

# Policy Update December 2019

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## Asylum seekers in Greece   Croatia's border practices   Statelessness inclusion

This Policy Update's Special Focus considers the situation in [Greece](#), where asylum seekers face rapidly deteriorating reception conditions while being targeted by toughened asylum laws and plans to reintroduce systematic [detention](#). Whereas Greece and the European Commission have urged for greater returns from Greece to Turkey, [other actors](#) are calling the future of the EU-Turkey Statement into question.

Other sections cover the [Essex tragedy](#) in which 39 people lost their lives in a refrigerated lorry container in the UK, and the calls for legal pathways and greater protections for migrants that followed in the aftermath. This update also considers the [European Commission](#)'s green light to Croatia's accession to the Schengen Area, pending approval by Schengen member states. This prompted a renewed focus on [violent pushbacks](#) at Croatia's borders.

Furthermore, the EU's continued cooperation with the Libyan Coast Guard is facing increasing [criticism](#). MEPs and NGOs alike accused the EU, and Italy in particular, of complicity and a lack of control over Libya's abuse of migrants. This update also discusses the mounting calls on EU states to meet – and increase – their resettlement commitments.

Further sections look at the European Parliament's [failed resolution](#) on search and rescue and the [formal approval](#) of the Regulation of the European Border and Coast Guard (Frontex). The case law section considers the CJEU's November judgments in [Haqbin](#) and [X](#), which concern the withdrawal of material reception conditions and family reunification respectively. In the Closer Look section, the [European Network on Statelessness](#) highlights the lessons from their one-year pilot project on the inclusion of stateless people, titled #HearItFromUs.

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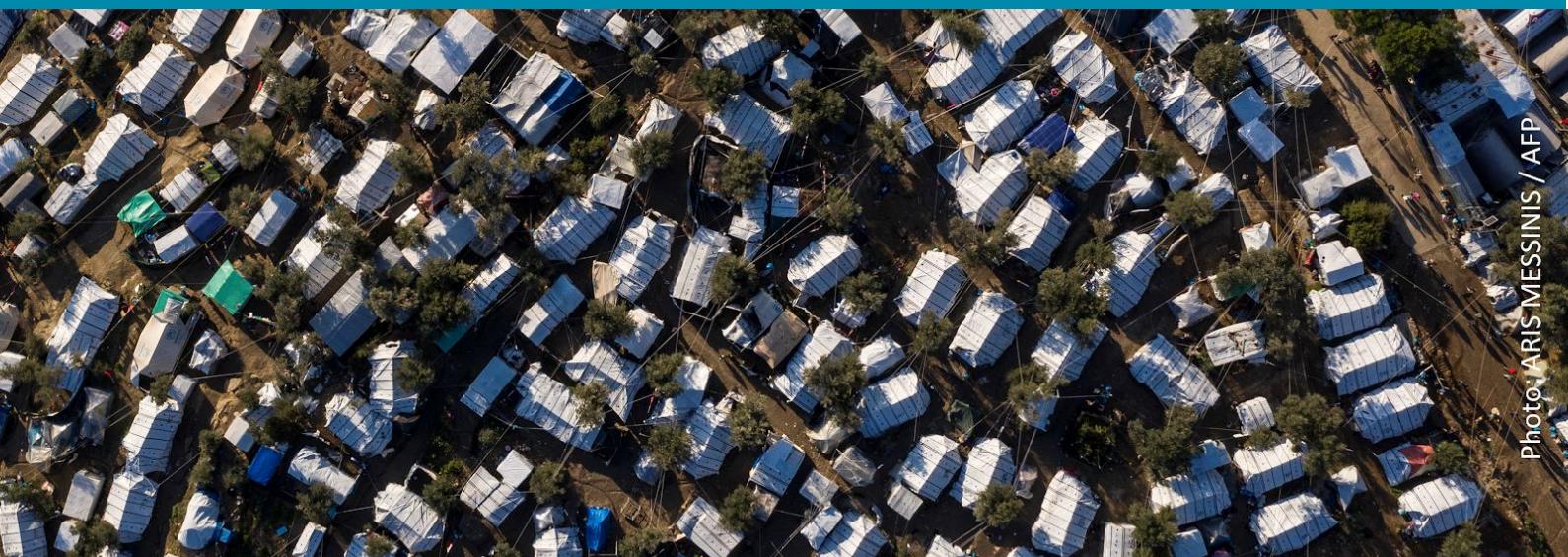
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## SPECIAL FOCUS



## Rising pressure on asylum seekers in Greece

**Asylum** **Immigration Detention** **Children and Youth** **Inclusion**

This Special Focus discusses recent developments in the Eastern Mediterranean. Conditions faced by refugees and other migrants on the Greek islands reached breaking point, with renewed protests, a new restrictive asylum law and plans to reintroduce systematic detention all further contributing to a climate of hostility. Meanwhile, a series of Turkish actions placed a strain on EU-Turkey relations and prompted renewed questions about the legitimacy and future of the [EU-Turkey Statement](#).

