

# Policy Update March 2020

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## The upcoming New Pact    Greece-Turkey border    Free movement after Brexit

The Special Focus of this Update discusses the upcoming New Pact on Migration and Asylum. The Pact is expected for this [spring](#). [Official information](#) on the Pact's content is minimal. In December 2019, the [European Commission](#) started consulting with member states in order to try to forge a consensus on the new migration and asylum agenda. Leaked documents and official statements indicate, however, that divisions persist among European countries. Against this background, the Special Focus stresses that the New Pact may push control-oriented policies even higher in the [EU agenda](#), as this is the only area where consensus is likely to be found.

In the meantime, and as outlined in the Political Developments section of this Update, [structural weaknesses](#) continue to plague the Common European Asylum System ([CEAS](#)). Insufficient and slow relocations add pressure to Southern European reception systems, despite the [Malta agreement](#) on

disembarkation. Meanwhile, the Greek government passed new measures, which risk exacerbating the [humanitarian emergency](#) on the islands. As this update was readied for publication, tensions also rose on the Greece-Turkey border following Turkey's decision to stop preventing migrants from reaching Europe. These latest developments are covered up until 4 March and will be further analysed in the next Update.

Further sections consider the implications of Italy's [cooperation](#) with Libya in the context of further escalating military conflict. This Update also discusses the future of free movement rights and the UK's [immigration policy](#) post-Brexit.

In the Closer Look Section, [HumanRights360](#) explains how NGOs have come to play a vital role in Greece, addressing the needs of migrants and facilitating their inclusion in local communities.

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## SPECIAL FOCUS



## What to expect from the New Pact?

### Asylum

Following the [coming into office](#) of the new European Commission's on 1 December, all eyes are on the impending [New Pact on Migration and Asylum](#). The [central question](#) on everyone's mind is whether the Pact will be able to forge a new consensus on concrete proposals while also promoting a sustainable and progressive migration and asylum policy. This will be no easy task. Official statements and leaked non-papers from [Germany](#), [France](#), [Greece](#) and [Italy](#) highlight continued national divisions, which may push the Commission to take a conservative and restrictive approach. This Special Focus reviews the latest available information on national positions. Particular attention will be devoted to the ideas put forward by Germany, which is due to take over the [rotating Presidency](#) of the Council from [Croatia](#) in July 2020. Against this background, the Special Focus reviews the potential content of the New Pact, focusing on the proposals concerning the Dublin system, border

procedures and the external dimension. As the situation along the Greek-Turkish border continues to escalate, it remains to be seen how this new political crisis will affect the conversations on the New Pact.

The Commission has spent its first months in office in close dialogue with member states. Vice-President for Promoting the European Way of Life [Margaritis Schinas](#) and Home Commissioner [Ylva Johansson](#) embarked on a [tour](#) of European capitals to overcome conflicting positions on migration and asylum policy. Leaked documents indicate that border procedures are a central issue in ongoing debates. In its [non-paper](#), Germany called for a mandatory initial assessment of applications at the EU's external borders. According to Germany's proposal, asylum seekers with a manifestly unfounded application should be denied entry into the EU. Germany also foresees a strong involvement of the future European Union Asylum Agency in the assessment and determination of the responsible state. France also supports border procedures at the external borders, arguing that those rejected should be swiftly returned. By contrast, southern states generally oppose mandatory assessments at the border because this may lead to long periods of mass detention. [NGOs](#) consider this a serious risk especially at a time when reception systems in European border areas are already stretched to their full capacity.

The most heated discussions among member states are centred on the Dublin system and, more specifically, on how to allocate responsibility for refugees. The [weaknesses](#) of the [Dublin Regulation](#) are well documented. As indicated by the German non-paper, the current rules lead to "clear imbalances" due to the [excessive use](#) of the principle of first country of arrival. Most countries agree that reforming Dublin is of [vital importance](#) for a functional and balanced CEAS. However, they disagree over the need for a mandatory relocation scheme, let alone its details. On the one hand, western states like Italy, Belgium, the Netherlands and Germany insist on an EU-wide system of [mandatory redistributions](#). On the other hand, Austria and the [eastern states](#) continue to oppose mandatory quotas and prefer '[alternative forms of solidarity](#)' instead. Countries in favour of a mandatory relocation mechanism also disagree on whether all applicants should benefit from the scheme, or only those in clear need of international protection. These discussions are also at the heart of the [deadlock](#) in the CEAS reform process in the previous legislative cycle

