzaAsilo*) took place on 16 December 2016: the network, composed of several legal counsellors and associations, aims to discuss and contrast the increasing number of rejections of international protection applications, which entail for many asylum seekers the status of irregular migrant, meaning that they will be returned to their countries of origin.⁴⁰⁷

As for relocation, according to the UNHCR, during the week 12–18 December, 318 persons were relocated from Italy to Germany (248), Luxembourg (21) and the Netherlands (49), bringing the total relocated from Italy to 2,350 (6 % of the 39,600 target).⁴⁰⁸

9.3.3 Return procedure

On 15 December 2016, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) released the official report of the monitoring activity on return flights from Rome to Nigeria on 16–18 December 2015.⁴⁰⁹ According to the CPT, Italian authorities in charge of return flights should enhance the role of national and international monitoring bodies in supervising returns, including the handover to local migration authorities. Moreover, according to the CPT, the international protection applications of Nigerian women detained in CIE facilities and then repatriated were still awaiting assessment by ordinary courts after having been rejected at first instance by territorial commissions: for this reason, the CPT recommends that the Italian

⁴⁰³ Information available at: [www.europeanmigrationlaw.eu/documents/COM\(2016\)791-Annex2-Italy.PDF](http://www.europeanmigrationlaw.eu/documents/COM(2016)791-Annex2-Italy.PDF).

⁴⁰⁴ The composition of the body is available at: www.interno.gov.it/sites/default/files/allegati/componenti_commissione_diritti_asilo_al_26_10_2016.pdf.

⁴⁰⁵ The text is not yet publicly available.

⁴⁰⁶ Information available at: www.interno.gov.it/it/sala-stampa/comunicati-stampa/commissione-nazionale-diritto-asilo.

⁴⁰⁷ Information available at: <http://viedifuga.org/doppi-dinieghi-noi-non-ci-stiamo/>.

⁴⁰⁸ Information available at UNHCR Weekly Update - Europe's Refugee Situation (12-18 December).

⁴⁰⁹ Available at: www.cpt.coe.int/documents/ita/2016-33-inf-eng.pdf.

Government – to reduce the risk of violating the non-*refoulement* principle – abstain from removing foreign nationals from the Italian territory if (1) a court has suspended the removal; (2) a request for suspending the removal procedure is pending before a court; or (3) such a request for suspension is legally possible. The staff in charge for the removal should be properly trained to carry out this task, wear a visible identification tag and be fully aware of the current state of the legal proceedings concerning the detainees to be removed. Moreover, detainees should be informed well in advance of the date of the removal (which was not the case with the flights referred to above), benefit from an individualised risk assessment and have access to an effective complaint mechanism. The Italian authorities have officially responded to the CPT's observations and recommendations, confirming the need to identify specific staff members operating in CIE facilities to act as focal points for all orders issued by judicial authorities. All of this is aimed at guaranteeing that all detainees are fully aware of legal proceedings affecting them. The Italian authorities also confirmed that, for judicial decisions against removal to be effective, it is necessary to improve mechanisms for coordinating them with the arrangement of return flights. Nonetheless, they stressed that, pursuant to Legislative Decree No. 286 of 25 July 1998, Consolidated text of provisions governing immigration and the status of aliens,⁴¹⁰ the suspension of the removal procedure is not automatic when an international protection application is filed by an irregular migrant detained in a CIE facility, which was the case with the people involved in the operation under scrutiny.⁴¹¹

9.4. Challenges and developments in reception conditions for new arrivals, including detention

9.4.1 Reception conditions and capacity

In an interview held on 1 December 2016, the Head of the Immigration Department of the Ministry of the Interior outlined the upcoming actions to be implemented with a view to improving the Italian reception system.⁴¹² According to the Prefect, the capacity of the system has to be extended, and the reception plan approved in September 2016 – according to which asylum seekers are to be distributed among all municipalities in the ratio of 2.5 asylum seekers to 1,000 inhabitants – must be implemented despite opposition from some mayors: out of 8,000 mayors, only 2,600 agreed to receive asylum seekers in their municipalities.⁴¹³ On 14 December 2016, the abovementioned plan – which is the result of cooperation between the Ministry of the Interior and the National Association of Italian Municipalities (*Associazione Nazionale dei Comuni Italiani*, ANCI) – was officially approved by the National Coordination Board for Reception (*Tavolo di Coordinamento Nazionale dell'Accoglienza*) at the Ministry of the Interior, whose members represent municipalities, regions, provinces, the

⁴¹⁰ [Decreto legislativo 25 luglio 1998, n. 286, Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero.](#)

⁴¹¹ Information available at: www.cpt.coe.int/documents/ita/2016-34-inf-eng.pdf.

⁴¹² http://www.ilsole24ore.com/art/commenti-e-idee/2016-12-01/accoglienza-e-integrazione-sfida-assolutamente-vincere-181458.shtml?uuid=ADYTEk5B&refresh_ce=1

⁴¹³ Information available at: www.linkiesta.it/it/article/2016/12/01/morcone-sui-migranti-i-sindaci-non-possono-decidere-quello-che-vogliono/32600/ and www.nelpaese.it/index.php/26-articolo-nazionale/4555-migranti-e-accoglienza-italia-indietro-sull-inclusione.

UNHCR, the IOM and the NGOs providing support to migrants and asylum seekers.⁴¹⁴ The Central Service for the National Asylum Seekers and Refugees Protection System (*Servizio centrale del sistema di protezione per richiedenti asilo e rifugiati*, SPRAR) makes a particularly important contribution to the Italian reception system. SPRAR is a network consisting of reception facilities and projects managed by Italian municipalities through the activities of NGOs, associations and cooperatives running a range of projects. Its overall capacity increased from 1,365 people in 2003 to 20,752 in 2014. In the first six months of 2016, it funded 674 projects (244 more than in 2015): 520 target asylum seekers in general, 109 target unaccompanied children and 45 target applicants with psychological or physical disabilities. The four Italian regions that currently host the highest numbers of asylum seekers are Sicily (20.9 %), Lazio (20.3 %), Calabria (9.8 %) and Apulia (8.8 %).⁴¹⁵ Regarding available financial resources, on 20 December 2016 the Ministry of the Interior approved a decree⁴¹⁶ for the allocation of financial resources to the 433 local authorities that had asked to continue providing reception and assistance to asylum seekers and refugees through SPRAR projects in 2017–2019.⁴¹⁷

Discussion of specific reception experiences still focuses on the former Baobab reception centre in Rome, which has been dismantled several times by police authorities. Asylum seekers consequently moved to the nearby Tiburtina railway station to spend their nights there. On 30 November 2016, the staff of the reception centre and the associations providing assistance to migrants met with municipal authorities, and succeeded in finding a temporary shelter – managed by the IRC with financial support from the Municipality of Rome – pending the setting up of a permanent reception centre for migrants in transit, to be opened in Rome. The associations will continue to provide basic legal and healthcare assistance within the railway station.⁴¹⁸ The CIR welcomed the decision of the municipality even though it is nothing but a temporary solution; according to the organisation, the relocation system should be fully implemented, the backlog of international protection applications awaiting assessment should be reduced, the capacity of the local reception system should be increased, and support and assistance services to be provided to migrants and asylum seekers living in or passing through Rome should be enhanced.⁴¹⁹

Some negative decisions concerning reception have to be reported. In September 2016, the Prefect of Bergamo (Lombardy) decided to expel asylum seekers from reception facilities if their international protection applications are negatively assessed by both the relevant territorial commission and the

⁴¹⁴ Information available at: <http://stranieriinitalia.it/attualita/attualita/attualita-sp-754/accoglienza-parte-il-nuovo-piano-di-distribuzione-dei-profughi-tra-i-comuni.html> and <http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=SIB4017.TIF&subcod=20161215&numPag=1&>.

⁴¹⁵ Information available at: www.redattoresociale.it/Notiziario/Articolo/523621/Accoglienza-migranti-cosifunziona-la-rete-Sprar-Posti-triplicati-in-10-anni.

⁴¹⁶ Decree dated 20 December 2016 (*Decreto 20 dicembre 2016*).

⁴¹⁷ Information available at: www.interno.gov.it/it/notizie/accoglienza-richiedenti-asilo-e-rifugiati-nuovi-fondi-enti-locali-triennio-2017-2019.

⁴¹⁸ Information available at: www.redattoresociale.it/Notiziario/Articolo/522219/Migranti-il-comune-di-Roma-Via-dalla-strada-trasferiti-a-via-del-Frantoio and www.meltingpot.org/Migranti-in-transito-a-Roma-compiuto-un-prima-passo-la.html#.WEG4bX3g1z.

⁴¹⁹ Information available at: www.cir-onlus.org/it/comunicazione/news-cir/51-ultime-news-2016/2206-migranti-e-baobab-un-primo-minimo-passo-verso-l-accoglienza-ma-molti-indietro-sull-accesso-ai-diritti.

administrative court, even if the final judgment of the court of appeal has not been adopted yet.⁴²⁰ The same decision has been taken by the provincial authorities of Trentino-Alto Adige.⁴²¹ The Municipality of Mira (Veneto) has introduced a reprisal measure to punish the asylum seekers hosted in a local reception facility who had protested a few months earlier against conditions in the centre, and in particular against the decision of the management to close the windows with padlocks in order to prevent people from leaving or entering the building at night: five of these asylum seekers were expelled from the centre and now have to live on their own financial resources; another 10 of them have received a cease and desist order, and they now risk being expelled from the centre if they repeat the offence.⁴²²

On 16 December 2016, police officers dismantled an informal reception facility in Brindisi because of its poor and inadequate health and hygiene conditions. Eighty-two people were evacuated and brought to the local police headquarters to be identified: all of them turned out to be asylum seekers awaiting assessment of their application by territorial commissions, and they were accommodated in local reception centres.⁴²³ The Migrants and Mediterranean Committee (*Comitato Migranti e Mediterraneo*), a network of local activists, criticised the decision and called for a meeting with the Prefect to find out what alternative solutions have been offered to the evacuated asylum seekers.⁴²⁴

9.4.2 Vulnerable persons

On 15 December 2016, the National Commission for the Right to Asylum published the official Guidelines for the Identification of Victims of Trafficking among International Protection Applicants (*Linee Guida per l'identificazione delle vittime di tratta tra i richiedenti protezione internazionale*).⁴²⁵ The guidelines – prepared by the commission in cooperation with the UNHCR – are aimed at promptly identifying potential victims of trafficking, as well as at introducing a referral mechanism with a view to coordinating with institutions specialised in victim support and assistance by designing and implementing standard procedures to be applied throughout the country.⁴²⁶

In Bologna (Emilia-Romagna), a reception centre for lesbian, gay, bisexual and transgender (LGBT) asylum seekers will be opened soon with the support of the municipality. The project – named ‘Rise the difference’ – is the result of cooperation between the Italian Transgender Movement (*Movimento italiano transessuali*, MIT) and other LGBT and local associations that have been awarded a tender launched by the National Office against Racial Discrimination (*Ufficio Nazionale Antidiscriminazioni Razziali*, UNAR). The project aims to establish a shelter facility for LGBT asylum seekers, to implement support and

⁴²⁰ Information available at: <http://bgreport.org/richiedenti-asilo-per-strada-cosi-deciso-prefettura.html>.

⁴²¹ Information available at: <http://radionbc.it/migranti-in-caso-rigetto-dellistanza-asilo-i-profughi-ospiti-in-alto-adige-perderanno-diritto-assistenza/>.

⁴²² Information available at: www.veneziatoday.it/cronaca/profughi-malcontenta-mira-san-dona.html.

⁴²³ Information available at: www.brindisioreport.it/cronaca/sgomberato-il-ferrohotel-condotti-in-questura-decine-di-richiedenti-asilo.html and www.interno.gov.it/it/notizie/sgomberato-brindisi-ferrhotel.

⁴²⁴ Information available at: www.brindisioggi.it/tra-pochi-gironi-lo-sgombero-al-ferrohotel-il-comitato-migranti-al-prefetto-dove-andranno-i-50-occupanti/.

⁴²⁵ The text of the guidelines is not yet publicly available.

⁴²⁶ Information available at: www.interno.gov.it/it/sala-stampa/comunicati-stampa/commissione-nazionale-diritto-asilo.

assistance activities, to draft training guidelines for professional staff operating in the centre, and to set up a contact centre to organise the interventions.⁴²⁷

9.4.3 Child protection

At the 10th European Forum on the Rights of the Child, which took place on 29–30 November 2016 in Brussels, 78 associations and international organisations – including the Association for Juridical Studies on Immigration (*Associazione per gli Studi Giuridici sull'Immigrazione*, ASGI), UNICEF and Save the Children – presented a document entitled 'Children cannot wait' with a view to fostering the reform of the EU asylum system and the introduction of protection measures specifically targeting migrant children. Signatory parties highlighted seven priorities to be pursued: (1) adopting an EU action plan on refugee and migrant children; (2) reforming the asylum system to include strengthened protection measures specifically targeted at migrant children; (3) prioritising children in all migration and asylum policies; (4) increasing financial resources earmarked for child protection systems; (5) addressing refugee and migrant children in all areas; (6) protecting children across borders; and (7) ensuring and using good-quality data and evidence.⁴²⁸

In an interview on 4 December 2016, the Authority for Childhood and Adolescence of the Municipality of Milan (*Garante dei Diritti per l'Infanzia e l'Adolescenza del Comune di Milano*) stressed the critical situation of unaccompanied migrant and refugee children in the city, as well as the necessity of introducing a regional regulation on voluntary guardians in line with the provisions of the draft national law on unaccompanied children currently being considered by the Senate. Pursuant to this regional regulation, private citizens, after being properly trained, could be appointed, on a voluntary basis, as guardians of one or two children.⁴²⁹

9.4.4 Immigration detention

Nothing new to report.

9.5. Changes in law, policy and/or practice

Some relevant case law issued or made public during the reporting period has to be outlined.

On 15 December 2016, the Grand Chamber of the European Court of Human Rights (ECtHR) gave its ruling on *Khlaifia and Others v. Italy*, which concerns the detention – initially within a reception centre on the island of Lampedusa, and then on board ships at berth in Sicilian harbours – of irregular migrants who had arrived in Italy in 2011 following the 'Arab Spring' events in their country, and

⁴²⁷ Information available at: <http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=SB26119.TIF&subcod=20161224&numPag=1&>.

⁴²⁸ Information available at: www.asgi.it/asilo-e-protezione-internazionale/children-cannot-wait-appello-allunione-europea-piccoli-migranti/.