As noted in the previous [EPIM Update](#), over the past months, Greece has witnessed the largest increase in arrivals since 2015, a significant worsening of conditions on their islands and the beginning of a new crackdown on migrants, including plans to return 10,000 people to Turkey. [Arrivals](#) to Greece have continued to rise and reached over [69,000](#)

in 2019 so far, which is more than Spain, Italy, Malta, Cyprus and Bulgaria – other states at the external EU border – combined. This was felt the strongest on the Greek islands, where, as of [December](#), around 40,000 people were living in spaces designed for merely 8,000. Most newly arrived asylum seekers are Afghans, Syrians and Iraqis who are escaping the [escalating](#) conflict in Afghanistan or the increasingly hostile environment for [refugees](#) in neighbouring countries, particularly Iran and [Turkey](#).

As a result, conditions in the camps deteriorated further. [Michael O'Flaherty](#), Director of the EU Fundamental Rights Agency (FRA), declared the plight of migrants on the Greek islands as “the single most worrying fundamental rights issue” in the EU. The Council of Europe Commissioner for Human Rights, [Dunja Mijatović](#), described the situation as a “struggle for survival”. [MSF](#) stressed the lack of basic services: there was one toilet for every 300 people in Samos, and one shower for every 506 in the Moria camp in Lesbos. As [UNHCR](#) warned, the 5,000 unaccompanied minors in Greece are particularly vulnerable. Many children are sleeping in [unacceptable](#) conditions and are at risk of [exploitation](#). Most have not been appointed a [guardian](#), and over 1,000 have [gone missing](#). NGOs also warned that, for the fourth consecutive year, [preparations](#) had not been made in time for winter, which will greatly aggravate the humanitarian crisis over the months to come.

A November [report](#) by the European Court of Auditors (ECA) called on parties to [take stock](#) of the causes of the migration management crisis in Greece, as well as Italy. It highlighted the substantial delays in processing asylum claims, noting that asylum seekers arriving in the Greek islands in late 2018 were being given interview dates for 2023. Moreover, fast-track asylum processes aimed at identifying people to return under the EU-Turkey Statement, which were meant to take a few days, in reality took an average of 215 days in 2018. This was partly due to a lack of doctors to assess vulnerabilities. At the same time, the ECA warned that EU agency support had not always been effectively directed to where it was most needed, and that the [emergency relocation scheme](#) of 2015 had not meaningfully alleviated the pressure on Greece and Italy. Only 34,705 people were relocated, compared to an initial target of 160,000 and actual commitments made by EU member states of 98,256. ECA attributed this to the low share of migrants eligible for relocation and Italy and Greece’s large delays in processing them. Meanwhile, [ECRE](#) stressed that the EU’s containment strategy of prioritising the EU-Turkey Statement over humanitarian approaches, early integration processes and responsibility-sharing was to blame.

In this context, [calls](#) mounted for the [transfer](#) of people to the mainland, structural improvements to the Greek [asylum system](#), and the [relocation](#) of [children](#) from the Greek islands to other EU member states. The [Greek government](#) repeatedly requested EU support in relocating unaccompanied minors, 70% of whom are estimated to have family elsewhere in Europe. However, only the [Netherlands](#) was reported to have responded at first. [France](#) subsequently committed in December to relocate 400 asylum seekers from Greece.

Greece, in turn, announced plans to [transfer](#) 20,000 people to the mainland by early next year. They are to be distributed equally among regions and housed either in rented-out accommodation or disused industrial facilities. 9,500 people were transferred between October and early [December](#), although arrivals significantly exceeded the pace of relocation. However, the transfers were met with [hostility](#) in the [receiving regions](#). In some towns, like [Nea Vrasna](#) and [Katsikas](#), protesters prevented asylum seekers from leaving their buses, forcing them to be relocated elsewhere. In [Diavata](#), nationalist groups held a pork and alcohol barbecue in front of a refugee camp hosting mostly Muslim migrants, prompting fierce [debates](#) in the Greek parliament over how to respond to the protests.

Greece's treatment of and policy towards migrants also came under criticism. [Turkey](#) accused Greece of conducting illegal pushbacks of over 25,000 migrants at their [land border](#) in the first ten months of 2019. [Several NGOs](#) corroborated these allegations. Furthermore, in November, [legal aid organisations](#) in Lesbos alerted that 28 asylum seekers' applications were rejected without the legally required interview due to a lack of interpreters. They stressed that this compromised the right to an effective remedy and violated EU law. Most problematically, Greece announced a toughening of asylum laws and the goal of increasing returns to Turkey. On 1 November, the [Hellenic Parliament](#) passed the controversial [International Protection Bill](#) to that end. It was rushed through Parliament in a matter of days, in an apparent effort to reduce [scrutiny](#).

Its [contents](#) were met with great concern. First and foremost, the law undermines important [safeguards](#) in the asylum procedure. It allows the police and armed forces to conduct asylum interviews, makes it harder for appeals to be considered admissible, removes independent experts from appeals committees and restricts the suspensive effect of appeals. In addition, if asylum seekers do not fulfil complex residence requirements – which [NGOs](#) described as "continuous traps" – their asylum application will be withdrawn. [UNHCR](#) and multiple [NGOs](#) warned that these unduly coercive measures would endanger access to international protection. [Commentators](#) also stressed that they are counterproductive. People who struggle to access asylum procedures could find themselves undocumented, excluded and destitute, often without the possibility of being returned. This will place further [pressure](#) on the system and exacerbate the humanitarian crisis in Greece.