A further contentious issue linked to responsibility is that of [secondary movements](#). European countries and institutions agree that a solution must be found to "return to a [fully functioning Schengen area](#)". However, [conflicting views](#) exist as to whether participation in the borderless area should be made conditional on compliance with CEAS rules, particularly for those determining responsibility. Germany, France and Finland have expressed support for linking the Dublin and Schengen systems, with the aim of reducing the backlog created by a large number of duplicate applications. France has argued that onward movements should be a legitimate ground for reintroducing internal border controls. Southern states consider this measure unjustified, since they carry no responsibility for the disproportionate pressure they are exposed to. The Greek government recently declared in a [letter](#) to the Commission that Schengen and Dublin should be kept legally separate.

Against this background, the consultation started by the Commission in December 2019 reflects a wish to embark on a "fresh start on migration" as announced by Commission President [von der Leyen](#). However, in light of the sharp contrasts between national preferences, the Commission may not be able to put forward an ambitious and progressive agenda after all. In fact, there is a danger that the Commission will need to water down its reformative spirit, and focus instead on the least controversial and more restrictive policies. This danger is illustrated by the first available information on New Pact initiatives around Dublin, border procedures and returns. These are discussed in turn below.

The Dublin system is especially under scrutiny since the "relaunch of the Dublin reform of asylum rules" constitutes a major component of von der Leyen's [agenda](#). In February 2019,

Vice-President [Schinas](#) stated that the Commission would drop its previous proposals for the Dublin Regulation. Following Schinas' statement, many questions are centred on what new initiatives can be expected on this file. [Schinas](#) had previously declared that the EU has failed to show solidarity to border countries, and that [responsibility](#) should be shared between states. However, the persistent opposition to mandatory relocations may push the Commission to take a "[pragmatic approach](#)" and propose a compromise solution.

To balance out solidarity and responsibility without undermining European cohesion further, the Commission appears to be considering proposing a system of 'mandatory flexible solidarity'. [Schinas](#) has used the metaphor of baskets to describe this approach: some member states provide financial resources, thus filling one basket, while others make contributions in other areas, such as hosting asylum seekers or providing [operational support](#). The mandatory component would be an obligation to contribute. More specifically, a failure to contribute or a weak contribution to a certain basket would need to be offset by stronger contributions in other baskets. Responsibility itself would be a 'basket', and member states would be expected to fulfil their obligations to benefit from solidarity.

While information remains limited, a series of questions on this proposal can already be raised. What incentives would the Commission use to ensure the involvement of every member state? What criteria would it employ to determine if a country has contributed sufficiently or not? Would the Commission go as far as to estimate the amount of financial contributions to be met by those not participating in the relocation scheme by setting an ethically questionable '[price-tag](#)' on asylum-seekers? Moreover, a basket system may be unable to respond to the logistical issues and humanitarian emergencies Europe may continue to be exposed to in the future. This begs the question of how the Commission will ensure that individual contributions make up the necessary total to make the CEAS sustainable, in both the short and long run.

Despite opposition from southern states, the Commission may also follow up on the proposal for mandatory screenings at the external borders, channelling applicants through regular and fast-track asylum procedures or return procedures. What has been dubbed the '[border instrument](#)' would constitute a preliminary step in the asylum process. To ease the concerns of states located at the external borders, the Commission could propose to only launch border procedures in specific circumstances. Leaked documents also suggest that the border instrument would target applicants from countries with low recognition rates instead of trying to identify inadmissible applications. These measures could weaken the resistance of southern states. However, [NGOs](#) have expressed concerns that the instrument may limit procedural safeguards and increase the risk of refoulement. In this context, the question is whether such processing centres would be proposed to enable member states to evade their obligations and limit access to asylum, rather than make the CEAS more efficient.