⁴²⁹ Information available at: <http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=SIM1405.TIF&subcod=20161205&numPag=1&>.

who had been subsequently readmitted to Tunisia. The Grand Chamber of the ECtHR confirmed that Italy had breached Article 5, paragraph 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), as the national provisions applying to detention of irregular migrants were not detailed enough. According to the ECtHR, legislative ambiguity has given rise to numerous situations of de facto deprivation of liberty, and the fact that the placement of people in the first-aid and reception centre (*centro di primo soccorso e accoglienza*, CPSA) in Contrada Imbriacola (Lampedusa) is not subject to judicial supervision cannot, even in the context of a migration crisis, be compatible with the goal of Article 5 of the ECHR, which sets out the obligation upon Member States to ensure that no one is deprived of his/her liberty in an arbitrary fashion. The ECtHR also found a violation of Article 5, paragraph 2, as the applicants had not been duly informed of the reasons behind deprivation of their liberty. Finally, the court found a breach of Article 5, paragraph 4, as there was no remedy available in the Italian legal system whereby the applicants could obtain a judicial decision on the lawfulness of the procedure restricting their liberty.⁴³⁰ The ECtHR ruling has been highly praised by ASGI, the Italian branch of Amnesty International and the Italian Recreational and Cultural Association (*Associazione Ricreativa e Culturale Italiana*, ARCI).⁴³¹

On 23 November 2016, the Ordinary Court of Milan granted international protection – although the local territorial commission had rejected it – to a woman from Cameroon who had experienced gender-based violence. This was considered to be an adequate reason to justify the recognition of asylum.⁴³² On 12 December 2016, the Court of Cassation recognised the possibility of undergoing forced marriage in the country of origin as an adequate reason for an asylum seeker to be granted international protection. On 14 December 2016, the Court of Cassation ruled in the case of a migrant who had not been provided with adequate information concerning the right to file an international protection application, and whom the police authorities had prevented from attending the court hearing aimed at validating the status of the detainee; the court ruled that it was illegitimate to detain the migrant in the CIE in Bari.

9.6. Social response to the situation

Several public demonstrations about reception conditions took place during the reporting period. On 29 November 2016 in Verona (Veneto), a group of 29 Eritrean asylum seekers blocked the streets for a couple of hours to protest against the delay in the assessment of their relocation requests. They had spent eight months in the local reception hub, waiting to be relocated and to get their documents back from police authorities. They managed to have a meeting with the prefect, who explained that relocation procedures are extremely slow all over the EU. All the demonstrators were reported to police authorities.⁴³³ On 6 December 2016, a demonstration took place in Trento (Trentino-Alto Adige) intended to express support for the reception and integration of migrants and

⁴³⁰ ECtHR, *Khlaifia and Others v. Italy*, No. 16483/12, 15 December 2016.

⁴³¹ Information available at: www.asgi.it/attivita/cedu-condanna-italia-detenzione/.

⁴³² Information available at: www.meltingpot.org/Camerun-Status-di-rifugiato-alla-richiedente-asilo-vittima.html?var_mode=calcul#.WF6FSH1RkyN.

⁴³³ Information available at: www.meltingpot.org/Verona-Protesta-dei-rifugiati-eritrei-la-relocation-non.html#.WGDh2X1RkyN.

asylum seekers.⁴³⁴ Another demonstration took place in Rome on 17 December 2016. Its goal was to call upon municipal authorities to figure out and design effective and enduring responses to host and assist migrants and asylum seekers who pass through or arrive in Rome. The demonstration – whose main slogan was “Protect people, not borders” – was organised by the association Baobab Experience, and it received support from the Italian branch of Amnesty International, the NGO Doctors for Human Rights (*Medici per i diritti umani*, MEDU) and MSF Italia.⁴³⁵ Activists demonstrating in Milan on that same day also called for the reform of the current reception system.⁴³⁶

On 11 December 2016, the mayors of several EU towns were received by the Pope to discuss the importance of assisting and protecting asylum seekers escaping from wars and persecution in their countries of origin.⁴³⁷ Some of the Italian mayors who attended the meeting decided to sign a document, committing themselves to stressing the importance of reception policies, which, in their opinion, represent a political and ethical duty.⁴³⁸ The document sets out some crucial priorities to be included on the political agenda:⁴³⁹ establishment of humanitarian corridors, and implementation of resettlement programmes; implementation of sustainable and widespread reception policies in all municipalities, taking into account the right balance between the number of hosted asylum seekers, on the one hand, and the number of inhabitants, on the other; specific protection to be provided to vulnerable subjects; respect for the rule of law as a core principle of the reception system; organisation of Italian language classes as the main tool for integration and empowerment; recognition of the existence of refugees fleeing from environment disasters; and increasing the number of voluntary returns.

9.7. Hate speech and violent crime

On 3 December 2016 in Turin (Piedmont), the extreme right-wing political party New Force (*Forza Nuova*, FN) organised a demonstration to protest against, and call for the evacuation of, an informal reception centre located in a multistorey building. The premises were built to accommodate athletes during the 2006 Winter Olympics and are now occupied by refugees and holders of international protection residence permits, most of whom arrived in 2011.⁴⁴⁰ Furthermore,

⁴³⁴ Information available at: www.ildolomiti.it/societa/il-trentino-accoglie-davvero-tante-persone-alla-fiaccolata-piazza-duomo.

⁴³⁵ Information available at: www.meltingpot.org/A-Roma-per-i-migranti-non-si-e-fatto-abbastanza-verso-la.html#.WGDh-31RkyN and www.nelpaese.it/index.php/component/content/article/26-articolo-nazionale/4611-migranti-il-17-dicembre-a-roma-in-piazza-con-baobab.

⁴³⁶ Information available at: www.meltingpot.org/Milano-17-Dicembre-Stop-War-Not-People-Qui-nessuno-e.html#.WGDilX1RkyN.

⁴³⁷ Information available at: <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=SB21185.TIF&subcod=20161212&numPag=1&> and <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=SB21188.TIF&subcod=20161212&numPag=1&>.

⁴³⁸ Information available at: <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=SB21199.TIF&subcod=20161212&numPag=1&> and <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=LV11059.TIF&subcod=20161212&numPag=2&>.

⁴³⁹ Available at: www.asgi.it/wp-content/uploads/2016/12/Manifesto-dei-sindaci-per-laccoglienza-dicembre-2016.pdf.

⁴⁴⁰ Information available at:

racist messages were written on the walls of the municipal hall of a town in the Milan area, criticising the reception policies adopted by the mayor.⁴⁴¹ On 6 December 2016 in Rome, a group of local inhabitants violently protested against the arrival of a family from Morocco, whom the municipality accommodated in a flat belonging to the municipal social housing system. The family was forced to leave the building immediately. Some of the demonstrators were subsequently identified by police officers.⁴⁴² The family was then received by the mayor of Rome, who assured them that another housing solution would be found immediately.⁴⁴³ On 14 December 2016, a group of local citizens and far-right parties and associations demonstrated against a reception centre in Rome managed by the IRC, where 450 asylum seekers are currently hosted.⁴⁴⁴ On that same day, the FN demonstrated against a reception centre in Rimini (Emilia-Romagna) after a woman had reported being harassed by one of the asylum seekers living in the centre.⁴⁴⁵ On 21 December 2016 near Florence (Tuscany), a six-year-old black child adopted by an Italian family was verbally attacked by three Italian adolescents using racist derogatory language: the perpetrators have not been identified yet, but strong solidarity has been expressed by the people who witnessed the incident and by the mayor of the town where it occurred.⁴⁴⁶

At the institutional level, in the last few months the Northern League (*Lega Nord*, LN) – the current ruling party of the Region of Lombardy – has been calling upon municipalities in the region to detect and report to regional authorities all the facilities, cultural centres and prayer halls belonging to the Muslim community in order to gather sufficient data to promote strict regulation on Islamic worship in the region. Not all the mayors have agreed to cooperate in the implementation

<http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=CB91286.TIF&subcod=20161205&numPag=1&>.

441 Information available at:

<http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=SIH1254.TIF&subcod=20161212&numPag=1&>.

442 Information available at: www.stranieriinitalia.it/attualita/attualita/attualita-sp-754/no-ai-negri-nelle-case-popolari-barricata-a-roma.html, www.rainews.it/dl/rainews/articoli/immigrazione-a-Roma-cacciata-famiglia-da-casa-popolare-cc8300b2-83cb-47a3-b7a7-eeec76736af73.html, www.nelpaese.it/index.php/lazio/4579-oltre-il-baobab-via-i-negri-ecco-la-roma-razzista, <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=AK13034.TIF&subcod=20161207&numPag=1&>, <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=LV13228.TIF&subcod=20161207&numPag=1&>, <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=LL33071.TIF&subcod=20161207&numPag=1&>, <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=CB93008.TIF&subcod=20161207&numPag=3&>, <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=CB93009.TIF&subcod=20161207&numPag=1&>, <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=LL33021.TIF&subcod=20161207&numPag=1&>, <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=LL33020.TIF&subcod=20161207&numPag=2&>, and <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=LV13015.TIF&subcod=20161207&numPag=2&>.

443 Information available at:

<http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=LV15063.TIF&subcod=20161209&numPag=1&>.

444 Information available at: www.corrierediroma-news.it/2016/12/14/migranti-bliitz-nella-sede-della-crimonte-verde-ospita-la-tendopoli/.

445 Information available at: www.ansa.it/sito/notizie/cronaca/2016/12/14/profughi-bliitz-fn-davanti-hotel-rimini_da41091a-87f3-4b24-bb9b-182c1ca66252.html.

446 Information available at: www.redattoresociale.it/Notiziario/Articolo/523768/Sesto-Fiorentino-insulti-razzisti-a-un-bambino-di-6-anni and <http://www.stranieriinitalia.it/attualita/attualita/attualita-sp-754/negro-dim-a-un-bambino-il-paese-si-ribella-al-razzismo.html>.

of this discriminatory profiling activity. During the reporting period – following the terrorist attack in Berlin – regional authorities decided to share with police authorities all the data collected until then.⁴⁴⁷

9.8. Policies against smuggling of human beings

During the past three months, people showing solidarity towards migrants and asylum seekers – trying to help them live in decent conditions, and protesting against readmission and return procedures – have in some cases been prosecuted by police and judicial authorities. Nonetheless, they have never been charged with smuggling; they are generally accused of other criminal offences, such as obstruction of and violence against police officers, or interruption of public services; furthermore, the police often expel them from the places where the incidents happen. For example, 16 orders to leave the municipal territory of Como were issued against some Italian and Swiss activists who had taken part in actions and demonstrations to express solidarity with the migrants and refugees living in that town, to protest against the dismantlement of the informal encampment and to oppose the forced transfer of migrants to the institutional reception encampment for asylum seekers.⁴⁴⁸

9.9. Criminal proceedings against migrants and asylum seekers

The number of migrants and asylum seekers undergoing criminal proceedings for irregular crossing of borders is not publicly available. In the reporting period, many newly arrived people of various nationalities, including asylum seekers, were arrested for smuggling, and some of them for human trafficking. On 3 November 2016, 12 migrants were charged with smuggling hundreds of migrants and asylum seekers who arrived in Sicily on 26 October 2016; the accused people were identified by the migrants travelling on the boat.⁴⁴⁹ On 9 November 2016, six people, one aged 17, were identified in Palermo and charged with smuggling; they were held responsible for steering four rubber boats that had reached the Strait of Sicily some days earlier.⁴⁵⁰ On 25 December 2016, police officers arrested two migrants – both Gambian citizens, one aged 17 – for smuggling; they had been travelling in a boat with 111 migrants on board, which had arrived in Pozzallo one day earlier.⁴⁵¹

⁴⁴⁷ Information available at: <http://stranieriinitalia.it/attualita/attualita/attualita-sp-754/lombardia-dopo-le-moschee-stretta-sui-centri-culturali-islamici.html> and <http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=SIM3082.TIF&subcod=20161221&numPag=1&>.

⁴⁴⁸ Information available at: www.radionadurto.org/2016/10/17/como-fogli-di-via-contro-gli-attivisti-e-le-attiviste-solidali-con-i-migranti/.

⁴⁴⁹ Information available at: <http://centonove.it/2016/11/03/sbarchi-degli-immigrati-arrestati-dalla-squadra-mobile-12-scafisti/>.

⁴⁵⁰ Information available at: http://palermo.repubblica.it/cronaca/2016/11/09/news/palermo_arrestati_sei_scafisti_individuati_nell_ultimo_sbarco-151627246/?ref=search.

⁴⁵¹ Information available at: http://palermo.repubblica.it/cronaca/2016/12/25/news/pozzallo_arrestati_due_scafisti_uno_e_minorenne-154841605/?ref=search.

10. Netherlands

10.1. Overview of the situation

Data on asylum applications are published by the Immigration and Naturalisation Service (*Immigratie en Naturalisatiedienst*, IND), which is responsible for the extended identification process and the determination of the status of all individuals arriving in the Netherlands.

A total number of 4,022 new migrants arrived and applied for asylum in the Netherlands in November 2016.⁴⁵² The IND distinguishes between first asylum applications (1,731), repeat asylum applications (159) and family reunifications (2,132).⁴⁵³ There has been an ongoing increase in applications since June 2016.⁴⁵⁴ It is notable that a significant number of applications since then these months come from people from Morocco and Algeria, which are categorised as 'safe countries'. Therefore there is a high chance of the asylum request being rejected (see also section 10.2). First asylum requests were slightly fewer than in October (when there were 1,956) whereas the influx related to family reunification increased (1,552 in October).⁴⁵⁵

The commonest countries of origin are the Syrian Arab Republic (1,811) and Eritrea (349), followed by stateless individuals (232). This last category slightly outnumbers the Moroccan people arriving (224). For first asylum applications, Morocco (224), Eritrea (203) and Algeria (192) were the main third countries of origin in November. For the influx involving family reunification, requests filed by Syrians (1,696) were by far the largest category, followed by stateless individuals (207) and Eritreans (140).⁴⁵⁶ For repeat asylum applications, Afghanistan (26), Iraq (20) and Iran (13) were the main counties of origin in November.⁴⁵⁷

The number of families amongst those seeking asylum is not registered. In November 520 first asylum requests came from children (315 male, 205 female) and the number of children seeking family reunification was 1,255 (660 male, 595 female).⁴⁵⁸ Of these, 233 were registered as unaccompanied children. Of the unaccompanied children, 61 % (142 children) originated from Eritrea.⁴⁵⁹ Overall, one can see that the number of unaccompanied children applying for asylum has

⁴⁵² Netherlands , Immigration and Naturalisation Service - Ministry of Security and Justice (*Immigratie en Naturalisatiedienst - Ministerie van Veiligheid en Justitie*) (2016), [Asylum Trends. Monthly Report on Asylum Applications in The Netherlands and Europe](#), November 2016, The Hague, Ministry for Security and Justice.

⁴⁵³ *Ibid.*

⁴⁵⁴ *Ibid.*

⁴⁵⁵ Netherlands , Immigration and Naturalisation Service - Ministry of Security and Justice (*Immigratie en Naturalisatiedienst - Ministerie van Veiligheid en Justitie*) (2016), [Asylum Trends. Monthly Report on Asylum Applications in The Netherlands and Europe, October 2016](#), The Hague, Ministry for Security and Justice.

⁴⁵⁶ Netherlands , Immigration and Naturalisation Service - Ministry of Security and Justice (*Immigratie en Naturalisatiedienst - Ministerie van Veiligheid en Justitie*) (2016), [Asylum Trends. Monthly Report on Asylum Applications in The Netherlands and Europe, November 2016](#), The Hague, Ministry for Security and Justice.

⁴⁵⁷ *Ibid.*

⁴⁵⁸ *Ibid.*

⁴⁵⁹ *Ibid.*

increased since the previous year.⁴⁶⁰ The total number of women arriving in November was 990: the majority of them (715) were seeking family reunification.⁴⁶¹

The number of arrivals of asylum seekers in 2016 (of all nationalities, including EU Member States) was 35,920. This number is rounded to the nearest 10.⁴⁶² The number of UAC arrivals was 1,860 in 2016. This number includes UACs from EU Member States and is rounded to the nearest 10. These numbers all concern people who have applied for asylum.⁴⁶³ The landing point for arrivals by sea was Rotterdam.