Second, the Bill targets vulnerable applicants. Post-traumatic stress disorder will no longer explicitly qualify as a vulnerability. Victims of torture, rape or other significant acts of violence will now require certification from the Greek public health system, which asylum seekers can no longer [access](#). Unaccompanied minors over the age of 15 will cease to be treated as vulnerable. The law also narrows the definition of 'family members' to exclude families established after leaving their country of origin, including children. [UNHCR](#) noted that this ignores the often protracted nature of forced displacement and will harm family unity. Other measures cut support for refugees and beneficiaries of subsidiary protection and restrict the NGOs that can continue to [assist migrants](#) in Greece.

A third concerning development is the [systematic detention](#) of asylum seekers. The [Bill](#) broadens the grounds for detention and extends the maximum detention period from 3 to 18 months, plus an additional 18 months of pre-removal detention. It also foresees the creation of 'Closed Temporary Reception Facilities'. Following the Bill's passing, the [government](#) announced that it would build detention centres with a capacity of up to 5,000 people each in the most crowded islands, to exist [alongside](#) the camps. The new [facilities](#) are expected to be ready by July 2020 and will host both newly arrived asylum seekers and those facing return to Turkey. [NGOs](#) expressed [outrage](#) at the resort to detention as the default, especially for vulnerable people, and warned that it could make it harder to provide [legal support](#). De facto detention was previously implemented in the Greek islands following the EU-Turkey Statement in 2016, but soon [abandoned](#) due to international [condemnation](#) and the limited capacity to run closed facilities.

Against the background of worsening conditions in Greece and the stated objective of increasing returns to Turkey, questions were also raised about the future of EU cooperation with Turkey. Concerns surrounding the EU-Turkey Statement are [not new](#), yet the agreement has continued to hold. The [Commission](#) has [repeatedly](#) defended the Statement, calling for cooperation to be strengthened and [returns](#) to be accelerated. It also increased its financial support to Turkey: an additional [€50 million](#) will be directed to boosting

Turkey's coast guard alongside further [humanitarian assistance](#) through the EU Facility for Refugees in Turkey. The Facility's total budget of €6 billion will continue to be disbursed until 2025 at the latest. [Greece](#) called on the EU to consider increasing these funds further.

Meanwhile, several incidents in the autumn subjected EU-Turkey cooperation to further pressure. On 9 October, [Turkey](#) launched a military intervention in north-eastern Syria that led to the [displacement](#) of at least 180,000 people. The incursion was in line with its plan to establish a '[safe zone](#)' in which 1 to 3 million Syrian refugees could be resettled from Turkey. Human Rights Watch ([HRW](#)) warned against the notion of a safe zone, noting that [protection](#) could not be guaranteed and they often become death traps. The [EU](#) continued to oppose the intervention and rejected Turkey's calls for diplomatic and financial support, stressing that no [funds](#) under the EU Facility for Refugees in Turkey could be used to resettle Syrians outside of Turkey. Other sources of tension included Turkey's [repatriation](#) of detainees thought to be Islamic State fighters back to Europe, which [European countries](#) have long resisted, and Europe's move to [sanction](#) Turkey for its illegal [drilling](#) off the coast of Cyprus. This escalated in December, as Turkey reached an [agreement](#) on maritime boundaries with Libya that challenged Greece and Cyprus' territorial [sovereignty](#).

In this tense context, Turkey's President Erdo\u011fan issued repeated [threats](#) to the EU in [October](#) and [November](#) that he would "open the gates" and allow Syrian refugees to enter Europe unless the EU supported Turkey's operation in Syria or granted it more funds to assist refugees. These threats to end cooperation on border management are not new, and the Turkish Coast Guard Command has [continued intercepting](#) thousands of people attempting to enter Europe regardless. However, the threats have become more frequent as of late, prompting concern from [Greek](#) and [EU](#) officials about future rises in arrivals.

During a debate in the Civil Liberties, Justice and Home Affairs (LIBE) Committee, [MEPs](#) from multiple parties argued that the EU was being held hostage by President Erdo\u011fan's blackmailing. They noted that Turkey's forced returns of Syrians and its military intervention showed that the country could not be considered safe for returns. Representatives from [civil society](#) called for an end to cooperation and returns, reiterating that "in humanitarian terms, the EU-Turkey Statement is a [tragedy](#)".

## POLITICAL DEVELOPMENTS



### The Essex tragedy: a reckoning for Europe

Asylum Immigration Detention

On 23 October 2019, Essex [Police](#) discovered the bodies of 39 [Vietnamese](#) nationals in a refrigerated lorry container on the outskirts of London. It is unknown whether the victims

were seeking asylum in Europe, except for one, a [teenager](#) who had absconded from a reception centre in the Netherlands. The death toll makes this the worst tragedy in the UK since the [Dover](#) incident in 2000 when 58 Chinese nationals died in similar circumstances. So far, police investigations have led to several [arrests](#) on smuggling charges in the UK and Vietnam. The recent incident takes place in the context of an [upsurge](#) in [attempts](#) by migrants to cross the English Channel. As outlined in the previous [EPIM Policy Update](#), large-scale [evictions](#) of temporary refugee camps in the Calais area coupled with a new [ban](#) on food distribution have pushed migrants to take alternative routes and greater risks to cross the Channel. As a result, more migrants are crossing through [Belgium](#). The victims of the Essex lorry tragedy were smuggled into the UK via the Belgian cargo port of [Zeebrugge](#), confirming this trend.

