



# Monthly data collection on the current migration situation in the EU

## Thematic focus: Family tracing and family reunification

### September 2016 monthly report

1–31 August 2016

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## Highlights: 1-31 August 2016

### New arrivals

Arrivals in Italy remain at a high level, with some 17,400 people arriving by sea.

Arrivals on the Greek islands steadily increase, particularly affecting facilities at Moria and Kara Tepe on Lesbos and facilities in Chios.

Only 114 people, including some 40 children, arrive in Hungary – significantly fewer than in July (844). Some 1,770 people are returned to Serbia without access to asylum procedures after being apprehended within 8 km of the border.

Arrivals in Bulgaria increase by more than 50 % compared with July, with more than 3,270 apprehensions.

Arrivals in Austria further decrease but remain substantial (some 3,800 persons), with most entering from Italy.

Some 2,440 persons arrive in Sweden.

### Criminal proceedings

Several proceedings against smugglers are launched in Austria (12), Bulgaria (54), Hungary (25), Italy (many) and Germany (161). In Italy, this includes a French activist, with some sources indicating that he/she may not have acted for financial gain.

Transfers by private cars from Denmark to Sweden continue, with passengers getting dropped off in the middle of the bridge and continuing by foot. All such transfers are considered to constitute smuggling.

### Initial registration and processing

Authorities in Hungary continue to admit only 15 asylum seekers per day in each of the two transit zone facilities, primarily based on the date of arrival; selected refugees reportedly advise the authorities on others' dates of arrival. Only one person per day is admitted to the transit zone. Minor forms of disobedience or resistance against fingerprinting occur during registration.

Authorities in Rome, Italy apprehend 80 people – including many children – in a large-scale identification operation at the dismantled Baobab centre, where people have been living on the street. Plans to set up a reception centre near the railway station are being discussed.

In line with a bilateral police agreement, Italy apprehends some 50 Sudanese persons, including from Darfur, near the French border and returns them directly to Sudan. It appears that none of them had applied for asylum in Italy. A parliamentary question concerning the legitimacy of the bilateral agreement with Sudan is still pending.

Germany reports having refused entry to more than 10,600 persons at the Austrian border, mostly from Afghanistan, Iraq and Syria.

Police violence and pushbacks into Serbia are increasingly reported from Hungary, including beatings of people in handcuffs before they are returned to Serbia. The police has initiated criminal proceedings regarding four of the reported cases so far.

In Bulgaria, return decisions are rarely assessed individually and migrants in immigration detention rarely get relevant information about their detention.

The share of asylum applicants, including Syrians, receiving subsidiary protection instead of refugee status increases in Germany.

Germany applies accelerated procedures to asylum applicants from presumed safe countries in its newly established arrival centres, which have been questioned in parliament in terms of quality. Human rights organisations criticise a reliance on administrative courts to correct asylum decisions.

Appeals against negative asylum decisions in Hungary are successful, resulting in a re-examination and suspension of the 'safe third-country rule' in about one fifth of cases.

Asylum decisions in Sweden decrease by more than 2,000 compared with July and June. The average processing time is 324 days.

## Reception conditions

Occupancy at reception centres in Bulgaria more than doubles, reaching almost 80 %. Conditions deteriorate, leading to violent incidents among inhabitants. In response, the Ministry of Interior plans to set up closed centres and separate asylum seekers by nationality. Non-governmental organisations (NGOs) report that many asylum seekers are leaving Bulgaria for Serbia due to poor conditions in Bulgaria.

The number of people waiting to enter the transit zone at the Hungarian-Serbian border drops from 1,200 persons at the beginning of the month to some 450 persons by mid-August, due to improved reception conditions in Serbia. Almost half of them (some 40 %) are children. By mid-August, NGOs install basic sanitary facilities for people waiting to enter the transit zone. Medical assistance is only available from volunteers. The transit zone facilities along the Croatian border did not host any refugees.

Italy starts to distribute and relocate asylum seekers to local reception centres throughout the country. Asylum seekers apprehended in Ventimiglia, near the French border, are transferred to Sardinia or southern Italy.

A detention centre in Brindisi, Italy is set on fire in protest against detention conditions and supported by a solidarity demonstration outside the centre. The regional National Preventive Mechanism criticises the immigration detention centre in Ponte Galeria, Rome as having inadequate living conditions. Reception facilities for children in Lampedusa are set on fire, presumably due to the facilities' inhabitants' frustrations with reception conditions. The public prosecutor launches an inquiry into reception centres in Florence due to complaints about poor conditions.

New reception facilities open in Italy, including a temporary tent camp in Frosinone and a reception centre in Pordenone. The mayors of Capalbio and Genoa refuse to make available empty buildings due to the expected negative impact on tourism and trade.

Five regions in Italy, including areas strongly affected by human trafficking, will not receive financial resources under the national Action Plan against Human Trafficking, which could lead to the suspension of many ongoing assistance programmes in these regions.

Reception conditions in Greece remain very poor and give rise to tensions and security concerns. More than 11,300 people are accommodated on the islands, even though they only have the capacity for 7,450 people.

Human rights infringements by refugee home operators in Germany prompt the termination of several contracts. Investigations are ongoing against security staff accused of criminal attacks, including the alleged drugging and rape of a female asylum seeker.

Many rejected asylum seekers in Sweden turn to the church for assistance as they try to stay in Sweden despite the suspension of all assistance.

Material conditions at detention facilities in Hungary are very poor, leading to frustration, tensions and suicide attempts among detainees. Information concerning the asylum system is very limited.

## Child protection

More than 1,500 unaccompanied children in Greece continue to wait for suitable shelter. More than 350 of them are housed in closed facilities. The processing of children's asylum applications is delayed. The lack of paediatricians in Kos delays age assessments and subsequent referrals of unaccompanied children.

Increasing arrivals in Bulgaria undermine efforts to create, and improve conditions in, separate accommodation for children. The Ombudsman in Bulgaria highlights the risk of unaccompanied children being subjected to trafficking and smuggling, problems with appointing children's representatives, and the lack of efforts to organise protected spaces.

Providers of child accommodation facilities further diversify in Austria, including NGOs and private persons.

Ministry of Interior officials consider the lack of fingerprinting of children below the age of 14 years to be an obstacle to identifying and tracing children in Austria in case they go missing.

Youth welfare offices are often not present in arrival and reception centres in Germany. Unaccompanied children are often subjected to several transfers due to the distribution among federal states according to quotas. Delays in appointing guardians persist. Some children are accommodated in inadequate facilities. Children living with noncustodial relatives forfeit child and youth benefits.

German police identified 1,725 unaccompanied children at its borders between April and June, significantly fewer than for the period between January and

March (some 3,650 unaccompanied children). Of the 1,725 children, 1,568 were referred to youth offices, 458 were refused entry at the border, and 10 were expelled pursuant to Paragraph 57 of the Residence Act.

Some 900 unaccompanied children apply for asylum in Sweden, mainly from Afghanistan, Iraq and Syria. Unaccompanied children who were transferred to other municipalities in the past due to lack of space are being returned to the original municipalities.

## Legal, social and policy responses

Hungary announces plans to reinforce the fences at its southern borders. In preparation for the referendum on the EU relocation system – scheduled for 2 October 2016– the authorities continue to portray the migration situation as a threat to national security.

Legislation to reform the asylum system in Italy is being prepared. In an effort to speed up asylum procedures, the proposed law limits appeal possibilities against negative asylum decisions by the territorial commissions and allows appeals to be decided without hearing applicants in person.

Greece passes a law providing reception classes for school-aged refugee children to prepare them for integration into the Greek education system.

A law that has been passed in Italy allows accommodating unaccompanied children in extraordinary and temporary facilities established by the local prefectures, if the capacity of the regular specialised reception centres for children is insufficient. Standards for these new types of facilities have not yet been set, and NGOs fear that they will not adequately protect children.

The Swedish government presents a new action plan for the protection of children exposed to human trafficking, exploitation and sexual abuse, focusing on the disappearance of unaccompanied children.

Sweden postpones the introduction of a new state compensation system that would decrease state support for municipalities that receive unaccompanied children to increase incentives for finding cost-effective ways to accommodate them.

Cases of severe mistreatment and poor conditions continue to be reported from accommodation centres for unaccompanied children in Sweden.

As a result of temporary restrictions on obtaining residence permits introduced in July, several unaccompanied children in the south of Sweden who unwittingly crossed into Denmark had to reapply for asylum upon returning to Sweden under the new Act, which only allows temporary residence permits to be granted.

According to media reports, in Lower Saxony, a father of six children who had 10 days to leave the country and regularly reported to social services was detained based on a risk of absconding. The case was referred to the State's Interior Ministry in Germany, which overturned the detention decision.

## Hate speech

Local vigilante groups in Hungary violently return migrants to Serbia. The mayor of a border town applauds these efforts, referring to the villagers' better knowledge of the territory compared to the police.

Many anti-refugee incidents and events take place in Austria and Germany. In Austria, these include several personal threats to aid workers and service providers. At least every three days, an accommodation facility is subject to an arson attack in Germany. Victims are afraid to report to the police and/or are concerned that this would negatively affect their pending status procedures.

In Italy, the mayor of Abetone requests separate bus lines for school students and local asylum seekers. In Sicily, four children are violently attacked by locals and hospitalised, one being in a serious condition.

An informal refugee housing settlement in Greece is attacked with gas-bottle bombs.

Bulgarian social media users' hostility towards refugees intensifies.

## Thematic focus: Family tracing and family reunification

Respect for family life is a fundamental right granted by Article 7 of the Charter of Fundamental Rights of the European Union. Family tracing and family reunification are practical prerequisites to be able to enjoy family life. Before the current migration situation began in 2015, family reunification accounted for **a large but decreasing share** of legal migration.

During the large movements along the Balkan route, many families were split up and tracing mechanisms were put under strain. More recently, several EU Member States have introduced legal restrictions on family reunification, as reported in previous FRA monthly reports. This section looks at the fundamental rights implications of these practices in more detail.

### Main findings

- Some EU Member States have reduced **the timeframe for lodging an application** for preferential family reunification of refugees, or have made fulfilling **necessary conditions more burdensome**.
- To ensure fundamental rights-compliant family tracing, the **web-based tool “Trace the Face”** – a practical measure developed by the International Committee of the Red Cross (ICRC) – is used in most Member States; it also **complies with the new EU data protection standards**. It seems that tracing services generally do not share with the authorities data on persons who search for their family members or who are searched for.
- For tracing purposes, refugees and migrants mainly use **social media networks** (e.g. Viber, Whatsapp, and Facebook) and **databases available on the internet**, such as [www.refunite.org](http://www.refunite.org) or [www.familylinks.icrc.org](http://www.familylinks.icrc.org).<sup>1</sup> They also often turn to the well-established, regular family tracing system run by the ICRC.
- **Practical obstacles** to family tracing include a lack of documents, quick onward travel, slow identification of persons who die crossing the Mediterranean, and others. The national offices of the Red Cross have a leading role, but in the majority of the Member States covered, there is **no NGO specifically responsible for family tracing**.
- There are **no systematic and reliable data** on how many asylum seekers arrive with or without their family in the seven Member States, nor on the exact number of requests for family reunification. Estimates suggest some increase in almost all of the seven Member States in 2016, despite several **obstacles** encountered by sponsors and family members – including the **long duration of processing requests** and the sometimes **too complicated and strict legal framework**.
- Practices differ considerably in the seven Member States concerning the **dissemination of information** on family reunification.
- **Dublin requests for family unity remain quite low** among all requests in 2015 and 2016 (although some Member States do not collect data on

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<sup>1</sup> Diakonie Germany (*Diakonie Deutschland, Zentrum Migration und Soziales*), 29 August 2016.

this); this seems to be largely due to a range of **practical, legal and administrative obstacles** (e.g. no appeal procedures).

EU and national legislation must be interpreted in light of the EU Charter of Fundamental Rights as well as the European Convention on Human Rights (ECHR). In addition to the right to respect for private and family life (Article 7), the Charter refers to the **principle of non-discrimination** (Article 21), **the rights of the child** (Article 24) and **the right to an effective remedy** (Article 47), all of which are relevant in this context.

**Directive 2003/86/EC** further regulates the right to family reunification, specifying the conditions for family reunification as well as the rights of the family members concerned. On this basis, non-EU nationals legally residing in the EU can bring their spouse, under-age children and the children of their spouse to the Member State in which they are residing. Member States may also authorise reunification with an unmarried partner, adult dependent children, or dependent older relatives.<sup>2</sup> Chapter V of the directive outlines several derogations from the ordinary rules, creating more favourable conditions for family reunification of refugees. The Court of Justice of the EU (CJEU) has confirmed that the directive obliges Member States to authorise family reunification in the cases covered by the directive.<sup>3</sup>

The directive recognises family reunification as necessary to making family life possible, which in turn facilitates the integration of third-country nationals in the Member States and promotes economic and social cohesion, a fundamental EU objective stated in the founding treaties.<sup>4</sup> When Member States implement the EU rules in their domestic legislation, the relevant national procedures available for family reunification should be effective and manageable as well as transparent and fair, in order to offer appropriate legal certainty to those concerned.<sup>5</sup>

## Recent legislative changes

In some Member States, the **timeframe for lodging an application for family reunification has recently been restricted or the conditions have been made more burdensome**.

In Austria, for example, such amendments to the Asylum Act 2005 came into force on 1 June 2016.<sup>6</sup> Family members of recognised refugees have to apply for entry at an Austrian diplomatic or consular post within three months after recognition of the sponsor. If the application for entry is filed later, evidence of adequate accommodation, health insurance and sufficient income has to be provided.<sup>7</sup> Refugees who want to bring their spouses to Austria need to prove that they have at their disposal € 1,569 a month, and an additional € 136.21 for

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<sup>2</sup> See [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/legal-migration/family-reunification/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/legal-migration/family-reunification/index_en.htm).

<sup>3</sup> CJEU, C-540/03, *European Parliament v. Council of the European Union*, 27 June 2006, para. 60.

<sup>4</sup> Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, OJ L 251, 3.10.2003, preamble, para. 4.

<sup>5</sup> *Ibid.*, para. 11.

<sup>6</sup> Red Cross Austria, Tracing Service and Family Reunification (*Österreichisches Rotes Kreuz, Suchdienst und Familienzusammenführung*).

<sup>7</sup> Federal Office for Immigration and Asylum (*Bundesamt für Fremdenwesen und Asyl*).



each child.<sup>8</sup> Beneficiaries of subsidiary protection now generally have to wait three years for family reunification and have to prove adequate accommodation, health insurance and sufficient income. For parents of unaccompanied children who are entitled to asylum or subsidiary protection, an exception applies: they do not have to prove the additional requirements noted above if the sponsor is still a child at the time the application is filed.<sup>9</sup> According to the Austrian Red Cross, the three-month application period for refugees causes problems; for instance, when a family member does not manage to exit a war zone to reach an Austrian embassy in time, or a family member has disappeared. Another issue is that the law does not allow for family reunification of children above 18 years of age.

A similarly restrictive amendment has been enacted in Hungary. As of 1 July 2016, family members who wish to join a person benefitting from international protection in Hungary are required to submit their claims no later than 3 months after recognition (previously it was six months). If they miss the new three-month deadline, they are obliged to meet extra requirements when submitting the claim (i.e. having accommodation in Hungary; having sufficient funds available to cover living expenses; having sufficient funds to cover the costs of medical services).

A new law on temporary restrictions of the possibility to obtain residence permits in Sweden entered into force on 20 July 2016; it also **limits possibilities** for persons enjoying international protection to be reunited with their families. While recognised refugees' right to family reunification is unchanged, **persons enjoying subsidiary protection** who applied for asylum after 24 November 2015 only have the right to be reunited with their family in exceptional cases.<sup>10</sup> This model has recently been embraced by Germany, as well. Pursuant to amendments made to the German Residence Act in March 2016, facilitated family reunification is suspended for two years for persons who received subsidiary protection after 17 March 2016; at the same time, the number of persons given subsidiary protection by the asylum authority has increased significantly.<sup>11</sup>

#### **Expanding eligibility for family reunification in Italy**

A positive development in national legislation can be highlighted in Italy. **Same-sex migrant and refugee couples** are covered in the context of family reunification under the latest amendment to Italian legal provisions on same-sex unions and rules on partnerships.<sup>12</sup>

No changes to Bulgarian migration law directly related to family reunification took place during the reporting period.<sup>13</sup> Bulgaria's legislative framework is considered good and beneficial for family reunification because it also allows such reunification for foreigners with temporary protection status. Bulgaria also

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<sup>8</sup> Red Cross Austria, Tracing Service and Family Reunification (*Österreichisches Rotes Kreuz, Suchdienst und Familienzusammenführung*).

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

<sup>10</sup> Swedish Migration Agency.

<sup>11</sup> See <https://www.bundesregierung.de/Content/DE/Artikel/2016/02/2016-02-03-asylpaket2.html>.

<sup>12</sup> *Legge 20 maggio 2016*, n. 76, *Regolamentazione delle unioni civili tra persone dello stesso sesso e disciplina delle convivenze*, available at: [www.gazzettaufficiale.it/eli/id/2016/05/21/16G00082/sq](http://www.gazzettaufficiale.it/eli/id/2016/05/21/16G00082/sq).

<sup>13</sup> Center for Legal Aid – Voice in Bulgaria.

allows reunification of children not only with parents, but also with other family members.

## Family tracing

In the current migration situation, the **main challenges** to tracing family members include:

- Refugees move very quickly between countries, so by the time the Red Cross office has a reply to search requests, the persons have already left for another country, as reported, for example, from Austria.<sup>14</sup>
- Names are often noted down in different spellings by the various offices involved in one or more countries; this makes it difficult to match names in the databases.
- Smugglers and other asylum seekers often advise asylum seekers not to provide their real names.
- Many asylum seekers arrive in Europe without documents; therefore, it is very difficult or even impossible to verify whether or not the persons are truly related to each other.<sup>15</sup>
- Refugees often do not know where they are or where they were separated from family members, as they have no geographical knowledge of Europe. People come to tracing services looking for relatives "in Europe". The Red Cross then also searches in the country of origin, as refugees who do not manage to reach Europe often go back and can be found there.
- Tracing and meeting with the asylum seekers in question is particularly difficult when they are in an immigration detention centre, as their ability to communicate from there is more limited.<sup>16</sup>
- Persons who drown in the Mediterranean Sea are identified only slowly, if at all. State authorities are responsible for identifying bodies, but all coastal countries use different forensic methods and there is no common database for registering bodies. The Red Cross has started to work together with forensic experts. It includes information in tracing requests that can be useful for the experts – such as physical size, past injuries and tattoos – if there is an indication that a person might have drowned, and if the person searching for the relative agrees, to make it possible to match tracing requests with forensic databases.
- In cases of missing children, a further challenge is to find ways of cooperating with Member State authorities without sharing personal data.<sup>17</sup>

Mechanisms for family tracing in many Member States rely on **the International Committee of the Red Cross (ICRC) as a key actor**. The ICRC has developed a useful tool: "**Trace the Face**" ([www.tracetheface.org](http://www.tracetheface.org)). **Data protection issues** were thoroughly discussed within the ICRC throughout

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<sup>14</sup> Red Cross Austria.

<sup>15</sup> National Police Headquarters of Hungary.

<sup>16</sup> Center for Legal Aid – Voice in Bulgaria.

<sup>17</sup> Red Cross Austria, Tracing Service and Family Reunification (*Österreichisches Rotes Kreuz, Suchdienst und Familienzusammenführung*).

the tool's development, and the tool is already in line the new EU Data Protection Directive. Persons looking for family members can upload their own photo (but not photos of family members) into the system. Children aged 15 and up can upload their photo with the consent of the legal representative. Only the photo is placed online, without any indication of the name, the place or the family member the person is looking for. UNHCR was consulted to ensure maximum safety: the photos cannot be searched or downloaded.<sup>18</sup> Reacting to cases of missing children, the ICRC established an additional tool in its internal networks, with photos of children under the age of 15. This database can only be accessed by Red Cross offices.<sup>19</sup> As refugees mainly use social media networks to search for useful websites, the Red Cross also established a Facebook page that shows the web-link to "Trace the Face" – there is no "Trace the Face"-Facebook page to ensure data protection – and preventive information in a number of languages.<sup>20</sup>

Refugees also use the well-established **regular family tracing system of the ICRC**. The main task of the Red Cross Tracing Service is to help re-establish contacts between close relatives separated as a result of wars, armed conflicts, natural disasters, and social or political circumstances. The Tracing Services of the different national Red Cross societies are guided by the Central Tracing Agency, which is a part of the ICRC.<sup>21</sup>

During the latest period of arrivals of high numbers of refugees, **private initiatives** started to offer tracing services – particularly in big train stations in Austria, Germany and Hungary – using photos without considering data protection risks. The ICRC invited these initiatives to cooperate and comply with the Red Cross standards. In Austria, the cooperation worked well; by now the private initiative has stopped and handed their cases over to the Red Cross.<sup>22</sup> Amongst the private initiatives, only adults are allowed to search and register with the website [www.refunite.org](http://www.refunite.org); however, there is no control of the applicants' age. Persons who search for family members can also register data of missing persons.<sup>23</sup>

According to the Austrian Red Cross, a **tracing request is only made if this is the person's wish**. Conversely, the Red Cross will only inform a person who filled out a tracing request that a relative was found if this person agrees to get in contact with the seeker.<sup>24</sup> As reported by the Austrian Red Cross, there have been no family reunifications against a person's will. This is similar to the practice of the Bulgarian and the Swedish Red Cross: **no personal data are released without the consent of the person to whom the data belong**.<sup>25</sup> Along the same lines, the German Red Cross Tracing Service **transfers no data to state authorities concerning persons who search for their family**

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<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

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

<sup>21</sup> For more information about the Red Cross tracing system, see <http://en.redcross.bg/tracing1.html>.

<sup>22</sup> Red Cross Austria, Tracing Service and Family Reunification (*Österreichisches Rotes Kreuz, Suchdienst und Familienzusammenführung*).

<sup>23</sup> For more details, see <https://refunite.org/about/privacy-policy/>.

<sup>24</sup> Red Cross Austria, Tracing Service and Family Reunification (*Österreichisches Rotes Kreuz, Suchdienst und Familienzusammenführung*).

<sup>25</sup> Red Cross Bulgaria and Sweden.

**members or who are searched for.**<sup>26</sup> In cases of **unaccompanied children**, the authorities in Hungary work together with the **temporary guardians to evaluate whether or not family reunification is in the best interests of the child.**<sup>27</sup> Several NGOs provide **legal assistance** for submitting family reunification requests, and may also assist people throughout the entire procedure. In Sweden, aside from the Red Cross, the Swedish Migration Agency has a tracing responsibility in cases of unaccompanied children.<sup>28</sup> Various **civil society organisations** are helping to trace family members in Germany, too, but most of the family tracing requests are processed by the Tracing Service of the German Red Cross.<sup>29</sup> **In other Member States, no NGO is specifically responsible for family tracing.**

The success of family tracing also depends on the tools refugees and migrants use to trace their family members after losing contact during their journeys. According to ICRC, **telephones** were the most direct and rapid means of restoring contact and reassuring families, together with the provision of free WiFi spots, where asylum-seekers could make use of their appliances.<sup>30</sup> Refugees mainly use **social media networks**. The top three channels used are Viber, Whatsapp, and Facebook. Particularly Syrian refugees and their family members usually all have smartphones and use social network technologies (different from e.g. Somali refugees).<sup>31</sup> However, this method is highly dependent on the availability of internet connections at both ends. The above-mentioned **“Trace the Face”** is particularly used by refugees from Afghanistan, Senegal, Syria and Iraq; most users access it from Germany and Sweden.<sup>32</sup> Other databases are also used, such as [www.refunite.org](http://www.refunite.org) or [www.familylinks.icrc.org](http://www.familylinks.icrc.org).<sup>33</sup>

Besides using the ICRC tracing system, refugees also often turn to **NGOs** for help – as, for example, in Bulgaria.<sup>34</sup> The **family network** is the most used tracing tool by asylum seekers arriving in Italy. In Hungary, the police reports that family members who are already in Europe organise **human smuggling actions** and that the facilitators often agree to ensure that the new arrivals can establish a connection with their family members after they cross the border into Hungary.<sup>35</sup>

Family tracing is a duty for Member States under the EU asylum *acquis*. To assist Member States with this task, EASO has developed a practical guide for family tracing.<sup>36</sup>

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<sup>26</sup> German Red Cross Tracing Service (*Deutsches Rotes Kreuz, Suchdienst*), 24 August 2016.