On the external dimension, the New Pact is expected to promote a "[whole-of-route approach](#)". [International organisations](#), including [IOM](#) and [UNHCR](#), have urged the Commission to prioritise development goals and strengthen safe migration channels. However, the comprehensive system designed by the Commission may, instead, boil down to limiting so-called 'irregular flows'. Various elements raise [concerns](#) that political efforts and [financial resources](#) will mainly be used to restrict migration. On the one hand, [commitments](#) by the Commission to increase [resettlements](#) and expand [legal pathways](#) find little mention in the leaked documents. Conversely, the Commission is fully aware that most states, including [Finland](#), [Greece](#), [Italy](#) and [Germany](#), strongly support using all possible forms of conditionality, such as visas, development and trade, to secure third countries' cooperation, especially on readmission. [NGOs](#) and [analysts](#) have criticised the overemphasis on returns and warned against the use of conditionality. By contrast, [Schinas](#) and [Johansson](#) have repeatedly called for increased returns.



## New humanitarian emergency for migrants in Greece

Asylum Children and Youth Immigration Detention

As the winter months continue, the reception conditions of migrants and asylum seekers stranded in the Greek islands have deteriorated further. Meanwhile, Turkey's decision in late February to stop preventing migrants from reaching the EU exacerbated political tensions and resulted in thousands of people being stranded in dire conditions at the land border with Greece. As this update was being written, developments continued unfolding. A first part of this section considers developments prior to February. A second part of this section considers the developments as they were known at the time of writing. More analysis will be provided in the next EPIM Update.

Already prior to the developments in late February, the situation in [Lesvos](#), [Samos](#), [Chios](#), [Leros](#) and [Kos](#) was particularly worrying. As documented in the previous [Policy Update](#), some 41,000 [people](#) currently reside in overcrowded reception facilities on these islands. 19,000 live in the [Moria camp](#) in Lesvos, which is meant to host only 3,000 asylum seekers. Overcrowding in the camps has led to [violent incidents](#), including two [asylum seekers](#) being stabbed to death by other residents. Meanwhile, residents staged [protests](#) against their [living conditions](#). Against this backdrop, [UNHCR](#) and [NGOs](#) repeatedly called on the Greek government to alleviate the overcrowding by creating adequate reception conditions elsewhere. Similarly, the [European Commission](#) and [Parliament](#) renewed their calls to other EU states to relocate asylum seekers, especially [unaccompanied minors](#) whose [living conditions](#) remain especially alarming. So far, only [France](#), [Finland](#) and [Luxembourg](#) have agreed to take persons in. [Serbia](#) also agreed to relocate 100 unaccompanied minors. In contrast, the [German government](#) rejected the calls, asking for EU-wide solutions instead.

Moreover, concerns were raised on the [government's decision](#) to withdraw asylum seekers' right to obtain a social security number. A group of 17 [NGOs](#) noted that this decision made access to public health care impossible for thousands of applicants. In February, following [calls](#) by NGOs denouncing the withdrawal, the government revoked its current policy and [introduced](#) a provisional social number for asylum seekers. Despite this success, [questions](#) continue to be raised about the Greek government's ability to address challenges arising from increasing arrivals. The government has recently adopted, or is considering adopting, a range of new legal and administrative measures. However, these reforms are generally considered to be failing to meet the scale of the problem and provide needs-based solutions.

Firstly, in response to the overcrowding of reception facilities, the [government](#) plans to build 10 new ones on the mainland and transfer 10,000 migrants by the end of February. [NGOs](#) criticised the plan as inadequate given the [size](#) of the migrant population on the islands and the [expected](#) increase of arrivals in the coming months. It is also reported that

the government intends to dismantle the overcrowded camps and use emergency legal powers to build new [closed facilities](#) on the islands, which would be governed by strict rules of movement for the occupants. The [government](#) is determined to accomplish its project, although the [residents](#) and [municipalities](#) of the islands held [protests](#), including a general [strike](#) on 26 February, against these plans.

Secondly, new [legal measures](#) to expedite the processing of [asylum applications](#) entered into force on 1 January. These include [fast-track procedures](#) for new asylum claims lodged on the Aegean Islands, which are now to be adjudicated within 28 days (including appeals). [Legal aid organisations](#) noted that such procedures make it virtually impossible for applicants to be adequately informed and prepared prior to the asylum interview. In relation to this, it must also be noted that the Greek government introduced a [list](#) of 'safe' countries of origin, which include the Gambia, Morocco and Algeria. As a result, save for cases where the risk of persecution is evident, applications of people from these countries have more chances of being rejected. [NGOs](#) warned that the use of this list could endanger the lives of asylum seekers, particularly LGBTQ people.