In the aftermath of the Essex tragedy, UK Home Secretary [Priti Patel](#) announced the deployment of additional immigration officers at both Belgian and British ports, in agreement with the Belgian authorities. She also urged the government to be "[ruthless](#)" in its actions to dismantle smuggling networks. However, [commentators](#) were critical about the government's [politicisation](#) of the tragedy in a bid to strengthen migration controls. Moreover, the Essex tragedy sparked an intense debate around the current efforts to tackle irregular migration at the UK and EU level.

First, [commentators](#) warned that UK migration policy was compromising the safety of migrants. They voiced concerns about the increased [use](#) of technology and patrolling equipment and enhanced [cooperation](#) with other state authorities to detect stowaways. Rather than deter migrants from travelling, [additional controls](#) and restrictions push them to resort to smugglers and take greater risks in order to avoid detection. Likewise, the UK's [Foreign Affairs Committee](#), taking stock of the UK migration policy in a recent report, urged the government to move away from a policy focusing on closing borders exclusively. On a wider scale, [commentators](#) also stressed that the Essex events are a tragic reminder of the perilous journeys that migrants take to reach Europe. Similarly to the UK, the EU fight against irregular migration has so far reflected a security-oriented approach. As observed by [ECRE](#), the current EU [strategy](#) does not address the demands and intentions to migrate. It focuses only on tackling the supply aspect of smuggling through law enforcement, enhanced information exchange and cooperation at the EU level and with third countries.

Second, in the aftermath of the Essex tragedy, [several NGOs](#) renewed their calls for more [legal pathways](#) to avoid future tragedies. The [FRA](#) stated that by doing so, the EU and its member states will "save lives and reduce the suffering that people trying to come to the EU endure". Currently, opportunities to enter the EU legally are thin and remain limited to [highly-qualified](#) or [seasonal](#) third-country workers, or voluntary [resettlement](#) schemes. In the weeks that followed the Essex tragedy, several additional incidents highlighted the urgency of significant reforms in this context. Groups of nationals from Syria, Sudan and Afghanistan were found in three UK-bound trucks in northern [Belgium](#), [France](#) and the [Netherlands](#), in two cases at serious risk of hypothermia. Similar cases followed in [southern France](#) and at the border between [Greece](#) and Turkey.

Third, the Essex tragedy highlighted the [lack](#) of protection available to migrants at risk of trafficking. [Vietnam](#), the country of nationality of the Essex victims, has one of the highest [rates](#) of victims of trafficking. Despite being two separate issues in principle, migrant smuggling and human trafficking often [overlap](#) in reality. Migrants who pay to move clandestinely across countries can be forced into sexual or labour exploitation by the same smugglers once they arrive in the destination country. [Commentators](#) voiced concerns about the [failure](#) of existing [anti-trafficking policies](#), which predominantly focus on

[prosecuting traffickers](#) rather than protecting victims. In addition, given their status as undocumented migrants, victims of trafficking often risk being [detained](#) during the assessment of their case. As a result, more than [500](#) possible victims of trafficking were reported to have been held in UK detention centres in 2018 due to the enforcement of immigration rules. [NGOs](#) warned that this practice is in breach of [international](#) and [EU law](#).

# Continued criticism of EU cooperation with Libya

Asylum Immigration Detention

The EU, and in particular Italy, have long faced criticism for their border management [cooperation](#) with the Libyan Coast Guard (LCG), which includes training, information sharing and financial [support](#). Concerns have recently mounted as the humanitarian situation in [Libya](#) deteriorated further. Much remains [unknown](#) about the extent of the [suffering](#) of the over 650,000 migrants estimated to be in Libya. UNHCR began conducting [evacuations](#) from Libya to [Rwanda](#) in September, in addition to the evacuations to [Niger](#) that have been ongoing since 2017. Nevertheless, it was forced to [reject](#) a large number of resettlement requests, leaving [hundreds](#) of migrants to sleep outside its Gathering and Departure Facility (GDF) in Tripoli. Meanwhile, those hosted within the centre were [reportedly](#) no longer being fed. [UNHCR](#) stated that their infrastructure and resources were stretched thin and that it had to [reduce](#) the [support](#) offered by the GDF in favour of "urban assistance packages". It [continued](#) to plead to states to increase their resettlement [commitments](#): although Libya hosts over 45,000 registered refugees and asylum seekers, as of mid-November, only [6,169](#) resettlement places had been offered.

Despite the ongoing civil conflict, the LCG has continued to intercept and return migrants departing from the country. An [estimated](#) 58% of migrants attempting to cross the Mediterranean were pulled back to Libya. Two incidents in particular raised alarm. First, on [18 October](#), the LCG reportedly intercepted a migrant boat within the Maltese search and rescue (SAR) area with Malta's coordination. [UNHCR](#) warned that this would amount to a violation of international law. Shortly afterwards, an [agreement](#) between Malta and Libya reportedly surfaced, revealing that they have been cooperating to intercept and return migrants before they enter Malta. As a result, almost no migrants have reached Malta autonomously. However, the [Maltese](#) and [Libyan](#) governments denied the existence of this deal. A second incident took place on 26 October, when the NGO [Sea Eye](#) reported that the LCG fired shots at its rescue vessel, the Alan Kurdi, and the 90 people it was rescuing.