<sup>27</sup> Office of Immigration and Nationality.

<sup>28</sup> Red Cross Sweden, Swedish Migration Agency.

<sup>29</sup> See <https://www.drk-wb.de/download-na.php?dokid=15374>.

<sup>30</sup> Red Cross Sweden.

<sup>31</sup> Red Cross Austria, Tracing Service and Family Reunification (*Österreichisches Rotes Kreuz, Suchdienst und Familienzusammenführung*).

<sup>32</sup> *Ibid.*

<sup>33</sup> Diakonie Germany (*Diakonie Deutschland, Zentrum Migration und Soziales*), 29 August 2016.

<sup>34</sup> Center for Legal Aid – Voice in Bulgaria.

<sup>35</sup> National Police Headquarters of Hungary.

<sup>36</sup> EASO, EASO practical guide on family tracing, March 2016.

## Family reunification

To assess the possible demand for family reunification, data on the number of arrivals without family and the percentage of families among asylum seekers would be indicative. Available data vary depending on the Member State. **Some authorities do not collect information on whether asylum seekers arrive with or without family.** In Bulgaria, for instance, there are only estimates by NGOs – according to which families constitute around 15 % of asylum seekers.<sup>37</sup> In comparison, in Hungary, the rate of asylum seekers with families was three times higher in 2016 (until August), with a little more than half of all asylum seekers arriving on their own in that period.

Data on the number of **requests for family reunification** received in 2016 so far are not available in several Member States. However, the national Red Cross offices have estimates for some Member States. For example, the Austrian Red Cross counsels the majority of family reunification cases in Austria. The number of requests clearly increased from 2014 to 2015. The numbers are expected to double in 2016. On the other hand, in Sweden, a normal family reunification ratio is expected in 2016, which means that one person granted international protection on average generates two applications for family reunification.<sup>38</sup> A slight increase in 2016 as compared to 2015 is calculated in Hungary and Greece, and a similar but more prominent trend can be predicted in Germany with regard to family reunification applications by Syrians. The trend is the reverse in Bulgaria, where, in the absence of concrete figures, unofficial calculations indicate that the number of family reunifications this year will be significantly lower than last year.<sup>39</sup>

Family reunification is particularly important for **children**, considering also their rights to have their best interests considered and to maintain a personal relationship and direct contact with both parents, according to Article 24 of the Charter of Fundamental Rights. Unaccompanied children are particularly vulnerable. However, no exact figures are available on the number of unaccompanied children reunified with their families. Estimates show that, in some Member States, there are not that many child applicants; instead, many applicants for family reunification are fathers – such as in Austria. Many requests from 2015 will only be decided in 2016. The number of unaccompanied children who have actually been reunited with their families is also low in Sweden.<sup>40</sup>

National practices on the **dissemination of information** on family reunification differ. In Austria, asylum seekers are not informed of the possibilities of family reunification upon arrival; legal counsellors sometimes inform their clients about this issue. Instead of governmental authorities, UNHCR, Red Cross Austria and NGOs work together to spread information in the migrant/refugee communities. According to the Austrian Red Cross, the fastest way to inform refugees is via the communities.<sup>41</sup> In Sweden, information on family reunification is sent to

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<sup>37</sup> Bulgarian Red Cross.

<sup>38</sup> Swedish Migration Agency.

<sup>39</sup> Bulgarian State Agency for Refugees.

<sup>40</sup> Swedish Migration Agency.

<sup>41</sup> Red Cross Austria, Tracing Service and Family Reunification (*Österreichisches Rotes Kreuz, Suchdienst und Familienzusammenführung*).

persons once they have received a residence permit.<sup>42</sup> The practice is similar in Hungary.<sup>43</sup> By contrast, in Bulgaria, asylum seekers are immediately informed about family reunification. They already receive such information at the distribution centres from the competent authorities and from representatives of the Bulgarian Red Cross.<sup>44</sup> The information net is quite solid in Germany, where both state authorities and many NGOs and social workers inform potential applicants about the right to family reunification.<sup>45</sup>

**Recurrent obstacles** to family reunification and **associated challenges** in dealing with such requests include:

- Long waiting times before getting an appointment at the embassies to file the application (in some cases several months or even a year, such as in German embassies/consulates in Jordan, Lebanon or Turkey).<sup>46</sup>
- Long duration of processing visa and/or residence permit requests. For example, there is usually no reduced waiting time for Syrians, and applicants rarely get information about the progress of their requests.
- Financing the high travel expenses and related procedural costs – for example, translation of supporting documents, procurement of all necessary documents, visa fees, DNA testing.
- Legal and practical problems in getting decisions on guardianship for unaccompanied children.
- Time pressure due to various deadlines, e.g. to take part in the facilitated family reunification procedure or to apply for family unification before the age of majority.
- Limitation of family reunification to immediate family members (spouse, parents, minor children).
- Determination of family links is often complicated, reported, for example, from Greece.
- Limited access to legal assistance.
- Lack of valid travel documents, particularly from Syria.
- Compliance with requirements concerning accommodation, income and insurance can often not be met.
- Irregular stays in transit countries, which make it difficult to apply for family reunification.<sup>47</sup>
- Limited information provided to asylum seekers and refugees on the possibility to apply for family reunification.

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<sup>42</sup> Swedish Migration Agency.

<sup>43</sup> Office of Immigration and Nationality.

<sup>44</sup> Bulgarian Red Cross.

<sup>45</sup> See <https://familyreunion-syria.diplo.de/webportal/desktop/index.html#start>.

<sup>46</sup> Federal government's response to a parliamentary minor interpellation, 8 July 2016, at <http://dip21.bundestag.de/dip21/btd/18/091/1809133.pdf>.

<sup>47</sup> For more on these obstacles, see European Council on Refugees and Exiles (ECRE) and Red Cross EU Office, *Disrupted Flight: The Realities of Separated Refugee Families in the EU*, November 2014, at [http://www.redcross.eu/en/upload/documents/pdf/2014/Asylum\\_Migration/RCEU%20ECRE%20-%20Family\\_Reunification%20Report%20Final\\_HR.pdf](http://www.redcross.eu/en/upload/documents/pdf/2014/Asylum_Migration/RCEU%20ECRE%20-%20Family_Reunification%20Report%20Final_HR.pdf).

## NGO handbook on family reunification in Hungary

A notable good practice is the **handbook on the family reunification procedure** prepared for refugees and beneficiaries of subsidiary protection by the Hungarian Association for Migrants ([www.menedek.hu](http://www.menedek.hu)) and the Hungarian Helsinki Committee ([www.helsinki.hu](http://www.helsinki.hu)).<sup>48</sup> The handbook is available on the internet in several languages, including English, Arabic, Dari and Pashtu (see <http://menedek.hu/hirek/kezikonyv-a-menekultek-es-oltalmazottak-csaladegyesitesi-eljarasarol>).

## Dublin requests

In the context of family reunification, the **Dublin Regulation** established a **specific regime** to handle Dublin transfer requests for **family reasons**. Articles 8–11 deal with family considerations, according to which the **connecting factors based on family relationships prevail over other criteria for determining which Member State is responsible for examining an application for international protection**. Against this backdrop, it is of particular relevance to have an overview of the practical application of the above rules and to get data on the number of Dublin requests for family reasons (both incoming and outgoing) in 2015 and 2016 so far.

Several Member States **do not have complete information on the number of Dublin requests for family reasons** (such as Austria, Germany, Italy and Sweden). In Germany, official figures on incoming Dublin family-related requests are more easily available than on outgoing requests, i.e. those addressed to other Member States. Bulgaria reported only a few requests under Articles 8-11 in both directions. In addition, it is striking that, even though a large number of incoming and outgoing requests related to Hungary, almost no transfers have actually been carried out in 2015 or 2016. Generally speaking, Dublin requests for family unity remain quite low among all requests. In Greece, however, a significant increase of outgoing requests was noticed in 2016.<sup>49</sup> From a total 1,780 requests until 31 August 2016, 96 concerned unaccompanied children. The majority of these outgoing requests was submitted after the closure of the Balkan route and are still pending.<sup>50</sup>

**Current obstacles** relating to Dublin requests for family unity involve the following:

- Lack of counselling and information on Dublin requests for family unity (reported, for example, in Austria and Hungary).
- Absence of proof of family relationship, or provision of false information on family members (for instance, as reported in Hungary).<sup>51</sup>
- Lack of consent to reunification by the family members.
- No request/declaration signed by the person concerned (an essential precondition for initiating the procedure) – for example, in Hungary.

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<sup>48</sup> Handbook on the family reunification procedure for refugees (*Kézikönyv a menekültek és oltalmazottak családegyesítési eljárásáról*).

<sup>49</sup> Asylum Service, Greece.

<sup>50</sup> Ecumenical Refugees Program, Greece.

<sup>51</sup> Office of Immigration and Nationality.

- Long duration of registration processes and difficulties in getting appointments for submitting applications for Dublin family reunifications – reported in Greece, where only cases of severe vulnerability are prioritised and completed in a timely manner.
- Very lengthy processing of Dublin requests for family reasons; for example, a transfer from Greece takes several months,<sup>52</sup> and also a few months to other Member States.<sup>53</sup>
- No possibility to appeal negative decisions; applicants do not get any information on why family unity was denied in their Dublin cases (reported in Austria).
- Burdensome national legislative framework (for example, in Bulgaria).
- Delays in covering transportation costs in cases of Dublin requests by the competent authorities, often due to lengthy and complicated procurement procedures (for instance, in Bulgaria).

Hungary reported that as a result of some of the above-noted difficulties, Dublin requests for family unity **could not be processed in some cases**; therefore, family unity could not be restored.<sup>54</sup>

Overall, family reunification seems to have become more difficult due to the recent changes in Member States' policies and practices. Family tracing, which is often the necessary first step before applying for family reunification, proves to be complicated for various reasons, despite some promising practices. More precise and specific data would be needed to better assess national practices on family reunification and family tracing and to develop effective solutions in line with fundamental rights at EU and Member State levels.

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<sup>52</sup> Red Cross Sweden.

<sup>53</sup> Center for Legal Aid – Voice in Bulgaria.

<sup>54</sup> Office of Immigration and Nationality.



# 1. Austria

## 1.1. Stakeholders contacted

The interviews were conducted by phone and email with the following stakeholders:

- Federal Ministry of the Interior/Department II/2, Operational Affairs (*Bundesministerium für Inneres/Abteilung II/2 Einsatzangelegenheiten*);
- Federal Ministry of the Interior, Department III/9 (*Bundesministerium für Inneres, Abteilung III/9 Grundversorgung und Bundesbetreuung*);
- Federal Agency for State Protection and Counter Terrorism (*Bundesamt für Verfassungsschutz und Terrorismusbekämpfung, BVT*);
- Red Cross Austria (*Österreichisches Rotes Kreuz*);
- Caritas Styria (*Caritas Steiermark*);
- Caritas Austria (*Caritas Österreich*);
- Anti-Discrimination Bureau Styria (*Antidiskriminierungsstelle Steiermark*).

## 1.2. Overview of the situation

The UNHCR reports a total of some 3,810 arrivals for the period 1-28 August.<sup>55</sup> From 1 to 29 August, 3,510 new persons entered Austria according to Federal Ministry of the Interior/Department II/2, Operational Affairs.<sup>56</sup> The main countries of origin are Afghanistan, Morocco, Syria, Nigeria, Pakistan and Iraq.<sup>57</sup> The main entry point is the border with Italy.<sup>58</sup>

From 1 to 28 August, nearly 3000 persons applied for asylum in Austria.<sup>59</sup> There was a slight increase in applications during the second week of the month (week one: some 700 applications; week two: 860 applications; week three: some 670 applications).<sup>60</sup> The applicants mainly come from Afghanistan, Syria and Pakistan.<sup>61</sup> The overall number of asylum seekers decreased. In the region of Styria, the number of asylum seekers in basic care facilities decreased by 230 persons in the last month. There are now 11,500 persons in basic care facilities. Unlike the overall numbers, the number of unaccompanied minor newcomers did not decrease.<sup>62</sup> Caritas Austria reports that new arrivals are mainly single men.<sup>63</sup> According to Caritas Styria, the Federal Office for Asylum (*Bundesamt für*

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55 UNHCR, Europe Refugees and Migrants Emergency Response - Daily Estimated Arrivals per Country - Flows through Western Balkans Route, data for daily arrivals to Italy was added to this sheet on 19 August 2016 for the first time, available at:

<http://data.unhcr.org/mediterranean/documents.php?page=1&view=grid>.

56 Federal Ministry of the Interior/Department II/2, Operational Affairs.

57 *Ibid.*

58 *Ibid.*

59 *Ibid.*

60 Federal Ministry of the Interior, Department III/9.

61 *Ibid.*

62 Caritas Styria.

63 Caritas Austria.

*Fremdenwesen und Asyl, BFA*) currently focuses on processing Dublin-proceedings (many interviews are scheduled for Dublin-cases).<sup>64</sup>

### 1.3.Criminal proceedings against migrants and people helping them

#### **1.3.1 Criminal proceedings initiated against migrants and asylum seekers**

Authorities intercepted 12 smugglers in August.<sup>65</sup>

#### **1.3.2 Criminal proceedings against people/organisations/associations facilitating irregular entry or stay**

Nothing new to report.

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

#### **1.4.1 Registration and identification**

Nothing new to report.

#### **1.4.2 Asylum procedure**

The duration of the asylum procedure varies considerably. The reasons for these differences could not be identified so far (there are, for instance, no correlations with the applicants' country of origin).<sup>66</sup>

#### **1.4.3 Return procedure**

The demand for voluntary return remains high, particularly by asylum seekers from Iraq, but also by people from Afghanistan.<sup>67</sup>

### 1.5.Challenges and developments concerning reception conditions of new arrivals, including detention

#### **1.5.1 Reception conditions and capacity**

The number of new asylum seekers and, therefore, the pressure on accommodating facilities decreases. This allows to improve the quality of asylum accommodations. According to Caritas Styria, the Styrian authorities react and take action in case of complaints, demand improvements or close facilities that

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64 Caritas Styria.

65 Federal Ministry of the Interior/Department II/2, Operational Affairs.

66 Red Cross Austria.

67 Caritas Styria.

do not meet the quality requirements.<sup>68</sup> Caritas Austria confirms that reception conditions are good and that there are currently no challenges.<sup>69</sup>

The Red Cross Austria (*Österreichisches Rotes Kreuz*), currently taking care of approximately 3,500 persons in basic care, does not face any particular challenges.<sup>70</sup>

Nothing new to report by the Federal Ministry of the Interior.<sup>71</sup>

### **1.5.2 Vulnerable persons**

Nothing new to report.

### **1.5.3 Child protection**

The providers of facilities for unaccompanied children further diversified. Besides Caritas, other NGOs and private persons now run such facilities, many of which are linked with local initiatives to integrate the unaccompanied children. An example is the close links the private owner of a facility in Styria has with local enterprises providing internships to the children.<sup>72</sup>

To qualify to apply for family reunification, a person must first have been asylum status in Austria. As a result, that person is no longer in basic care, but usually receives minimum benefits (*Mindestsicherung*). His/her income is taken into consideration when calculating the benefits to be allocated to the family members coming to Austria within the framework of family reunification. As a result, the arriving family members are not entitled to basic care. This means that, for the first four months after arrival, the whole family has to live on one person's minimum benefit allowances. Indeed, the other members of the family can only receive minimum benefits after four months. Caritas tries to bridge these four months with support in cash and in kind.<sup>73</sup>

### **1.5.4 Healthcare**

The internal procedure for providing accommodation to persons in need of special care was improved by the Federal Ministry of the Interior, Department III/9. It has been internally clarified which places of accommodation shall be foreseen for persons with various specific health requirements.<sup>74</sup> Thus, the procedure is now better structured and works faster.

### **1.5.5 Immigration detention**

In the region of Styria, about 40 persons are currently in detention pending deportation (*Schubhaft*), most of them in Dublin-proceedings. The conditions differ greatly between the two detention facilities in Styria. The one in Vordernberg (run by a private entity on behalf of the municipality Vordernberg)

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68 Caritas Styria.

69 Caritas Austria.

70 Red Cross Austria.

71 Federal Ministry of the Interior, Department III/9.

72 Caritas Styria.

73 *Ibid.*

74 Federal Ministry of the Interior, Department III/9.

looks more like a youth hostel than a detention centre, while the one in Graz is the police detention centre. According to Caritas Styria, there has been no case of child detention.<sup>75</sup>

## 1.6. Responses in law, policy and/or practice

A representative from the Federal Ministry of the Interior/Department II/2, Operational Affairs (*Bundesministerium für Inneres/Abteilung II/2 Einsatzangelegenheiten*) pointed out that the possibility of taking the fingerprints of children below the age of 14 should be reconsidered. This is currently not the case, which causes difficulties in the identification process if these children abscond or move to other countries.<sup>76</sup>

## 1.7. Social response to the situation

The Federal Ministry of the Interior perceives the situation as rather calm in light of the comparatively low number of asylum applicants.<sup>77</sup> The Federal Ministry of the Interior notices that news on sexual offences are quickly associated with asylum seekers in the media, although asylum seekers are not necessarily involved in such incidents.<sup>78</sup>

The Red Cross Austria perceives the overall atmosphere in the population as divided, although it is difficult to get a comprehensive picture.<sup>79</sup> Caritas Austria also perceives the Austrian population as divided into pro and contra asylum seekers.<sup>80</sup> The Red Cross Austria has repeatedly experienced that people having a negative attitude towards asylum seekers are particularly people that have not been in contact with them. Therefore, the Red Cross plans to amend the project "Exchange", bringing so-called "Integration ambassadors" (*"Integrationsbotschafter"*) to schools. The project is currently taking place in schools for children, but there are plans to design a similar project to address adults.<sup>81</sup>

Caritas Styria has the impression that the overall atmosphere in society constantly deteriorates. There are wild rumours about the valuables offered by Caritas to asylum seekers (e.g. expensive mobile phones) and about crimes allegedly committed by asylum seekers on the Balkan route. However, there has not been yet any major hate crime incident in Austria (except for the burning of an asylum accommodation centre in construction in June).<sup>82</sup>

The following events and incidents were reported for August:<sup>83</sup>

- 6-8 August: Information events by IBÖ in five municipalities on the topic "mass immigration".

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75 Caritas Styria.

76 Federal Ministry of the Interior/Department II/2, Operational Affairs.

77 Federal Ministry of the Interior, Department III/9.

78 *Ibid.*

79 Red Cross Austria.

80 Caritas Austria.

81 Red Cross Austria.

82 Caritas Styria.

83 Federal Agency for State Protection and Counter Terrorism.

- 6 August: On the day of an integration festival organised by Caritas and a local municipality, unidentified offenders put leaflets at shop windows, on traffic signs, etc. throughout the town centre with the sentence "get lost!" ("*hau ab – verschwinde!*") translated into various languages (Turkish, Somali, Suaheli etc.).
- 7 August, Zauchen (Carinthia): Unidentified offenders painted swastikas on the walls of an asylum accommodation.
- 10 August, Bärnbach (Styria): The statue in the municipal park was covered in a black blanket, with a sign saying "Our women 2017"; bits of polystyrene swam in the water, saying "Würzburg", "Paris", "Ansbach"; there was a transparent with the slogan "Our homeland" ("*Unsere Heimat*") and the Lambda-sign used by the IBÖ.
- 9 August, Vienna: Stickers on an asylum accommodation centre saying "After how many rapes, after how many killings will you admit that you were wrong?"
- 19-22 August, Bischofshofen (Salzburg): A billboard by Diakonie Refugee Aid was torn down by unidentified offenders.
- 22-23 August, Graz (Styria): Unidentified offenders (strongly assumed to be IBÖ members, as there were corresponding entries on their website) placed three paper coffins in front of the Green Party's office; one was filled with cards with the names of the cities Würzburg, Nizza, Bussels, Paris, Ansbach and pictures from terror attacks.
- 28 August, Vienna: Event by IBÖ against the politics/government, using the slogans "Integration lie" ("*Integrationslüge*"), "In memoriam of the victims of the terror attacks" and "Failed integration". 70 participants, no counter-demonstrations, no incidents. IBÖ announced a new campaign "Remigration" starting in September 2016.

## 1.8.Hate crime incidents

In the province of Styria, four islamophobic and three Nazi graffiti, five racist insults and sixteen hate speech posts were reported to the Anti-Discrimination Bureau Styria (*Antidiskriminierungsstelle Steiermark*) in the month of August.<sup>84</sup>

The following hate crime incidents were reported for August:<sup>85</sup>

- 9 August, Traiskirchen (Lower Austria): An Austrian national was reported to have entered the Diakonie's legal counselling service for asylum seekers with a firearm. The man's apartment is in the same building. A dispute arose because he felt disturbed by asylum seekers looking through his window. He admitted having an air pistol and an alarm pistol, but denied ever taking them outside in the courtyard.
- 12 August, Oberwart (Burgenland): An Austrian national greeted three asylum seekers with the Hitler salute. An argument started and the

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84 Anti-Discrimination Bureau Styria.

85 Federal Agency for State Protection and Counter Terrorism.

Austrian showed a knife; the two asylum seekers took him to the ground and slightly injured him. Reports were filed against all three involved.

- 22 August, Katzthal (Upper Austria): A person hosting asylum seekers received a hand-written letter threatening "If those people are not gone within 14 days, all lights will go out" signed with "The entire village".

## 2. Bulgaria

### 2.1. Stakeholders contacted

The interviews were conducted by phone and email with the following stakeholders:

- Ministry of the Interior, Directorate General Border Police (MoI – DGBP) (*Министерство на вътрешните работи, Главна дирекция „Гранична полиция“, МВР – ГДГП*);
- Ministry of the Interior, Directorate General Criminal Police (MoI – DGCP) (*Министерство на вътрешните работи, Главна дирекция „Криминална полиция“, МВР – ГДКП*);
- State Agency for Refugees (SAR) (*Държавна агенция за бежанците, ДАБ*);
- State Agency for Child Protection (SACP) (*Държавна агенция за закрила на детето, ДАЗД*);
- Commission for Protection against Discrimination (CPD) (*Комисия за защита от дискриминация, КЗД*);
- Bulgarian Red Cross (BRC) (*Български червен кръст, БЧК*);
- Refugee Support Group (RSG);
- Bulgarian Lawyers for Human Rights (BLHR) (*Български адвокати за правата на човека, БАПЧ*).