10.2. Key fundamental rights concerns

10.2.1 Acceleration of procedures for 'safe countries of origin'

Some (groups of) asylum seekers from so-called 'safe countries' have caused trouble, including criminal behaviour such as stealing and antisocial behaviour, inside and outside the asylum centres over the last few months while waiting for the asylum procedures to be completed.⁴⁶⁴ These incidents have prompted members of parliament to ask questions about policies regarding asylum seekers from safe countries, especially concerning the possibility of accelerating the procedures for people with a small chance of getting a residence permit. This would avoid long periods of waiting, uncertainty and despair, and above all reduce the risk of misbehaviour because of frustration and boredom.⁴⁶⁵ Several severe measures have been taken regarding all asylum seekers from safe countries in general, to prevent future problems. They include the following:

- The procedures are accelerated, to make them as short as possible. The additional risks of their acceleration are not clear yet.
- In the rejection letter following the decision about denial of asylum, an additional measure is being taken: people from safe countries will be denied entry to the Netherlands and the rest of the European Union for two years.⁴⁶⁶
- Immediately after an asylum request is rejected, all people coming from safe countries are refused shelter and the right to remain.⁴⁶⁷
- The 'departure bonus', which was originally paid out to unsuccessful asylum seekers who cooperate in returning to their own country, is cancelled. This measure is taken to make the Netherlands less appealing to these asylum

⁴⁶⁰ *Ibid.*

⁴⁶¹ *Ibid.*

⁴⁶² Information as provided by the Ministry of Security and Justice via email 05/01/2017.

⁴⁶³ *Ibid.*

⁴⁶⁴ RTV Noord (2016), '[Spoedoverleg over zakkenrollende asielzoekers](#)', 14 November 2016.

⁴⁶⁵ The Netherlands, State Secretary for Security and Justice (*Staatssecretaris voor Viligheid en Justitie*) (2016), '[Antwoorden Kamervragen over het bericht Spoedoverleg over zakkenrollende asielzoekers](#)', 23 December 2016.

⁴⁶⁶ The Netherlands, State Secretary for Security and Justice (*Staatssecretaris voor Viligheid en Justitie*) (2016), '[Maatregelen t.a.v. \(overlastgevende\) asielzoekers uit veilige landen van herkomst](#)', Letter to House of Representatives (*Tweede Kamer der Staten-Generaal*), 13 december 2016.

⁴⁶⁷ *Ibid.*

seekers, according to the Ministry of Security and Justice.⁴⁶⁸ (See also section 10.4.)

10.2.2 Declaration of participation

The Minister for Social Affairs has changed the law so that asylum seekers who have been granted a residence status will soon (no date indicated yet) be obliged to sign a declaration of participation within the first year after they are granted that status.⁴⁶⁹ The declaration contains a commitment to apply several basic values that have been formulated by the Ministry of Social Affairs: freedom, equality, solidarity and participation.⁴⁷⁰ The initiative has been criticised by the House of Representatives, media and NGOs such as the Dutch Refugee Council (*Vluchtelingenwerk*). Points of criticism are:

- the declaration overlaps with the civic integration requirements which already exist;
- it is above all a symbolic document;
- there is no certainty that the members of the target group understand what they are signing up to, undermining any real commitment to the values enshrined in the declaration;
- Dutch citizens do not have to sign such a declaration.⁴⁷¹

After some debate in the House of Representatives and a number of local pilot projects in which the declaration was implemented, the national government has decided that municipalities will be responsible for implementing the participation declaration.⁴⁷² In the near future the participation declaration will become part of the general civic integration requirements for status holders. A fine of €1,250 will be imposed upon those who do not fulfil these requirements in general, and people who do not complete the programme that has been added to the declaration will pay a fine of €340. Because the declaration is obligatory, gaining Dutch nationality will not be legally possible without signing it.⁴⁷³ Nothing has been said so far about possible fines or restrictions for people who, after signing the declaration, do not meet the expectations formulated in it.⁴⁷⁴

10.3. Children and vulnerable groups

10.3.1 Reception conditions

No relevant developments in the reported period according to the Ministry of Security and Justice.⁴⁷⁵

⁴⁶⁸ Pieters, J. (2016), '[Justice Sec.: Keep "irritating" asylum seekers home during New Year's'](#). *NLTimes.nl*, 13 December 2016.

⁴⁶⁹ Stoffelen, A. van (2016), '[Participatieverklaring voor migranten is nutteloos](#)'. *De Volkskrant*, 19 December 2016.

⁴⁷⁰ *Ibid.*

⁴⁷¹ *Ibid.*

⁴⁷² Netherlands, Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2015), '[Participatieverklaring](#)', Letter sent to House of Representatives (*Tweede kamer der Staten-Generaal*), 27 November 2015.

⁴⁷³ *Ibid.*

⁴⁷⁴ *Ibid.*

⁴⁷⁵ Information as provided by the Ministry of Security and Justice via email 05/01/2017.

10.3.2 Safeguards applied at registration and in asylum and return procedures

No relevant developments in the reported period according to the Ministry of Security and Justice.⁴⁷⁶

10.4. Changes in law, policy and practice

10.4.1 Changes in law or policy

On 6 December 2016, the fourth tranche of safe countries in addition to all Member States of the European Economic Area was published. In this document countries are judged by the same standards and are marked as 'safe' (with the possibility of exceptions for a specific group such as LGBT people) or 'unsafe'. This process started in November 2015. The complete list now is as follows:

- Albania, Andorra, Bosnia and Herzegovina, Georgia, Kosovo*, Macedonia, Monaco, Montenegro, Ukraine, San Marino, Serbia, Switzerland and the Vatican City;
- Algeria, Ghana, Morocco, Senegal, Togo and Tunisia;
- Canada, Jamaica and the United States of America;
- India, Japan and Mongolia.⁴⁷⁷

Bangladesh, Brazil, Colombia, Cuba, Honduras, Jordan, Lebanon, Nepal, and Trinidad and Tobago still have to be evaluated.

On 24 November 2016, a new country-related asylum procedure for people from Yemen was announced. The Ministry of Foreign Affairs produced a new country report (*ambtsbericht*) about the situation in Yemen. As a result, the Ministry of Security and Justice decided that the amount of random violence in Yemen is so high that it constitutes a situation of indiscriminate violence as described in Article 15 of the EU Qualification Directive 2011/95. This means that people from Yemen are in principle eligible for asylum as of that date.⁴⁷⁸

10.4.2 Changes in practice

In addition to the information provided in section 10.2 above, the Ministry of Security and Justice reports that in recent months it has noted the abuse of asylum rights by people who were not in need of protection. Some of them have caused nuisance in and around the asylum shelters. Employees of the central organisation responsible for the reception, supervision and departure of asylum seekers, COA (*Centraal Orgaan opvang asielzoekers*) and other organisations active in the field as well as other asylum seekers reported to feel unsafe. To solve these problems, several measures have been taken against those causing difficulties: faster procedures, faster Dublin procedures, less shelter, quick

⁴⁷⁶ *Ibid.*

⁴⁷⁷ Information as provided by the Ministry of Safety and Justice via email 05/01/2017.

⁴⁷⁸ *Ibid.*

imposition of detention orders, the ending of financial support to pay for return and a locally coordinated approach.⁴⁷⁹

10.5. Social response

The Dutch Refugee Council (*Vluchtelingenwerk*) has launched a major campaign in which Dutch people can send postcards to refugees everywhere in the Netherlands. The response has been overwhelming, according to the organisation. Within 10 days, 10,000 letters had arrived. The campaign continues until 19 January and to date 1,000 letters per day keep arriving.⁴⁸⁰

10.6. Hate speech and violent crime

On 9 November 2016, the Rotterdam alderman Ronald Schneider was insulted and attacked by residents of the Hoogvliet neighbourhood after a meeting about accommodating refugees in the area. The municipality of Rotterdam wants to accommodate 12 refugees – asylum seekers with residence permits – in Hoogvliet. These are men waiting for their families to arrive under the family reunification regulation. According to the plan, they will stay in the neighbourhood for up to two years. The residents were particularly upset that they had not been involved in the decision-making process.⁴⁸¹ In other municipalities there were also protests against the housing of refugees, for example in the municipalities of Steenbergen and Emmen. In most municipalities the housing of refugees went smoothly.⁴⁸² On 22 December 2016, an arson attack took place at a house where a refugee was living in the municipality of Zwijndrecht. He was not in the house when the fire broke out. The police have not identified the perpetrators.⁴⁸³

The Dutch Reporting Point for Discrimination on the Internet (*Meldpunt Internetdiscriminatie Nederland*, MIND) says that information about the last three months of 2016 will be available in February 2017.

10.7. Policies against smuggling of human beings

Nothing new to report.

⁴⁷⁹ *Ibid.*

⁴⁸⁰ Dutch Council for Refugees (*Vluchtelingenwerk Nederland*) (2016), '[VluchtelingenWerk Nederland 'overweldigd' door tussentijdse telling kaartenactie voor vluchtelingen](#)', Web page, 22 December 2016.

⁴⁸¹ AD (2016), '[Wethouder Rotterdam vlucht voor woedende inwoners](#)', *Algemeen Dagblad*, 9 November 2016.

⁴⁸² Salm, H. (2016), '[In Steenbergen blijft het gemor over asielzoekers bestaan](#)', *Trouw*, 23 November 2016.

⁴⁸³ ZHZ Actueel (2016), '[Brand in Zwijndrechtse woning Syrische asielzoeker aangestoken](#)', *ZHZ Actueel*, 30 December 2016.

11. Poland

11.1. Overview of the situation

From 2 December until 22 December 2016, 386 persons in need of international protection were registered in the Pobyt System. The Pobyt System is a national ICT system for migration purposes.

The most common nationalities of persons registered in December 2016 are Russian (276), Ukrainian (40), Tajik (11) and Armenian (8).⁴⁸⁴

From 2 December until 22 December 2016, 124 first applications for asylum covering 278 persons were submitted.⁴⁸⁵ The Head of the Office for Foreigners (*Szef Urzędu do spraw Cudzoziemców*, Szef UDSC) also registered 46 subsequent applications covering 108 persons, mainly submitted by Russians and Ukrainians.

From 1 January until 22 December 2016, some 12,180 foreigners had applied for international protection. Eighty per cent of these applications were first requests. Citizens of three countries submitted 91 % of the applications: Russia (some 8,890 persons, 73 % of the total), Ukraine (some 1,290 persons, 11 %) and Tajikistan (some 870 persons, 7 %). Other countries include Armenia (3 % of the total), Georgia, Vietnam, Kyrgyzstan and Turkey (1 % of the total). Each application concerned two to three persons.

The number of people applying for international protection is more or less similar to the same period in 2015; there were 122 more applications in 2016. The most important changes that have taken place during this time are as follows:

- a 14 % increase in the number of applicants from Russia;
- a 44 % decrease in applicants from Ukraine; almost every second application is a subsequent application;
- a 67 % increase in the number of Tajik applicants; the number of applications started to rise in August 2015;
- an 81 % increase in applications from Armenia;
- a 68 % decrease in applications by Georgian citizens;
- a 48 % increase of applications by Vietnamese citizens;
- a 500 % increase in applications from Turkey, mainly by Kurds;
- an 84 % decrease in applicants from Syria.

11.2. Key fundamental rights concerns

There are two main key fundamental rights concerns: the continuing restrictions on access to the asylum procedure and placement of migrants in detention centres.

⁴⁸⁴ Head of the Office for Foreigners, 5 January 2017.

⁴⁸⁵ Head of the Office for Foreigners.

Access to the asylum procedure in Poland continues to be restricted. Five partners interviewed – the Association for Legal Intervention (*Stowarzyszenie Interwencji Prawnej, SIP*), the Halina Nieć Legal Aid Center (*Centrum Pomocy Prawnej im. Haliny Nieć, CPPHN*), the Refugee.pl Foundation (*Fundacja Refugee.pl, Refugee.pl*), UNHCR and the Ombudsman for Children (*Rzecznik Praw Dziecka*) – report that border guards in Brest/Terespol and Medyka systematically refuse entry to individuals who plan to apply for international protection.⁴⁸⁶

At the end of December, 1,000–1,500 individuals, mostly families with children, had attempted to file applications for international protection at the border crossing from Brest to Terespol. Sixty per cent of these people were children. Asylum applicants from Tajikistan and Chechnya often try to submit asylum applications 30 times or more, while only two or three families a day have their application registered positively at the border crossing. Border Guard officers seem to ignore the foreigners' intention to apply for international protection and refuse them entry to Poland. They justify such refusals by invoking the absence of a valid entry visa or other documents enabling them to stay legally in Poland. The same happens in Medyka, at the Polish–Ukrainian border crossing. In the reporting period from October till December 2016, the Border Guard issued 24,028 refusals of entry, and 1,575 persons applied successfully for international protection. In the opinion of an NGO interviewed, the non-*refoulement* rule may have been breached.

According to the UNHCR, Refugee.pl, the CPPHN and the Ombudsman for Children, foreigners who successfully applied for international protection in Poland at the border crossings are often placed in detention centres. Courts often place families with children and victims of torture in detention centres for at least 60 days. Courts justify detention by citing numerous refusals of entry, the necessity to gather additional information, the high probability of absconding and the lack of a permanent address. In the appeal procedure, courts ignore foreigners' requests to be present during examinations of their appeal against a decision on detention. At the same time, foreigners are not informed when a motion to prolong their stay in a detention centre is lodged. They are not present during court proceedings, so they cannot present their point of view. Furthermore, the appeal has to be prepared in Polish, so foreigners are dependent on NGOs, which provide limited legal assistance because they have limited access to funds. Courts do not conduct evidentiary proceedings on children's best interests and on torture victims.

Other key fundamental rights concerns reported by NGOs are:

- Information for asylum seekers about the asylum procedure is insufficient and inadequate (Refugee.pl, UNHCR, SIP).
- Translations during interviews may be inaccurate (Refugee.pl, CPPHN).
- Special needs of asylum seekers are not recognised at an early stage, contrary to EU standards, and, therefore, are often not taken into account in the asylum procedure (Refugee.pl, UNHCR).

⁴⁸⁶ See <http://interwencjaprawna.pl/granicy-raport-monitoringu-dostepu-postepowania-o-udzielenie-ochrony-miedzynarodowej-przejsciach-granicznych-terespolu-medyce-lotnisku-warszawa-okecie/>, <http://www.hfhr.pl/droga-donikad-relacja-z-przejscia-granicznego-brzesc-terespol/>, <http://wyborcza.pl/duzyformat/7,127290,21184727,w-poczekalni-do-polskiego-raju.html>.

- In contrast to other third country nationals, refugees and beneficiaries of subsidiary protection have the right to facilitated family reunification only if the application for reunification is issued within six months from the day when they are granted subsidiary protection and refugee status. Only children and spouses can be included in the application for reunification (they received a decision on temporary stay in Poland, which is valid for three years). However, other parts of the procedure (such as applying for a visa) are so difficult and expensive that not many reunification applications are successful (Refugee.pl).
- Hate speech crimes are pervasive and violent crimes motivated by prejudice are increasing in number (SIP, Hatestop).

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

11.3.1 Registration and identification

According to the UNHCR and Refugee.pl, information provided to all new arrivals on registration is not adjusted to them and foreigners are not aware of their obligations. It is also mentioned that asylum seekers have not complained about the lack of interpreters at the border crossing. Although the interviews are not recorded, foreigners' statements are written down in Polish. The interview is not carried out in confidential conditions and these conditions affect what is said during the registration. Very often it is only after receiving their first negative decision that the asylum seekers find out about inaccuracies and discrepancies in their statements at the registration point and in the asylum procedure that followed.