The EU and Italy have, however, stood by their cooperation with Libya. The EU's naval mission, Operation Sophia, has been [criticised](#) for [alerting](#) the LCG when it spots a ship in distress, but not NGOs conducting SAR missions in the area, thereby facilitating an interception and pull-back to Libya. The [mission's](#) mandate was renewed at the end of September, including its support for the LCG. In turn, the [Italian government](#) announced in November that its 2017 Memorandum of Understanding with Libya would be renewed for another three years, committing further training of and significant resources for the LCG. Italian Foreign Minister [Luigi Di Maio](#) stated that its impact in stemming arrivals and deaths at sea is "undeniable". Some [amendments](#) reportedly being [proposed](#) for the renewed agreement, which will require Libyan approval, include better detention conditions and greater access for humanitarian organisations to detention centres.

In this context, [MEPs](#) made renewed calls to halt cooperation with Libya or make it conditional on migrants' safety and human rights being protected. [NGOs](#) and [other commentators](#) echoed these demands. While [praising](#) a decision by [France](#) to halt a

transfer of boats to Libya, they accused the EU of complicity in the LCG's human rights violations. They insisted that, contrary to statements by the Italian government, Libya cannot be considered [safe](#) for returns, regardless of the presence of international organisations. They also noted that the Central Mediterranean route has, in fact, become [more dangerous](#) as a result, not least due to the LCG's attempts to obstruct rescue operations. A leaked [EU report](#) added to mounting concerns by showing the total absence of EU leverage over or [monitoring](#) of conditions in Libya. EU calls on Libya to address human rights violations, coercion and disappearances within detention centres have been ignored, and EU officials have not been allowed to monitor LCG operations. There is also [little clarity](#) as to how the [€475 million](#) given to Libya has been used. Recent [investigations](#) also highlighted that known human traffickers have benefited from the cooperation.

## Commission endorses Croatia's Schengen accession

Mobile EU citizens   Asylum

Following evaluations taking place between 2016 and May 2019, the European Commission gave its [green light](#) to Croatia's accession to the Schengen Area on 22 October. Before this can become a reality, the [EU Council](#) will first have to discuss the Commission's assessment. Current Schengen states must unanimously approve the entry of a new member to the Schengen Area. As the bid is opposed by [Slovenia](#) and several [other states, observers](#) argue that Croatia will not be part of the borderless area in the immediate future. Notably, [Bulgaria and Romania](#) met the technical requirements for accession as early as 2011. However, due to [opposition](#) from current members, neither of the two states have joined the Schengen Area yet.

The endorsement also sparked [criticism](#) and raised [questions](#) about the willingness of the Commission to put an end to the [violence](#) against migrants in Croatian border areas. As covered in the previous [EPIM update](#), since 2016, NGOs have widely documented collective and summary expulsions and the use of force by Croatian border officials. [Experts](#) argue that these practices are in breach of non-refoulement and that they violate EU asylum procedures. As such, they would amount to infringements of the [Schengen Borders Code](#). In its [communication](#) on Croatia's application of the Schengen acquis, the Commission admitted that the protection of the right to asylum and the alleged use of force by border guards "remain a challenge", while nevertheless concluding that Croatia meets the requirements for joining Schengen. The Commission's [support](#) to Croatia's accession elicited widespread [criticism](#). [HRW](#) accused the Commission of sending the message that serious human rights abuses are not an obstacle to Schengen accession. A [group](#) of local [NGOs](#) called for Croatia's Schengen membership to be made conditional on the immediate halt of pushbacks and systematic attacks against migrants and asylum seekers.

Questions about the EU's financial support to Croatia's border police have also been raised. Prior to the Schengen accession approval, [Amnesty International](#) accused the Commission of complicity in human rights violations, as the latter made substantial financial contributions to border surveillance instead of humanitarian aid. Since 2015, EU [financial support](#) for the training, assistance and technical equipment of the Croatian border police has grown, with the [aim](#) to "better protect and manage the EU's external borders." Evidence of violence collected by [NGOs](#) suggests that this funding may be used to support police officers who push migrants to neighbouring countries without giving them access to the international protection procedure. Instead of reconsidering its financial commitments after the Commission's decision was made public, former Commissioner for Migration and

Home Affairs [Dimitris Avramopoulos](#) promised [extra funding](#). This will be used to assist Croatia's border police, particularly on the borders with [Bosnia and Herzegovina](#).

In this context, [experts](#) have urged the EU to rethink its policy of [migration containment](#) before it gives way to a [humanitarian emergency](#) in the whole region. More specifically, the actions taken by the Croatian border police mean that a significant number of migrants are stuck in neighbouring countries in [appalling conditions](#). This situation is illustrated by the Vučjak makeshift camp in [Bosnia and Herzegovina](#). The [camp](#) drew [international condemnation](#) due to the severe health and safety [risks](#) its residents faced. Following protests by the UN [Special Rapporteur](#) for Human Rights of Migrants and [repeated calls](#) by the Human Rights [Commissioner](#) of the Council of Europe, [Bosnian authorities](#) closed the camp in early December. As [centres](#) in the country are full, residents were transferred to [temporary reception facilities](#). However, with growing [ethnic tensions](#) and Bosnia's [administrative structure](#) complicating the establishment of new [facilities](#), it remains [unclear](#) where and when the [former occupants](#) will be offered appropriate reception and accommodation conditions.