### 2.2. Overview of the situation

In August 2016, a total of some 3,270 people were apprehended at the border and within the territory of the country, which is more than a 50 % increase compared to the previous reporting period. Almost 620 new arrivals were apprehended at the border, more than 1,880 persons were apprehended within the territory of the country and more than 2,000 persons were apprehended at the border while trying to leave the country (some 1,180 of them registered in the automated fingerprint identification system and about 900 unregistered). The majority of the new arrivals apprehended at the border were from Afghanistan (almost 40 %), Syria and Iraq. The majority of those apprehended while trying to leave the country were also from Afghanistan (almost 55 %), Iraq, Pakistan and Syria. New arrivals were apprehended both at the green border (some 510 persons) and at border check points (some 110 persons). The majority of new arrivals crossed the border with Turkey (more than 480 persons).

Persons trying to leave the country were apprehended primarily at the green border (around 2070 persons, nine of whom at the Bulgarian-Turkish border) rather than at border check points (some 20 persons, three of whom at the Bulgarian-Turkish border).<sup>86</sup>

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<sup>86</sup> Ministry of the Interior, Directorate General Border Police. The statistics cover the period from 8 a.m. on 28 July 2016 to 8 a.m. on 1 September 2016.

During the reporting period, a total of around 2,780 persons applied for asylum, including some 2,200 men (around 260 aged between 0 and 13 years, 440 aged between 14 and 17 years, 1,320 aged between 18 and 34 years, 170 aged between 35 and 64 years, and around 10 aged 65 years or older) and 580 women (180 aged between 0 and 13 years, around 50 aged between 14 and 17 years, some 230 aged between 18 and 34 years, some 120 aged between 35 and 64 years and 5 aged 65 years or older). The most common nationalities among the applicants were Afghan (more than 45 %), Iraqi, Pakistani and Syrian.<sup>87</sup>

Refugee status was granted to some 30 applicants, around 50 persons obtained humanitarian status and 220 asylum applications were rejected.<sup>88</sup>

According to NGOs, many asylum seekers entering Serbia claim they have passed through Bulgaria, but do not want to stay there due to poor conditions.<sup>89</sup>

## 2.3. Criminal proceedings against migrants and people helping them

### 2.3.1 Criminal proceedings initiated against migrants and asylum seekers

During the reporting period, the police arrested 54 persons for smuggling of migrants.<sup>90</sup>

No criminal proceedings against migrants and asylum seekers for irregular crossing of the border were reported by the Prosecutor's Office of the Republic of Bulgaria (PORB) (*Прокуратура на Република България, ПРБ*).

### 2.3.2 Criminal proceedings against people/organisations/associations facilitating irregular entry or stay

Nothing new to report.

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

### 2.4.1 Registration and identification

Nothing new to report.

### 2.4.2 Asylum procedure

Nothing new to report.

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87 State Agency for Refugees.

88 Ministry of the Interior, Directorate General Border Police. The statistics cover the period from 8 a.m. on 28 July 2016 to 8 a.m. on 1 September 2016.

89 Refugee Support Group.

90 Ministry of the Interior, Directorate General Border Police. The statistics cover the period from 8 a.m. on 28 July 2016 to 8 a.m. on 1 September 2016.



### 2.4.3 Return procedure

During the reporting period, a total of 120 migrants were returned from Bulgaria to their country of origin or to a safe third country. None of them was sent to another EU Member State under the Dublin Regulation. Under the EU-Turkey readmission agreement, Bulgaria sent 353 requests for the readmission of a total of 437 persons but only 18 persons were finally sent back to Turkey.<sup>91</sup>

The Ombudsman of the Republic of Bulgaria (*Омбудсман на Република България*) is preparing an agreement with the Migration Directorate (MD) (*Дирекция „Миграция“, ДМ*) of the Ministry of the Interior (MoI) (*Министерство на вътрешните работи, МВР*) concerning the monitoring of return procedures. NGOs will be invited to join the agreement.<sup>92</sup>

## 2.5.Challenges and developments concerning reception conditions of new arrivals, including detention

### 2.5.1 Reception conditions and capacity

As of 1 September 2016, there were around 4,060 asylum seekers accommodated in the reception centres of the State Agency of Refugees (SAR) (*Държавна агенция за бежанците, ДАБ*). The majority are from Afghanistan (some 1,890 persons), Iraq (some 820 persons), Syria (some 730 persons) and Pakistan (around 420 persons). The total capacity of all reception centres remained of 5,130 persons. During the reporting period, the occupancy rate increased significantly reaching 79 %. There were also around 410 asylum seekers accommodated at external addresses at their own expense.<sup>93</sup>

During the reporting period some 770 persons left the reception centres on their own free will.<sup>94</sup>

Two inhabitants of the registration and reception centre in Harmanli got into a fight with each other at a bus stop across the centre, during which one of them was stabbed. The victim was immediately treated and his life was never threatened. The perpetrator was detained. Security measures around all registration and reception centres were increased.<sup>95</sup> Another major incident occurred at the end of the month involving some 800 inhabitants of the centre, Iraqis and Syrians, on the one hand, and Afghans on the other hand. According to media reports, asylum seekers had gathered for a party, which eventually grew into a large-scale fight. Two asylum seekers suffered injuries. 50 policemen

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91 *Ibid.*

92 Bulgaria, Ombudsman of the Republic of Bulgaria (*Омбудсман на Република България*), press release, "The Ombudsman, MoI and NGOs prepare a co-operation agreement" (*Омбудсманът, МВР и неправителствени организации подготвят Споразумение за сътрудничество*), available at: [www.ombudsman.bg/news/4172#middleWrapper](http://www.ombudsman.bg/news/4172#middleWrapper).

93 Ministry of the Interior, Directorate General Border Police. The statistics cover the period from 8 a.m. on 28 July 2016 to 8 a.m. on 1 September 2016.

94 *Ibid.*

95 Bulgaria, State Agency for Refugees (*Държавна агенция за бежанците*), press release, "No danger for the life of the Afghani citizen hurt during an incident in Harmanli" (*Афганистанският гражданин, пострадал при инцидент в Харманли е извън опасност за живота*), available at: <http://saref.government.bg/?cat=13&newsid=981>.

were sent to help the centre's guards to deal with the incident, but were stoned and a window of a police car was smashed.<sup>96</sup> The Prosecutor's Office in Harmanli opened pre-trial proceedings for causing an Iraqi citizen a medium bodily injury (a broken jaw), but the offender is not identified yet.<sup>97</sup>

Following the incidents, the interior minister announced plans to set up closed centres and to separate asylum seekers by nationality.<sup>98</sup> Amendments in the internal regulations of the State Agency for Refugees (SAR) (*Държавна агенция за бежанците*, ДАБ), paving the way for opening centres of closed type, were adopted by the government.<sup>99</sup>

At present, however, NGOs consider it most realistic to establish closed sectors in the Busmantsi centre to accommodate asylum seekers with criminal records or having caused riots in the past.<sup>100</sup> Some activists oppose such a division as it would make it impossible for asylum seekers to learn to live together under 'normal' conditions.<sup>101</sup> Other measures planned include determination of zones where migrants can move,<sup>102</sup> curfew and *ad hoc* inspections in the problematic centre in Harmanli.<sup>103</sup> Zones of movement were introduced with the recent amendments of the Asylum and Refugees Act (*Закон за убежището и бежанците*) and refer to administrative regions, determined by the chair of the State Agency for Refugees (SAR) (*Държавна агенция за бежанците*, ДАБ). Asylum seekers cannot leave these zones, but are given sufficient options for movement to guarantee the exercise of rights under the law.<sup>104</sup>

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- 96 Bulgaria, Sega Daily, "A mass fight in the camp in Harmanli" (*Масово сбиване в лагера в Харманли*), web article published on 29 August 2016, available at: [www.segabg.com/article.php?id=820247](http://www.segabg.com/article.php?id=820247);
- Bulgaria, Mediapool online, "Clashes between Syrians and Afghans in the refugee centre in Harmanli" (*Сблъсъци между сирийци и афганистанци в бежанския център в Харманли*), web article published on 29 August 2016, available at: [www.mediapool.bg/sblasatsi-mezhdu-siriyski-i-afganistantsi-v-bezhanskiya-tsentar-v-harmanli-news253481.html](http://www.mediapool.bg/sblasatsi-mezhdu-siriyski-i-afganistantsi-v-bezhanskiya-tsentar-v-harmanli-news253481.html).
- 97 Bulgaria, Prosecutor's Office of the Republic of Bulgaria (*Прокуратура на Република България*), press release,, "The Regional Prosecutor's Office in Harmanli opened pre-trial proceedings on the mass fight in the refugee centre in Harmanli" (*Районна прокуратура-Харманли образува досъдебно производство за масово сбиване в бежанския център в гр. Харманли*), available at: [www.prb.bg/bg/news/aktualno/rajonna-prokuratura-harmanli-obrazuva-dosdebno-p-1/](http://www.prb.bg/bg/news/aktualno/rajonna-prokuratura-harmanli-obrazuva-dosdebno-p-1/).
- 98 Bulgaria, News Bg Online, "Migrants to be accommodated by nationality, Harmanli centre becomes a 'prison'" (*Настаняване мигрантите по националности, центърът в Харманли става „затвор“*), web article published on 29 August 2016, available at: <https://news.bg/crime/nastanyavame-migrantite-po-natsionalnosti-tsentarat-v-harmanli-stava-zatvor.html>.
- 99 Bulgaria, Dnevnik Online, "SAR chair will be empowered to open centres of closed type" (*Шефът на агенцията за бежанците ще може да обособява центрове от затворен тип*), web article published on 31 August 2016, available at: [www.dnevnik.bg/bulgaria/2016/08/31/2820155\\_shefut\\_na\\_agenciata\\_za\\_bejancite\\_shte\\_moje\\_da/](http://www.dnevnik.bg/bulgaria/2016/08/31/2820155_shefut_na_agenciata_za_bejancite_shte_moje_da/).
- 100 Refugee Support Group.
- 101 Bulgaria, Bulgarian National Radio, "Lydia Staykova: If we divide refugees by nationality, how are they going to live together in a normal country" (*Лидия Стайкова: Ако разделяме бежанците по националности, как биха живели заедно в нормална държава*), web article published on 30 August 2016, available at: <http://bnr.bg/post/100731625/lidia-staikova-ako-razdelame-bejancite-po-natsionalnosti-kak-biha-jiveli-zaedno-v-normalna-darjava>.
- 102 Bulgaria, BTVNews Online, "New measures: refugees in centres have their movement restricted" (*Нови мерки: Ограничават придвижването на бежанците, настанени в центрове*), web article published on 30 August 2016, available at: <http://m.btvnovinite.bg/article/bulgaria/obshtestvo/novi-merki-ogranichavat-pridvizhvaneto-na-bezhancite-nastaneni-v-centrovo.html>.
- 103 Bulgaria, Dnevnik Online, "Curfew and ad hoc inspections will strengthen discipline in the refugee centre in Harmanli" (*Вечерен час и внезапни проверки ще затягат дисциплината в бежанския център в Харманли*), web article published on 30 August 2016, available at: [www.dnevnik.bg/bulgaria/2016/08/30/2819780\\_vecheren\\_chas\\_i\\_vnezapni\\_proverki\\_shte\\_zatiagat/](http://www.dnevnik.bg/bulgaria/2016/08/30/2819780_vecheren_chas_i_vnezapni_proverki_shte_zatiagat/).
- 104 Bulgaria, Asylum and Refugees Act (Закон за убежището и бежанците), 31 May 2002, Additional provisions, par. 1, item 14, <http://lex.bg/laws/ldoc/2135453184>.

The state of reception standards is seen as rapidly declining, especially in Harmanli and Voenna rampa.<sup>105</sup> Due to the changing profile of asylum seekers, related to increased violence on their part, and their impatience to reach Western Europe and not stay in Bulgaria, demolitions of registration and reception centres by inhabitants continue. Reports speak of water leaks, shortage/lack of hot water, bedbugs, problems with food and generally low hygiene. Alcohol abuse by inhabitants of the centres is frequent. Similar reports are received from refugee centres in Greece and Italy.<sup>106</sup>

At the same time, water systems in the Sofia registration and reception centres have been repaired. The increasing amount of demolitions is seen as consequence of an almost threefold increase in the occupancy of the centres, comparing to last month – from around 21 % to 67 %. Demolitions are attributed to the occupants' frustration that they have to stay in Bulgaria instead of moving on to Western Europe. At the same time, food in the registration and reception centres is budgeted based on their full occupancy, so it is sufficient.<sup>107</sup>

### 2.5.2 Vulnerable persons

Nothing new to report.

### 2.5.3 Child protection

The conditions of placement of children, especially unaccompanied ones, are seen as worsening due to the increasing occupancy of the registration and reception centres. The rapidly increasing number of people seeking international protection is undermining the previous efforts of the State Agency for Refugees (SAR) (*Държавна агенция за бежанците, ДАБ*) to accommodate children on separate premises. In the view of NGOs, the State Agency for Child Protection (SACP) (*Държавна агенция за закрила на детето, ДАЗД*) and the Social Assistance Agency (SAA) (*Агенция за социално подпомагане, АСП*) should be taking a more active stance on this situation.<sup>108</sup>

The Ombudsman of the Republic of Bulgaria (*Омбудсман на Република България*) issued a report on the rights of unaccompanied children, seeking or having received international protection in Bulgaria. The Ombudsman's inspection was prompted by an open letter by the Council of Refugee Women in Bulgaria (*Съвет на жените-бежанки в България*) advocating the creation of protected space for accommodating unaccompanied children seeking or having received international protection. The report is based on visits to a number of registration and reception centres and on interviews with representatives of the State Agency for Refugees (SAR) (*Държавна агенция за бежанците, ДАБ*) and NGOs.<sup>109</sup> Among the challenges the report outlines, are the susceptibility of

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105 Bulgarian Red Cross.

106 *Ibid.*

107 Refugee Support Group.

108 *Ibid.*

109 Bulgaria, Ombudsman of the Republic of Bulgaria (*Омбудсман на Република България*), "On unaccompanied child refugees seeking or having received protection: thematic report on inspections and assessment of the state of rights of unaccompanied child refugees, seeking or having received international protection in the Republic of Bulgaria" (*За непридружените деца бежанци, търсеци или получили закрила: Тематичен доклад от извършени проверки и оценка на състоянието на правата на непридружените деца бежанци, търсеци или получили международна закрила в Република*

unaccompanied children to trafficking and smuggling, the problems of appointing children's representatives, the lack of efforts to organise protected spaces for those children. The report recommends to specially appoint social workers and to further train them to work with those children; to inform unaccompanied children about the international protection procedure in an accessible language; to create a database of such children and their appointed representatives; to make the representation of unaccompanied children better work by possibly involving the NGO sector; and to create special places with a regime ensuring adequate care to accommodate unaccompanied children.<sup>110</sup> The report was presented at a special forum, gathering representatives of the UNHCR, institutions and NGOs.<sup>111</sup> At the forum, the Ombudsman also announced her intentions to approach the competent institutions about cases of smuggling and trafficking of children.<sup>112</sup>

There are still problems with the children playground in the Vrazhdebna centre, which cannot get permission for use due to documentation problems between the State Agency for Refugees (SAR) (*Държавна агенция за бежанците, ДАБ*) and the local authorities.<sup>113</sup>

#### **2.5.4 Healthcare**

The procurement procedures of medicines for the registration and reception centres has been stopped because it has been appealed against by unsuccessful competitors. Centres are thus still relying on donations. No particular cases of illnesses have been reported, presumably because illnesses are less prevalent during the summer period.<sup>114</sup>

#### **2.5.5 Immigration detention**

As of 1 September 2016, there were 1,446 migrants accommodated in the pre-removal detention centres, called special homes for temporary accommodation of foreigners of the Ministry of the Interior (MoI) (*Министерство на вътрешните работи, МВР*). They came from Afghanistan (744 persons), Iraq (280 persons), Syria (154), Pakistan (69 persons) and Iran (51 persons). The total capacity of the special homes remained 940. During the reporting period, a total of 3,326 new arrivals were accommodated in these special homes and 2,920 persons were transferred to the facilities of the State Agency for Refugees (SAR)

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България), pp. 1-2, available at:

[www.ombudsman.bg/pictures/Doklad%20nepridrujeni%20detca,%20bejantci.pdf](http://www.ombudsman.bg/pictures/Doklad%20nepridrujeni%20detca,%20bejantci.pdf).

110 *Ibid.*

111 Bulgaria, Ombudsman of the Republic of Bulgaria (*Омбудсман на Република България*), press release, "Ombudsman Maya Manolova convenes a forum on unaccompanied child refugees" (*Омбудсманът Мая Манолова свиква форум за непридружените деца-бежанци*), available at: [www.ombudsman.bg/news/4168#middleWrapper](http://www.ombudsman.bg/news/4168#middleWrapper).

112 Bulgaria, Ombudsman of the Republic of Bulgaria (*Омбудсман на Република България*), press release, "Ombudsman Ms Maya Manolova will approach the State Agency for National Security on trafficking of child refugees" (*Омбудсманът Мая Манолова сезира ДАНС за трафик на деца-бежанци*), available at: [www.ombudsman.bg/news/4170#middleWrapper](http://www.ombudsman.bg/news/4170#middleWrapper).

113 Refugee Support Group.

114 *Ibid.*

(Държавна агенция за бежанците, ДАБ). Overcrowding continued to increase and at the end of the reporting period, the occupancy rate reached 154 %.<sup>115</sup>

According to a new report by the Center for Legal Aid - Voice in Bulgaria (Център за правна помощ „Глас в България“), Bulgaria needs to revise its laws and practices concerning immigration detention. Large groups of third country nationals tend to be detained in immigration detention centres, but few foreigners are actually returned. Individual assessment related to return is rarely applied and migrants rarely get relevant information about their detention.<sup>116</sup>

During a meeting in Malko Tarnovo, the Chief Secretary of the Ministry of the Interior (MoI) (Министерство на вътрешните работи, МВР) estimated a 60 % decrease in the attempts of illegal crossing of Bulgarian border compared to last year. The chief secretary appealed to the population of border areas to promptly signal it to the border police if they notice groups of migrants. In his view, citizens should not try to stop them by themselves because migrants' profile is changing and they now display a more aggressive behaviour.<sup>117</sup>

## 2.6. Responses in law, policy and/or practice

A businessman, who had previously been charged with smuggling, concluded a contract with the border police to transport, within the Bulgarian territory, persons having illegally entered the country. According to media reports, the case against the businessman is still pending, but the ownership of his company has been transferred to his father. The contract amounted to BGN 195,580 (around €100,000) and was concluded for a year. After media reports shed light on the agreement, inspections started<sup>118</sup> and the border police management was asked to resign by the prime minister.<sup>119</sup>

A regulation on integration agreements with foreigners having been granted asylum or international protection was adopted. According to the regulation, municipalities provide information on the number of foreigners with whom integration agreements can be concluded to the State Agency for Refugees (SAR) (Държавна агенция за бежанците, ДАБ). The SAR then prepares the integration profile of each foreigner during the international protection procedure and informs them about the opportunities for concluding such an agreement. The receiving municipalities prepare individual integration plans for foreigners,

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115 Ministry of the Interior, Directorate General Border Police. The statistics cover the period from 8 a.m. on 28 July 2016 to 8 a.m. on 1 September 2016.

116 Bulgaria, Center for Legal Aid 'Voice in Bulgaria' (Център за правна помощ „Глас в България“), press release, "Experts recommend changes in the process of migration detention in Bulgaria" (Експерти препоръчват промени в процеса на задържане на мигранти в България). For more information see the website <http://detainedinbg.com/>.

117 Bulgaria, Ministry of the Interior (Министерство на вътрешните работи), press release, "Interior Chief Secretary: we expect people from border areas to signal promptly about illegal border crossing" (Главният секретар на МВР: Очакваме хората от пограничните райони да сигнализират своевременно за нелегално преминаване на границата), available at: [https://press.mvr.bg/NEWS/news160819\\_03.htm](https://press.mvr.bg/NEWS/news160819_03.htm).

118 Bulgaria, Mediapool online, "A people smuggler will drive illegal migrants to arrests" (Трафикант на бежанци ще вози до ареста незаконни мигранти), web article published on 14 August 2016, available at: [www.mediapool.bg/trafikant-na-bezhantsi-shte-vozi-do-aresta-nezakonni-migranti-news252889.html](http://www.mediapool.bg/trafikant-na-bezhantsi-shte-vozi-do-aresta-nezakonni-migranti-news252889.html).

119 Bulgaria, Mediapool online, "PM fires border police management" (Премиерът уволни шефовете на "Гранична полиция"), web article published on 15 August 2016, available at: [www.mediapool.bg/premierat-uvolni-shefovete-na-granichna-politsiya-news252924.html](http://www.mediapool.bg/premierat-uvolni-shefovete-na-granichna-politsiya-news252924.html).

which are parts of the integration agreements. These agreements are concluded for one year between the foreigners and the mayors of receiving municipalities. They contain integration measures, such as provision of housing, enrolment in schools and kindergartens of foreigners' children, Bulgarian language training, health insurance, professional orientation and information about employment.<sup>120</sup>

Bulgaria and Germany agreed on cooperation between their national centres on countering irregular migration and smuggling. The Bulgarian Minister of the Interior visited the German strategic and analytical centre for resistance to illegal migration. They discussed the parameters of the future cooperation, which is now in the establishment phase.<sup>121</sup> The Bulgarian Minister of the Interior also discussed cooperation against irregular migration and smuggling with her Serbian counterpart in a meeting at the main Bulgarian-Serbian border checkpoint.<sup>122</sup>

New types of registration cards, issued by the State Agency for Refugees (SAR) (*Държавна агенция за бежанците, ДАБ*), were approved by the government, following the amendments in the legislation concerning international protection and transposing Directive 2013/32/EU.<sup>123</sup>

## 2.7. Social response to the situation

The Bulgarian Helsinki Committee (BHC) (*Български хелзинкски комитет, БХК*) released its annual border monitoring report for 2015. Among the main findings of the report is that although arrivals of TCNs into Bulgaria significantly increased in 2015 compared to 2014, Bulgaria remains a transit country for the great majority. Persons who might have been in need of international protection were denied entry to Bulgaria or potentially pushed back, on the grounds of irregular entry or irregular presence or because they lacked valid identity documentation. A great majority of the TCNs continue to be apprehended without valid documents. The border police, prosecutors and national criminal courts continued to make improvements in ensuring compliance with the principle of non-penalisation of asylum seekers for their irregular entry. The report recommends that, in managing the border, the Government of Bulgaria must ensure that the enhanced entry control mechanisms fully respect fundamental rights, including the principle of *non-refoulement* and the right to

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120 Bulgaria, Regulation on the conditions and order for concluding, implementation and termination of integration agreements with foreigners having been granted asylum or international protection (*Наредба за условията и реда за сключване, изпълнение и прекратяване на споразумение за интеграция на чужденци с предоставено убежище или международна закрила*), available at: [www.lex.bg/bg/mobile/ldoc/2136897655](http://www.lex.bg/bg/mobile/ldoc/2136897655).

121 Bulgaria, Ministry of the Interior (*Министерство на вътрешните работи*), press release, "Bulgaria and Germany agreed on co-operation between their centres for countering illegal migration and smuggling" (*България и Германия договориха сътрудничество между централите им за противодействие на нелегалната миграция и каналджийството*), available at: [http://press.mvr.bg/NEWS/news160826\\_04.htm](http://press.mvr.bg/NEWS/news160826_04.htm).

122 Bulgaria, Ministry of the Interior (*Министерство на вътрешните работи*), press release, "Bulgaria and Serbia will enhance their co-operation and countering of illegal migration and smuggling" (*България и Сърбия ще активизират сътрудничеството и противодействието на нелегалната миграция и каналджийството*), available at: [https://press.mvr.bg/NEWS/news160807\\_01.htm](https://press.mvr.bg/NEWS/news160807_01.htm).