Interview partners (SIP, CPPHN, Refugee.pl, UNHCR) state that, although there is a mechanisms for identifying vulnerable persons and victims of torture and violence, the mechanism used by the Head of the Office for Foreigners is not sufficient. Vulnerable persons and victims of torture and violence are not recognised early enough and they do not receive appropriate support.

11.3.2 Asylum procedure

According to the Head of the Office for Foreigners, at the end of December 2016 there were 37 accelerated procedures going on. Asylum seekers had to wait only approximately 15 days for the decision. In 2015, the Head of the Office for Foreigners made 500 decisions. The applicants were mostly men from Ukraine and Vietnam.⁴⁸⁷

The average length of detention in the first half of 2016 was approximately 68 days. This affects asylum seekers and irregular migrants.⁴⁸⁸

11.3.3 Return procedure

⁴⁸⁷ Information from Head of the Office for Foreigners.

⁴⁸⁸ Information from Border Guards.

In the last three months of 2016, 252 persons were forced to return to their country of origin. The five major nationalities were Ukrainian (82), Russian (73), Vietnamese (57), Belarusian (13) and Armenian (6). The statistics are not disaggregated by gender and age.

11.4. Challenges and developments in reception conditions for new arrivals, including detention

11.4.1 Reception conditions and capacity

Asylum seekers have the right to be in a reception centre until their first procedure is completed. If a subsequent application has a negative outcome, the Border Guard initiates a return procedure. This means that asylum seekers and persons involved in return procedures can live in the same reception centre. According to partners interviewed (SIP, Refugee.pl), asylum seekers who wish to live outside the reception centre do not get enough money and it is very difficult to rent a flat from private owners.

11.4.2 Vulnerable persons

See Section 11.3.

11.4.3 Child protection

According to SIP, the CPPHN, the UNHCR and Refugee.pl, the best interests of a child are not considered and examined in detention decisions.

According to the UNHCR, Refugee.pl and the Ombudsman for Children, the system of a representative for unaccompanied children does not work properly. In the opinion of the partners interviewed, a representative should also have the right to prepare appeals against court detention decisions, should represent the child in court and should have a basic knowledge of procedures.

11.4.4 Immigration detention

Nothing new to report.

11.5. Changes in law, policy and/or practice

11.5.1 Changes in law or policy

On 18 October 2016, the Council of Ministers cancelled the Polish migration policy by means of an implementing document at the request of the Ministry of the Interior and Administration.⁴⁸⁹ The policy was not replaced or updated and it is unknown whether or not the ministry is working on a new one and what the direction of the Polish migration policy will be.

On 15 November 2016, the law on the Pole Card was amended. Foreigners who have a Pole Card and have applied for a stay permit (*pobył stały*) have the right

⁴⁸⁹ Information received from UNHCR.

to apply for social benefits while waiting for a decision. Social benefits can be granted only for a maximum period of 9 months.⁴⁹⁰

11.5.2 Changes in practice

Partners interviewed (SIP, Refugee.pl, CPPHN) stated that there had been a change in the practice of accepting applications for international protection at the Polish–Ukrainian border. Currently, not many persons who wish to apply for asylum are able to do that. Border Guard officers seem to ignore the foreigners' intention to apply for international protection and refuse them entry to Poland. They justify such refusals by invoking the absence of a valid entry visa or another documents enabling them to stay legally in Poland. The number of decisions refusing entry is increasing.

There was also a change in the practice of granting 500+⁴⁹¹ benefits for people with international protection. This resulted from the judgment of the Regional Administrative Court made on 7 October 2016 (Sygn.akt And SA / Wa 1197/16). The Regional Administrative Court stated that persons with subsidiary protection and with refugee status have the right to apply for these benefits, although their resident card contains no information on the access to the labour market.

11.6. Social response to the situation

There were many demonstrations in favour of a PhD student from Iraq, who was considered a threat to public security and detained in a guarded centre. They took place in front of the Provincial Court in Cracow and the Polish parliament building in Warsaw.⁴⁹²

On 15 October 2016, there was a celebration of the Day of Solidarity with Refugees. It was organised for the second time in a row by an informal organisation (Polish Citizens for Refugees, *Chlebem i Solą*). During that day many meetings, social events, art activities, workshops and lectures were organised. It centred on an appeal, which was a protest against racism, xenophobia and violence against migrants, and 265 organisations signed it.⁴⁹³ One thousand persons took part.

On 19 October 2016, the Association for Legal Intervention (*Stowarzyszenie Interwencji Prawnej*), in partnership with Oxfam and *Chlebem i Solą*, organised a street protest called 'Life jackets: remember the refugees'. The number of participants is unknown.⁴⁹⁴

⁴⁹⁰ See <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20071801280>.

⁴⁹¹ 500 + programme is a financial support for Polish citizens and for a foreigners who have an access to the labour market. The problem was that in residency cards of refugees and beneficiaries of subsidiary protection there was no information about access to labour market, although they have a right to work without work permission.

⁴⁹² See <http://krakow.wyborcza.pl/krakow/1,44425,20801790,doktorant-uj-z-iraku-zatrzymany-wedlug-sluzb-mial-zagroziec.html#ixzz4MOoqLEMJ>.

⁴⁹³ See <http://solidarnizuchodzcam.pl/apel/>.

⁴⁹⁴ See <http://warszawa.wyborcza.pl/warszawa/1,34862,20860779,syrenka-wsrod-kamizelek-ratunkowych-gest-solidarnosci-z-uchodzcam.html>.

On 10 December in Przemyśl, in front of the Ukrainian National House, a march was organised to commemorate the 98th anniversary of the Battle of Niżankowice. Participants said the words "death to the Ukrainians". This was recorded by bystanders and posted on social networks.⁴⁹⁵

On 30 December 2016, an organisation called Silesia and the Basin – Together against Immigrants (*Śląsk i Zagłębie – Razem Przeciwko Imigrantom*), consisting mainly of nationalists, demonstrated in Katowice. The aim was to get rid of the Islamic Cultural Centre.⁴⁹⁶ Forty people took part.

According to Refugee.pl, the media inherently present terrorist attacks, conflict situations or information about foreigners in a negative way and government representatives present a negative approach to migrants and refugees.⁴⁹⁷

In September 2016, the President of Gdańsk established the Immigrants' Council, which consists of 12 foreigners who will advise the President and the City Council on issues concerning integration of migrants and refugees.⁴⁹⁸ On 31 October 2016, the TV programme *After Eight (Minęła 20)* on TVP INFO (public television) aired a short video showing immigrants as aggressive, mainly black rioters, with dramatic music, pictures of street riots, fights and illegal crossing of borders. The material was accompanied by a comment that "The President of Gdansk invites immigrants to his city. He says that in this way he is saving Polish honour in the eyes of Europe and the world." After the broadcast, the National Broadcasting Council (*Krajowa Rada Radiofoni i Telewizji*) received 36 complaints from viewers. In response, TVP INFO removed the material from social media and from its website and suspended a worker who prepared the material.

A PhD student from Nigeria was attacked on 26 November 2016 while going home with his groceries. In response to this racist attack, students, PhD students and staff of the Faculty of Oriental Studies wrote an open letter to the Minister for Science and Higher Education, Jarosław Gowin, about the attack and asked him to immediately condemn such behaviour.⁴⁹⁹ The petition was signed by over 600 people. On 29 November 2016, the Council of Oriental Studies in Warsaw University (*Rada Wydziału Orientalistycznego*) condemned this act of aggression, demanded decisive action to apprehend the perpetrators, and called upon state authorities and the media to take active measures to eliminate hate speech and racist and xenophobic acts.⁵⁰⁰

⁴⁹⁵ See <https://www.rpo.gov.pl/pl/content/przemy%C5%9Bl-rzecznik-interweniuje-w-sprawie-mowy-nienawi%C5%9Bci>.

⁴⁹⁶ See <http://katowice.wyborcza.pl/katowice/1,35063,21186304,narodowcy-chca-wyrzucic-muzulmanow-z-katowic-przyszli-pod-ich.html?disableRedirects=true>.

⁴⁹⁷ See <http://wyborcza.pl/7,75398,20840764,andrzej-duda-nikt-do-polski-nie-bedzie-przywozil-pociagami.html>.

⁴⁹⁸ See <http://www.gdansk.pl/migracje/12-imigrantow-bedzie-doradzac-prezydentowi-Gdanska-Kim-sa,a,61460>.

⁴⁹⁹ See http://strajk.eu/studenci-i-naukowcy-apeluja-o-walke-z-ksenofobia-gowin-milczy/https://secure.avaaz.org/pl/petition/Minister_Nauki_i_Szkolnictwa_Wyzszego_Jaroslaw_Gowin_Wzywamy_do_podjecia_dzialan_majacych_zapobiec_rasistowskiej_agresji/profile.

⁵⁰⁰ See <http://orient.uw.edu.pl/stanowisko-rady-wydzialu-orientalistycznego-w-sprawie-pobicia-naszego-doktoranta-przyjete-na-posiedzeniu-w-dniu-29-listopada-2016-r/>.

11.7. Hate speech and violent crime

At the meeting of the Joint Commission of the Government and National and Ethnic Minorities, the police presented statistics on hate crimes in Poland from January 1 until the end of August 2016. There were 493 proceedings in cases of hate crimes. That is 41 more⁵⁰¹ than in the comparable period in the previous year (in general, regardless of the premise/personal characteristics). A fast increase in the number of such acts committed against Muslims and people of Arab origin can be noticed: there were 166 proceedings in cases in which the victims were people who adhere to Islam, up from 50 in 2015, and 80 cases regarding persons of Arab origin whereas in 2015 only 14 such cases were recorded.⁵⁰²

According to Hatestop, SIP and the Polish Ombudsman, the level of online hate speech is rising.⁵⁰³ The main target groups are Ukrainians⁵⁰⁴ and Muslims.⁵⁰⁵ Refugees are very often identified by Polish citizens as Muslims, especially after the terrorist attack in Berlin during which a Polish truck driver was killed. The Minister for the Interior and Administration said that talking about the problem of racism in Poland serves one political purpose and spoils Poland's reputation in the world.⁵⁰⁶

On 25 November 2016, the Conference of Rectors of Academic Schools in Poland, which represents 105 schools, issued a statement about the acts of aggression towards foreigners studying in Poland. University rectors expressed their concern about such behaviour, protested strongly against it and appealed to the government to ensure the complete safety of foreign students in Poland.⁵⁰⁷

During the end of the year, the Centre for Monitoring Racist and Xenophobic Behaviours notified 45 incidents of hate crimes.⁵⁰⁸ The biggest problem is the increasing acquiescence of society and politicians. The Minister for the Interior and Internal Affairs, Mariusz Błaszczak, stated that there is no problem with hate crimes committed against foreigners.⁵⁰⁹

On 31 December 2016, a young Polish man was stabbed to death during a fight with the employees of a kebab bar in Ełk. The employees were the owner, an Algerian with Polish citizenship, and the cook, a Tunisian, who was suspected of the killing. According to the witness testimonies published in the social media and the press, the fight was provoked by the victim and his friends; they called

⁵⁰¹ See <http://mniejszosci.narodowe.mswia.gov.pl/mne/komisja-wspolna/aktualnosci/10118.Przeciwdzialanie-wystapieniom-skierowanym-przeciw-mniejszosciom-narodowym-i-etni.html>.

⁵⁰² See <http://wiadomosci.gazeta.pl/wiadomosci/7,114871,21201235,tych-przestepstw-jest-trzy-razy-wiecej-niz-w-ubieglym-roku.html>.

⁵⁰³ See <https://www.rpo.gov.pl/pl/content/policja-wszystkie-przypadki-napa%C5%9Bci-na-tle-rasowym-badane-s%C4%85-przez-policj%C4%99-z-nale%C5%BCyt%C4%85-staranno%C5%9Bci%C4%85>.

⁵⁰⁴ See <http://www.tvn24.pl/wiadomosci-z-kraju,3/eskalacja-przestepstw-na-tle-rasistowskim,704346.html>.

⁵⁰⁵ See <https://www.wprost.pl/tylko-u-nas/10030623/Czy-Polakow-ogarnela-islamofobia-i-jaka-role-w-problemie-odgrywaja-media-oraz-politycy.html>.

⁵⁰⁶ See <http://www.newsweek.pl/polska/spoleczenstwo/rasistowskie-ataki-w-polsce,artykuly,403042,1.html>.

⁵⁰⁷ See <http://www.krasp.org.pl/pl/komunikaty/apel>.

⁵⁰⁸ See <http://www.tvn24.pl/wiadomosci-z-kraju,3/eskalacja-przestepstw-na-tle-rasistowskim,704346.html>.

⁵⁰⁹ See <http://wyborcza.pl/7,75968,21193663,szef-msw-cieszy-sie-ze-w-polsce-jest-bezpieczniej-niz-w-niemczech.html>.

the migrants racist names and took a drink from the restaurant without paying. This crime triggered many attacks on migrants and other kebab bars. An unknown number of people tried to burn down the apartment of one of the crime suspects. The riots continued for two days. The police arrested 30 people, the most aggressive participants who destroyed the place and provoked the police. During the next few days, many attacks on foreigners were reported in the media.⁵¹⁰ All-Polish Youth (*Młodzież Wszechpolska*) promised to hold a demonstration against migrants in Ełk.

11.8. Policies against smuggling of human beings

In the Polish Criminal Code, it is possible to initiate such proceedings even if people or organisations are facilitating irregular entry or irregular stay not for profit. This crime is punishable by between six months and eight years in prison.⁵¹¹ The Border Guard initiated 25 proceedings in 2016.

11.9. Criminal proceedings against migrants and asylum seekers

Irregular crossing of the border is regulated in the Criminal Code and the Offence Code. If the irregular crossing of the border is done by force, threat or deceit, or in cooperation with other people, it is a crime and the culprit faces up to three years' imprisonment.⁵¹² In 2016, the Border Guard initiated 333 proceedings,⁵¹³ 277 in the last three months. Common irregular crossing is punished only by a fine of up to PLN 500.⁵¹⁴

⁵¹⁰ See <http://wiadomosci.dziennik.pl/polityka/artykuly/539320,pakistanczyk-pobity-w-ozorkowie-rzecznik-prokuratury-wszystko-wskazuje-na-atak-rasistowski.html>.

⁵¹¹ Art 264 par 3 Criminal Code, 6 June 1997 r. (*Dz. U nr 88, poz 553 ze zm*).

⁵¹² Art 264 par 2 Criminal Code, 6 June 1997 r. (*Dz. U nr 88, poz 553 ze zm*).

⁵¹³ Information received from Border Guard Headquarters.

⁵¹⁴ Art 49a, Offence Code, 20 May 1971.

12. Slovakia

12.1. Overview of the situation

In December 2016, the Migration Office recorded 19 new asylum seekers, of whom 13 were men and six were women. Most asylum seekers came from Libya (7); the rest originated from Armenia (3), Pakistan (3), Ukraine (2), Afghanistan (2), Algeria (1) and Iraq (1). Seven asylum seekers were children.⁵¹⁵

The Bureau of Border and Foreigners Police provided data on newcomers in December. The data are not disaggregated by the gender and age of the newcomers. The overall number of irregular migrants arriving to Slovakia was 263. The vast majority of them came from Ukraine (196 people). Other major countries of origin were Serbia (20), Iraq (6), Moldova (5), Bosnia and Herzegovina (4), Russia (4) and Turkey (4). The overall number of countries of origin is 22.⁵¹⁶

12.2. Key fundamental rights concerns

The NGO Marginal provides integration services to refugees. It reports that access to healthcare continues to be challenging for subsidiary protection holders. The NGO started cooperating with the Košice self-governing region, which is responsible for medical facilities, to reach out to available doctors and ask them to accept patients granted subsidiary protection.