## EU resettlement: Failing to meet refugee needs

### Asylum

EU [member states](#) have failed to meet their commitment to resettle 50,000 people in need of international protection by 31 October, as originally planned under the ongoing 2017 [EU resettlement scheme](#). The European Commission launched the initiative as a follow-up to the [first-ever](#) EU-wide resettlement scheme, which resulted in almost [20,000 people](#) being resettled to Europe between July 2015 and September 2017. According to data provided by the [Commission](#), only 39,000 people had been admitted to EU countries by mid-October under the ongoing programme. In response to this, the [Commission](#) postponed the deadline to the end of the year. It also announced a new resettlement scheme to be launched in 2020, with 30,000 resettlement places already made available by 15 member states.

Increased resettlement commitments have generally been welcomed by [civil society](#) and [international organisations](#). However, in a joint statement ahead of the first [Global Refugee Forum](#), several [NGOs](#) highlighted that EU resettlement efforts – which account for only 1.6% of global resettlement needs – remain insufficient. These considerations are made against the backdrop of a growing number of people in need of resettlement. According to the latest [UNHCR](#) estimates, global resettlement needs will reach over 1.44 million refugees in 2020. On several occasions, [UNHCR](#) has urged EU states to [expand](#) their resettlement strategy, including increasing their commitments for the [evacuation](#) of refugees from [Libyan](#) detention centres, as discussed above.

A factor limiting the effectiveness of ongoing EU resettlement schemes is their voluntary nature and reliance on ad hoc commitments. This will remain the case if the pending proposal for an [EU Resettlement Framework](#) is adopted. Made in 2016, this proposal seeks to create a structured and permanent framework which organises resettlement efforts across the Union. However, [experts](#) highlighted that it lacks ambition since commitments would remain non-binding. In addition, the Framework proposal has been criticised for its approach to resettlement. In particular, [several NGOs](#) noted that the proposal frames resettlement as a migration management tool instead of a global responsibility-sharing mechanism, by making resettlement commitments conditional on third countries' cooperation in migration control policies.



## European Parliament votes down resolution on search and rescue

### Asylum

On 24 October, the [European Parliament](#) rejected a [resolution](#) proposed by the LIBE Committee on SAR in the Mediterranean Sea by a narrow margin of only two votes. Ahead of the vote, the chair of the LIBE Committee and Rapporteur of the motion, [Juan Fernández López Aguilar](#), declared that “[o]ur [SAR system] urgently needs to be reformed”. Although not binding, the resolution sought to clarify the Parliament's position on the issue and could have pressured the Commission to take action in several areas.

In a context where humanitarian activists face risks of [systematic criminalisation](#), the resolution asked the Commission to adopt guidelines that clarify which forms of assistance should not be criminalised by member states. The resolution stressed the importance of making use of all vessels, including those operated by NGOs, to save [more lives](#), and urged member states to keep their ports open to NGO ships. At the same time, the motion highlighted that private vessels are no substitute for [state-led](#) responses to emergencies. In the absence of an effective and comprehensive [SAR strategy](#), the resolution called on member states to fulfil their obligations under international law by setting up a long-term, structural and coordinated approach in the Mediterranean. Welcoming the ministerial meeting on SAR and disembarkation in Malta in [September](#) while recognising the [failure](#) to secure a consensus on the [agreement](#), the motion called on the Council to put forward a position on a fair and sustainable distribution mechanism for rescued migrants. Finally, noting that Libya is not a safe port, the motion also called on the Commission, member states and Frontex to ensure that disembarkation only takes place in areas of safety.

Reacting to the proposals, [NGOs](#) stressed that “Europe must do everything in its power to prevent further tragedies” and expressed their support for the motion. Both Renew Europe and the Socialists & Democrats backed the resolution. However, far-right parliamentarians joined forces with the centre-right [European People's Party](#) to the surprise of some [commentators](#) to sabotage the [politically-charged](#) initiative. [EU centrists](#) were [blamed](#) for having allied with the far right. Yet, the failure to pass the resolution was ultimately due to

a handful of votes from [non-aligned MEPs](#). The vote shows that the fragmented European Parliament that resulted from the [May 2019 elections](#) faces difficulty in pushing for progressive initiatives.

# European Border and Coast Guard Regulation is formally approved

## Asylum

The revised European Border and Coast Guard (Frontex) [Regulation](#) was formally adopted by the [Council](#) in November and entered into [force](#) in December. It provides [Frontex](#) with a standing corps of 10,000 staff by 2027 and an expanded [mandate](#) on returns, border management operations and cooperation with third countries beyond the immediate neighbourhood. Frontex's role in the EU's neighbourhood has already been increasing. In 2019, the EU signed agreements on Frontex cooperation with [Montenegro](#) and [Serbia](#) and launched the first joint operation with [Albania](#) following an [agreement](#) reached in 2018. Further agreements with Northern Macedonia and Bosnia and Herzegovina will follow.

The Regulation and civil society's reactions were discussed in our April 2019 [EPIM Policy Update](#), when a political agreement was reached between the European Parliament and the Council. Commentators have repeatedly expressed concerns around Frontex's [rights](#) compliance and claimed that the new Regulation does not [sufficiently](#) strengthen its [accountability](#) mechanisms. The Agency has also been [criticised](#) for its lack of [transparency](#). In November, the [CJEU](#) ruled that Frontex does not need to disclose basic information regarding their border operations, such as the name, type, and origin of their vessels. [Experts](#) have further warned against inflated expectations, noting that the Frontex reform will not be a catch-all solution to reduce migratory pressures. Rather, it must be coupled with greater responsibility-sharing both within and beyond the EU.