123 Bulgaria, Council of Ministers (*Министерски съвет*), press release, "New registration cards issued by SAR have been approved" (*Утвърдени са нови образци на издаваните от ДАБ регистрационни карти*), available at: <http://government.bg/cgi-bin/e-cms/vis/vis.pl?s=001&p=0228&n=8457&g>.

seek asylum. The government must also consistently observe its international obligations and allow people in need of international protection to enter Bulgaria and obtain access to the asylum procedure, irrespective of the mode of entry.<sup>124</sup>

Caritas Bulgaria is planning on organising weekly English lessons and Bulgarian cultural orientation for adults, and art activities and games for children at the Busmantsi immigration detention centre. The activities will take place from September to December 2016 and the organisation is looking for volunteers to conduct them.<sup>125</sup>

Caritas Sofia is advertising opportunities for higher education in Bulgaria for people having received international protection. Majors offered are Applied Foreign Languages for Administration and Management, and English Studies. Programmes are held in English and are offered by the private New Bulgarian University (NBU) (*Нов български университет, НБУ*).<sup>126</sup>

The Reach Out for a Helping Hand (*Поддай ръка за помощ*) and the Refugee Support Group foundations are organising a campaign to support children of refugees attending Bulgarian schools for the coming academic year. The two organisations are gathering notebooks, sketchbooks, pens, pencils, etc. and have already received donations from citizens and companies.<sup>127</sup>

## 2.8. Hate crime incidents

According to a new study, the hostility of Bulgarian social media users towards refugees is intensifying. The study covers over 170,000 references in mainstream and social media sources from January to June 2016. The volume of conversation increased by 55 % in the first half of 2016 compared to the second half of 2015, while the share of negative mentions increased by 13 percentage points, going from 47 % to 60 %. The sharp increase in negativity became visible in the social media conversations after the attacks on New Year's Eve in Cologne, and remained unchanged throughout the monitored period.<sup>128</sup>

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124 Bulgaria, Bulgarian Helsinki Committee, "Annual Border Monitoring Report: Access to Territory and International Protection", pp. 28-30, available at: [http://bghelsinki.org/media/uploads/documents/reports/special/2015\\_annual\\_report\\_access\\_to\\_territory\\_and\\_asylum\\_procedure\\_en.pdf](http://bghelsinki.org/media/uploads/documents/reports/special/2015_annual_report_access_to_territory_and_asylum_procedure_en.pdf).

125 Bulgaria, Timeheroes.org, "Lead activities for adult and children asylum seekers in Busmantsi", web article, available at: <https://timeheroes.org/en/caritas/zanimania-chuzhdentsi-busmantsi-2016#information>.

126 For more information see the Facebook page of Caritas Sofia – St. Anna, available at: [www.facebook.com/Каритас-София-Св-Анна-1568121506788361/?fref=nf](http://www.facebook.com/Каритас-София-Св-Анна-1568121506788361/?fref=nf).

127 Refugee Support Group. For more information see the RSG Facebook page, available at: [www.facebook.com/Refugee-Support-Group-709364939145399/?fref=ts](http://www.facebook.com/Refugee-Support-Group-709364939145399/?fref=ts).

128 Bulgaria, SeeNews, "Fear of migrants intensifying throughout Bulgarian social media", available at: [https://seenews.com/reports/media\\_analysis\\_report/fear-of-migrants-intensifying-throughout-bulgarian-social-media-50784](https://seenews.com/reports/media_analysis_report/fear-of-migrants-intensifying-throughout-bulgarian-social-media-50784).

## 3. Germany

### 3.1. Stakeholders contacted

The interviews were conducted by phone and email with the following stakeholders:

- Federal Ministry of the Interior (*Bundesministerium des Inneren*);
- Federal Police (*Bundespolizei*);
- Jesuit Refugee Service (*Jesuiten Flüchtlingsdienst, JRS*);
- Federal Association for Unaccompanied Minor Refugees (*Bundesfachverband Unbegleitete Minderjährige Flüchtlinge*).

### 3.2. Overview of the situation

The numbers of registrations and the numbers of applications for asylum in July 2016 slightly decreased compared to June 2016.<sup>129</sup> In July 2016, some 16,160 (June: around 16,340) new arrivals from the top five countries of origin were registered in the EASY-System, an IT application for the initial allocation of asylum seekers to the 16 Federal States according certain quota. A total of around 74,450 (June: around 74,640) applications for asylum were submitted. The Federal Ministry of the Interior points out that missing or multiple registrations within the EASY-System may be possible.<sup>130</sup> The main nationalities in July are Syrian (some 2,570), Afghan (some 1,940), Iraqi (some 1,350), Eritrean (some 1,290) and Russian (some 820).<sup>131</sup>

According to a media report, the number of asylum seekers with Turkish citizenship has significantly risen since January 2016. In the first half of 2016, the Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge, BAMF*) registered some 1,720 asylum applications submitted by Turkish citizens. This is almost as many as in the entire year 2015, when some 1,770 Turkish citizens applied for asylum in Germany. The vast majority of applicants in 2015 and in the first half of this year is of Kurdish origin.<sup>132</sup>

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129 Federal Ministry of the Interior, press release, 8 August 2016, available at: <http://www.bmi.bund.de/SharedDocs/Pressemitteilungen/DE/2016/08/asylantraege-juli-2016.html>.

130 *Ibid.*

131 *Ibid.*

132 See: <http://www.tagesspiegel.de/politik/fluchtpunkt-deutschland-mehr-asylantraege-von-tuerken-vor-allem-kurden/13972192.html>, 5 August 2016.



### 3.3.Criminal proceedings against migrants and people helping them

#### 3.3.1 Criminal proceedings initiated against migrants and asylum seekers

The Federal Police (*Bundespolizei*) initiated 6,088 criminal proceedings against migrants and asylum seekers for irregular crossing of the border (*Unerlaubte Einreise*) in July 2016 (and 6,646 in June 2016). About half of them were identified by the Federal Police at the border with Austria. Police forces of the 16 Federal States further initiated criminal proceedings which are not included in this number.<sup>133</sup>

#### 3.3.2 Criminal proceedings against people/organisations/associations facilitating irregular entry or stay

In July 2016 the Federal Police registered 161 cases of "smuggling of foreigners" (*Einschleusen von Ausländern*) compared to 208 cases in June 2016. Additionally, police forces of the 16 Federal States registered suspects of smuggling which are not included in this number.<sup>134</sup>

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

#### 3.4.1 Registration and identification

In July 2016, the Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge*, BAMF) decided on around 53,000 applications (June: some 51,760) and around 16.550 of them (31.3 %) received the legal status of a refugee (according to the Geneva Convention Relating to the Status of Refugees of 1951). Among them, 150 persons (0.3 %) were granted asylum under Article 16a of the constitution (*Grundgesetz*) and around 16,430 persons (31.0 %) received the protection of refugees (according to Asylum Act § 3 (*Asylgesetz*) in conjunction with § 60 Absatz 1 of the Residence Act (*Aufenthaltsgesetz*)).<sup>135</sup>

In July 2016, some 15,940 persons (30.1 %) received subsidiary protection compared to 12,090 persons in June 2016 (23.4 %) and to some 5,600 persons (15.3 %) in May 2016 (according to § 4 of the Asylum Act in respective of Directive 2011/95/EU).<sup>136</sup>

In addition, the BAMF reported suspensions of deportation orders for around 1,030 persons (1.9 %) (June: around 710 persons (1.4 %)), according to § 60

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133 Police intake statistics of the Federal Police (*Polizeiliche Eingangsstistik der Bundespolizei PES*), June and July 2016.

134 *Ibid.*

135 Federal Ministry of the Interior, press releas, 8 August 2016, available at: <http://www.bmi.bund.de/SharedDocs/Pressemitteilungen/DE/2016/08/asylantraege-juli-2016.html>.

136 *Ibid.*

para 5 or 7, sentence 1 of the Residence Act (*§ 60 Absatz 5 oder Absatz 7 Satz 1 des Aufenthaltsgesetzes*). This means their expulsion could not take place. This can be due to substantial specific threats to life, e.g. life-threatening disease. Art 60 para 5 AufenthG also refers to cases that fall under Art 2 and 3 ECHR.<sup>137</sup>

The BAMF rejected the applications of around 12,440 persons (23.4 %). The applications of some 7,030 persons (13.3 %) were rejected due to other reasons, such as Dublin procedures or the withdrawal of the applications.<sup>138</sup>

### **3.4.2 Asylum procedure**

In July 2016, the Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge*, BAMF) registered around 72,980 initial applications (*Erstanträge*), predominantly submitted by Afghan, Syrian and Iraqi citizens, and 1,470 follow-up applications (*Folgeanträge*). Most of the follow-up applications are submitted by asylum seekers from Serbia, Albania and Macedonia.<sup>139</sup> The number of applications slightly decreases compared to previous months.

Asylum procedures continue to take a long time. At the end of July 2016, some 526,280 asylum procedures were pending compared to some 495,790 in June 2016. Most of them (some 510,190) are initial applications.<sup>140</sup>

### **3.4.3 Return procedure**

According to the Federal government's response to a parliamentary minor interpellation, 13,324 persons were refused entry at the border according to § 15 Residence Act (*Zurückweisung an der Grenze, § 13 Aufenthaltsgesetz*), including at airports, between January and June 2016.<sup>141</sup> Thus there were already more refusals of entry within the first six months of this year compared to 2015, during which a total of 8,913 persons were refused entry.

Internal border controls focus on the German-Austrian border, where 10,629 persons, mostly from Afghanistan, Syria and Iraq, were refused entry at the border in the first six months of 2016.<sup>142</sup>

According to that same response from the federal government, 1,725, unaccompanied children were identified by the Federal Police at the German border (1,073 of them at the German-Austrian border), airports and seaports between April and June 2016, compared to 3,652 between January and March 2016. Of the 1,725 unaccompanied children, 1,568 were referred to youth offices, 458 were refused entry at the border and 10 were expelled, according to § 57 Residence Act (*Zurückschiebung, § 57 Aufenthaltsgesetz*).

No reasons were given for refusing entry to unaccompanied children. The government listed several reasons in line with the Schengen Borders Code, such as the lack of valid travel documents, valid visa or valid residence permit. In

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137 *Ibid.*

138 *Ibid.*

139 *Ibid.*

140 *Ibid.*

141 Federal government's response to a parliamentary minor interpellation, 8 August 2016, available at: <http://dip21.bundestag.de/dip21/btd/18/093/1809360.pdf>.

142 *Ibid.*

some cases, persons were rejected because they had insufficient means to cover their living expenses for the period of stay or because they had been issued an entry and residence ban (*Einreise- und Aufenthaltsverbot*) after having been previously deported or rejected for example (§ 11 Residence Act).<sup>143</sup>

### **Increasing number of deportations**

Furthermore, the number of expulsions has increased compared to the previous year and 13,743 persons have been deported from Germany, in most cases by air, in the first six months in 2016. Three quarters of the deportees were returned to the Western Balkan countries, i.e. Serbia, Albania, Kosovo and Macedonia. 166 persons were deported to the Maghreb states of Morocco, Tunisia and Algeria (20,888 in 2015, 10,884 in 2014).<sup>144</sup>

### **Repatriation programme**

In addition, 30,553 persons voluntarily left Germany between January and June 2016 within the framework of a joint repatriation programme (*Freiwillige Rückkehr*) by the federal and central governments. In this case, Albania was the main country of origin (9,349 persons), followed by Iraq (3,322) and Afghanistan (2,305).<sup>145</sup>

## **3.5. Challenges and developments concerning reception conditions of new arrivals, including detention**

### **3.5.1 Reception conditions and capacity**

The contacted stakeholders provided no new relevant information.

Media and civil society actors report various human rights infringements by operators of refugee homes and/or the security firms. Several contracts with operators of refugee homes and/or security firms in some Federal States were terminated.<sup>146</sup> For example, asylum seekers complained about intimidations by the security staff in a refugee accommodation in Brome, Lower Saxony, or at reception centres in Hamburg and in Berlin. One reported to be treated as subordinate and be rebuked in a rude way.<sup>147</sup> In Brome, the security company "Protector Security", in cooperation with the district authorities, introduced fines for the residents for example for undeclared visits, children playing in the hallway or for eating outside the canteen. Furthermore, residents were forced to watch a brutal video about the terror organization IS.

In addition, there are reports of criminal attacks and extreme right-wing activities by security staff. Since July 2016, the state prosecutor Siegen-

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143 *Ibid*; Federal government's response to a parliamentary minor interpellation, 17 August 2016, available at: <http://dip21.bundestag.de/dip21/btd/18/094/1809415.pdf>.

144 Federal government's response to a parliamentary minor interpellation, 8 August 2016, available at: <http://dip21.bundestag.de/dip21/btd/18/093/1809360.pdf>.

145 *Ibid*.

146 For an example, see: <http://www.nds-fluerat.org/20786/aktuelles/vorfaelle-in-brome-wie-viel-wusste-die-kreisverwaltung/#more-20786>; <http://www.rbb-online.de/politik/thema/fluechtlinge/berlin/2016/08/czaja-sozialsenator-berlin-kuendigt-pewobe-fristlos.html>.

147 Information available at: <http://www.zeit.de/2016/35/fluechtlinge-hamburg-lebensbedingungen-fluechtlingsunterkuenfte-container/komplettansicht>.

Wittgenstein investigates, among others, allegations against employees of “BEWA Security” working at the reception centre in Burbach, North Rhine-Westphalia. A female asylum seeker who was accommodated in the reception centre was allegedly drugged in the reception centre with K.O. drops, kidnapped and raped.<sup>148</sup>

Furthermore, there are various reports mentioning unhygienic conditions in refugee homes, reception centres, shelters and containers.<sup>149</sup>

22 of the 25 planned so-called arrival centres (*Ankunftszentrum*)<sup>150</sup> have been established by the end of July 2016. According to the German government, three further arrival centres in Bramsche, Bamberg and Berlin will start working by the end of September 2016.<sup>151</sup> Refugee organizations like Pro Asyl criticise the arrival centres for the accelerated procedure for asylum seekers applied in cases of so-called low protection rate (*geringe Schutzquote*).<sup>152</sup> In these cases, the decision on the asylum application is taken within 48 hours. There are doubts as to whether quality standards (e.g. quality of interviews and decisions, training of the new BAMF staff, procedures for identifying vulnerable persons) can be fulfilled in respect to the integrated refugee-management (*Integriertes Flüchtlingsmanagement*).<sup>153</sup>

### 3.5.2 Vulnerable persons

There has been no new report on the implementation of systematic procedures to identify vulnerable persons and applicants with special reception needs at reception centres. However, there are a few model and pilot projects, but there is no nationwide harmonized approach.

According to the Federal Association for Unaccompanied Minor Refugees (*Bundesfachverband Unbegleitete Minderjährige Flüchtlinge*),<sup>154</sup> the operators of reception centres and refugee accommodation in some municipalities and counties cooperate closely with youth welfare offices (*Jugendämter*). This means that the operators’ social workers communicate the arrival of a child to the youth welfare offices, which in turn contact the operators to detect possible violations of the (accompanied) child’s welfare. However, according to the Federal Association for Unaccompanied Minor Refugees, this procedure is an exception. In most cases, youth welfare offices are not involved nor present at the arrival

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148 Information available at: <http://www1.wdr.de/nachrichten/westfalen-lippe/burbach-vorwurf-entfuehrung-ermittlungen-100.html>.

149 For an example, see: <http://www.zeit.de/2016/35/fluechtlinge-hamburg-lebensbedingungen-fluechtlingsunterkuenfte-container/komplettansicht>.

150 Information available at: [http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Broschueren/leitfade-aufbau-ankunftszentrum.pdf?\\_\\_blob=publicationFile](http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Broschueren/leitfade-aufbau-ankunftszentrum.pdf?__blob=publicationFile).

151 Federal government’s response to a parliamentary minor interpellation, 25 July 2016, available at: <http://dipbt.bundestag.de/doc/btd/18/092/1809269.pdf>.

152 Information available at: <https://www.proasyl.de/news/asylpaket-ii-bundestag-beschliesst-verschaerfungen-im-hauruck-verfahren/>.

153 Federal government’s response to a parliamentary minor interpellation, 25 July 2016, available at: <http://dipbt.bundestag.de/doc/btd/18/092/1809269.pdf>.

154 The Federal Association for Unaccompanied Minor Refugees is meanwhile also engaged with the sector of accompanied children.

centres (*Ankunftszentrum*), the reception centres (*Erstaufnahmezentrum*) or other accommodations like shelters and refugee homes.<sup>155</sup>

### **3.5.3 Child protection**

Since November 2015, unaccompanied children are – like adults – allocated to the 16 Federal States following the quota system *Königsteiner Schlüssel*. The Federal Association for Unaccompanied Minor Refugees (*Bundesfachverband Unbegleitete Minderjährige Flüchtlinge*) conducted a nationwide survey on 1,400 professionals of children and youth services to analyse the impact of this new law and procedure. Among other things, the results clearly show that, at present, the prescribed legal protection of unaccompanied children and adolescents is very often not granted. It often takes a long time before the children get a legal guardian. Children are also often distributed to various accommodation facilities. Furthermore, legal and psychosocial counselling frequently lacks and accommodation is inadequate in shelters, hotels or tents. If accommodated with noncustodial relatives, children no longer receive child and youth welfare assistance (*Kinder- und Jugendhilfe*).

At the time of the survey, approximately 69,000 unaccompanied children and adolescents (up to 21 years) were under the responsibility of child and youth welfare services.<sup>156</sup>

Please also note information in section 3.5.2. on vulnerable persons.

### **3.5.4 Healthcare**

The contacted stakeholders provided no new relevant information.

A multidisciplinary team (human medicine, psychology, health and law) launched a website about the healthcare situation for refugees and migrants without sufficient health insurance. The contributors are engaged in the network of 33 local so-called Medi networks, i.e. organisations providing free medical aid to these refugees and migrants. The website provides information about healthcare entitlements for refugees and gives best practice examples for activists and doctors.<sup>157</sup>

### **3.5.5 Immigration detention**

The contacted stakeholders provided no new information on this issue.

However, media<sup>158</sup> reported that, in the district of Leer, Lower Saxony, a Kosovar father of six children was detained during eleven days before he and his family were deported, although he still had ten days to leave Germany. The refugee council of Lower Saxony informed the Federal State's Ministry of the Interior about the case. Hence the detention was classified as unlawful by the

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155 Federal Association for Unaccompanied Minor Refugees (*Bundesfachverband Unbegleitete Minderjährige Flüchtlinge*), 2 August 2016.

156 *Bundesfachverband Unbegleitete Minderjährige Flüchtlinge: Die Aufnahmesituation unbegleiteter minderjähriger Flüchtlinge in Deutschland. Erste Evaluation zur Umsetzung des Umverteilungsgesetzes*, August 2016, available at: [http://www.b-umf.de/images/aufnahmesituation\\_umf\\_2016.pdf](http://www.b-umf.de/images/aufnahmesituation_umf_2016.pdf).

157 See: <http://gesundheit-gefluechtete.info/>.

158 Tageszeitung, 6 August 2016, available at: <http://www.taz.de/!5324101/>.

Federal State's Ministry of the Interior and the case was set back to the authorities for re-examination.

The refugee council of Lower Saxony has launched independent legal advice and counselling services at Hannover-Langenhagen penitentiary (*Justizvollzugsanstalt JVA*) in anticipation of increasing numbers of detainees in custody pending deportation. This pilot project will run for one year. The aim is to check whether detention pending removal (*Abschiebehaft- oder gewahrsam*) is lawful or not and to safeguard the detainees' rights in detention.<sup>159</sup>

### 3.6. Responses in law, policy and/or practice

The Federal Youth Board (*Bundesjugendkuratorium BJK*) criticised current demands of several federal states and politicians to lower of the youth welfare standards for young refugees. According to the BJK statement, the current legal situation complies with international agreements, but would not be lawful anymore if standards were lowered for refugee children. Unaccompanied children are a heterogeneous group of persons with very different requirements. Hence flexible and individual support services (*Kinder- und Jugendhilfe*) should be provided, including for young adult refugees.<sup>160</sup>

Pro Asyl also reports mistakes in decisions on asylum applications due to the accelerated decision-making process and the limited training of staff.<sup>161</sup> Furthermore, the human rights organisation criticises the fact that the Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge, BAMF*) tends to shift decision-corrections to the administrative courts instead of providing itself the quality-control.<sup>162</sup>

### 3.7. Social response to the situation

In August, some meetings and actions organised by refugee organisations took place. An example would be the nationwide refugee activists meeting that took place in Hamburg on the 18 and 19 August 2016.<sup>163</sup> Furthermore, the refugee organisation "Women in Exile" visited several refugee centres and shelters in Germany during a bus tour (Bustour 2016) from 25 July to 14 August. In Hamburg, a workshop with 100 refugee women took place as well as visits in four refugee accommodations on 11 August. On this occasion, several deficiencies were reported by the refugees and documented. For example, it was mentioned that food supply and packed food in the container shelters was of bad quality.<sup>164</sup>

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159 *Ibid.*

160 *Bundesjugendkuratorium (BJK): Kinder- und Jugendhilfeleistungen nach Maß: Junge Geflüchtete haben den gleichen Anspruch wie alle jungen Menschen.* August 2016, available at: [http://www.bundesjugendkuratorium.de/assets/pdf/press/BJK\\_Stellungnahme\\_Standards.pdf](http://www.bundesjugendkuratorium.de/assets/pdf/press/BJK_Stellungnahme_Standards.pdf).

161 Pro Asyl, press release, 26 August 2016, available at: <http://go.proasyl.de/nl/o56x/15sx8.html>.

162 Pro Asyl, press release, 29 August 2016, available at: <http://go.proasyl.de/nl/o56x/15s42.html>.

163 See: <http://thevoiceforum.org/node/4218>.

164 See: [https://www.women-in-exile.net/?page\\_id=3169](https://www.women-in-exile.net/?page_id=3169).

### 3.8.Hate crime incidents

During August 2016 (last updated 27 August 2016), Pro Asyl and the Amadeo Antonio Foundation recorded:<sup>165</sup>

In total 15 violent attacks directed against asylum seekers (25 injured persons)

- 2 in Bavaria
- 1 in Brandenburg
- 1 in Mecklenburg-Western Pomerania
- 2 in Saxony
- 6 in Saxony-Anhalt
- 3 in Thuringia

In total 3 arson attacks against reception and accommodation centres with 6 injured persons

- 1 Bavaria
- 2 Berlin

In total 7 “other attacks” against reception and accommodation centres (e.g. damage of property)

- 1 Bavaria
- 1 Baden-Württemberg
- 1 Berlin
- 2 North Rhine-Westphalia Mecklenburg-Western Pomerania
- 1 Mecklenburg-Western Pomerania
- 1 Saxony

In total 1 hostile demonstration against refugees with 1 injured person<sup>166</sup>

- 1 Saxony

According to the Amadeu Antonio Foundation and Pro Asyl, violent attacks on refugees are committed every day, and a refugee accommodation is affected by arson attacks on average every three days. However, figures are estimated to be significantly higher. Many cases never appear in public, notably because the victims are afraid of the police or because they do not want to attract attention out of concern for their residence status or their current asylum procedures.

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

Please note: the chronicle only lists attacks specifically against refugees. There are further attacks against migrants (or Germans who are supposed to be migrants in the eyes of the attackers) and German Muslims, Jews, Sinti and other minorities. For further data, see: <http://www.netz-gegen-nazis.de/>.