Language presents an overarching barrier affecting various aspects of refugees' lives in Slovakia, since good-quality language education is not systematically available. As a result, refugees cannot access requalification training provided by labour offices (RE-PAS programme) even though these are technically open to them. It is also difficult to place refugee children in schools, since teachers are often not sufficiently equipped to work with children with refugee backgrounds who do not speak Slovak. Furthermore, the methodology for teaching Slovak as a foreign language that is provided by the Regional Offices of Education is not sufficiently up to date.⁵¹⁷

According to the Human Rights League (HRL), no specific issues regarding the human rights of migrants emerged in December 2016. The only relevant issue in the migration context was the accusation that six police officers smuggled irregular migrants by enabling them to cross the border and identifying them as citizens of Romania. Four of the accused police officers were employees of the border police and two of them were former border guards. According to the media, all of them have participated in smuggling since 2012.⁵¹⁸

⁵¹⁵ Data provided by the Migration Office of the Ministry of Interior of the Slovak Republic via email on 4 January 2017.

⁵¹⁶ Information provided by Bureau of Border and Foreigners Police upon request on 4 January 2017.

⁵¹⁷ Information provided by NGO Marginal via telephone on 5 January 2017.

⁵¹⁸ Interview with Human Rights League on 5 January 2017 and information from media.

12.3. Children and vulnerable groups

12.3.1 Reception conditions

During the reporting period, detention of families with children remained a persistent issue. Existing detention centres are not suitable for families with children and lack child-friendly spaces. An amendment to the Law on Residence of Foreigners is currently under discussion in parliament.⁵¹⁹ The HRL says that it commented on the draft, proposing a comprehensive ban on detaining families with children. The Ministry of the Interior does not plan to take that step but there are plans to creating a new detention centre (called a 'family centre'), which should be more suitable for families with children and meet children's needs.⁵²⁰ According to the HRL, however, no financial resources have been allocated for this so far and the Ministry of the Interior has not proposed any time scale for establishing the new centre.

12.3.2 Safeguards applied at registration and in asylum and return procedures

Regarding the best interests of children, the persisting practice of detaining families with children violates the best interests of the child.⁵²¹ The Regional Court in Košice also confirmed this. In November 2016, it issued a decision on one case in which the police detention authority had not taken into the consideration the best interests of the children during the detention. According to the court decision, the police authority did not take into consideration the fact that children are "vulnerable and the police have to justify why the detention of children was necessary and why they decided to detain the family with children for the maximum period of time (6 months)."⁵²² According to the HRL, this practice has been repeatedly criticised by NGOs in Slovakia and also by the UN Committee on the Rights of the Child.⁵²³

12.4. Changes in law, policy and practice

12.4.1 Changes in law or policy

The new amendment to the Law on Residence of Foreigners⁵²⁴ is currently being discussed in parliament. This amendment changes the process of age assessment of unaccompanied children. In the new proposal, age assessment is obligatory only when there "is a suspicion that a person is an adult", whereas in the past it was obligatory in cases where it was not "obvious" that he/she was a child.⁵²⁵

⁵¹⁹ [Draft Bill](#), which amends The Act Nr. 404/2011 Coll on Residence of Foreigners.

⁵²⁰ Official response of the Ministry of Interior to the comments of Human Rights League on the new act on residence of foreigners (provided by Human Rights League on demand on 5 January 2016).

⁵²¹ Interview with representative of Human Rights League on 4 January 2016.

⁵²² Court Decision KS KE sp. Zn. 10/Sa/27/2016 issued on 23 November 2016.

⁵²³ [UN Committee to review Slovakia's record on children's rights](#).

⁵²⁴ Slovakia, [Legislative proposal LP/2016/216](#) Law amending and supplementing Law No. 404/2011 Coll. on Residence of Foreigners and on amendment of certain acts as amended, and which amends certain laws (*Zákon, ktorým sa mení a dopĺňa zákon č. 404/2011 Z. z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov a ktorým sa menia a dopĺňajú niektoré zákony*).

⁵²⁵ *Ibid*, para. 101.

The HRL made several proposals for the draft amendment, including a ban on detaining families with children.

Other relevant areas contested by the HRL concerned privacy of the detained persons in the separated regime (not accepted), privacy of visits in detention centres (partly accepted), alternatives to detention (partly accepted), five meals a day for children in detention (accepted) and the possibility for other actors taking care of multiple detained migrants (such as volunteers, churches or other NGOs) to enter the detention centres (not accepted).⁵²⁶

A group of members of parliament (MPs) submitted an amendment to the Act on Religious Freedom and Status of Churches and Religious Communities (Law No. 308/1991 Coll.). The amendment disadvantages minority religious groups, particularly those made up of migrants (i.e. non-citizen). The amendment increases the quorum for registering a church or religious community from 20,000 members with citizenship of the Slovak Republic to 50,000. Registration of religious communities means official recognition of the community by the state, which also entails financial support and status. MPs of the far-right party Kotleba – People's Party Our Slovakia also proposed an amendment to the act, suggesting that the quorum be increased to 250,000 adult members with citizenship of the Slovak Republic.⁵²⁷ This proposal was not accepted. The new amendment with quorum for registration of a church set to minimum 50 000 citizens of Slovak republic was approved by parliament on 30 November 2016 and came into force on 1 January 2017.⁵²⁸ The President of the Slovak Republic did not sign the amendment and sent the law back to parliament because it inappropriately interferes with basic rights and freedoms.⁵²⁹

On 25 October, parliament passed an amendment to the Criminal Code and an amendment to Code of Criminal Procedures. Beside other provisions, the amendment proposes that all racist and extremist crimes that were previously considered by regional courts shall be taken over by the Special Criminal Court (Code of Criminal Procedure, Article 14, letter o).

The amendment also introduces a new type of crime: apartheid and discrimination against a group of people (Criminal Code, Article 424a) according to the provisions of the International Convention on the Suppression and Punishment of the Crime of Apartheid and the International Convention on the Elimination of All Forms of Racial Discrimination.⁵³⁰ According to the new provision of Criminal Code (Article 421), not only supporting or promoting a

⁵²⁶ Slovakia, [Evaluation of the inter-departmental commentary procedure to the Legislative proposal LP/2016/216 Law amending and supplementing Law No. 404/2011 Coll. on Residence of Foreigners and on amendment of certain acts as amended, and which amends certain laws](#) (Zákon, ktorým sa mení a dopĺňa zákon č. 404/2011 Z. z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov a ktorým sa menia a dopĺňajú niektoré zákony).

⁵²⁷ Slovakia (2016), '[Návrh skupiny poslancov Národnej rady Slovenskej republiky na vydanie zákona, ktorým sa mení a dopĺňa zákon č. 308/1991 Zb. o slobode náboženskej viery a postavení cirkví a náboženských spoločností v znení neskorších predpisov](#)', 22 November 2016.

⁵²⁸ Slovakia (2016), National Council of the Slovak Republic (Národná rada Slovenskej republiky) (2016), '[Návrh zákona, ktorým sa mení a dopĺňa zákon č. 308/1991 Zb. o slobode náboženskej viery a postavení cirkví a náboženských spoločností v znení neskorších predpisov](#)', *Parlamentná tlač* 273.

⁵²⁹ Slovakia, President of the Slovak Republic (2016) '[Prezident vetoval novelu zákon o registrácii cirkví](#)', 20 December 2016.

⁵³⁰ Najpravo.sk, '[8 zásadných zmien v Trestnom zákone od 1. Januára 2017](#)'.

group or movement denying or suppressing basic rights and freedoms, as hitherto, but also setting one up can be punished.⁵³¹ At the end of 2016, MPs of three opposition parties submitted a complaint to the Constitutional Court arguing that the amendment of the Criminal Code does not comply with the Constitution.⁵³²

12.4.2 Changes in practice

Since there is no monitoring of the Ukrainian–Slovak border, it is not possible to objectively establish any changes in the implementation of existing policies in the field of asylum, migration and border management concerning the eastern border. The Slovak police occasionally give information⁵³³ about arresting migrants on the eastern border, such as Iraqi and Syrian citizens who have been administratively expelled after crossing the border illegally and being in Slovak territory illegally. However, there is no monitoring available to determine whether or not the migrants asked for asylum.⁵³⁴ According to the police reports, none of the migrants applied for asylum in Slovakia. Allegations by migrants that the police did not allow them to apply for asylum could not be confirmed as there has not been any independent border monitoring for more than a year.⁵³⁵

Since Hungary suspended the relocation of asylum seekers, returns under the Dublin Regulation are currently frozen on the southern border.⁵³⁶

12.5. Social response

On 17 November 2016, the NGOs Alliance Fair Play and Via Iuris presented their annual White Crow (*Biela vrana*) award to courageous individuals fighting for truth, justice and public interest (www.bielavrana.sk). A Somali refugee and a social worker of the Slovak Catholic Charity received the award for speaking out about several violent attacks that the refugee experienced for wearing a hijab.

The Youth Council of Slovakia (*Rada mládeže Slovenska*) awarded its annual MOST prizes to recognise exceptional young people on 30 November 2016. The Young Personality of 2016 award went to a young activist who organised collections of material assistance and distributed it to refugees in camps in Serbia.⁵³⁷

On 11 December 2016, a Christmas charity event took place in the town of Nitra in support of Assyrian refugees resettled from Iraq and living in the Nitra region. The event was organised by a Roman Catholic parish in Beša.⁵³⁸ Money raised by

⁵³¹ *Ibid.*

⁵³² Slovakia, Constitutional Court of the Slovak Republic (2016) [Návrh na začatie konania o súlade právnych predpisov podľa článku 125 ods. 1 písm. a\) Ústavy Slovenskej republiky](#).

⁵³³ Ministry of Interior (2016), '[Další zadržení cudzinci na východe](#)', Press release, 29 November 2016.

Ministry of Interior (2016), '[Policaji zadržali šiestich Iračanov](#)', Press release, 23 November 2016.

⁵³⁴ Information provided by Human Rights League, telephone interview, 05 January 2017.

⁵³⁵ Information provided by Human Rights League on 18 January 2017.

⁵³⁶ *Ibid.*

⁵³⁷ For more details please see <http://mladez.sk/2016/12/08/cena-most-2016-uz-pozna-vitazov/>.

⁵³⁸ Nitradeň.sk, '[V Starom divadle sa uskutoční koncert na pomoc rodinám asýrskych kresťanov](#)', 28 November 2016.

the event will be used to support a community centre working with these refugees.⁵³⁹

On 15 December 2016, a gathering in support of people of Aleppo was held in Bratislava.⁵⁴⁰ The event was organised by two individuals. On Facebook, 297 people signed up as going, but the actual number who attended is unknown.

The Goethe Institute in Bratislava in cooperation with the NGO Fresh Response organised a collection of warm clothing for refugees in Serbia.

The Prime Minister continued to oppose refugee quotas throughout the reporting period. As an alternative to quotas, the government promotes the principle of so-called effective solidarity to solve the migration crisis, i.e. each Member State should be allowed to choose the type of help it is willing to offer. The principle was introduced on 26 November 2016 in Brussels during the Slovak Presidency of the Council of the European Union.⁵⁴¹

According to the latest opinion poll, released on 21 December 2016, 52.5 % of the population would support helping refugees only when absolutely necessary. The majority of the population fear refugees to some extent (41.4 % a little, 29.6 % considerably and 18.1 % very much). People mainly fear increase in criminality (36.6 %) and refugees' unwillingness to adapt to "our way of life" (30.6 %). Almost 30 % fear an increased risk of Islamic terrorist attacks and financial costs related to the reception of refugees.⁵⁴²

12.6. Hate crime incidents

During the reporting period a demonstration in support of the people of Aleppo took place on 15 December in Bratislava.⁵⁴³ No violent incidents during this gathering were reported.

Interviewed organisations working with migrants have encountered unprecedented cyberhate towards Muslims.⁵⁴⁴

Among all migrants, mainly those of Muslim origin are the targets of racist or xenophobic incidents. As representatives of organisations working with migrants reported, the number of incidents has increased during recent months. Those incidents are mainly directed at Muslim women wearing headscarves and at children (school bullying).⁵⁴⁵

⁵³⁹ Nitraděš.sk, '[Na podporu asýrskych kresťanov sa uskutoční benefičný koncert](#)', 7 December 2016.

⁵⁴⁰ For more details please see [the Facebook event](#).

⁵⁴¹ Teraz.sk, '[Kaliňák: Efektívna solidarita je o poskytovaní adekvátnej pomoci](#)', 18 November 2016.

⁵⁴² For more details please see <https://dennikn.sk/minuta/639978/>.

⁵⁴³ For more details please see [the Facebook event](#).

⁵⁴⁴ Information provided by Islamic Foundation on 25 October 2016.

⁵⁴⁵ Interviews with Human Rights League (on 4 January 2017) and Islamic Foundation (25 October 2016 and further e-mail correspondence); Human Rights League, Forum for Human Rights (2016), NGO information to the United Nations Human Rights Committee on islamophobia, immigration detention including single women, vulnerable persons and families with children and the situation of unaccompanied children in Slovakia. For consideration when compiling the [Concluding Observations on the Fourth Periodic Report of Slovakia under the International Covenant on Civil and Political Rights](#), 19 September 2016, p. 2.

12.7. Policies against smuggling of human beings

Nothing new to report.

13. Spain

13.1. Overview of the situation

From January until the end of October 2016, some 11,420 persons arrived in Spain, including 6,046 by sea and 5,371 by land. According to Frontex, 8,397 of these arrivals crossed the borders irregularly (7,888 irregular crossings by the western Mediterranean route and 509 by the West Africa–Canaries route).⁵⁴⁶ According to the Ministry of the Interior (*Ministerio de Interior*), no information about the overall number, origin, gender or age breakdown of arrivals is available at the moment.

Many vulnerable persons (children, families, victims of trafficking, LGBT people or victims of gender violence) have continued to arrive in Spain during the last few months.⁵⁴⁷

The main arrival routes are the western Mediterranean and the West Africa–Canaries route; however, the entry of at least 30 Tunisians and 30 Yemenis during the last quarter of 2016 seems to indicate new routes to Spain.⁵⁴⁸

The commonest nationalities of people arriving are Ivorian, Algerian, Guinean and Syrian. However, those arriving by the West Africa–Canaries route are mostly from Guinea, Côte d’Ivoire and Cameroon.⁵⁴⁹

Moreover, 300 Algerians, 300 Syrians and 300 sub-Saharan African people were held in the Centre for Temporary Stay of Immigrants (*Centro de Estancia Temporal de Inmigrantes*, CETI) in Melilla by late November 2016.⁵⁵⁰

The predominant nationalities of asylum seekers are Ukrainian (1,640), Venezuelan (1,560) and Syrian (1,360).

The total number of refugees arriving through resettlement and relocation during 2016 until 23 December was 700:⁵⁵¹ a total of 411 were relocated refugees, 63 coming from Italy and 348 from Greece. The total figure for resettled people is 289: 57 refugees from Turkey and 232 from Lebanon.