## SELECTED ECJ CASE LAW & LEGAL ACTIONS



### Immigration Detention   Children and Youth   Asylum

Case [C-233/18 Haqbin v Federal Agentschap voor de opvang van asielzoekers](#), 12 November 2019

On 12 November, the Court of Justice issued a judgment clarifying the circumstances in which member states can impose sanctions and withdraw reception conditions for asylum

seekers who breach rules of reception facilities or are guilty of particularly violent behaviour. The proceedings involved an Afghan national who arrived in Belgium as an unaccompanied minor. After getting involved in an altercation with other residents of the reception facility in which he was located, he was expelled and forced to sleep rough in a park in Brussels for 15 days. In its ruling, the Court held that sanctions might, in principle, involve the deprivation of material provisions. However, the sanctioning power of authorities is qualified by both procedural and substantial safeguards provided by the [Reception Conditions Directive](#). Accordingly, the Court ruled that penalties must be objective, impartial and proportionate, and must follow an individual assessment of the circumstances of the case. For the Court, it is possible to withdraw the material reception conditions in exceptional and duly justified cases. For instance, states may transfer applicants to a separate reception centre or even hold them in detention. However, dignified living standards must be ensured in all circumstances. Member states cannot withdraw, even temporarily, material reception conditions to the effect of placing the applicant in a situation of extreme material poverty. The withdrawal of housing, food or clothing support, the Court clarified, does not comply with EU law as it necessarily violates the applicant's dignity. The Court also affirmed that when the penalties concern minors, their vulnerability and best interests are to be considered as the primary consideration. In a context where the withdrawal of reception conditions is increasingly used as a [punitive measure](#), [commentators](#) welcomed the decision, particularly the strengthened protections for minors.

#### **Case [C-706/18](#), X v Belgian State, 20 November 2019**

This case concerned an application for family reunification by an Afghan national who sought to join her spouse in Belgium. The initial decision to reject the application was confirmed on appeal by the 'Council for asylum and immigration proceedings'. After a further challenge by the applicant, the Belgian Council of State remitted the decision to the 'Council for asylum and immigration proceedings' because the application had been rejected almost eight months after being submitted. Under Belgian law, state officials only have six months to establish if an application for family reunification meets the requirements. After this period, Belgian law provides that applicants must automatically be granted a residence permit. This clause applies without exception, even if there are doubts about the genuine existence of a family link. In the present case, the Belgian 'Council for asylum and immigration proceedings' asked the CJEU to clarify whether the Belgian legislation complies with the [Family Reunification Directive](#). In its ruling, the CJEU highlighted that the Directive establishes substantive conditions for exercising the right to family reunification. Accordingly, an application must be accompanied by documentary evidence. Where appropriate, national authorities may also conduct interviews and collect further evidence. For the Court, what follows from this is that national authorities are required to establish the existence of family links before issuing a residence permit. Vice versa, national authorities are not allowed to issue a permit without establishing whether the requirements have actually been met. The Court therefore concluded that Belgian legislation undermined the effectiveness of the Directive and was not in compliance with EU law.

#### **Other relevant case law**

Joined Cases [C-540/17 and C-541/17](#), Federal Republic of Germany v Hamed and Omar, 13 November 2019

Case [T-31/18](#), Izuzquiza and Semsrott v European Border and Coast Guard Agency, 27 November 2019



## European Network on Statelessness

Inclusion   Asylum

By Khadija Badri, Advocacy and Engagement Officer, [European Network on Statelessness](#)

According to official statistics, nearly 100,000 asylum seekers who arrived in the EU between 2015 and 2018 were recorded as 'stateless' or of 'unknown nationality'. However, the issue of statelessness has been missing from European debates and policy responses on asylum and migration, and the voices of stateless people are mostly absent. Being stateless is often critical when navigating European asylum procedures and can affect many aspects of a refugee's experience, from increased [time spent](#) in reception centres to delayed [decision-making](#) and additional barriers to [integration](#).

In 2018, the [European Network on Statelessness](#) launched a one-year pilot called #HearItFromUs, which sought to promote the voices and views of stateless refugees and migrants in the migration debate. We worked closely with our members [Consonant](#), [Fundación Cepaim](#) and [New Women Connectors](#) to bring together representatives of communities affected by statelessness in the Netherlands, Spain and the UK. This work culminated in three community workshops in May and June 2019, where we discussed the key issues affecting stateless people and co-developed ideas to strengthen our collaboration.

The workshops made clear that, while all countries have unique approaches to statelessness (see our [Statelessness INDEX](#)), members of stateless communities face similar problems in the three countries, including barriers to accessing basic rights such as work and healthcare and the negative impact of statelessness on mental health. Participants also noted barriers to accessing legal procedures and obtaining citizenship, and discussed authorities' perceived lack of understanding and awareness about statelessness.