166 According to the Amadeu Antonio Foundation and Pro Asyl, there are many demonstrations and rallies against refugees. However, their chronicle is limited to demonstrations in which justiciable incidents have taken place (not having announced the rally to/at the authorities, hate speech/incitement of the people (*Volksverhetzung*), Hitler salutes, attacks on pro-refugee-demonstrators, the press, the police, etc.).

Likewise, attacks on the police, the press or refugee supporters are only covered to a limited extent.<sup>167</sup>

In Rostock, several young refugees were evacuated in July 2016 as the quarter where their home was located was too dangerous for them, according to the assessment of the Ministry of the Interior in Mecklenburg-Western Pomerania. Several attacks committed by extreme right wing groups had taken place in Rostock. The plan to have a new accommodation facility for refugee families in the same quarter of Rostock was cancelled for the same reason.<sup>168</sup>

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167 See: <https://www.blaetter.de/archiv/jahrgaenge/dokumente/%C2%BBstarker-anstieg-rassistischer-gewalt-im-jahr-2016%C2%AB>, <https://www.mut-gegen-rechte-gewalt.de/news/reportagen/neue-dimension-der-gewalt-2016-06>.

168 See: <http://www.spiegel.de/politik/deutschland/rostock-stoppt-fluechtlingsheim-stadt-im-widerspruch-a-1106029.html> and <http://www.ndr.de/fernsehen/sendungen/nordmagazin/Gross-Klein-Steffen-Bockhahn-im-Gespraech,nordmagazin37140.html>.



## 4. Greece

### 4.1. Stakeholders contacted

The interviews were conducted by phone and email with the following stakeholders:

- Ministry for Migration Policy (*Υπουργείο Μεταναστευτικής Πολιτικής*);
- Ministry of Education, Research and Religion (*Υπουργείο Παιδείας, Έρευνας και Θρησκευμάτων*);
- Hellenic Police Headquarters (*Αρχηγείο Ελληνικής Αστυνομίας*);
- The Hellenic Coastguard (*Λιμενικό Σώμα-Ελληνική Ακτοφυλακή*);
- Asylum Service Greece (*Υπηρεσία Ασύλου*);
- United Nations High Commissioner for Refugees (UNHCR) Greece (*Υπατη Αρμοσσία του ΟΗΕ για τους Πρόσφυγες, γραφείο Ελλάδας*);
- Racist Violence Recording Network (*Δίκτυο Καταγραφής Περιστατικών Ρατσιστικής Βίας*);
- Medecins Sans Frontiere-Doctors Without Borders(*Γιατροί χωρίς Σύνορα*);
- International Organization for Migration-IOM (*Διεθνής Οργανισμός Μετανάστευσης*);
- NGO PRAKSIS (*ΜΚΟ ΠΡΑΚΣΙΣ*);
- National Centre for Social Solidarity (*Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης*).

### 4.2. Overview of the situation

No information was provided by the competent authorities.

### 4.3. Criminal proceedings against migrants and people helping them

#### 4.3.1 Criminal proceedings initiated against migrants and asylum seekers

No criminal proceedings were initiated against migrants and asylum seekers for irregular border crossings.<sup>169</sup>

#### 4.3.2 Criminal proceedings against people/organisations/associations facilitating irregular entry or stay

Nothing new to report.

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<sup>169</sup> Hellenic Police Headquarters.

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

### 4.4.1 Registration and identification

Following the pre-registration exercise conducted in July 2016, the Greek Asylum Service published the data available. The total number of people pre-registered from 9 June to 30 July 2016 was 27,592. 3,481 people were identified as belonging to vulnerable groups.

The majority of people pre-registered were Syrian nationals (54 %), followed by Afghans (27 %) and Iraqis (13 %). Some 43 % were women and 57 % men. The total number of unaccompanied children that were identified during pre-registration was 1,225, among which 18 % were girls and 82 % boys. The majority of the children were Afghan nationals (47 %), followed by Syrians (36 %) and Iraqis (12 %). 77 % were aged 15-17 years on average.<sup>170</sup> On 3 August 2016, the Minister for Migration Policy announced the completion of the pre-registration exercise.<sup>171</sup>

### 4.4.2 Asylum procedure

The total number of asylum applications for August 2016 was around 3,530. Some 2,280 applicants were men, 1,250 were woman.<sup>172</sup> The main region of registration was Attica (some 1,270), followed by Thessaloniki (some 570), and the majority of applicants were 18-34 years of age.<sup>173</sup> They originated mostly from Syria (some 2,000), Pakistan (some 350) and Afghanistan (some 190). The main countries of origin were Syria, with a 98.1 % recognition rate at first instance, followed by Pakistan, 3.4 %, and Iraq with 68 % and recognition rate.<sup>174</sup>

### 4.4.3 Return procedure

For August 2016, there were 597 registrations for the IOM programme of Assisted Voluntary Return and Reintegration. 582 people were returned. 357 were men, 111 were women and 114 were children, 3 of them unaccompanied. The majority of people registered and returned was from Afghanistan, Iraq and Pakistan.<sup>175</sup>

No information was provided by the Hellenic Police regarding forced returns.

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170 Asylum Service.

171 See: <http://www.ypes.gr/el/MediaCenter/TypouAnapl/PressReleases/?id=eae27f5-2e46-404e-b3afc1b42027b26b>.

172 Asylum Service.

173 The Asylum Service did not provide information on whether the applicants were new arrivals.

174 Asylum Service. The Asylum Service provided the recognition rate statistics, based on data from decisions (at first instance) until 31 July 2016.

175 *Ibid.*

## 4.5.Challenges and developments concerning reception conditions of new arrivals, including detention

### 4.5.1 Reception conditions and capacity

On 4 August 2016, eight national and international organisations (Danish Refugee Council, Norwegian Refugee Council, Oxfam, Save the Children, Solidarity Now, International Federation of Red Cross and Red Crescent Societies, International Rescue Committee and Greek Forum of Refugees) sent a joint letter to the Alternate Minister of Migration Policy, Ioannis Mouzalas, asking for a meeting to discuss the very poor living conditions at sites hosting refugees across the country, and tensions and serious security incidents in the sites. On 5 August 2016, Mouzalas shared his willingness to meet with the organisations.<sup>176</sup> In an effort to address recent security concerns, including unauthorized entry to these sites, the UNHCR is advocating that authorities, particularly at the central level, respond to security gaps. The UNHCR is concerned about continued tensions and unrest, which present threats to asylum seekers and impact the safety of humanitarian response organisations as well.<sup>177</sup>

From 02-03 August, the UNHCR provided training to service providers from various organisations on site management, protection, and coordination response in Athens. These training sessions were adapted to cover the specific refugee scenarios in Greece in order to develop a common approach to operational international standards of quality and practices throughout the sites. Similar training sessions will continue across the country led by a UNHCR team comprised of experts on site management and coordination, policy, and technical implementation methods. The aim will be to enhance the capacity of staff, partners, and authorities. During the reporting period, a security risk assessment mission of the United Nations Department of Safety and Security (UNDSS) and the UNHCR from the headquarters and from Greece met with Greek police authorities. They visited two islands (Lesvos and Chios) and sites in Attica and Thessaloniki. In view of the security concerns, the EU joint police body, Europol, announced on 15 August that it will deploy a team of anti-terror experts to Greece, in addition to teams sent earlier this year to Greece's hotspots.<sup>178</sup>

The capacity of the accommodation designed to support the relocation programme funded by the European Union reached 10,571 places (among these are vulnerable groups, such as asylum seekers and people waiting to be relocated) as of 29 August, representing more than 50 % of the 20,000 target of the UNHCR and its partners. Over 11,803 persons have so far benefitted from the project. This number includes all places occupied, currently or in the past, all persons relocated to EU Member States and the irregular departures and/or abandons.<sup>179</sup>

The maximum capacity on the islands remains of 7,450 while the total presence on the islands was 11,322 until 24 August 2016.<sup>180</sup>

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176 See: <http://www.tovima.gr/society/article/?aid=819991>.

177 UNHCR, Weekly reports.

178 *Ibid.*

179 UNHCR Greece.

180 *Ibid.*

Although referrals of persons and families with specific needs continue throughout sites on the islands by the UNHCR and partners, shelter capacity and registration are being impacted by the steady increase in arrivals, particularly at Moria and Kara Tepe on Lesbos. Similarly, on Kos, the Registration and Identification Centre (RIC) has reached its maximum capacity. New arrivals on Kalymnos are transferred to the Sfageia site, where they remain in substandard conditions, before they get transferred to the Kos RIC.<sup>181</sup>

The UN High Commissioner for Refugees, Filippo Grandi, visited Greece on 24 August 2016 and met with the Greek Prime Minister, Alexis Tsipras, and the President, Prokopis Pavlopoulos. He visited a shelter for unaccompanied children run by Praksis, a Greek NGO supported by the UNHCR. He referred to challenges mainly posed by “the living conditions, security in the refugee sites, and overcrowding on the islands. These are all issues for which we continue to be at the disposal of the Greek government.”<sup>182</sup>

#### **4.5.2 Vulnerable persons**

From 1 January to 29 August 2016, some 3,464 registered unaccompanied children requested accommodation. There are currently 800 beds available in existing shelters and transit centres which are all full (pending arrivals to shelters included). More than 1,500 unaccompanied children are on the waiting list for shelter, out of which 352 are being housed in closed facilities (including 325 in First Reception Centre facilities, and some 27 in police custody), until suitable shelter is found. Some 362 beds are being planned/prepared by various partners, although timelines and final plans are not yet secured. There are currently 110 safe spaces in reception centres (open sites/refugee camps) that have been designated for unaccompanied children as a short term alternative to detention, but these are only available in Northern Greece (Camp Laggadikia, Camp Diavata, Camp Alexandria).<sup>183</sup>

In early August, the last unaccompanied children left Mantamados camp (Lesbos) for permanent shelters. Due to a lack of other appropriate facilities in the island, Doctors without borders (MSF) had granted Mantamados camp since 6 May 2016 to PRAKSIS and Save the Children to host unaccompanied children until their referral to appropriate shelters in the mainland.<sup>184</sup> The Ministry for Migration Policy and the public prosecutor allowed this since the waiting period for transfer to accommodation facilities was estimated to range from two months to two and a half months on average. The NGOs PRAKSIS and Save the Children run the camp. The original agreement was concluded for a period of three weeks, but was extended.

On Leros, the UNHCR conducted information sessions for unaccompanied and separated children through interpreters. During the sessions, these children voiced their concerns regarding the delay in the processing of their asylum claims, and the need to improve the living conditions in the Reception and Identification Centre (RIC) and to make their daily life more diversified.

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181 UNHCR, Weekly reports.

182 See: <http://www.unhcr.org/news/latest/2016/8/57bdcb144/unhcr-chief-says-greece-needs-eu-help-manage-its-refugee-crisis.html>.

183 National Centre for Social Solidarity.

184 Doctors without Borders (MSF).

Additionally, following its suggestion to take unaccompanied and separated children on excursions in Kos to expose them to positive and engaging activities, the UNHCR received permission from authorities on Kos to do so. As for pending decisions and asylum claims, the UNHCR and its child protection partners continue to actively follow up the cases with the relevant authorities, to advocate for their rights, and to ensure immediate access to appropriate services.<sup>185</sup>

On 05 August 2016, the Information Campaign initiated on 25 July 2016 on five islands (Lesvos, Chios, Samos, Kos, Leros) was concluded. The campaign was coordinated by the European Commission in cooperation with the Greek authorities (Asylum Service, Reception and Identification Service, Hellenic Police, and the Ministry of Migration Policy) and EASO. The UNHCR and the IOM also participated in the exercise and provided information respectively on asylum and on assisted voluntary return. It focused on the asylum and return/readmission procedures in application for post 20 March arrivals.<sup>186</sup>

### **4.5.3 Child protection**

Guidelines and specific details of the training program concerning children refugees were presented on 29 August 2016 to more than 40 representatives of international organisations and NGOs active in Greece (Unicef, UNHCR, IOM, Greek Red Cross, Network for the Rights of the Child, Children's Villages SOS, Open Cultural Center, Save the Children, ECHO, IRC Organization Earth, Greek Council for Refugees (Compass) METAdrasi, ANTIGONE Center, IHA, NRC, MISSION, Open School for Immigrants, ELIX). The presentation was given by the General Secretary of the Ministry of Education, Research and Religion, Ioannis Pantis, and other relevant officials. The Ministry's aim is to provide psychosocial support and education for children of refugees and to ensure, after a transitional period of preparation, the smooth integration in the Greek educational system of those who will stay in Greece. In the first phase, the program will focus on levels of compulsory education - from kindergarten to high school. The instructional design of the Ministry varies depending on children's age. For ages 4-7, kindergarten branches will be established inside the refugee sites, while children aged 7-15 years will be included in reception classes of neighbouring public schools in order to learn Greek. The Ministry of Education will have the sole responsibility for providing formal education. It was stressed that international organisations and NGOs can operate in the field of education as long as it does not coincide with the timetable of the nursery and reception classes and only after they receive certification by the Institute for Educational Policy (PSE).<sup>187</sup>

The IOM is planning to assist migrant and refugee children of primary school age in integrating into the formal Greek education system. It will provide them with school kits and materials, and transportation service to their nearest public school.<sup>188</sup>

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185 UNHCR, Weekly reports.

186 *Ibid.*

187 See: <http://www.minedu.gov.gr/grafeio-typoy-kai-dimosion-sxeseon/deltia-typoy/23021-30-08-16-synergasia-mko-me-to-yppeith-gia-paidia-prosfygon>.

188 IOM Greece.

#### 4.5.4 Healthcare

During the vaccination campaign held by the Ministry of Health with the collaboration of Doctors without Borders (MSF), Doctors of the World (MDM), the Hellenic Red Cross and the International Red Cross, 10,919 children aged from 1 to 15 years have been vaccinated in the islands and in the mainland.<sup>189</sup>

Doctors without Borders' programs for victims of violence and other forms of ill-treatment visited several camps in Attica to provide information on the services provided within this programme.<sup>190</sup>

The General Hospital in Kos lacks paediatricians. This means that there are serious problems regarding age assessment and the subsequent identifications and referrals of unaccompanied children.<sup>191</sup>

Incidents of skin problems have been recorded from people who were living in the camps, especially unaccompanied children, and were referred to accommodation shelters.<sup>192</sup> There were also three incidents of malaria recorded in the islands.<sup>193</sup> The Ministry of Health issued a press release stating that all the necessary precautions had been taken.<sup>194</sup>

#### 4.5.5 Immigration detention

On 31 August 2016, the total number of detainees was 2,757 people, 1,480 of whom were asylum seekers.<sup>195</sup> There are no alternatives to detention implemented.<sup>196</sup>

### 4.6. Responses in law, policy and/or practice

On 31 August 2016, the Greek parliament passed a law regarding school-aged refugee children residing in Greece. The law aims, amongst other things, at starting organising reception classes for children by the end of September. These classes are intended to prepare refugee children for integration into the Greek national education system.<sup>197</sup>

### 4.7. Social response to the situation

On 29 August 2016, a demonstration took place at the centre of Athens against the attack of 24 August 2016 in the housing squat for Refugees and Migrants at

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189 Ministry of Health.

190 Doctors without Borders (MSF).

191 NGO PRAKSIS.

192 *Ibid.*

193 *Ibid.*

194 See: <http://www.moh.gov.gr/articles/ministry/grafeio-typoy/press-releases/4093-dhlwsh-genikoy-grammatea-dhmosias-ygeias-iwannh-mpaskozoy>.

195 Ministry for Migration Policy.

196 NGO PRAKSIS.

197 See: [http://www.hellenicparliament.gr/Nomothetiko-Ergo/Psifisthenta-Nomoschedia?law\\_id=e373a4cd-87fe-493c-b750-a6500109225a](http://www.hellenicparliament.gr/Nomothetiko-Ergo/Psifisthenta-Nomoschedia?law_id=e373a4cd-87fe-493c-b750-a6500109225a).

26 Notara street. The demonstration additionally put forth the demand to actively support solidarity projects.<sup>198</sup>

#### 4.8. Hate crime incidents

The Racist Violence Recording Network (RVRN) has not recorded any incident of racially motivated violence and hate crime, nor any other related incident in the past month.<sup>199</sup>

On 24 August 2016 at 3:45 am, the housing squat for Refugees and Migrants at 26 Notara street was attacked with gas-bottle bombs. None of the more than 130 people accommodated in the building was hurt but the fire caused severe material damages. Activists operating in the squat stated that the incident was a fascist attack.<sup>200</sup>

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198 Official Facebook Page of the housing squat for Refugees and Migrants Notara26, available at: <https://www.facebook.com/645186555621294/photos/a.645200368953246.1073741828.645186555621294/786604614812820/?type=3&theater>.

199 Racist Violence Recording Network.

200 Official Facebook Page of the housing squat for Refugees and Migrants Notara26, available at: <https://www.facebook.com/645186555621294/photos/a.645200368953246.1073741828.645186555621294/786604614812820/?type=3&theatre>.

## 5. Hungary

### 5.1. Stakeholders contacted

The interviews were conducted by phone or by email with the following stakeholders:

- Ministry of Internal Affairs (*Belügyminisztérium*);
- National Police Headquarters (*Országos Rendőr-főkapitányság*);
- Office of Immigration and Nationality (*Bevándorlási és Állampolgársági Hivatal*);
- Attorney General's Office (*Legfőbb Ügyészség*);
- County Court of Szeged (*Szegedi Törvényszék*);
- United Nations' High Commissioner for Refugees (UNHCR) Hungary;
- Hungarian Association for Migrants (*Menedék Migránsokat Segítő Egyesület*);
- MigSzol – Migrant Solidarity Group of Hungary;
- Catholic Caritas (*Katolikus Karitás*).

### 5.2. Overview of the situation

In August 2016, only 114 people irregularly crossed the border into Hungary,<sup>201</sup> which is a drastic decrease compared to July (844). This is the result of a new law of 'deeper border control', entered into force on 5 July 2016 and allowing the police to send illegal migrants apprehended within eight kilometres of the southern border back to the Serbian side of the border fences. They must wait a specific time there before being allowed to submit their asylum claim in one of the transit zones.<sup>202</sup> In August, the Police enforced this new policy against 1,765 people apprehended in Hungarian territory, but within the eight kilometre radius of the southern borders.<sup>203</sup> 83 % of the new arrivals were men and 17 % were women. There were 39 people below 18 years of age, 24 of whom were classified as unaccompanied children.<sup>204</sup> The Police do not keep statistics about the number of persons with disabilities.<sup>205</sup> Most of the new arrivals came from Afghanistan, Syria, Iraq and Pakistan.<sup>206</sup>

The police have also published on their website the number of people they prevented from entering the country since 5 July 2016. In August, they prevented 2,175 people from crossing the border into Hungary.<sup>207</sup> According to

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201 National Police Headquarters.

202 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*), available at: [http://net.jogtar.hu/jr/gen/hjegy\\_doc.cgi?docid=A1600094.TV&xtreferer=00000003.TXT](http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1600094.TV&xtreferer=00000003.TXT).

203 National Police Headquarters.

204 *Ibid.*

205 *Ibid.*

206 *Ibid.*

207 *Ibid.*



civil society organisations, there have been multiple cases of brutality, violence and aggression by the Hungarian police during interviews conducted on the Serbian side of Hungary's southern borders. Migrants have claimed to have been beaten up and pushed back into Serbia. NGOs believe that these push-back incidents may have caused the decrease in the number of people irregularly crossing the borders in August.<sup>208</sup>

Around 1,300 people applied for asylum in August. They were mainly from Afghanistan (some 500), Syria (some 250), Iraq (some 180), Pakistan (some 100), Morocco (about 70) and Iran (about 50).<sup>209</sup> The majority had entered Hungary through one of the two transit zones (Röszke, Tompa) along the Hungarian-Serbian border.<sup>210</sup> In August, the Office of Immigration and Nationality took 34 positive decisions (accepting the asylum claims) and 204 negative decisions (rejecting the claims). The Office terminated the process in 1,280 cases, given that the applicants had left the country.<sup>211</sup>

## 5.3.Criminal proceedings against migrants and people helping them

### 5.3.1 Criminal proceedings initiated against migrants and asylum seekers

Around 16 % of the 114 new arrivals were arrested by the police for the crime of unauthorised border fence crossing, as they had either climbed over or ducked under the fences installed along the Serbian-Hungarian border.<sup>212</sup> Criminal proceedings were initiated by the Police against 19 people.<sup>213</sup>

The number of criminal trials also significantly decreased in August due to the establishment of the deeper border control policy. When the Police apprehend people within eight kilometres of the Serbian and Croatian borderline, they most of the time merely escort them back behind the fences. They only initiate criminal proceedings for unauthorised border fence crossing if they directly witness them climbing over or ducking under the fences. Between 1 and 21 August 2016, the District Court of Szeged (*Szegedi Járásbíróság*) only held five criminal trials in relation to unauthorised border fence crossings. All five defendants were found guilty and were sentenced to a one-year entry ban. All were from Afghanistan. None appealed against the decision nor requested the translation of the Court's verdict in writing.<sup>214</sup>

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208 UNHCR Hungary. MigSzol.

209 Office of Immigration and Nationality.

210 National Police Headquarters.

211 Office of Immigration and Nationality.

212 National Police Headquarters.

213 The provision of unauthorised border crossing as an offence is set out in Article 352/A of Act C of 2012 on the Criminal Code (*2012. évi C. törvény a Büntető Törvénykönyvről*; Criminal Code), available at: [njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=152383.297990#foot\\_121\\_place](http://njt.hu/cgi_bin/njt_doc.cgi?docid=152383.297990#foot_121_place). The provision was introduced in the Criminal Code by Act CXL of 2015 on the amendment of certain laws as a result of the migrant situation (*2015. évi CXL. törvény egyes törvényeknek a tömeges bevándorlás kezelésével összefüggő módosításáról*; Act CXL of 2015), available at: [njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=177552.298006](http://njt.hu/cgi_bin/njt_doc.cgi?docid=177552.298006). Act CX of 2015 entered into force on 15 September 2015.

214 County Court of Szeged.

Throughout the period examined, the police initiated criminal proceedings against 51 people suspected of having committed the crime of forging public documents when they tried to enter Hungary.<sup>215</sup>

### **5.3.2 Criminal proceedings against people/organisations/associations facilitating irregular entry or stay**

In August, the police arrested and initiated new criminal proceedings against 25 people accused of committing the crime of human smuggling.<sup>216</sup> Perpetrators were nationals of Hungary, Romania, Ukraine, Austria, Serbia, Germany, Algeria and Pakistan. In one case, a 55-year-old Ukrainian man offered transportation to 33 people (nationals of Bangladesh, Pakistan and Afghanistan) through Hungary in the closed cargo area of a minivan on 8 August 2016. The Hungarian police apprehended the driver on the motorway on his way to Budapest. The victims were exhausted and dehydrated, so the authorities supplied them with food and water. All victims submitted claims for asylum.<sup>217</sup> The Hungarian Criminal Code orders human smuggling activities to be punishable even in cases where the perpetrator facilitating the irregular entry or stay is not acting for profit.<sup>218</sup> 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, they have so far not been applied to volunteers helping refugees.<sup>219</sup>

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

### **5.4.1 Registration and identification**

Authorities registered and fingerprinted new arrivals in every case, and found that the majority of people were cooperative during these procedures. The authorities experienced minor forms of disobedience or resistance in only a few cases. They claim that they were able to successfully resolve the conflict in all these cases by explaining the purpose of registration and fingerprinting to the persons concerned.<sup>220</sup>

In the first week of August, an average of 1,100-1,200 people waited daily to enter Hungary from Serbia through the two transit zones (Röszke, Tompa). Every day, around 700-800 people camped outside the two transit zones out in the open air in harsh conditions. The Serbian authorities and NGOs then decided to offer accommodation opportunities in Serbian government facilities. Thanks to their efforts, the number of asylum seekers camping near the two transit zones

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215 National Police Headquarters.