However, on 28 December 2016 the arrival of 198 refugees relocated from Greece was reported by the Government Press Office (*Oficina de Prensa de La Moncloa*) on its official website.⁵⁵² A total of 211 new refugees arrived in Spain in December. They were all relocated from Italy (13) and Greece (198). The main nationalities of these people are Syrian, Iraqi, Eritrean and Iranian.

⁵⁴⁶ Interview key informant, Jesuit Migrant Service.

⁵⁴⁷ Interview key informants, Jesuit Migrant Services, Accem, and Save the Children.

⁵⁴⁸ Interview key informant, Jesuit Migrant Service.

⁵⁴⁹ *Ibid.*

⁵⁵⁰ *Ibid.*

⁵⁵¹ Spain, [Official website of the Ministry of the Interior](#) (*Ministerio del Interior*), Hyperlink was accessed on 9 January 2017.

⁵⁵² Spain, [Official website of the Government Press Office](#) (*Oficina de Prensa de La Moncloa*). Hyperlink was accessed on 9 January 2017.

Among the newly relocated refugees who arrived in December were 49 women and 84 children.⁵⁵³

Some 900 unaccompanied children were staying in Melilla as of December, some 60 of them living on the streets.⁵⁵⁴ They mainly come from Morocco, Algeria, sub-Saharan African countries and Pakistan.

According to information from the UNHCR, 12,000 applications for asylum were submitted in 2016 up to the end of November, which leads to estimates of some 14,600 applications submitted by the end of the year. This would be similar to the figure for 2015.

In 2016 up to the end of September, applications for international protection were decided positively in 3,210 cases (71 %) and negatively in 1,310 cases, granting 160 persons refugee status and 3,450 persons subsidiary forms of protection.

In October 2016, some 19,320 asylum applications were awaiting a final decision.⁵⁵⁵

According to the Asylum and Refuge Office of the Ministry of the Interior (*Oficina de Asilo y Refugio del Ministerio del Interior*), no information about applications for asylum is available at the moment.

13.2. Key fundamental rights concerns

13.2.1 Reception conditions

On 29 November, Amnesty International released a report on the situation of migrants and refugees in Ceuta y Melilla entitled 'No man's land: the situation of refugees and migrant persons in Ceuta and Melilla' (*En tierra de nadie: la situación de las personas refugiadas y migrantes en Ceuta y Melilla*).⁵⁵⁶ This work is the result of field-level research activities by Amnesty International, and its principal allegations are set out below:

1. Closed borders, collective expulsions and police violence in Ceuta and Melilla.

Summary expulsions and police abuses, as well as the difficulty in reaching the border at Melilla and the impossibility of reaching it at Ceuta, make entry virtually impossible for refugees, according to the report. Many sub-Saharan African interviewees who tried to cross the border report violations of human rights on both sides. For example, a very young man from Guinea remained perched on the second fence of Ceuta for seven hours, with a wound in his right wrist caused by the fence.

⁵⁵³ Spain, [Official website of the Government Press Office](#) (*Oficina de Prensa de La Moncloa*). Hyperlink was accessed on 9 January 2017.

⁵⁵⁴ Interview key informants, Jesuit Migrant Services and Save the Children.

⁵⁵⁵ Interview key informant, Jesuit Migrant Services.

⁵⁵⁶ Spain, Amnesty International (2016) "[No man's land: the situation of refugees and migrant persons in Ceuta and Melilla](#)" (*En tierra de nadie: la situación de las personas refugiadas y migrantes en Ceuta y Melilla*) Press release, 29 November 2016.

2. Inappropriate conditions in the Centres for Temporary Stay of Immigrants (*Centros de Estancia Temporal de Inmigrantes*, CETIs) to receive migrant people and refugees.

Conditions at the CETIS inadequately guarantee basic rights, especially for the most vulnerable groups, such as lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. Specifically in the CETI in Melilla, there are at least 60 people who have applied for asylum on the ground of sexual orientation; in particular, a group of men of Morocco has been waiting between six months and a year to be moved to the peninsula.

In addition, the CETIS are not suitable for persons with disabilities and there is a lack of resources and specialised attention for persons with psychological problems or victims of trauma. An 18-year-old reports having left the Tindouf camps aged only 7 years, becoming a street child after that and attempting suicide repeatedly.

The report also found that victims of trafficking do not have access to adequate protection. Amnesty International fears that there is a considerable number of women victims of trafficking in the CETIs, especially in Ceuta, and considers that the situation is worsening because it suspects that some of them who claim to be older than 18 years are still minors. Similarly, women victims of other types of violence have not received any protection.

3. Nationality as a factor for discrimination and the denial of human rights provided for by Spanish asylum law.

The majority of persons applying for asylum, except those of Syrian nationality, are stuck in limbo in Ceuta and Melilla, and are afraid to apply for asylum in case it prolongs their stay in the CETI. In this context, persons of certain nationalities, for example Moroccans or Algerians, suffer discrimination at the time of being taken to the peninsula, where Spanish asylum law is applied in a stricter way.⁵⁵⁷

13.2.2 Human rights violations in the Alien Detention Centres

According to the Court Order of 12 December 2016 issued by the Court of Instruction number 4 of Algeciras,⁵⁵⁸ the Alien Detention Centre (*Centro de Internamiento de Extranjeros*, CIE) of Algeciras and its annex building of Tarifa have elements “more suitable for prison and penitentiary regime” than for a temporary detention centre “where the right to free communication is not restricted”. The court order also mentions that this CIE has glass and iron panels, bars, latrines, claustrophobic spaces, absolute overcrowding, a lack of natural light and doors that lock from the outside.

This claim is added to the serious human rights violations (verbal abuse, humiliation and harassments but also physical assaults) that were mentioned in December by Mr Ramiro García de Dios, the supervisory judge of the CIE of Madrid.⁵⁵⁹

⁵⁵⁷ Interview key informant, Amnesty International.

⁵⁵⁸ See the [Court Order of 12 December 2016](#) issued by the Court of Instruction number 4 of the Algeciras published by [eldiario.es](#).

⁵⁵⁹ See [interview with Mr. Ramiro García de Dios](#), 23 October 2016, published by [eldiario.es](#).

13.3. Children and vulnerable groups

A video documentary was released in December 2016 by the association Prodein from Melilla on the situation of immigrant minors in Melilla. This video shows the daily living conditions of unaccompanied immigrant children in the city: violence, institutional abandonment, minors living on the streets, violation of rights, etc. The report includes testimonies of minors and various social agents working directly with them.⁵⁶⁰

According to the 2016 annual report of the Attorney General's Office,⁵⁶¹ there were 3,342 unaccompanied immigrant minors in Spain in 2015, 2,889 boys and 452 girls. The majority of them, 2,917, come from Morocco. During 2015, 414 children were detected arriving at Spanish shores in small boats, 85.65 % more than in 2014. The report also points to cases of immigrant minors being used as hostages by trafficking networks in order to force the prostitution of their mothers. In addition, the report points out how 45 children – seven with some sort of disability – were sold by their parents to the trafficking networks during 2015. Finally, the number of cases of babies arriving in Spain in small boats, accompanied by adults claiming to have a parental relationship with them, considerably reduced during 2015, from 145 in 2014 to 59 in 2015. The obligation to perform DNA tests on all minors crossing the border is the main cause of this reduction. In fact, of the 545 DNA tests performed during 2015, only three showed that the adult had no parental relationship with the child. The main conclusion derived from that decrease is that trafficking networks have abandoned this type of strategy of access to Spain.

13.4. Changes in law, policy and practice

There were no changes in the laws during the reporting period. However, changes in law and in policies are demanded and expected by different stakeholders, especially regarding the regime of the CIEs. During the final quarter of 2016, more than 100 detainees escaped from different CIEs in Spain and several riots have taken place inside the CIEs. These events have called into question the functioning of the CIEs and have reopened the debate on the effectiveness and suitability of these places.

On 21 December 2016, the (new) Minister for the Interior, Juan Ignacio Zoido (Popular Party), made the following statements:

- The CIEs are effective and necessary but “they can and must improve”, for which reason he has announced that he will create a working group integrating different ministries, NGOs and other parties to design another model.⁵⁶²
- Moreover, in the next few months a modification of Spanish asylum legislation will be prepared in response to changes in the Common European Asylum System (ECAS).

⁵⁶⁰ Asociación PRODEIN-Melilla. 2016. “[Frontera. ¿Niños perdidos o abandonados?](#)” Video Documental.

⁵⁶¹ Attorney General's Office (*Fiscalía General del Estado*). [Annual Report 2016](#).

⁵⁶² Europa Press Agency, [21 December 2016](#).

- Spain is in violation of the Return Directive and has two months to comply with it.
- Finally, 'the National Office to Fight against Hate Crimes' is to be created within the Secretariat of State for Security to deal with the reporting of this type of crime and to respond to the victims.⁵⁶³

Special concern has been voiced about the CETIs in Ceuta and Melilla. Whereas Spanish legislation does not permit asylum seekers inside the CIEs, the CETIs are open centres where many asylum seekers are located.

On 26 December 2016, the representative in Spain of the UNHCR stated that the CETIs in Ceuta and Melilla "are not suitable for asylum seekers" and called for an urgent reform of both the facilities and the operating model, which "do not meet the minimum requirements set out in the European directives on asylum reception conditions".⁵⁶⁴

In a different vein, on 13 September 2016, the Grand Chamber of the Court of Justice of the EU (CJEU) published its judgment on Case C-165/14 – *Alfredo Rendón Marín versus the Administration of the State*.⁵⁶⁵ The judgment was in response to a preliminary ruling on an immigration procedure in which a residence and work permit had been denied to a Colombian citizen who had the exclusive custody of two children with Spanish nationality. The refusal to issue the permits was due to his criminal record. The Spanish Supreme Court asked the CJEU if the Spanish legislation, which prevents the regularisation of any person with criminal records (including the parents of Spanish children), contravenes the EU legislation. The Grand Chamber ruled that the Spanish legislation contravenes the EU law, both regarding rights of residence of the progenitors of minor EU citizens and regarding the right to respect of private and family life, as formulated in Article 7 of the EU Charter on Fundamental Rights. As a corollary of this judgment some changes to Spanish legislation are expected.

Many stakeholders call for the approval of a Law of Equality of Treatment that would implement the main standards in this area.⁵⁶⁶ There is also continuing concern regarding express ('hot') returns (which are most of them) from Ceuta and Melilla of migrants in general and 'would-be' refugees in particular (who are

⁵⁶³ *Ibid.*

⁵⁶⁴ See <http://www.elmundo.es/sociedad/2016/12/26/5861029d268e3e55438b457e.html>.

⁵⁶⁵ CJEU, C-165/14, *Alfredo Rendón Marín v Administración del Estado*, 13 September 2016.

⁵⁶⁶ Although out of the referring period, it is to be remembered that The UN Committee on the Elimination of Racial Discrimination in April 2016 published its concluding comments regarding Spain. Among its principal concerns, there is the inadequacy of Spanish legal measures to combat effectively racial discrimination, regretting the Members of the Committee on the latest reform of the Public Security Law, as well as on the returns of migrants and the disproportionate use of force employed at the borders of Ceuta and Melilla. They also questioned the poor conditions of the Centers of Internment (CIEs), as well as the possible segregation of boys and girls from gypsy and migrant origin in some Spanish public schools (See 2016 Annual report, Spain).

not given the opportunity to ask for asylum) who have crossed the fences of these cities irregularly.⁵⁶⁷

Finally, on 15 December 2016, a report to the Spanish Government was published on the visit to Spain carried out in February 2016 by the CPT.⁵⁶⁸ The CPT criticises the ‘express expulsions’, that is, immigrants expelled only hours before their flights depart. The CPT urges that the expulsion must be notified in writing and several days in advance. It also asks Spain to facilitate immigrants’ access to a lawyer and a telephone before expulsion and to approve a protocol with clear instructions on the use of containment measures. Moreover, in October 2016, a delegation from the CPT visited Spain again for two weeks. CPT delegates visited several police stations of the National Police and the Civil Guard; they also met representatives of the Ministry of the Interior and the Ministry of Justice, as well as the Ombudsman and several civil society organisations active in areas of interest to the CPT.⁵⁶⁹ For its part, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) announced a visit to Spain in 2017.⁵⁷⁰

13.5. Social response

Different NGOs and social groups have continued to protest against the CIEs during the reporting period. Many describe them as ‘prisons for foreigners’, with even worse conditions than the actual prisons. For example, the Jesuit Service for Migrants in Spain (SJME) published its annual report in September denouncing the internment of minors and asylum seekers, groups that, according to Spanish law, cannot be interned in these centres.⁵⁷¹ Comments in this vein also come from Amnesty International Spain, SOS Racismo Madrid, Karibu – Friends of the African People and the Spanish Commission of Aid to the Refugee (CEAR).⁵⁷²

The catalogue of complaints comes not only from NGOs, but also from opposition parties, the Ombudsman and some of the supervisory judges of these centres, such as Ramiro García de Dios (supervisory judge of the CIE of Madrid).

On 20 December 2016, the Ombudsman, Soledad Becerril, questioned the conditions at these centres, in which she said there are “many deficiencies”, and asked the government to increase the budget to improve their facilities, as well as “greater health coverage”. Becerril says that overpopulation is the main

⁵⁶⁷ Although out of the reporting period it is to be noted the [Letter from the Council of Europe Commissioner for Human Rights, Nils Muižnieks, to Mr Jorge Fernández Díaz, \(former\) Minister of the Interior of Spain](#), concerning the human rights of immigrants and asylum-seekers in Spain of 12 July 2016.

⁵⁶⁸ [Report to the Spanish Government on the visit to Spain](#) carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 17 to 19 February 2016. Date of publication: 15 December 2016.

⁵⁶⁹ Rights International Spain (RIS) Balance de 2016, [Los derechos humanos en España](#).

⁵⁷⁰ *Ibid.*

⁵⁷¹ SJME, *Informe CIEs 1015*, [Vulnerables vulnerados](#).

⁵⁷² CEAR, [19 October 2016](#). See also <http://www.efe.com/efe/espana/politica/crisis-en-los-cie-casi-100-fugas-y-varios-motines-la-recta-final-del-ano/10002-3134088>.

problem of the CIEs.⁵⁷³ Going further, Judge García de Dios has asked for the closure of these centres.⁵⁷⁴

During the reference period there have not been demonstrations in favour of or against refugees. The last massive demonstration in favour of refugees took place on 27 February 2016. On 13 December 2016 there was the ninth march for the closure of CIEs: public demonstration for International Migrants Rights Day (*IX Marcha por el cierre de los Centros de Internamiento de Extranjeros: Manifestación por el Día de los derechos de las personas migrantes*), organised by the CIEs NO Platform (*Plataforma CIEs No*).⁵⁷⁵

In mass media, the film *Astral* was broadcast on the TV show *Salvados*.⁵⁷⁶ The film, directed by the journalist Jordi Evole, shows the tragedy of the refugees in Mediterranean waters. It documents the activity of the NGO ProActiva Open Arms, which has been working to save refugees in the island of Lesbos since September 2015. *Astral* was also screened in cinemas, from which all proceeds went to ProActiva Open Arms.