The pilot project provided [central lessons](#) for collaborating with stateless people. The workshop participants' enthusiasm to work together on statelessness was clear and build relationships with communities is crucial, but may first require overcoming various obstacles. Members of these communities can be reluctant to work with unfamiliar NGOs or to identify as 'stateless'. The lack of dedicated support for community-led organisations – many of whom rely on volunteers – also presents a barrier to ensuring that stateless people

can engage on statelessness and in wider debates. For collaboration with stateless people to be sustainable and effective, dedicated time, skills and resources are necessary, as well as a commitment to ensuring that the views of women, LGBTQI+, youth and others are heard to represent the diversity of people affected by statelessness.

The first twelve months of the pilot have laid the groundwork to continue improving the representation of stateless refugees and migrants. Last October, we were joined at the [UNHCR](#)'s High-Level Segment on Statelessness in Geneva by Nijam Uddin Mohammed, General Secretary of the British Rohingya Community and one of our newest British members. His intervention at our [civil society](#) side event, and the [awareness-raising work](#) of stateless activists like Lynn Khatib proves that the experiences and voices of stateless people can no longer be ignored. We will continue to provide information about statelessness to those affected, and at our Annual General Conference in May 2020, we will bring together community representatives and stateless activists from across Europe. We hope that this way of working with communities will bring Europe closer to our vision of a place where all stateless people can access their rights, and all states have legal frameworks in place to protect stateless people and prevent new cases of statelessness from arising.

## FACTS & FIGURES

Venezuelans submitted 10,690 asylum applications in the second quarter of 2019, making them the second-largest group of asylum seekers in the EU, with a 90% recognition rate.

Source: Eurostat, September 2019.

## UNHCR statistics on arrivals.

### Asylum

Recent data by the UNHCR [reveal](#) the following trends:

- 95,870 sea arrivals have been recorded since the beginning of the year. 11,083 have arrived in Italy, while 55,189 have arrived in Greece and 24,625 have arrived in Spain;
- So far, an estimated 1,234 people have been reported dead or missing in 2019;
- In Italy, the majority of refugees come from Tunisia, Pakistan and Côte d'Ivoire, while two thirds all refugees arriving in Greece originate from Afghanistan and Syria. In Spain, the majority of refugees come from Morocco, Algeria and Guinea.

## Relevant reports

### Asylum   Inclusion   Children and Youth

#### [Amnesty International: Sent to a War Zone: Turkey's Illegal Deportations of Syrian Refugees](#)

Amnesty International published a [report](#) documenting 20 cases of Syrian refugees in Turkey being forcibly returned to Syria in 2019. The report urges Turkey to uphold its international obligations towards refugees, while calling on the EU to raise resettlement pledges for Syrian refugees in Turkey and to halt returns under the EU-Turkey Statement.

This [report](#) focuses on African migrants travelling to Europe irregularly for development related reasons. It addresses the drivers that push this group to leave, the challenges faced in building a stable life and accessing the labour market in Europe, as well as their diverging attitudes towards a possible return to Africa.

## EU Funding opportunities

**Asylum      Inclusion      Children and Youth**

## Calls for proposals - EU funding

- **MIGRATION-04-2020:** Inclusive and innovative practices for the integration of recently arrived migrants in local communities.
    - Call out on 05.11.2019 – Deadline: 12.03.2020
  - **MIGRATION-05-2018-2020:** Overcoming integration challenges for migrant children.
    - Call out on 05.11.2019 – Deadline: 12.03.2020
  - **MIGRATION-09-2020:** Narratives on migration and its impact: past and present.
    - Call out on 05.11.2019 – Deadline: 12.03.2020
  - **MIGRATION-10-2020:** Sustainable practices for the integration of newly arrived migrants.
    - Call out on 05.11.2019 – Deadline: 12.03.2020
  - **TRANSFORMATIONS-22-2020:** Enhancing access to education to reverse inequalities.
    - Call out on 05.11.2019 – Deadline: 12.03.2020

## EU CALENDAR: UPCOMING EVENTS

European Parliament

 13-16 January 10-13 February	EP Plenary
 9, 20-21 & 27-28 January 6 & 19-20 February	LIBE Committee Meetings

## Other events

 16 January	<a href="#"><u>Building a Whole-of-Society Approach to Emerging Migration and Integration Challenges</u></a> , OECD
 25 February	<a href="#"><u>Solutions and the Global Compact on Refugees - A Long Road 'Home'</u></a> , Refugee Law Initiative

This document provides a focused analysis of recent EU level policy-making, legislation and jurisprudence relevant to EPIM's sub-funds on (1) Immigration detention; (2) Reforming the European Asylum System; (3) Children and Youth on the Move; (4) Mobile EU citizens and (5) Building Inclusive European Societies and covers the period from 15 October to 16 December 2019. We kindly ask the readers to keep in mind that the present Policy Update is composed of a selection of documents and does not claim to be exhaustive.

Should you, as representatives from EPIM's Partner Foundations or EPIM-supported organisations, have questions related to the analysis provided in this document or on EU developments in the field of migration and integration in general, you are invited to contact the authors ([o.sundberg@epc.eu](mailto:o.sundberg@epc.eu), [ah.neidhardt@epc.eu](mailto:ah.neidhardt@epc.eu), [n.maganza@epc.eu](mailto:n.maganza@epc.eu), [m.desomer@epc.eu](mailto:m.desomer@epc.eu)). The sole responsibility for the content lies with the author(s) and the content may not necessarily reflect the positions of EPIM, NEF or EPIM's Partner Foundations.

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