216 *Ibid.*

217 *Ibid.*

218 Article 353 of Act C of 2012 on the Criminal Code (2012. évi C. törvény a Büntető Törvénykönyvről), available at: [http://net.jogtar.hu/jr/gen/hjegy\\_doc.cgi?docid=A1200100.TV](http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1200100.TV).

219 National Police Headquarters.

220 *Ibid.*

fell below 450 by mid-August, while the majority of those seeking entry into Hungary was accommodated in Serbian reception centres. Among those waiting for entry, around 60 % were women and children, mainly from Afghanistan, Iraq and Syria. By mid-August, Serbian NGOs were able to slightly improve living conditions outside the two transit zones by installing phone charging station, and hand washing stations and other sanitary facilities.<sup>221</sup>

The admission rate to Hungary, through the two transit zones along the Hungarian-Serbian border (Röszke, Tompa), remains limited to 15 people per day per transit zone, leaving many asylum seekers waiting for a month or more in the open air outside the transit zones.<sup>222</sup> While the authorities claim that they grant priority access to those belonging to vulnerable groups (children, disabled persons, pregnant women), civil society organisations found that the Hungarian authorities continue to admit asylum seekers into the transit zones based on the date of their arrival.<sup>223</sup> In the transit zone close to the city of Röszke, the press reported that the authorities take decisions about the admission of people on the basis of the advice of three refugees, who inform the authorities about who was there first.<sup>224</sup> The usual waiting period for families to be admitted can be a month, while unaccompanied children might have to wait for about five weeks. As for single males, the general rule is that only one man per day gets admission to the transit zone, and they are thus forced to wait for admission for more than two months.<sup>225</sup>

NGOs are alarmed at the harsh application of the deeper border control policy. They have indeed received many reports of violent and abusive incidents against people who had attempted to illegally cross the border because they could not tolerate the lengthy admission periods into the transit zones. Reports included cases in which people in blue police uniforms unleashed dogs, beat the refugees or sprayed them. Some reports have also proven that the Hungarian police had beaten people in handcuffs before sending them back to Serbia.<sup>226</sup> Civil society organisations continuously inform the police of these cases of abuse, but criminal proceedings against policemen suspected of having been involved in these incidents have only been initiated in four cases so far.<sup>227</sup>

#### **5.4.2 Asylum procedure**

Asylum seekers entering through Serbia are still almost always automatically rejected on the grounds of inadmissibility, given that Serbia is considered to be a safe third country under Hungarian law.<sup>228</sup> Civil society organisations believe that it is practically impossible to get protected status for single male adults in the transit zones, while even claims from women and families are often considered to be inadmissible.<sup>229</sup> Some of the rejected applicants appeal against the Office's

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221 UNHCR Hungary.

222 *Ibid.*

223 *Ibid.*

224 Scary conditions at no one's land in Röszke (*Rémisztő állapotok a röszkei senki földjén*), available at: [http://index.hu/belfold/2016/08/10/tranzitzona\\_roszke\\_tompa\\_segelyszervezetek\\_menekulttabor/](http://index.hu/belfold/2016/08/10/tranzitzona_roszke_tompa_segelyszervezetek_menekulttabor/).

225 UNHCR Hungary.

226 Catholic Caritas.

227 National Police Headquarters.

228 UNHCR Hungary.

229 MigSzol.

decision. People, including single men, are often transferred from the transit zones to open reception facilities since the Court's review process may take up to several months. The applicants typically do not wait for the Court's decision in the review process and they proceed to their end destination in Western Europe.<sup>230</sup>

In August, the Administrative and Labour Court of Szeged (*Szegedi Közigazgatási és Munkaügyi Bíróság*) received 113 appeals to review the negative asylum decision of the Office of Immigration and Nationality. In 84 of these cases, the Court rejected the appeal and upheld the Office's decision. In 26 cases, the Court repealed the Office's decision, sent the case back to the Office of Immigration and Nationality to examine the facts more precisely and refrained from automatically applying the safe third country rule. In seven cases, the Court had to terminate the process, given that the claimants had left the country. Some appeals have not yet been decided.<sup>231</sup>

### **5.4.3 Return procedure**

In August, the vast majority of the new arrivals arrived through the border with Serbia, and only a few of them came through the Romanian border.<sup>232</sup> The readmission procedures remain very long and uncertain for most of the people in detention, given that Serbia still only readmits its own nationals.<sup>233</sup> In August, the Police returned 34 people to the following countries: Romania (23), Ukraine (7), Serbia (3) and Slovenia (1).<sup>234</sup> There is no information about these people's nationalities.

## **5.5.Challenges and developments concerning reception conditions of new arrivals, including detention**

### **5.5.1 Reception conditions and capacity**

The transit zones along the Croatian border (Letenye and Beremend) did not host any refugees or asylum-seekers in the reporting period, while the transit zones along the Serbian borders (Röszke and Tompa) remained active.<sup>235</sup> Admission to the transit zones is still extremely slow, given that only 15 people can enter each transit zone each day. In early August, there were days when almost 1,300 people were crowded at the fences, close to the two transit zones.<sup>236</sup> In the first few days of August, living conditions in the makeshift camps close to the transit zones were so bad that, on 3 August 2016, a group of people held a short flash mob demonstration in front of the Hungarian Consulate in Subotica and demanded that Hungary open the border. After this event, a hundred people seeking international protection marched from Belgrade to the Hungarian border, where they started a hunger strike and demanded that

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230 UNHCR Hungary.

231 County Court of Szeged.

232 National Police Headquarters.

233 UNHCR Hungary.

234 National Police Headquarters.

235 *Ibid.*

236 UNHCR Hungary.

Hungary respect their rights to seek asylum. They called off the strike after six days, given that the authorities did not show interest in their demands.<sup>237</sup>

The living conditions of those waiting to enter the transit zones became slightly better by mid-August, when NGOs installed sanitary facilities, hand washing stations and cell phone charging stations. On the other hand, attempts by the Serbian authorities to decongest the border zone by offering better conditions in governmental centres bore fruit by mid-August. The number of those camping close to the Hungarian transit zones, out in the open, indeed dropped below 450 people a day.<sup>238</sup> The Office of Immigration and Nationality and the five government-funded civil society organisations (the Hungarian Charity Service of the Order of Malta (*Magyar Máltai Szeretetszolgálat Egyesület*), the Hungarian Red Cross (*Magyar Vöröskereszt*), the Hungarian Reformed Church (*Magyarországi Református Egyház*), the Hungarian Interchurch Aid (*Magyar Ökumenikus Segélyszervezet*) and the Catholic Caritas (*Katolikus Karitás*) also assisted people by providing food and non-food items to those waiting outside the transit zones.<sup>239</sup> Local aid groups – mainly from Serbia – also regularly bring supplies to ease the dire conditions at the border zone.<sup>240</sup>

The UNHCR provides asylum seekers admitted to the transit zones with information and counselling on their rights and obligations in relation to the border procedures. The Hungarian Helsinki Committee (*Magyar Helsinki Bizottság*) also gives them legal aid.<sup>241</sup>

The Office of Immigration and Nationality announced that the Bicske camp, the largest open refugee camp in Hungary, is to be closed by the end of 2016.<sup>242</sup> NGOs find this decision illogical, given that the Bicske camp is one of the very few open refugee camps located close to Budapest. It allows people to travel, occasionally, to the capital and to inform themselves better about the housing and work opportunities they might have if legal protection were granted to them in Hungary. While NGOs recognise that the living conditions in Bicske can sometimes be poor (lack of sufficient and decent meals), they still believe that this camp arguably offers the best conditions of all Hungary's open camps.<sup>243</sup>

### **5.5.2 Vulnerable persons**

Civil society organisations have expressed concern about the situation of families and vulnerable groups (typically unaccompanied children) waiting to enter the transit zones along the Serbian border. Although authorities claim to grant them priority access, it appears that admissions in the transit zones is in fact still based on people's dates of arrival. As a result, it may take more than a month before families and vulnerable groups are admitted in Hungary.<sup>244</sup>

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237 MigSzol.

238 UNHCR Hungary.

239 Office of Immigration and Nationality, UNHCR Hungary.

240 MigSzol.

241 MigSzol, UNHCR Hungary.

242 Office of Immigration and Nationality.

243 MigSzol.

244 UNHCR Hungary, MigSzol.

### 5.5.3 Child protection

In the second half of August, civil society organisations reported that children accounted for around 40 % of the roughly 450 people waiting in the border zone for admission to Hungary via the transit zones.<sup>245</sup> Unaccompanied children did not enjoy priority access to the transit zones and had to wait for 31-38 days to get admission, particularly in the first half of August.<sup>246</sup> Once children have been admitted to the transit zones, the authorities transport them almost immediately after registration. They go either to open reception centres, if they arrived with their family, or to children's homes, if they are unaccompanied children.<sup>247</sup> The Károlyi István Children's Village in Fót (*Károlyi István Gyermekváros Fót*) gets new arrivals almost every day. The Hungarian Association for Migrants is present in the children's village, organises sports and arts events for the refugee children and teaches them basic subjects to help their future integration.<sup>248</sup>

### 5.5.4 Healthcare

The medical doctors of the Hungarian Army perform their duty in the transit zones for two hours every day. The doctors of SOS Children's Village (*SOS Gyermekfalu*), an NGO specialising in helping children in need, are also occasionally on duty there.<sup>249</sup> The authorities, however, do not provide medical assistance to those in need of medical assistance who are waiting outside the transit zones; therefore, only NGOs and volunteers treat those in need of medical assistance there.<sup>250</sup> In the detention centres, access to medical assistance is also very poor and limited.<sup>251</sup>

### 5.5.5 Immigration detention

Alien-police detention was ordered by the police against 50 people in August.<sup>252</sup> Alien-police detention is ordered when a person is about to be deported and so, when the Office of Immigration and Nationality or the Court expels somebody.<sup>253</sup>

In August, the Office of Immigration and Nationality ordered asylum-detention against 89 people. There were around 250 people in asylum-detention during the reported period.<sup>254</sup> The Office typically orders this to prevent asylum seekers from leaving the country before the asylum request is decided.

Civil society organisations find that the detention facilities run by the Office of Immigration and Nationality, in which people in asylum-detention are accommodated, are still in a very bad condition (proper beds, clean items and sanitary facilities). This is due to their continuous, and increased use, in the last

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245 UNHCR Hungary.

246 *Ibid.*

247 Office of Immigration and Nationality.

248 Hungarian Association for Migrants.

249 National Police Headquarters.

250 UNHCR Hungary.

251 *Ibid.*

252 National Police Headquarters.

253 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*), available at: [http://net.jogtar.hu/jr/gen/hjegy\\_doc.cgi?docid=A0700002.TV](http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV) (2 February 2016).

254 Office of Immigration and Nationality.

months.<sup>255</sup> Furthermore, tensions remain very high among the people detained. Civil society organisations are worried about the fights and suicide attempts at detention centres and believe that these incidents are signs of frustration among the people detained. Fights and group fights usually break out to secure access to the internet or to the television, for example. NGOs find that detainees do not get access to information about the asylum system in Hungary nor have books to read. They also have limited options to contact their families in the detention centres.<sup>256</sup> The police regularly upload reports and pictures of the aftermath of the fights to their website, and the NGOs believe this is another way of falsely portraying detained people as violent and threatening.<sup>257</sup> On 27 August 2016, an Afghan man was taken to the Office of Immigration and Nationality in Szeged in handcuffs for a hearing. While waiting for the hearing, he managed to get a gun from one of the guards and wanted to kill himself. The police were able to disarm him in seconds as he did not know how to use a gun.<sup>258</sup>

## 5.6. Responses in law, policy and/or practice

Civil society organisations reported several cases of refugees being captured by local vigilante groups (*polgárőrség*) while trying to illegally cross the border from Serbia.<sup>259</sup> These groups beat them and turned them back to Serbia.<sup>260</sup> The mayor of Ásotthalom (a city at the Serbian-Hungarian border) even claimed that local villagers might be better than the Police in catching people and enforcing the 'eight-kilometre policy' for they have a better knowledge of the territory.<sup>261</sup> The press also reported that extreme right vigilante groups started to patrol the southern border of Hungary in early August with the intention of voluntarily assisting the Police.<sup>262</sup>

The Government is planning to strengthen the fences at the southern border of Hungary. The Prime Minister announced that, to ensure that the fences can keep everyone out, they would build a new extra fence/wall.<sup>263</sup> The one built last year (a razor wired double fence), he says, was made in a rush and only meant to be temporary; therefore, it has to be strengthened with a new layer.<sup>264</sup>

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255 MigSzol.

256 MigSzol, UNHCR Hungary.

257 *Ibid.*

258 An Afghani refugee took the gun of a policeman in Szeged (*Elvette egy rendőr pisztolyát egy afgán menekült Szegeden*), available at: [http://index.hu/belfold/2016/08/27/elvette\\_egy\\_rendor\\_pisztolyat\\_egy\\_afgan\\_menekult\\_szegeden/](http://index.hu/belfold/2016/08/27/elvette_egy_rendor_pisztolyat_egy_afgan_menekult_szegeden/).

259 MigSzol.

260 *Ibid.*

261 *Ibid.*

262 Vigilante groups are formed to stop migrants (*Szabadcsapatok szerveződnek a migránsok megállítására*), available at: [http://hvg.hu/itthon/20150729\\_Szabadcsapatok\\_szervezodnek\\_a\\_migransok\\_m](http://hvg.hu/itthon/20150729_Szabadcsapatok_szervezodnek_a_migransok_m).

263 Orban builds a third fence at the border that can keep everything out (*Orbán egy harmadik, mindent megállító kerítést épített a határra*), available at: [http://index.hu/belfold/2016/08/26/orban\\_egy\\_harmadik\\_mindent\\_megallito\\_keritest\\_epittet/](http://index.hu/belfold/2016/08/26/orban_egy_harmadik_mindent_megallito_keritest_epittet/).

264 *Ibid.*

## 5.7. Social response to the situation

Visitors to the Sziget Festival, held in Budapest between 10 and 17 August 2016, could offer their tents to asylum seekers waiting at the Serbian-Hungarian border thanks to the initiative of Amnesty International Hungary. The NGO received 67 tents, which were cleaned and disinfected and then given to the refugees at Röszke and Tompa.<sup>265</sup>

The Hungarian Association for Migrants announced a new project to help the integration of refugee children. Their plan is to start a complex educational project, with the help of volunteers, in order to prepare refugee children for the Hungarian kindergartens and elementary schools. The project intends to improve the refugee children's language skills and other competencies they will later need to join the Hungarian students at schools (e.g. developing intercultural competences, self-awareness campaigns etc.).<sup>266</sup>

## 5.8. Hate crime incidents

There were no attacks or incidents reported against the refugee camps and the transit zones in August.<sup>267</sup> The Hungarian Government continues its aggressive campaign against the EU's mandatory relocation quota scheme in preparation for the national referendum on this issue (2 October 2016). A new element of the campaign is the Government's plan to send information leaflets to every household in the country emphasising the importance of the referendum and presenting the migration crisis as a threat to national security.<sup>268</sup> In response, civil society organisations advise people to attend the referendum and to produce invalid votes to undermine the Government's plans.<sup>269</sup>

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265 MigSzol.

266 Hungarian Association for Migrants.

267 National Police Headquarters.

268 A new era in the quota campaign, new billboards are coming (*Új szakaszba lépett a kvótakampány, új plakátok jönnek*), available at:  
[http://index.hu/belfold/2016/08/31/uj\\_szakaszba\\_lepett\\_a\\_kvotakampany\\_uj\\_plakatok\\_jonnek/](http://index.hu/belfold/2016/08/31/uj_szakaszba_lepett_a_kvotakampany_uj_plakatok_jonnek/).

269 MigSzol.



## 6. Italy

### 6.1. Stakeholders contacted

The interviews were conducted by phone and email with the following stakeholders:

- Ministry of the Interior;
- Association for Legal Studies on Immigration (*Associazione per gli studi giuridici sull'immigrazione*, ASGI);
- Italian Refugees Council (*Consiglio Italiano per i Rifugiati*, CIR);
- NGO 'Doctors Without Borders Italy' (*Medici Senza Frontiere Italia*, MSF Italia);
- Jesuit Refugee Service 'Centro Astalli';
- Community of Sant'Egidio (*Comunità di Sant'Egidio*);
- 'Melting Pot Europa' project;
- Association 'Senza confine';
- NGO 'Borderline Sicilia'.

### 6.2. Overview of the situation

According to the data on arrivals published by the Interior Ministry, 17,395 people arrived in Italy by sea in August:<sup>270</sup>

Since the beginning of the year, the port with the highest number of people to have disembarked is Augusta (16,232), followed by Pozzallo (12,630), Reggio Calabria (10,532), Catania (9,810), Messina (9,724), Lampedusa (9,369), Palermo (8,445), Trapani (7,987), Crotona (4,649), Cagliari (4,457), Taranto (3,774), Vibo Valentia (2,818), Brindisi (2,581), Salerno (2,370), Porto Empedocle (2,139), Corigliano Calabro (1,742), and Porto Torres (387). The only officially established hotspots are located in Pozzallo, Trapani, Lampedusa, and Taranto. The main countries of origin declared at disembarkation are Nigeria (25 %), Eritrea (16 %), Sudan (9 %), Gambia (9 %), Ivory Coast (8 %), Guinea (8 %), Somalia (7 %), Senegal (7 %), Mali (7 %), and Egypt (4 %).

The Ministry of the Interior released a report on its activities from 1 August 2015 to 31 July 2016.<sup>271</sup> The report includes a section on human rights and migration, in which the most relevant data concerning this issue are reported. In the considered period, 154,047 people arrived in Italy (67 % in Sicily, 20 % in Calabria, 7 % in Apulia, 5 % in Sardinia, and 1 % in Campania); among them, 793 were arrested for smuggling. In the first six months of 2016, 90 % of the newly arrived migrants were identified and registered. In the same period, international protection applications amounted to around 94,030: some 33,630 were accepted by the Territorial Commissions for the Recognition of

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270 Information available at: <http://www.libertaciviliimmigrazione.dlci.interno.gov.it/it/documentazione/statistica/cruscotto-statistico-giornaliero>.

271 The report is available at: [www.interno.gov.it/sites/default/files/modulistica/ferragosto\\_2016.pdf](http://www.interno.gov.it/sites/default/files/modulistica/ferragosto_2016.pdf).

International Protection (or by Italian administrative courts in case of appeals against denial decisions by the abovementioned commissions), and some 60,370 were rejected. As of 31 July 2016, 139,724 people were living in reception centres (including all kinds of centres existing in Italy); in the same period, 4,004,376 migrants (693,236 children) were living in Italy with a regular residence permit. The first ten countries of origin of migrants living in Italy are: Morocco, Albania, China, Ukraine, India, the Philippines, Egypt, Bangladesh, Moldavia, and Pakistan.

## 6.3. Criminal proceedings against migrants and people helping them

### 6.3.1 Criminal proceedings initiated against migrants and asylum seekers

The number of migrants and asylum seekers involved in criminal proceedings for irregular border crossings is not publicly accessible. In the reporting period, many newly arrived people of different nationalities – including asylum seekers – were arrested for smuggling, some for human trafficking. On 3 August 2016, police officers arrested several migrants in Sicily (four in Pozzallo, three in Augusta, and five in Catania), who were charged with smuggling.<sup>272</sup> On 26 August 2016, two people – one from Senegal and one from Gambia – were arrested by police authorities and accused of having smuggled 552 people who had arrived at the port of Catania the previous Tuesday.<sup>273</sup>

### 6.3.2 Criminal proceedings against people/organisations/associations facilitating irregular entry or stay

On 18 August 2016, a French citizen was arrested by Italian police authorities and accused of smuggling because he hid, in his van, eight irregular Eritrean migrants (including three women and two children) to bring them to France. This person is well-known by French authorities because of his support for the 'No Border' political movement and, for this reason, it is possible to assume that he did not facilitate irregular entry into the French territory for profit. The arrest resulted from close cooperation between French and Italian police authorities aimed at controlling the border and at containing irregular migration from Italy to France.<sup>274</sup>

On 24 August 2016, three 'No Border' activists were arrested at the airport of Milan (Lombardy) because they tried to stop a return flight to Sudan, aimed at

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272 Information available at:  
[http://palermo.repubblica.it/cronaca/2016/08/03/news/migranti\\_undici\\_scafisti\\_fermati\\_in\\_sicilia\\_piccolo\\_profugo\\_ritrovato\\_in\\_autostrada-145298141/?ref=search](http://palermo.repubblica.it/cronaca/2016/08/03/news/migranti_undici_scafisti_fermati_in_sicilia_piccolo_profugo_ritrovato_in_autostrada-145298141/?ref=search).

273 Information available at:  
<http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=SB65121.TIF&subcod=20160826&numPag=1&>.

274 Information available at:  
<http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=CB94023.TIF&subcod=20160818&numPag=1&>.

repatriating around 40 irregular migrants pursuant to the bilateral agreement recently signed by Italian and Sudanese authorities (see Section 6.6. of this report). They are being held in jail pending a court decision.<sup>275</sup>

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

### 6.4.1 Registration and identification

On 2 August 2016, the Malta-based Migrant Offshore Aid Station (MOAS) suspended the joint save and rescue project – implemented in cooperation with the NGO ‘Emergency’ – aimed at providing first-aid assistance to migrants rescued in the Mediterranean Sea. The NGO was tasked with providing healthcare and psychological support to migrants before their arrival on the Italian coasts. The suspension is based on economic reasons and the excessive costs of the project.<sup>276</sup>

On 11 August 2016, police authorities conducted a large-scale identification operation in the ‘Baobab’, a former multicultural centre in Rome that was dismantled by the police some months ago. Around 200 people are living in the street and receive assistance and support from local associations and activists. Police officers brought 80 people – including children – to the local police headquarters to identify them and check their documents and residence permits to verify their legal status in Italy. It is unclear whether they have been detained or expelled from Italy. Associations and activists are currently negotiating with the Municipality of Rome regarding the possibility of setting up an adequate reception centre in the area of the Tiburtina railway station to provide these people with the assistance they need, and to offer them a place to live.<sup>277</sup> This project has already received the support of the Rome Municipal Council members in charge of social policies.<sup>278</sup>

On 14 August 2016, the first transfer operations aimed at relocating asylum seekers apprehended in the Ventimiglia area (Liguria) to Sardinia began, with the goal of distributing them throughout local reception centres. Police officers’ trade unions have strongly criticised these transfer operations, stressing the absurdity of transferring people – whose only intention is to leave Italy to reach other EU Member States – to an island from which it is impossible for them to leave.<sup>279</sup> According to media reports, similar operations have been conducted to transfer irregular or unidentified migrants from Ventimiglia and Como

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275 Information available at: <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=SIM4136.TIF&subcod=20160825&numPag=1&>.

276 Information available at: [www.redattoresociale.it/Notiziario/Articolo/513391/Soccorso-migranti-conclusa-la-collaborazione-tra-Moas-ed-Emergency](http://www.redattoresociale.it/Notiziario/Articolo/513391/Soccorso-migranti-conclusa-la-collaborazione-tra-Moas-ed-Emergency).