13.6. Hate speech and violent crime

Regarding racist, xenophobic and related incidents against migrants and people in need of international protection, including attacks on reception and accommodation centres, between 1 October and 31 December the Raxen report⁵⁷⁷ recorded:

- three incidents related to racism: one racist attack, recorded on 6 November 2016,⁵⁷⁸ and two racist insults, recorded on 16 October⁵⁷⁹ and 22 December 2016;⁵⁸⁰
- two incidents related to Islamophobia: one related to racism and xenophobia, recorded on 16 December 2016,⁵⁸¹ and one related to hate speech, recorded on 9 November 2016;⁵⁸²
- one incident related to hate speech and hostility towards refugees and asylum seekers, recorded on 16 November 2016.⁵⁸³

⁵⁷³ See http://politica.elpais.com/politica/2016/12/20/actualidad/1482222238_919153.html.

⁵⁷⁴ See http://cadenaser.com/emisora/2016/10/20/radio_madrid/1476976424_092893.html.

⁵⁷⁵ Spain, *CIEsNO Platform* (*Plataforma Cies No*).

⁵⁷⁶ Spain, *TV show "Salvados"*: *Astral* (*Salvados: Astral*), La Sexta, 16 October 2016.

⁵⁷⁷ *News service* provided by the NGO Movement against Intolerance (*Movimiento contra la Intolerancia*).

⁵⁷⁸ See <http://www.informeraxen.es/detenida-por-delito-de-odio-al-rociar-con-insecticida-a-la-hija-de-su-vecino-guineano/>.

⁵⁷⁹ See <http://www.informeraxen.es/puto-mono-de-mierda-no-es-racismo-para-la-federacion-de-futbol-de-castilla-la-mancha/>.

⁵⁸⁰ See <http://www.informeraxen.es/una-mujer-de-65-anos-denuncia-una-agresion-racista-en-ramales-de-la-victoria/>.

⁵⁸¹ See <http://www.informeraxen.es/la-policia-de-bilbao-corrige-una-orden-municipal-para-identificar-a-los-magrebies-con-mochila/>.

⁵⁸² See <http://www.informeraxen.es/aparecen-pintadas-contr-la-religion-islamica-en-la-mezquita-de-tenerias/>.

⁵⁸³ See <http://www.informeraxen.es/pintada-racista-en-un-mural-que-da-la-bienvenida-a-los-refugiados/>.

13.7. Policies against smuggling of human beings

Two institutions have been consulted on the issue: the police and the Diocesan Delegation for Migrations of Cádiz. After searching online, the conclusion is that there is no evidence that proceedings for humanitarian smuggling have been opened against persons or institutions that operated at the border in the last three months. The police indicate that an NGO which supposedly facilitates illegal immigration is currently under investigation.⁵⁸⁴

At the end of December, two left-wing activists of the Plataforma Ongi Etorri Errefuxiatuak (Refugees Welcome) group based in the Basque Country had been arrested in the Greek port city of Igoumenitsa after they were discovered attempting to bring eight refugees to Spain by hiding them in the back of a caravan. They were detained when they tried to board an Italy-bound ferry with the refugees in the back of their vehicle.⁵⁸⁵

⁵⁸⁴ Interview key informant, General Department on Alien Affairs and Borders.

⁵⁸⁵ See <http://www.elmundo.es/sociedad/2016/12/28/5863a808e5fdea72078b4618.html>.

14. Sweden

14.1. Overview of the situation

During the period 1 December to 31 December 2016, Sweden received 1,987 asylum seekers, which is the lowest number of asylum seekers during the year. There were 2,217 in November and 2,412 in October.⁵⁸⁶ The number of new asylum seekers has stabilised at under 2,500 per month since March 2016.⁵⁸⁷ This is mainly the result of the obligatory identity checks on all carriers entering Sweden and the introduction of even stricter border controls in other European states. The government prolonged the internal border controls for another three months, from 12 November 2016 to 11 February 2017.⁵⁸⁸

The main countries of origin of asylum applicants during December were Syria, Afghanistan and Iraq.⁵⁸⁹ A total of 1,158 asylum seekers were male and 829 were female; 742 were children, including both unaccompanied children and children arriving with their families. Only 108 asylum seekers were unaccompanied children, which is fewer than in November (110) and October (130).⁵⁹⁰

14.2. Key fundamental rights concerns

On 5 October 2016, Sweden and Afghanistan signed a memorandum of understanding on the readmission of people whose asylum applications have been rejected.⁵⁹¹ The Swedish Migration Agency is receiving many questions on what this memorandum will mean in practice, especially regarding children and youths from Afghanistan or from Iran but of Afghan descent. In response, the agency published a list of questions and answers on its website on 24 November.⁵⁹² The list includes questions such as how the memorandum affects unaccompanied children who are denied residence permits. The agency's answer is that the agreement means increased cooperation between Afghan and Swedish authorities regarding all Afghan nationals who have not been granted residence permits in Sweden. Furthermore, the agency states that unaccompanied children who return must have a so-called 'arranged reception' in Afghanistan, meaning that they will be met by or returned to family members. The Swedish police state that the first 'test chartered flight' to Kabul with persons who have not been granted residence permits landed on the morning of 13 December 2016 without any reported incidents. Another common question raised by the public, according to the Migration Agency, concerns the fact that the agency's case officers in several cases have re-registered children,

⁵⁸⁶ Sweden, Swedish Migration Agency.

⁵⁸⁷ *Ibid.*

⁵⁸⁸ Sweden, Government Offices of Sweden, Press release, '[Government decides to prolong internal border controls again](#)', published 11 November 2016, available in English.

⁵⁸⁹ Sweden, Swedish Migration Agency.

⁵⁹⁰ *Ibid.*

⁵⁹¹ Sweden, Government Offices of Sweden, Press release '[Agreement between Sweden and Afghanistan on readmission](#)', published 26 October 2016, available in English.

⁵⁹² Sweden, Swedish Migration Agency (*Migrationsverket*), Official Webpage, '[Questions and answers on unaccompanied minors from Afghanistan](#)' (unofficial translation) (*Frågor och svar om ensamkommande barn från Afghanistan*), 24 November 2016.

previously registered as 15–16 years, to over 18 years, i.e. considering them adults.⁵⁹³ The question is if this raising of ages is part of a new unspoken policy. The agency answers that the increased number of expulsions/returns is simply mirroring the increase in the number of asylum seekers arriving in Sweden during the autumn of 2015. The agency states that the legislation remains the same, meaning that the asylum-seeking children must prove their age using documents, their stories or other evidence. If this is not possible, or not seen as enough proof, the child may choose to undergo a medical age assessment.⁵⁹⁴ However, this is hard to do in practice, since the absolute majority of the medical profession refuse to carry out such age assessments, because the methods are not scientifically satisfactory or for humanitarian reasons.⁵⁹⁵ The Swedish police, as opposed to the Swedish Migration Agency, state that the arranged reception of children means that there must be a relative or social service function of some sort present to accept care of the child when he or she arrives in Afghanistan. However, this person does not have to be somebody that the child knows; rather it can be someone “with whom the child has or can develop a relationship”.⁵⁹⁶ In relation to these requirements, the Migration Agency mentions the UNHCR as an acceptable actor for such arranged receptions.

The Swedish Association of Local Authorities and Regions meets operational personnel who work with children in the same accommodation where a child who arrived before 24 November will receive a permanent residence permit, and one who arrived after that date will, if lucky, receive a 13-month temporary residence permit.⁵⁹⁷ This difference arises from the introduction of the new temporary law restricting residence permits for asylum applicants, the Act on temporary restrictions of the possibility to obtain a residence permit in Sweden (*Lag [2016: 752] om tillfälliga begränsningar av möjligheten att få uppehållstillstånd*),⁵⁹⁸ introduced in July 2016, which draws a line between persons arriving before 24 November 2016 and persons arriving after that date.⁵⁹⁹ The Swedish Association of Local Authorities and Regions notes that the children often state that they have never been to Kabul and have no family there. Many of them have not been to Afghanistan at all but were born and raised as undocumented inhabitants of Iran.⁶⁰⁰ It is not clear whether any of the persons on the chartered flight mentioned above was re-registered as adults or not.⁶⁰¹ Save the Children confirms that the key fundamental rights concerns regarding the situation for Afghan children are the re-registering of their ages and the expulsions.⁶⁰²

Besides the situation for children from Afghanistan (or from Iran of Afghan descent), the main fundamental rights concerns continue to be with the temporary law on restricting residence permits for asylum applicants, which was introduced

⁵⁹³ *Ibid.*

⁵⁹⁴ *Ibid.*

⁵⁹⁵ Sweden, University of Gothenburg (*Göteborgs universitet*).

⁵⁹⁶ Swedish Police.

⁵⁹⁷ Swedish Association of Local Authorities and Regions.

⁵⁹⁸ Sweden, [Act on temporary restrictions of the possibility to obtain a residence permits in Sweden](#) (*Lag [2016: 752] om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige*) 20 July 2016.

⁵⁹⁹ *Ibid.*

⁶⁰⁰ Sweden, Swedish Association of Local Authorities and Regions (*Sveriges kommuner och landsting*).

⁶⁰¹ Sweden, Swedish Police (*Svenska polisen*).

⁶⁰² Save the Children (*Rädda Barnen*).

in July 2016 and will be valid at least until July 2019,⁶⁰³ which includes restrictions on family reunification.⁶⁰⁴

14.3. Children and vulnerable groups

14.3.1 Reception conditions

Red Cross Sweden has personnel visiting reception accommodations for adults, where they keep meeting persons who identify themselves as children.⁶⁰⁵ This is directly connected to the previously mentioned re-registering of persons as adults. The Swedish Migration Agency is to perform a visual assessment of age for all persons claiming to be teenagers. Its officers are to re-register persons as adults when "it is obvious that that is the case".⁶⁰⁶ However, the term 'obvious' is interpreted in different ways, even though the Migration Agency has had a number of information meetings about how to make these assessments for its staff all over the country. Red Cross Sweden states that the ocular assessments are not performed in a way that can guarantee the rule of law (*rättssäkerhet*). They are too arbitrary and individuals will be assessed differently depending on the administrative officer and/or the region. This re-registration of age may affect the security of the young persons in question, for example when they are placed in accommodation with adults.⁶⁰⁷

The Swedish Migration Agency, the Swedish Association of Local Authorities and Regions and Save the Children report another issue. Many of the asylum accommodation facilities and accommodation facilities specifically assigned to unaccompanied children that were opened during the autumn and winter of 2015/2016 are now unoccupied because of the changes in Swedish laws during 2015 and 2016. The changes in question led to a tightening of the border controls and the restriction of the possibility for asylum seekers to receive permanent residence permits. Simultaneously the number of persons who have had their asylum applications rejected is increasing. For this reason, children are often moved to other accommodation and often to other municipalities. This means that they are uprooted once more and have to change schools, and lose their friends and their place in football clubs and other leisure activities. The children usually feel that they lack information on their situation and what will happen to them, with sometimes as little as a week or two to prepare for the move, which in turn increases their stress levels.⁶⁰⁸

14.3.2 Safeguards applied at registration and in asylum and return procedures

Save the Children Sweden demands that the children's own grounds for asylum and their human rights should be regarded in the asylum process. The organisation also stresses the need to collect information specific to each child on, for example, the security situation for children in a particular country. Save the Children states that this is not currently done, which is unacceptable in

⁶⁰³ Act on temporary restrictions of the possibility to obtain a residence permits in Sweden (*Lag [2016: 752] om tillfälliga begränsningar av möjligheten att få uppehållstillstånd*).

⁶⁰⁴ Swedish Police, Red Cross Sweden (*Röda Korset*), Save the Children.

⁶⁰⁵ Red Cross Sweden.

⁶⁰⁶ Swedish Migration Agency.

⁶⁰⁷ Sweden, University of Gothenburg.

⁶⁰⁸ Save the Children, Swedish Migration Agency.

relation to the situation of the Afghan children. Expulsion decisions made regarding these children are not preceded by a proper assessment on how a specific child will be affected by the expulsion. Furthermore, the considerations during the asylum process that leads to the decision do not show that the best interests of the child have been in focus. The child has the right to information and the right to express his or her views freely in all matters affecting him or her, and the views of the child must be given due weight in accordance with the age and maturity of the child. In Sweden, children are not always heard in the asylum process, and there are examples of children who have not been able to communicate with the Swedish Migration Agency in their own language or any other language that they know and understand.⁶⁰⁹

14.4. Changes in law, policy and practice

14.4.1 Changes in law or policy

The Swedish Migration Agency published a new judicial position regarding the security situation in Afghanistan on 8 December 2016.⁶¹⁰ The new judicial position differs from the previous one in considering several more areas in Afghanistan unsafe because of internal conflicts. The Swedish police expect that this will lead to more women and children receiving (temporary) residence permits in Sweden. However, Save the Children is more sceptical. These changes mean that persons who have had their application rejected previously but have not left the country will have a new chance to appeal.⁶¹¹

14.4.2 Changes in practice

The Swedish police have implemented a new system to find persons whose asylum applications have been rejected and who have gone into hiding and are remaining in the country as undocumented migrants. The police demand information from the municipal social services on the whereabouts of undocumented families with dependent children. These families receive monetary support from the social services because of their legal obligation to protect all children in need. However, the social services are not only obliged to support these families; they are at the same time legally bound to disclose information about the undocumented families to the police if asked to, in accordance with the Aliens Act, Chapter 17 (*Utlänningslag [2005: 716]*).⁶¹² The social services are required by law to disclose information to the police when the police need it in order to carry out the expulsion of a family whose asylum applications have been rejected. This reporting obligation is not new but only newly enforced by the Swedish police. The police state that this is a new way of working, which they believe to be approved by the government. The families in question turn to the social services for help once they have had their applications rejected, since the reimbursement from the Swedish Migration Agency ceases. The parents are then in acute need of monetary support to

⁶⁰⁹ Save the Children, '[Regarding the expulsion of youths to Afghanistan](#)' (Unofficial translation) (*Om avvisningar av ungdomar till Afghanistan*), press release, 4 November 2016.

⁶¹⁰ Sweden, Swedish Migration Agency, '[Judicial position on the security situation in Afghanistan](#)' (Unofficial translation) (*Rättsligt ställningstagande angående säkerhetsläget i Afghanistan*), 8 December 2016.

⁶¹¹ Sweden, Swedish Police.

⁶¹² [Aliens Act](#) (*Utlänningslag* 2005:716), chapter 17, paragraph 1, 12 June 2014.

provide for their children but see no alternative for them but to stay in Sweden as undocumented migrants.⁶¹³

14.5. Social response

Negative reactions to the memorandum of understanding between Sweden and Afghanistan have been widespread in civil society during the reporting period. On 24 November 2016, demonstrations were carried out in 50 municipalities/cities in Sweden to protest against (1) the temporary law restricting the possibility for asylum seekers arriving after 24 November 2015 to receive residence permits and (2) the probable consequences of the memorandum of understanding between Sweden and Afghanistan.⁶¹⁴ The manifestations were organised by the network 'We cannot stand it' (*Vi står inte ut*),⁶¹⁵ which is established and run by professionals who meet the unaccompanied children in their daily work and life, such as teachers, social workers, psychiatrists, family homes, as well as other concerned citizens. The network at present comprises around 7,000 persons. The same organisation organised demonstrations in more than 15 municipalities/cities during October 2016. Over 1,000 persons participated in the October demonstration in Sergels Torg, one of the main squares in Stockholm.⁶¹⁶

Many organisations tried to get the attention of the press to spread information about the 'test chartered plane' to Afghanistan. A small peaceful demonstration took place the evening before the chartered plane was to take off for Kabul with 13 persons who were to be expelled to Afghanistan. Around 40 people stood outside the building in Märsta where the persons who were being expelled were accommodated, awaiting their departure. They had lights and signs and wanted to bring attention to the expulsions as well as show the individuals inside (who could see them from their windows) that somebody cared about them.⁶¹⁷

The general response from several actors is that the public debate has hardened. An increase in the number of critical voices arguing against migration and asylum is evident, even though the number of persons arriving in Sweden has decreased dramatically. There is massive criticism of the previous migration and asylum politics, which are now often referred to as "totally unregulated" as opposed to the new policies and laws introduced during 2016. At the same time, protests from newly organised associations for refugees have emerged and are also more visible in the public debate.⁶¹⁸

'We cannot stand it' (mentioned above) has launched a new type of protest movement.⁶¹⁹ It held many demonstrations throughout December 2016. The

⁶¹³ Sweden, Swedish Police, Save the Children.