277 Information available at: [www.redattoresociale.it/Notiziario/Articolo/513716/Baobab-nuovo-blitz-migranti-portati-in-questura-Sono-terrorizzati](http://www.redattoresociale.it/Notiziario/Articolo/513716/Baobab-nuovo-blitz-migranti-portati-in-questura-Sono-terrorizzati).

278 Information available at: [www.redattoresociale.it/Notiziario/Articolo/513669/Migranti-Baldassarre-a-Roma-un-centro-per-transitanti-sul-modello-di-Milano](http://www.redattoresociale.it/Notiziario/Articolo/513669/Migranti-Baldassarre-a-Roma-un-centro-per-transitanti-sul-modello-di-Milano).

279 Information available at: <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=CB91515.TIF&subcod=20160815&numPag=1&>.

(Lombardy) to the hotspots located in southern Italy to identify and register them.<sup>280</sup>

As for hotspots, on 24 August 2016, fire was set within the hotspot of Lampedusa, in the area dedicated to the reception of children. People living in the hotspot have been identified as responsible for this action. No motivation has officially been declared for this protest, but it allegedly relates to reception conditions in the centre or to forcing the possibility of leaving the centre and continuing journeys towards other parts of Italy or Europe. Local firefighters immediately extinguished the fire, but some parts of the facility had already been damaged.<sup>281</sup>

#### **6.4.2 Asylum procedure**

There is nothing new to report.

The Italian government has proposed a relevant reform of the asylum procedure. This was already described in previous monthly reports. Updates are included in Section 6.6 of this report.

#### **6.4.3 Return procedure**

On 20 August 2016, and during the following days, Swiss and Italian police authorities stopped several migrants attempting to cross the Swiss border by train to apply for international protection in Switzerland. The migrants were readmitted to Italy (Como), where more than 700 of them are currently living in the railway station and in local reception centres.<sup>282</sup>

On 24 August 2016, 48 Sudanese migrants who were detained at the border with France or in the Ventimiglia area were transferred to Turin (Piedmont) and directly repatriated to their country of origin, in compliance with the bilateral police cooperation agreement (memorandum of understanding) recently signed by Italy and Sudan.<sup>283</sup> The memorandum of understanding only recently entered into force, so no clear information is available on the expulsion operation or on respect for the right to appeal to judicial authorities. The return operation is supposed to be just the first in a series of operations. Activists and associations – such as Amnesty International and Caritas – have strongly criticised it because Sudan is not a safe third country, as many fundamental rights violations are reported there. Moreover, some migrants may have fled

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280 Information available at: [www.meltingpot.org/Guerra-al-desiderio-migrante-Deportazioni-da-Ventimiglia-e.html#.V8EzjKL-AqJ](http://www.meltingpot.org/Guerra-al-desiderio-migrante-Deportazioni-da-Ventimiglia-e.html#.V8EzjKL-AqJ).

281 Information available at: [www.agrigentonotizie.it/cronaca/lampedusa-centro-accoglienza-immigrati-incendio.html](http://www.agrigentonotizie.it/cronaca/lampedusa-centro-accoglienza-immigrati-incendio.html).

282 Information available at:  
<http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=LL31289.TIF&subcod=20160822&numPag=1&>,  
<http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=SID1090.TIF&subcod=20160822&numPag=1&>, and  
<http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=CB95162.TIF&subcod=20160826&numPag=1&>.

283 Information available at: [www.ansa.it/liguria/notizie/2016/08/24/espulsione-diretta-per-48-migranti-sudan\\_0de55e4a-0b87-490f-811e-c5039a8ffa5d.html](http://www.ansa.it/liguria/notizie/2016/08/24/espulsione-diretta-per-48-migranti-sudan_0de55e4a-0b87-490f-811e-c5039a8ffa5d.html),  
[http://www.ilsecoloxix.it/p/genova/2016/08/24/ASWmN80D-ventimiglia\\_espulsione\\_migranti.shtml](http://www.ilsecoloxix.it/p/genova/2016/08/24/ASWmN80D-ventimiglia_espulsione_migranti.shtml).

persecution in the Darfur area.<sup>284</sup> Concerns about fundamental rights possibly being violated following these return operations have prompted submission of a parliamentary question to the Italian government about the legitimacy of the agreement and of return operations.<sup>285</sup>

## 6.5.Challenges and developments concerning reception conditions of new arrivals, including detention

### 6.5.1 Reception conditions and capacity

On 3 August 2016, a temporary tent encampment was set up in Frosinone (Lazio) pursuant to a local prefecture decision. The encampment, which aims to host asylum seekers living in the area, is managed by IRC and Caritas. Some migrants are already living there after having been identified and registered at local police headquarters.<sup>286</sup>

On 4 August 2016, a new reception centre for asylum seekers was opened in Pordenone (Friuli Venezia Giulia) in a former army facility, with the support of the Ministry of the Interior. The centre – which will host up to 70 people – is managed by IRC, which will provide, in cooperation with the local healthcare authorities (*aziende sanitarie locali*, ASL), healthcare assistance and other basic services.<sup>287</sup>

A heated debate started on 14 August 2016, when the mayor of Capalbio (Tuscany) publicly voiced opposition to the local prefect's decision to accommodate 50 asylum seekers in some empty buildings near the town's historical centre. The reason given for the opposition is that this would negatively affect tourism and trade activities. Regional authorities have endorsed the prefect's decision.<sup>288</sup> Local authorities have filed a formal complaint with the Regional Administrative Court, which is supposed to pass a final judgment on 3 November 201; until then, asylum seekers will not be accommodated in

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284 Information available at: [www.nigrizia.it/notizia/sudan-migranti-sudanesi-deportati-dallitalia-con-il-supporto-di-khartoum](http://www.nigrizia.it/notizia/sudan-migranti-sudanesi-deportati-dallitalia-con-il-supporto-di-khartoum), <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=SI94014.TIF&subcod=20160825&numPag=2&>, and [www.stranieriinitalia.it/attualita/attualita/attualita-sp-754/maxi-rimpatrio-verso-il-sudan-per-il-governo-e-un-paese-sicuro.html](http://www.stranieriinitalia.it/attualita/attualita/attualita-sp-754/maxi-rimpatrio-verso-il-sudan-per-il-governo-e-un-paese-sicuro.html).

285 Information available at: [www.nelpaese.it/index.php/archivio-diritti/4053-rimpatrio-per-40-sudanesi-scatta-interrogazione-parlamentare](http://www.nelpaese.it/index.php/archivio-diritti/4053-rimpatrio-per-40-sudanesi-scatta-interrogazione-parlamentare), [www.stranieriinitalia.it/attualita/attualita/attualita-sp-754/maxi-rimpatrio-verso-il-sudan-per-il-governo-e-un-paese-sicuro.html](http://www.stranieriinitalia.it/attualita/attualita/attualita-sp-754/maxi-rimpatrio-verso-il-sudan-per-il-governo-e-un-paese-sicuro.html), and <http://www.senatoripd.it/diritti/sudan-manconi-interrogazione-rimpatri-diritti-umani/no>.

286 Information available at: [www.interno.gov.it/it/notizie/emergenza-profughi-frosinone-installata-nuova-tendopoli](http://www.interno.gov.it/it/notizie/emergenza-profughi-frosinone-installata-nuova-tendopoli).

287 Information available at: [www.interno.gov.it/it/notizie/aperto-pordenone-centro-daccoglienza-allex-caserma-monti](http://www.interno.gov.it/it/notizie/aperto-pordenone-centro-daccoglienza-allex-caserma-monti).

288 Information available at: <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=SIE1098.TIF&subcod=20160815&numPag=2&>, <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=SIQ1056.TIF&subcod=20160815&numPag=1&>, and <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=SIH1029.TIF&subcod=20160815&numPag=1&>.

Capalbio.<sup>289</sup> A similar episode occurred in Genoa (Liguria) on 20 August 2016, when shopkeepers opposed the prefect's decision to accommodate 30 asylum seekers in empty flats located in the city centre because of the damage this would cause to their business and tourism activities.<sup>290</sup>

On 19 August 2016, the Public Prosecutor's Office of Florence (Tuscany) started an inquiry concerning reception conditions in some of the city's reception centres. The inquiry followed complaints about poor reception conditions filed by asylum seekers living in the facilities and by some people living nearby.<sup>291</sup>

### **6.5.2 Vulnerable persons**

Serious problems have emerged in relation to the implementation of the recently approved Action Plan against Human Trafficking. The result of the call for a tender selection procedure will leave five regions not covered by any project under the Action Plan: Piedmont, Sardinia, Basilicata, Liguria, the Aosta Valley, and some parts of Sicily, i.e. some of the areas where human trafficking is more frequently observed. This is due to bureaucratic errors in the submission of the projects to be funded with the government's dedicated resources. There is no clear information on what efforts are being made to correct these errors and allow these regions to access available resources. As for the Piedmont Region, some media articles<sup>292</sup> report that options the regional authorities are assessing include the possibility to use regional financial funds; cooperating with the associations and regions that will receive Action Plan funds to finance some projects in Piedmont; and establishing an agreement with the Immigration Department of the Ministry of the Interior to finance projects against human trafficking of asylum seekers living in the Piedmont Region.

This situation could entail the suspension of many assistance and support projects because of a lack of financial resources, undermining assistance to many women who have been subjected to human trafficking or domestic violence.<sup>293</sup>

### **6.5.3 Child protection**

According to Italian legislation, a Decree Law that is approved by the Italian government without the previous consent of the parliament has to be converted into a formal law by the parliament within 60 days from the approval to become

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289 Information available at: <http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=SIB4085.TIF&subcod=20160818&numPag=1&>.

290 Information available at: <http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=AK16029.TIF&subcod=20160820&numPag=1&> and [www.ilsecoloxix.it/p/genova/2016/08/21/ASDdXcyD-migranti\\_famiglie\\_settembre.shtml](http://www.ilsecoloxix.it/p/genova/2016/08/21/ASDdXcyD-migranti_famiglie_settembre.shtml).

291 Information available at: [www.redattosociale.it/Notiziario/Articolo/513948/Profughi-la-procura-Firenze-apre-un-inchiesta-sulle-strutture-di-accoglienza](http://www.redattosociale.it/Notiziario/Articolo/513948/Profughi-la-procura-Firenze-apre-un-inchiesta-sulle-strutture-di-accoglienza) and <http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=AK16005.TIF&subcod=20160820&numPag=1&>.

292 Information available at: [www.internazionale.it/notizie/annalisa-camilli/2016/08/19/italia-aiuti-prostitute-tratta](http://www.internazionale.it/notizie/annalisa-camilli/2016/08/19/italia-aiuti-prostitute-tratta) and <http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=SIM4038.TIF&subcod=20160825&numPag=1&>.

293 *Ibid.*

a proper law. On 21 July 2016, the Italian parliament converted into a formal law Decree Law No. 113 of 24 June 2016 on Urgent financial provisions to support regional and local authorities and the Italian territory.<sup>294</sup> Article 1 (3) of the above-mentioned decree law reforms Article 19 of Legislative Decree No. 142 of 18 August 2015 on Implementation of Directive 2013/33/EU laying down standards for the reception of applicants for international protection, as well as of Directive 2013/32/EU on common procedures for granting and withdrawing international protection (*Decreto legislativo 18 agosto 2015, n. 142, Attuazione della direttiva 2013/33/UE recante norme relative all'accoglienza dei richiedenti protezione internazionale, nonché della direttiva 2013/32/UE, recante procedure comuni ai fini del riconoscimento e della revoca dello status di protezione internazionale*).

According to the new rules, should the number of unaccompanied migrant children arriving in Italy suddenly increase, if the capacity of specialised reception centres is not sufficient to host them and they cannot be accommodated in local facilities for children, the local prefect can decide to accommodate them in extraordinary and temporary reception facilities specifically targeted at children. This reform has been criticised by ASGI, which warned that this provision could lead to severe discrimination among unaccompanied children hosted in first-level (financed by EU funding) and second-level reception centres – such as the SPRAR<sup>295</sup> system managed by municipalities with the financial support of the Italian government – and those who will be hosted in these extraordinary reception centres, who will be covered by different rules. They should be specialised for children with trained staff and adequate facilities, but these centres are not covered by adequately clear legislation. In a letter sent to Italian institutions, ASGI stressed the importance of increasing the capacity of the Italian reception system targeted at children, and of introducing a distribution mechanism on a national basis – as for migrant adults – to support regions with very high numbers of arrivals.<sup>296</sup> The reform at hand has been criticised by the NGO 'Borderline Sicilia', as well, which stressed that migration policies cannot be managed with the traditional emergency approach, but would rather need a complete and integrated reform aimed at devising a long-term strategy to support people arriving in Italy.<sup>297</sup>

On 10 August 2016, a new reception centre specifically targeted at children was opened in Florence in an abandoned public facility. Children hosted in the centre will be assisted 24 hours a day by trained professionals, and will be involved in voluntary activities aimed at integrating them into the local community.<sup>298</sup>

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294 *Decreto legge 24 giugno 2016, n. 113, Misure finanziarie urgenti per gli enti territoriali e il territorio*, available at: [www.gazzettaufficiale.it/eli/id/2016/06/24/16G00126/sg](http://www.gazzettaufficiale.it/eli/id/2016/06/24/16G00126/sg).

295 Central Service for the National Asylum-Seekers and Refugees Protection System (*Servizio centrale del sistema di protezione per richiedenti asilo e rifugiati*).

296 The letter sent by ASGI is available at: [http://www.asgi.it/wp-content/uploads/2016/08/2016\\_Osservazioni\\_al\\_DDL\\_conversione\\_DL\\_113\\_2016.pdf](http://www.asgi.it/wp-content/uploads/2016/08/2016_Osservazioni_al_DDL_conversione_DL_113_2016.pdf).

297 The NGO's position is available at: <http://siciliamigranti.blogspot.it/2016/08/accoglienza-straordinaria-per-i-minori.html>.

298 Information available at: [www.redattoresociale.it/Notiziario/Articolo/513705/Firenze-20-minori-migranti-saranno-accolti-nell-ex-palazzo-dell-Inps](http://www.redattoresociale.it/Notiziario/Articolo/513705/Firenze-20-minori-migranti-saranno-accolti-nell-ex-palazzo-dell-Inps).

On 26 August 2016, Save the Children Italia Onlus announced the beginning of a save and rescue project in the Mediterranean Sea, in cooperation with the Italian Coast Guard. The NGO will provide trained professionals with a view to offering adequate support to arrivals by sea in Italy, including accompanied and unaccompanied children.<sup>299</sup>

#### **6.5.4 Healthcare**

On 13 August 2016, one of the asylum seekers hosted in a reception centre near Turin was diagnosed with tuberculosis following the medical test asylum seekers have to undergo in compliance with the healthcare protocols in force. Based on medical results, the patient has become infected without developing the disease; there is therefore no risk of spreading the infection.<sup>300</sup>

#### **6.5.5 Immigration detention**

On 8 August 2016, migrants detained in the identification and expulsion centre (*centro di identificazione ed espulsione*, CIE) of Brindisi (Apulia) set fire to the facilities to protest against detention conditions. One of the demonstrators was identified by police officers and arrested. During the protest, a solidarity demonstration was held outside the centre, calling for the facility's closure.<sup>301</sup>

The facility has around 40 places; total available places in all of Italy amount to some 250. In the September 2015 roadmap, Italy agreed to provide at least 1,500 places. Without a sufficient number of CIE places, return operations become very difficult – if not impossible.

On 11 August 2016, the Regional Authority for the Protection of Rights of People Deprived of Liberty (*Garante delle persone sottoposte a misure restrittive della libertà personale*) visited the CIE facility located in Ponte Galeria (Rome). According to the authority, the centre currently hosts 43 women, 24 of whom are asylum seekers waiting for decisions about their applications. The authority also reported that the centre's living conditions are inadequate – it does not offer any kind of activities for the detained women.<sup>302</sup>

### **6.6. Responses in law, policy and/or practice**

One of the most debated issues during the reporting period is the upcoming reform of the asylum system<sup>303</sup> – already mentioned in previous monthly reports – which the Italian Ministry of Justice confirmed in a hearing on

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299 Information available at: [www.redattoresociale.it/Notiziario/Articolo/514193/Migranti-parte-la-nave-di-Save-the-children-per-il-salvataggio-in-mare](http://www.redattoresociale.it/Notiziario/Articolo/514193/Migranti-parte-la-nave-di-Save-the-children-per-il-salvataggio-in-mare).

300 Information available at: <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=LL36236.TIF&subcod=20160813&numPag=1&>.

301 Information available at: [http://bari.repubblica.it/cronaca/2016/08/09/news/brindisi\\_disordini\\_al\\_cie\\_arrestato\\_un\\_migrante-145663913/](http://bari.repubblica.it/cronaca/2016/08/09/news/brindisi_disordini_al_cie_arrestato_un_migrante-145663913/).

302 Information available at: [www.garantedetenutilazio.it/garante-detenuiti-lazio/news/193-il-garante-del-lazio-in-visita-al-c-i-e-di-ponte-galeria](http://www.garantedetenutilazio.it/garante-detenuiti-lazio/news/193-il-garante-del-lazio-in-visita-al-c-i-e-di-ponte-galeria).

303 A concise description of the content of the reform proposal is available at: <http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=SIQ4050.TIF&subcod=20160818&numPag=2&>.



3 August 2016 before the Parliamentary Committee for the Monitoring of the Application of the Schengen Treaty, the Monitoring of Europol Activities, and the Monitoring and Supervision of Immigration Issues (*Comitato parlamentare di controllo sull'attuazione dell'Accordo di Schengen, di vigilanza sull'attività di Europol, di controllo e vigilanza in materia di immigrazione*).<sup>304</sup> The proposal is currently being examined by the Italian government, and will afterwards be either approved directly by the government through a decree law (and converted, within 60 days, into a law by the Italian parliament), or presented to the Houses of Parliament in compliance with the ordinary legislative procedure.

Many experts<sup>305</sup> and organisations – especially ASGI<sup>306</sup> – have expressed serious concerns about the reform's impact on asylum seekers' rights, especially the right to a fair trial and the right to an effective judicial remedy. In an effort to reduce the duration of asylum procedures, the proposal envisages reducing appeal possibilities for asylum seekers whose international protection applications are rejected by Territorial Commissions for the Recognition of International Protection. The administrative judicial system is structured on two levels of appeal: these would be reduced to just one level of appeal for issues concerning international protection applications. ASGI considers this unacceptable because international protection procedures are deeply connected with fundamental rights protection, and the need to reduce the court's backlog of cases should not lead to a significant weakening of the right to a fair trial. Moreover, the possibility – envisaged by the draft law – for courts to make a decision without again hearing the asylum seeker, basing their judgment only on the documents drafted by the abovementioned territorial commissions, as well as on the recording of the interview with the applicant, could further weaken the right to a fair trial. CIR has endorsed the draft law because of the need to reduce the time currently necessary to process international protection applications; nonetheless, the association has stressed the importance of reforming the composition of the abovementioned commissions, and introducing strict training and competence requirements for their members.<sup>307</sup>

On 3 August 2016, the Joint State-Regions-Municipalities Conference (*Conferenza unificata*)<sup>308</sup> approved the reform of the SPRAR system (Decree of the Ministry of the Interior of 10 August 2016 – *Decreto del Ministero dell'interno 10 agosto 2016*), which is the reception system targeted at asylum seekers and refugees, managed by Italian municipalities with the Italian government's financial support. In the new system, municipalities and private subjects will be able to continuously submit reception projects or ask for the continuation of

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304 The transcript of the hearing is available at:

[www.giustizia.it/resources/cms/documents/Audizione\\_Accordo\\_Schengen.pdf](http://www.giustizia.it/resources/cms/documents/Audizione_Accordo_Schengen.pdf).

305 A university lecturer's critical blog on the recent legislative proposal is available at:

<http://dirittiefrontiere.blogspot.it/2016/08/diritto-di-asilo-rischio-stravolgimento.html>.

306 ASGI's position on the legislative reform is available at: [www.asgi.it/asilo-e-protezione-internazionale/asilo-ricorso-appello-garanzie-orlando/](http://www.asgi.it/asilo-e-protezione-internazionale/asilo-ricorso-appello-garanzie-orlando/).

307 An interview with CIR on this issue, published in a national newspaper, is available at:

<http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=SIQ4052.TIF&subcod=20160818&numPag=1&>.

308 It consists of the Permanent Conference for the Relationships between the State, Regions, and Autonomous Provinces of Trento and Bolzano (*Conferenza permanente per i rapporti tra lo Stato, le Regioni e le Province autonome di Trento e Bolzano*) and the Conference for the Relationships between the State and Municipal and Local Authorities (*Conferenza Stato-città ed autonomie locali*).

already implemented projects, with a view to receiving financial support. These proposals will be analysed twice a year, and the projects eligible for funding will be selected. This new system will replace the traditional one based on annual public calls for tenders.<sup>309</sup>

On 4 August 2016, the Ministry of the Interior presented the agreement signed with the Conference of Italian University Deans (*Conferenza dei rettori delle università italiane*, CRUI), aiming to offer 100 scholarships to refugees willing to enrol in one of Italy's universities for the first time.<sup>310</sup>

On the same day, the memorandum of understanding between Italian police authorities and their Sudanese counterparts – with the support of the Italian government – was signed in the framework of the Khartoum Process (EU Horn of Africa Migration Route Initiative). The agreement aims to counter irregular migration to Italy.<sup>311</sup> A similar agreement was allegedly signed with Gambian authorities. Some experts have severely criticised these kinds of agreements – which have not been ratified by the Italian government – because they reduce possibilities for citizens of these countries to obtain international protection in Italy. Moreover, such agreements increase return operations (see Section 6.4 of this report) and potentially violate fundamental rights.<sup>312</sup>

## 6.7. Social response to the situation

On 21 August 2016, the Catania-based antiracist network publicly denounced identification and registration procedures implemented in the harbour of Catania. According to the activists, police authorities, while managing disembarking procedures, prevent civil society and humanitarian organisations from accessing the port to provide assistance to newly arrived people.<sup>313</sup>

## 6.8. Hate crime incidents

On 14 August 2016, the mayor of Abetone (Tuscany) asked the prefect to create two different bus lines, one specifically targeted at school students, and the other for the 55 asylum seekers living in the local reception centre.<sup>314</sup>

On 16 August 2016, racist words were written on the town walls of Prato (Tuscany). They were allegedly addressed to asylum seekers living in local

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309 Information and the text of the reform are available at: [www.sprar.eu/index.php?option=com\\_k2&view=item&id=154%3Adcreto-di-riforma-del-sistema-di-accesso-allo-sprar-nota-informativa&Itemid=557](http://www.sprar.eu/index.php?option=com_k2&view=item&id=154%3Adcreto-di-riforma-del-sistema-di-accesso-allo-sprar-nota-informativa&Itemid=557) and [www.anci.it/index.cfm?layout=detttaglio&IdDett=56990&utm\\_source=twitterfeed&utm\\_medium=facebook](http://www.anci.it/index.cfm?layout=detttaglio&IdDett=56990&utm_source=twitterfeed&utm_medium=facebook)

310 Information and the text of the agreement are available at: [www.interno.gov.it/it/notizie/studenti-stranieri-entrano-nelle-universita-italiane](http://www.interno.gov.it/it/notizie/studenti-stranieri-entrano-nelle-universita-italiane).

311 Information available at: [www.stranieriinitalia.it/attualita/attualita/attualita-sp-754/firmato-memorandum-di-intesa-tra-italia-e-sudan-su-migrazione.html](http://www.stranieriinitalia.it/attualita/attualita/attualita-sp-754/firmato-memorandum-di-intesa-tra-italia-e-sudan-su-migrazione.html) and [www.onuitalia.com/eng/2016/08/07/italy-sudan-memorandum-understanding-migration-signed-rome/](http://www.onuitalia.com/eng/2016/08/07/italy-sudan-memorandum-understanding-migration-signed-rome/).

312 Information available at: <http://dirittiefrontiere.blogspot.it/2016/08/accordi-in-vista-anche-con-il-gambia-si.html>.

313 Information available at: <http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=SIB1516.TIF&subcod=20160822&numPag=1&>.

314 *Ibid.*

reception centres. Police authorities are conducting investigations to identify the perpetrators.<sup>315</sup>

On 22 August 2016, three inhabitants of a small town in Sicily violently attacked four Egyptian unaccompanied children living in a local reception centre. The victims were hospitalised, and one of them is in serious condition. Thanks to the video the victims managed to make, police authorities promptly identified some of the perpetrators, who were charged with attempted murder, causing injuries, and use of unregistered weapons. The two perpetrators who drove the car are still unknown. The court assumes that the attack was based on racism in light of the derogatory language used by the perpetrators.<sup>316</sup> The accused perpetrators have been put under house arrest, and are awaiting the final decision of the judge in charge of the proceeding.<sup>317</sup>

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315 Information available at: [www.redattoresociale.it/Notiziario/Articolo/513834/Prato-scritte-razziste-contro-i-profughi-davanti-alla-chiesa](http://www.redattoresociale.it/Notiziario/Articolo/513834/Prato-scritte-razziste-contro-i-profughi-davanti-alla-chiesa).

316 Information available at: <http://stranieriinitalia.it/attualita/attualita/attualita-sp-754/pezzi-di-m-ve-ne-dovete-andare-raid-contro-quattro-minori-egiziani.html>,  
<http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=LL31300.TIF&subcod=20160822&numPag=1&>,  
<http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=LL31367.TIF&subcod=20160822&numPag=1&>,  
<http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=SB61213.TIF&subcod=20160822&numPag=1&>,  
<http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=SI12017.TIF&subcod=20160823&numPag=1&>,  
<http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=CB92079.TIF&subcod=20160823&numPag=2&>, and  
<http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=SIB2040.TIF&subcod=20160823&numPag=1&>.

317 Information available at: [www.stranieriinitalia.it/attualita/attualita/attualita-sp-754/tentato-omicidio-c-e-razzismo-ai-domiciliari-gli-aggressori-dei-minori-egiziani.html](http://www.stranieriinitalia.it/attualita/attualita/attualita-sp-754/tentato-omicidio-c-e-razzismo-ai-domiciliari-gli-aggressori-dei-minori-egiziani.html) and  
<http://cartadiroma.waypress.eu/RassegnaStampa/LeggiArticolo.aspx?codice=LL34044.TIF&subcod=20160825&numPag=1&>.

## 7. Sweden

### 7.1. Stakeholders contacted

- Swedish Migration Agency (*Migrationsverket*);
- Swedish Police (*Polisen*);
- National Board of Health and Welfare (*Socialstyrelsen*);
- Health and Social Care Inspectorate (IVO);
- Red Cross Sweden (*Röda Korset Sverige*);
- Save the Children Sweden (*Rädda Barnen Sverige*);
- Amnesty International;
- Swedish Association of Local Authorities and Regions (*Sveriges kommuner och landsting, SKL*);
- Head of Residential Care Home (HVB hem) for unaccompanied children, Göteborg.

### 7.2. Overview of the situation

Between 1 and 31 August 2016, Sweden received around 2,440 asylum seekers, an increase compared to July (some 2,200) and June (2,140).<sup>318</sup> The number of new asylum seekers appears to have stabilised between 2,000 and 3,000 persons per month since February.<sup>319</sup> This is mainly the result of the obligatory ID checks on all carriers entering Sweden and the introduction of even stricter border controls in other European states.

The main countries of origin of asylum applicants during August were Syria, Iraq and Afghanistan.<sup>320</sup> Some 1,440 asylum seekers were male and 1000 female. Some 900 were children (including both unaccompanied children and children arriving with their families). 151 of the children were unaccompanied, a slight decrease compared to July (181) and June (160). The unaccompanied children who arrived between January and August of 2016 were predominately boys (83 %).<sup>321</sup>

On 2 June 2016, the Swedish government decided to prolong internal border controls until 11 November 2016. The decision to extend controls came after such a decision was taken in the Council for European Union.<sup>322</sup>

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318 Swedish Migration Agency.

319 *Ibid.*

320 *Ibid.*

321 *Ibid.*

322 Sweden, Government Offices (*Regeringskansliet*), press release, "Bordercontrols prolonged until November" (*Gränskontroller förlängs till November*), available at <http://www.regeringen.se/pressmeddelanden/2016/06/granskontroller-forlangts-till-november/>.

## 7.3. Criminal proceedings against migrants and people helping them

### 7.3.1 Criminal proceedings initiated against migrants and asylum seekers

No criminal proceedings were initiated against migrants and asylum seekers for offences related to irregular border crossings.

### 7.3.2 Criminal proceedings against people/organisations/associations facilitating irregular entry or stay

The police reportedly still registers some facilitation of irregular entry via private cars each week during August. Two to three per week cross the bridge between Denmark and Sweden, and two arrive from Germany by ferry. However, the Swedish police is increasingly aware of this route and is arresting the drivers of the cars in question. In all cases where individual asylum seekers cross the borders in somebody's car, the police considers the drivers to be smugglers of human beings rather than persons providing assistance for humanitarian reasons.<sup>323</sup> As a consequence, the preliminary investigations treat them as offenders against the state in accordance with the Aliens Act (*Utlänningslag 2005:716*). The police has noticed an increase of cases involving asylum seekers who enter the country hanging under big trucks that arrive with the *Helsingör* ferry.<sup>324</sup> The police has also noticed that cars drive to the middle of the *Öresunds* bridge and drop off their passengers, who continue by foot while the cars return to Denmark.<sup>325</sup>

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

### 7.4.1 Registration and identification

Since the number of new arrivals is low, there are no backlogs in registration and identification as such.<sup>326</sup>

### 7.4.2 Asylum procedure

People arriving in Sweden usually ask for asylum or protection at the border, in which case the police takes them to the Migration Agency's reception centre in the vicinity. No asylum claims are rejected at the borders.<sup>327</sup>

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323 Swedish Police. The reasoning behind this is as follows: since all cases deal with the facilitation of irregular entries from Denmark to Sweden, and Denmark must be considered a state in which the rule of law applies, there are no humanitarian reasons for facilitating entry to Sweden.

324 Swedish Police, Region South.

325 *Ibid.*

326 Swedish Migration Agency.

327 Swedish Migration Agency, Swedish Police, Amnesty International, Save the Children Sweden, and Red Cross Sweden.

The Migration Agency does not work chronologically with the cases from last year; instead, it has divided them into four specialised tracks according to their complexity.<sup>328</sup> Asylum decisions decreased to 7,563 in August – compared to 9,640 in July and 9,226 in June. Protection was granted in 61 % of the cases. The rest are either Dublin cases or involve people whose asylum applications were discontinued. Approximate processing time is 324 days.<sup>329</sup> The majority is still waiting for their cases to be decided. There are no reports of applications being rejected based on the 'safe third-country' principle.

### 7.4.3 Return procedure

The police is in charge of deportations of persons denied asylum.<sup>330</sup> According to semi-annual statistics from the border control police in Region South, 320 detention decisions were taken between January and June 2016, compared to 212 decisions during the same period in 2015.<sup>331</sup> 1,258 deportations were executed (*verkställighet*) during the first six months of 2016, compared to 582 during the same period in 2015.<sup>332</sup>

As of 1 June 2016, adult aliens without children whose asylum applications are rejected do not have the right to assistance of any kind, including housing, if they do not cooperate with the return/deportation process.<sup>333</sup>

The Church of Sweden (*Svenska Kyrkan*) believes that many persons in this group will try to stay in Sweden without any support rather than cooperating with their deportation. Many have already sought assistance from the Church of Sweden.

The Ombudsman for Children in Sweden (*Barnombudsmannen*) is conducting a study, on behalf of the Swedish government, on the reasons for the disappearances of unaccompanied children. The results will be presented in December 2017.<sup>334</sup> During August the government also put forward a new action plan for protecting children exposed to human trafficking, exploitation and sexual abuse. The action plan for the period 2016-2018 has a special focus on knowledge development about the disappearance of unaccompanied children.<sup>335</sup>

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328 Swedish Migration Agency. Quick decisions can be made in relation to "unfounded asylum cases"; these include persons who are EU citizens, but also persons who already have a residence permit in the EU. Asylum seekers with valid ID documents can also be dealt with more quickly.

329 Swedish Migration Agency.

330 Swedish Migration Agency, Swedish Police.

331 Swedish Police, Semi-annual statistics from the border control police region south (*Gränspolisens halvårsstatistik för region syd*).

332 *Ibid.*

333 Sweden, Act on the reception of asylum seekers and others (*Lag (1994:137) om mottagande av asylsökande m.fl.*), sections 11 and 11(a), 1 June 2016, available at: [https://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfatningssamling/Lag-1994137-om-mottagande-a\\_sfs-1994-137/](https://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfatningssamling/Lag-1994137-om-mottagande-a_sfs-1994-137/).

334 Sweden, Government Offices (*Regeringskansliet*), Press release, "Assignment concerning the reason for the disappearance of unaccompanied children" (*Uppdrag om varför ensamkommande barn försvinner*), available at: [www.regeringen.se/regeringsuppdrag/2016/06/uppdrag-om-varfor-ensamkommande-barn-forsvinner](http://www.regeringen.se/regeringsuppdrag/2016/06/uppdrag-om-varfor-ensamkommande-barn-forsvinner).

335 Sweden, Ministry of Health and Social Affairs (*Socialdepartementet*), About things that should not happen – the government's actions plan for protection of the children against human trafficking, exploitation and sexual abuse (*Om det som inte ska hända – regeringens handlingsplan till skydd för barn mot människohandel, exploatering och sexuella övergrepp*), available at: [www.regeringen.se/globalassets/regeringen/dokument/socialdepartementet/barnets-](http://www.regeringen.se/globalassets/regeringen/dokument/socialdepartementet/barnets-)

## 7.5.Challenges and developments concerning reception conditions of new arrivals, including detention

### 7.5.1 Reception conditions and capacity

As of 1 September 2016, 147,098 persons were registered in the Migration Agency's reception system. The large majority of them were waiting for a decision. 51 % lived in asylum accommodation centres for adults and families, 29 % stayed with relatives, friends or in their own accommodation, and 20 % stayed in special accommodation centres designated for unaccompanied children.<sup>336</sup>

### 7.5.2 Vulnerable persons

Single adults and families have so far been placed wherever accommodation centres have been established. Unaccompanied children are placed in the above-mentioned specially designated accommodation centres. The assigned municipalities (*anvisningskommuner*) are responsible for their welfare.<sup>337</sup>

### 7.5.3 Child protection

Since fewer unaccompanied children apply for asylum, several accommodation centres for unaccompanied children are vacated in the municipalities. The relocation of unaccompanied children from one accommodation centre to another continues. This often concerns children who, due to a lack of space, were transferred to municipalities other than those to which they had originally been assigned, and who are now being transferred back to the original municipality in an effort to save resources. The Health and Social Care Inspectorate (*IVO*) has questioned whether the best interests of the child are taken into consideration when municipalities move children from a place in which they have been living for over six months.<sup>338</sup> In a case where two unaccompanied children refused to move, the Administrative Court of Appeal ruled in favour of the municipality.<sup>339</sup> However, it is important to note that the court's reasoning did not address a child's right to consent.<sup>340</sup>

In August, the government decided to postpone the introduction of a new system of state compensation (*ersättningssystem*) for municipalities that have received unaccompanied children. The purpose of the new system is to increase incentives to find cost-effective solutions for accommodating unaccompanied children. The new compensation system actually decreases state support to the

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rattigheter/regeringens-handlingsplan-till-skydd-for-barn-mot-manniskohandel-exploatering-och-sexuella-overgrepp-2016-2018.pdf.

336 Swedish Migration Agency.

337 *Ibid.*

338 Health and Social Care Inspectorate.

339 *Ibid.*

340 Sweden, Administrative Court of Appeal (*Kammarrätten Göteborg*), Ruling concerning the right to relocate two unaccompanied children to a residential care home (*Rätt att omplacera två ensamkommande barn till HVB-Hem*), available at: <http://www.kammarratten.goteborg.se/Om-kammarratten/Nyheter-och-pessmeddelanden/Ratt-att-omplacera-tva-ensamkommande-barn-till-HVB-hem/>.

municipalities. The introduction of the new system was postponed to give the municipalities a longer adjustment period.<sup>341</sup>

The Health and Social Care Inspectorate receives an increasing number of Lex Sarah reports<sup>342</sup> concerning conditions in accommodation centres for unaccompanied children. Cases reported under Lex Sarah involve severe mistreatment by staff in many accommodation centres and bad conditions in general. The main reason behind the problems appears to be the lack of professional staff with relevant training.<sup>343</sup> The residential care homes (the specially designed accommodation centres) will be subject to new regulations (*föreskrifter*) as of 1 November 2016. However, the staff education and experience requirements remain unspecified and vague.<sup>344</sup>

#### 7.5.4 Healthcare

The Swedish Health and Social Care Inspectorate (*IVO*) remains concerned about the mental health of unaccompanied children.

The Swedish government has tasked the Swedish Association of Local Authorities and Regions (*Sveriges Kommuner och Landsting, SKL*) with disseminating information on how municipalities can address health issues of new arrivals.<sup>345</sup>

Given the problems related to health and mental care among asylum seekers and the subsequent lack of support, the Swedish Educational Broadcasting Company (*Utbildningsradion*) has produced a programme on the support system for mental health issues, which is available online and sub-titled in various languages.<sup>346</sup>

#### 7.5.5 Immigration detention

There are no separate detention facilities for families and/or unaccompanied children only. All facilities have sections that can be separated from the main areas. These sections can be used for children, women, families, and other aliens who are particularly vulnerable.<sup>347</sup> An unaccompanied child is only

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341 Sweden, Ministry of Employment (*Arbetsmarknadsdepartementet*), press release, Improved system of compensation in the reception of unaccompanied children (*Förbättrat ersättningssystem för mottagandet av ensamkommande barn och unga*), available at: [www.regeringen.se/pressmeddelanden/2016/08/forbattrat-ersattningssystem-for-mottagandet-av-ensamkommande-barn-och-unga/](http://www.regeringen.se/pressmeddelanden/2016/08/forbattrat-ersattningssystem-for-mottagandet-av-ensamkommande-barn-och-unga/).

342 Lex Sarah is a juridical term referring to the requirement that every person working in the health sector must report any kind of problems or wrongs that can harm patients.

343 Sweden, Swedish Radio (SR), "Lex Sarah cases on conditions in accommodation centres for unaccompanied children are increasing" (*Ökning av Lex-Sarah anmälningar på HVB-hem för ensamkommande*), web article published on 25 July 2016, available at: <http://sverigesradio.se/sida/artikel.aspx?programid=83&artikel=6481136>.

344 Health and Social Care Inspectorate.

345 Sweden, Government Offices (*Regeringskansliet*), press release, "Means for SKL to disseminate efforts for positive health improvement for newly arrivals" (*Medel till SKL för spridning av insatser om positiv hälsoutveckling för nyanlända*), available at: [www.regeringen.se/pressmeddelanden/2016/06/medel-till-skl-for-spridning-av-insatser-om-positiv-halsoutveckling-for-nyanlanda/](http://www.regeringen.se/pressmeddelanden/2016/06/medel-till-skl-for-spridning-av-insatser-om-positiv-halsoutveckling-for-nyanlanda/).

346 Swedish Education.

347 Swedish Migration Agency.



detained if there are exceptional grounds for doing so.<sup>348</sup> There are no reports of any transgressions of these regulations.<sup>349</sup>

## 7.6. Responses in law, policy and/or practice

On 2 June 2016, the Swedish government decided to prolong internal border controls until 11 November 2016.<sup>350</sup>

The Swedish Parliament accepted the temporary law changing Swedish asylum rules to the minimum level under EU and international law on 21 June 2016. The Act on temporary restrictions of the possibility to obtain a residence permit in Sweden (*Lagen om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige*) entered into force on 20 July and is applicable for three years. The Act contains provisions on temporary residence permits for Convention refugees, with the exception of quota refugees resettled to Sweden. Furthermore, it limits opportunities for family reunification for all people who have been granted temporary residence permits. It also introduces tougher maintenance requirements for family members.

The government in August issued a regulation that specifies the income level needed to meet the maintenance requirements for family reunification. It also specifies the income needed to transform a temporary residence permit into a permanent one. The maintenance requirements do not apply to children under 18 years of age.<sup>351</sup>

The amendment to the Act concerning the reception of asylum seekers and others (*Lag [1994:137] om mottagande av asylsökande m.fl.*), which entered into force on 1 June, mainly focused on limiting access to housing and economic support for those who have received a refusal of entry or expulsion decision.<sup>352</sup> The amendment means that this category will lose their right to daily allowances and housing paid by the Migration Agency (*Migrationsverket*).<sup>353</sup> The Parliamentary Ombudsman (*Justitieombudsmannen*) considered it necessary to clarify what power the police has and what enforcement actions they can take in the context of executions of refusal of entry or expulsion decisions. The ombudsman concluded that the amendment does not allow the police to use force to execute the decisions in question. As a result, the Swedish police is examining their guidelines and will not use force to execute such decisions

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348 *Ibid.*

349 Save the Children, Amnesty International, Red Cross.

350 Sweden, Government Offices (*Regeringskansliet*), Press release, "Border controls prolonged until November" (*Gränskontroller förlängs till November*), available at: <http://www.regeringen.se/pressmeddelanden/2016/06/granskontroller-forlangst-till-november/>.

351 Sweden, Government office (*Regeringskansliet*), press release, "Maintenance requirements for family reunification" (*Försörjningskrav för anhöriginvandring*), available at: [www.regeringen.se/pressmeddelanden/2016/08/forsorjningskrav-for-anhoriginvandring/](http://www.regeringen.se/pressmeddelanden/2016/08/forsorjningskrav-for-anhoriginvandring/).

352 Sweden, Ministry of Justice (*Justitiedepartementet*), Reception of Asylum Seekers Act (*Lag [1994:137] om mottagande av asylsökande m.fl.*), 1 June 2016, section 11 and 11(a), available at: [www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1994137-om-mottagande-av-asylsokande-mfl\\_sfs-1994-137\\_1](http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1994137-om-mottagande-av-asylsokande-mfl_sfs-1994-137_1).

353 Sweden, Swedish Migration Agency (*Migrationsverket*), "Amendment to the right to assistance under the Reception of Asylum Seekers Act", available in English at: [www.migrationsverket.se/English/About-the-Migration-Agency/New-laws-in-2016/Amendment-to-the-right-to-assistance-under-the-Reception-of-Asylum-Seekers-Act.html](http://www.migrationsverket.se/English/About-the-Migration-Agency/New-laws-in-2016/Amendment-to-the-right-to-assistance-under-the-Reception-of-Asylum-Seekers-Act.html).

before the Parliamentary Ombudsman presents the new guidelines on how the Act can be interpreted.<sup>354</sup>

The government in August also addressed the powers of the police in relation to forced evictions from the Migration Agency's accommodation centres. The government presented a draft of a referral to the Council on Legislation (*lagrådetremiss*). The draft suggests that the Migration Agency can ask the police for juridical assistance (*handräckning*) to evict a person who has lost the right to live in an asylum accommodation centre that is paid by the Migration Agency following a refusal of entry or expulsion decision.<sup>355</sup> The draft bill will also be circulated to a number of consultation bodies until 19 September.<sup>356</sup>

The government also presented a draft of a referral to the Council on Legislation (*Lagrådet*) concerning changes in Swedish law needed to comply with the EU's revised directive on asylum procedures (*asylprocedurdirektiv*). One suggested change implies that an asylum seeker has the right to a public counsel if the Migration Agency decides not to grant a new review (*prövning*) of their case after an appeal.<sup>357</sup>

## 7.7. Social response to the situation

Several civil society organisations criticized the Act on temporary restrictions of the possibility to obtain residence permits in Sweden (*Lag om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige*) – among them the Swedish Red Cross and Save the Children. Both the Swedish Red Cross and Save the Children are following the situation closely and aim to continuously report on the Act's effects. No reports were made during August. The Red Cross has voiced concern concerning several cases where unaccompanied children accommodated in the south of Sweden were stuck in Denmark just because they stepped on the wrong train or fell asleep on the train. These unaccompanied children were forced to reapply for asylum upon arrival in Sweden under the new Act on temporary restrictions of the possibility to obtain residence permits in Sweden (*Lagen om tillfälliga begränsningar av möjligheten att få*

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354 Sweden, Swedish Radio (*Sveriges Radio*), "Police have no legal support in the Amendment to use enforcement action as a part of expulsion" (*Polisen saknar lagstöd för tvångsutvisningar*), published on 7 July, available at: <http://sverigesradio.se/sida/artikel.aspx?programid=1650&artikel=6468727>.

355 Sweden, Ministry of Justice (*Justitiedepartementet*), Draft of referral to Council on Legislation (*utkast till lagrådsremiss*), A decision on juridical assistance in the act on reception of asylum seekers (*En handräckningsbestämmelse I lagen om mottgande av asylsökande*), available at [www.regeringen.se/contentassets/9ee4cd38dc97479c9d2d5bf6823f5fd1/lrr-handrackningsbestammelse-i-lma-remitteringsversion.pdf](http://www.regeringen.se/contentassets/9ee4cd38dc97479c9d2d5bf6823f5fd1/lrr-handrackningsbestammelse-i-lma-remitteringsversion.pdf).

356 Sweden, Ministry of Justice (*Justitiedepartementet*), Referral of draft of referral on decision on juridical assistance in the act on reception of asylum seekers (*Remiss av utkast till lagrådsremiss - En handräckningsbestämmelse I lagen om mottgande av asylsökande*), available at: [www.regeringen.se/contentassets/cad22d91d7cb478a959a099b1694426f/remiss-ju2016.05837.l7.pdf](http://www.regeringen.se/contentassets/cad22d91d7cb478a959a099b1694426f/remiss-ju2016.05837.l7.pdf).

357 Sweden, Ministry of Justice (*Justitiedepartementet*), press release, Referral to Council on Legislation – Now EU's revised directive on asylum procedure is implemented (*Lagrådsremiss- Nu genomförs EUs omarbetade asylprocedurdirektiv*), available at: [www.regeringen.se/pressmeddelanden/2016/08/nu-genomfors-eus-omarbetade-asylprocedurdirektiv/](http://www.regeringen.se/pressmeddelanden/2016/08/nu-genomfors-eus-omarbetade-asylprocedurdirektiv/).

*uppehållstillstånd i Sverige*)<sup>358</sup> and can now only be granted temporary residence permits.<sup>359</sup>

## 7.8. Hate crime incidents

The main public debate during July as well as August focused on unaccompanied boys who were directly and/or indirectly accused of sexual harassment at festivals. The head of a residential care home for unaccompanied children (*HVB-hem*) states that boys in the residential care home feel pressure to prove that they are innocent even though they themselves were not at the festivals.<sup>360</sup>

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358 Sweden, Ministry of Justice Act on temporary restrictions of the possibility to obtain a residence permits in Sweden (Lag [2016:752] *Lagen om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige*), 20 July 2016, available at: [www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2016752-om-tillfalliga-begransningar-av\\_sfs-2016-752](http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2016752-om-tillfalliga-begransningar-av_sfs-2016-752).

359 Red Cross Sweden.

360 Head of Residential Care Home.