⁶¹⁴ Sweden, *Aftonbladet* (National evening paper), Article '[Many manifestations against asylum legislation](#)' (unofficial translation) (*Många manifestationer mot asyllag*), published 25 November 2016.

⁶¹⁵ Sweden, facebook page for the network "[We cannot stand it](#)" (*Vi står inte ut*).

⁶¹⁶ Sweden, *SVT Nyheter* (Public Service news site), Article '[Thousands in protest against expulsions of Afghan children](#)' (Unofficial translation) (*Tusentals i protest mot utvisningar av afghanska barn*), published 22 October 2016.

⁶¹⁷ Sweden, Uppsala Nya Tidning (Regional daily newspaper), Article '[Protests against expulsions – they risk being killed](#)' (*Protester mot utvisning – 'de riskerar att dödas'*) (Unofficial translation), 11 December 2016.

⁶¹⁸ Sweden, Swedish Association of Local Authorities and Regions, Save the Children, Red Cross Sweden.

⁶¹⁹ [We cannot stand it](#) (Unofficial translation) (*Vi står inte ut*), petition via a web-tool for petitions.

network has launched a petition against the 2016 changes in laws and policies that it feels harm these children, ranging from the Act on temporary restrictions of the possibility to obtain a residence permit in Sweden,⁶²⁰ which includes restrictions on family reunification, the policies of uprooting and resettling the children in new municipalities, and the re-registering of children as adults without proper scientifically satisfactory methods, to the policies that prevent children from receiving proper psychological care when, for example, they receive notice that their asylum applications have been rejected.⁶²¹

A religious association consisting of representatives from different Christian organisations in Sweden has also launched a petition called 'The Christmas uprising' (*Julupproret*). The association protests against the new Swedish migration policies and especially their effects on children and families, in the same spirit as the previously mentioned organisation 'We cannot stand it'. 'The Christmas uprising' especially mentions that the protest is directed not only against the changes in laws, but also against the changed practices in the implementation of various policies. The association emphasises that Sweden risks dehumanising some groups and negating their human rights as a result.⁶²²

14.6. Hate speech and violent crime

During the reporting period of October to December 2016, there have been no reports of violent incidents during demonstrations in favour of or against migrants. The previously mentioned demonstrations and protests have been peaceful.⁶²³

No changes are reported in the prevalence or kind of hate speech occurring online.⁶²⁴

The media have not reported any attacks on reception or accommodation centres or any major incidents during the reporting period.

14.7. Policies against smuggling of human beings

From a Swedish perspective, the concept of smuggling of human beings (*människosmuggling*) does not make a legal difference between smuggling of human beings for humanitarian reasons and smuggling of human beings for profit. There are a number of cases of smuggling of human beings, especially in the southern part of Sweden where the Oresund bridge connects Denmark and Sweden. This is considered a crime against the state, in accordance with Chapter 20, sections 8 and 9 of the Aliens Act (*Utlänningslag [2005: 716]*).⁶²⁵ According to the Aliens Act, any person who intentionally assists an alien to unlawfully enter or pass through Sweden (or the EU/EEA Member States) shall be sentenced to imprisonment for at most two years for human smuggling. If the offence is regarded as minor, the sentence shall be a fine or imprisonment for at

⁶²⁰ Sweden, [Act on temporary restrictions of the possibility to obtain a residence permits in Sweden \(Lag \[2016: 752\] om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige\)](#) 20 July 2016.

⁶²¹ Sweden, Swedish Police, Red Cross, Save the Children.

⁶²² Sweden, [the Christmas Uprising](#) (Unofficial translation) (*Julupproret*), official website.

⁶²³ Sweden, Swedish Police.

⁶²⁴ *Ibid.*

⁶²⁵ Sweden, [Aliens Act \(Utlänningslag \[2005: 716\]\)](#), 29 September 2005.

most six months. If the offence is regarded as serious, the sentence shall be imprisonment, generally for at least six months and at most six years. In assessing whether or not the offence is serious, special attention shall be paid to whether the smuggling of human beings was carried out (1) in return for compensation; (2) as part of an activity that involved a large number of persons; (3) in a way that can be considered to have put the alien's life in danger; or (4) in other ruthless ways.

The Scania and Blekinge Court of Appeal in Malmö had a case on 22 August 2016 in which a young man was sentenced to three months in prison for the crime of smuggling of human beings. He had met a family of two adults and two children at a filling station in Denmark. He told the court that the family had claimed both that they had the right to enter Sweden legally and that they had no such right. He did not receive any compensation for bringing the family by car over the bridge into Sweden. He had felt sorry for the children in the family, which he stated was his reason for helping them. Nevertheless, the man was found guilty of the crime of smuggling of human beings but his crime was not considered serious.⁶²⁶ The Swedish police states that this is the most typical type of human smuggling case.⁶²⁷

⁶²⁶ Sweden, the Scania and Blekinge Court of Appeal in Malmö (*Hovrätten över Blekinge och Skåne*), 22 August 2016, case number: B 1405-16.

⁶²⁷ Sweden, Swedish Police.

Stakeholders interviewed in December 2016

Country	Stakeholders interviewed
Austria	<ul style="list-style-type: none"> Federal Ministry of the Interior (<i>Bundesministerium für Inneres</i>), Department II/2, Operational Affairs (<i>Abteilung II/2 Einsatzangelegenheiten</i>); Department III/9 (<i>Abteilung III/9 Grundversorgung und Bundesbetreuung</i>); Department III/5 (<i>Bundesministerium für Inneres, Abteilung III/5 Asyl und Fremdenwesen</i>); Federal Agency for State Protection and Counter Terrorism (<i>Bundesamt für Verfassungsschutz und Terrorismusbekämpfung, BVT</i>); Federal Criminal Police Office (<i>Bundeskriminalamt</i>); Caritas Styria (<i>Caritas Steiermark</i>); Caritas Vienna (<i>Caritas Vienna</i>); Red Cross Austria (<i>Österreichisches Rotes Kreuz</i>); Antidiscrimination office Styria (<i>Antidiskriminierungsstelle Steiermark</i>).
Bulgaria	<ul style="list-style-type: none"> State Agency for Refugees (SAR) (<i>Държавна агенция за бежанците, ДАБ</i>); Ministry of the Interior, Directorate General Border Police (MoI – DGBP) (<i>Министерство на вътрешните работи, Главна дирекция „Гранична полиция“, МВР – ГДГП</i>); Ministry of the Interior, Directorate General Criminal Police (MoI – DGCP) (<i>Министерство на вътрешните работи, Главна дирекция „Криминална полиция“, МВР – ГДКП</i>); State Agency for Child Protection (SACP) (<i>Държавна агенция за закрила на детето, ДАЗД</i>); Bulgarian Red Cross (BRC) (<i>Български червен кръст, БЧК</i>); Refugee Support Group (RSG); Caritas Bulgaria (<i>Каритас България</i>); Bulgarian Lawyers for Human Rights (BLHR) (<i>Български адвокати за правата на човека, БАПЧ</i>); Council of Refugee Women in Bulgaria (CRWB) (<i>Съвет на жените бежанки в България, СЖББ</i>).
Denmark	<ul style="list-style-type: none"> Danish Refugee Council; Danish Red Cross; Danish Ministry of Justice; NGO Anmeld Had (Report Hatred).
Finland	<ul style="list-style-type: none"> Amnesty Finland; Ministry of the Interior (<i>Sisäministeriö/Inrikesministeriet</i>); Finnish Immigration Service (<i>Maahanmuuttovirasto/Migrationsverket</i>); Monika-Multicultural Women's Association Finland (<i>Monika Naiset liitto</i>); National Police Board (<i>Poliisihallitus/Polisstyrelsen</i>); Refugee Advice Centre (<i>Pakolaisneuvonta/Flyktingrådgivningen</i>); Ombudsman for Children (<i>Lapsiasiavaltuutettu/Barnombudsmannen</i>); Central Union for Child Welfare (<i>Lastensuojelun Keskusliitto/Centralförbundet för Barnskydd</i>).
France	<ul style="list-style-type: none"> Médecins du Monde; La voix de l'enfant (The Voice of the Child);

Country	Stakeholders interviewed
	<ul style="list-style-type: none"> • Groupement d'information et de soutien des immigrés (Information and Support Group for Immigrants) (GISTI); • La Cimade; • Secours islamique – France; • Plateforme de service aux migrants (Migrant support service); • Groupement d'intérêt public (GIP) - Habitat et Interventions Sociales (Public interest group - Housing and Social welfare); • Office français de protection des réfugiés et apatrides (OFPRA) (French Office for the Protection of Refugees and Stateless Persons).
Germany	<ul style="list-style-type: none"> • Federal Association for Unaccompanied Minor Refugees (<i>Bundesfachverband für Unbegleitete Minderjährige Flüchtlinge</i>); • Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (<i>Bundesministerium für Familie, Senioren, Frauen und Jugend</i>); • German Red Cross (<i>Deutsches Rotes Kreuz e.V.</i>); • Jesuit Refugee Service (<i>Jesuiten Flüchtlingsdienst, JRS</i>); • German Caritas Association (<i>Deutscher Caritasverband</i>); • Medinet – Network for medical refugee support (<i>Medinetz - Netzwerk medizinische Flüchtlingshilfe</i>); • Borderline-europe - human rights without borders (<i>Borderline-europe - Menschenrechte ohne Grenzen e.V.</i>); • Federal Roma Association (<i>Bundes Roma Verband</i>).
Greece	<ul style="list-style-type: none"> • Ministry for Migration Policy (Υπουργείο Μεταναστευτικής Πολιτικής); • Asylum Service Greece (Υπηρεσία Ασύλου); • UNHCR Greece (Υπατη Αρμοστεία του ΟΗΕ για τους Πρόσφυγες, γραφείο Ελλάδας); • Racist Violence Recording Network (Δίκτυο Καταγραφής Περιστατικών Ρατσιστικής Βίας); • Médecins Sans Frontières-Doctors Without Borders (Γιατροί χωρίς Σύνορα); • International Organization for Migration-IOM (Διεθνής Οργανισμός Μετανάστευσης); • National Centre for Social Solidarity (Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης).
Hungary	<ul style="list-style-type: none"> • Ministry of Internal Affairs (<i>Belügyminisztérium</i>); • Ministry of Human Capacities (<i>Emberi Erőforrások Minisztériuma</i>); • Office of Immigration and Nationality (<i>Bevándorlási és Állampolgársági Hivatal</i>); • National Police Headquarters (<i>Országos Rendőr-főkapitányság</i>); • County Court of Szeged (<i>Szegedi Törvényszék</i>); • General Attorney's Office (<i>Legfőbb Ügyészség</i>); • MigSzol; • MigSzol Szeged; • UNHCR Hungary; • Catholic Caritas (Katolikus Karitás).
Italy	<ul style="list-style-type: none"> • Ministry of the Interior; • 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>); • Doctors Without Borders Italy (<i>Medici Senza Frontiere Italia</i>); • Save the Children Italia Onlus; • UNHCR;

Country	Stakeholders interviewed
	<ul style="list-style-type: none"> • Italian Red Cross (IRC); • Jesuit Refugee Service 'Centro Astalli'; • Community of Sant'Egidio (<i>Comunità di Sant'Egidio</i>); • 'Melting Pot Europa' project; • NGO 'Borderline Sicilia'.
Netherlands	<ul style="list-style-type: none"> • Ministry of Security and Justice which collects information from the Central Agency for the Reception of Asylum Seekers (COA), the Immigration and Naturalisation Service (IND) and the Return and Departure service (DT&V) ⁶²⁸; • Internet Discrimination Reporting Centre MIND.
Poland	<ul style="list-style-type: none"> • Association for Legal Intervention (<i>Stowarzyszenie Interwencji Prawnej, SIP</i>); • The Halina Nieć Legal Aid Center (<i>Centrum Pomocy Prawnej im. Haliny Nieć, CPPHN</i>); • Refugee.pl Foundation (<i>Fundacja Refugee.pl, Refugee.pl</i>); • UNHCR; • HateStop (<i>STOWARZYSZENIE PROJEKT: POLSKA</i>); • Foundation for Somalia (<i>Fundacja dla Somali</i>); • Ministry of the Interior and Administration (<i>Ministerstwo Spraw Wewnętrznych i Administracji</i>); • Ombudsman for children (<i>Rzecznik Praw Dziecka</i>); • Border Guard (<i>Straż Graniczna</i>); • Head of the Office for Foreigners (<i>Szef Urzędu do spraw Cudzoziemców</i>).
Slovakia	<ul style="list-style-type: none"> • Migration Office of the Ministry of Interior of Slovak Republic; • Bureau of Border and Alien Police of the Presidium of Police Force; • Information Centre for Combating Trafficking in Human Beings and for Crime Prevention, Ministry of Interior of Slovak Republic; • Human Rights League; • Globsec Policy Institute; • Slovak Catholic Charity; • Marginal; • Islamic Foundation; • International Organization for Migration in Slovak Republic.
Spain	<ul style="list-style-type: none"> • Asylum and Refuge Office of Ministry of Interior (<i>Oficina de Asilo y Refugio del Ministerio del Interior</i>); • Press Office of the Ministry of the Interior (<i>Oficina de Prensa del Ministerio de Interior</i>); • Spanish Observatory for Racism and Xenophobia (<i>Observatorio Español del Racismo y la Xenofobia, OBERAXE</i> in its Spanish acronym); • General Department on Alien Affairs and Borders (<i>Comisaría General de Extranjería y Fronteras</i>); • Jesuit Migrant Service (<i>Servicio Jesuita Migrantes, SJM</i> in its Spanish acronym); • Rights International Spain (<i>Rights International Spain, RIS</i> in its Spanish acronym); • Amnesty International Spain (<i>Amnistía Internacional</i>); • Diocesan Delegation on Migrations of Cadiz (<i>Delegación Diocesana de Migraciones de Cadiz</i>).
Sweden	<ul style="list-style-type: none"> • Swedish Migration Agency (<i>Migrationsverket</i>);

⁶²⁸ The information from various stakeholders was centrally reviewed and provided in writing by the Ministry of Security and Justice.

Country	Stakeholders interviewed
	<ul style="list-style-type: none"> • Swedish Police Authority (<i>Polismyndigheten</i>); • Swedish Association of Local Authorities and Regions (<i>Sveriges kommuner och landsting</i>); • University of Gothenburg (<i>Göteborgs Universitet</i>); • Red Cross Sweden (<i>Röda Korset Sverige</i>); • Save the Children Sweden (<i>Rädda Barnen</i>).