As the situation continued to worsen, EU-Turkey cooperation reached a breaking point. On 27 February, Turkey's [President Erdoğan](#) stated that Turkey would start letting migrants pass into Europe unhindered, in breach of the EU-Turkey Statement. This follows repeated [threats](#) over the past months, as well as calls for more [support](#) for refugees in Turkey and for handling the [fallout](#) from a recent offensive in Syria's Idlib province.

As a result, in the first days of March, over 13,000 [people](#) arrived at Turkey's land border with Greece and Bulgaria, while another 1,200 [people](#) already reached the Eastern Aegean islands. In response, [Greece](#) deployed its army and additional police officers to the land border. On 3 March, it announced that it had halted over 5,000 [entries](#) in the previous 24 hours. Additionally, Prime Minister [Kyriakos Mitsotakis](#) announced that Greece would no longer accept any new asylum applications for a month, and that anybody arriving in Greece would be immediately returned to Turkey.

This Greek response was widely called out for constituting a violation of international legal obligations. [UNHCR](#) stressed that while Greece has a right to control its borders, neither international nor EU refugee law allow for a suspension of the right to seek asylum in emergency situations. The [International Commission of Jurists](#), the [Council of Europe](#) and several [NGOs](#) echoed this. They also expressed [concerns](#) about the excessive [use of force](#) and [teargas](#) against children and reported [attempts](#) by the Greek Coast Guard to capsize and push back approaching ships. 59 [MEPs](#) called on the European Council and Commission to condemn the human rights abuses.

For its part, the EU immediately opted for a [border control-](#) and [operational support-oriented](#) response to the unfolding situation. Following a [visit](#) to the Greece-Turkey border on 3 March, the Commission presented a new [Action Plan](#) with immediate measures to support Greece. These measures include an enhanced role for [Frontex](#) in border and return operation as well as the supply of material assistance through the [Civil Protection Mechanism](#). The Commission also committed an additional €700 million of [EU funds](#) towards Greece's migration management. Worryingly, to date, no denunciations were made of the Greek violations of their EU and international law obligations vis-à-vis people seeking protection, prompting [commentators](#) and [NGOs](#) to criticise the EU leadership for turning a [blind eye](#) to breaches by Greece. Civil society also organised a [protest](#) in front of the Justice and Home Affairs (JHA) Council that took place in Brussels on 4 March.

In response to these criticisms, Vice-President Schinas and Commissioner Johansson stated that the [Commission](#) will ensure that protection of the external borders will be brought in line with fundamental rights obligations. As events are rapidly unfolding, it remains to be seen how these developments will impact discussions on the New Pact on Migration and

Asylum. However, the situation has clearly raised the stakes on whether and how the Commission will be able to effectively respond to the long-standing issues of responsibility-sharing and border management.

## Spotlight on EU cooperation with Libya

Asylum Immigration Detention

EU-Libya cooperation remains under the spotlight against the backdrop of renewed peacebuilding efforts. At the [Berlin Conference](#) on 19 January on the Libyan crisis, the [EU](#) committed to achieving a permanent ceasefire and upholding the 2011 UN Security Council [embargo](#) on [supplying](#) military equipment to Libya. So far, the Berlin agreement remains largely [ineffective](#) as the [trade](#) of weapons and [clashes](#) near Tripoli have continued uninterrupted.

The [plight](#) of refugees and other migrants stranded in Libya was also discussed at the Conference. [Participating parties](#) reiterated their calls for the Libyan authorities to close the detention centres where, over the past months, the [UN](#) and [NGOs](#) have widely documented [torture](#) and [abuses](#), including [forced recruitment](#) to fight in the civil war. To date, [nine centres](#) located in the territory formally under the control of the UN-recognised Tripoli government are still operative. Furthermore, despite the agreed ceasefire, the escalation of the conflict in Tripoli led [UNHCR](#) to suspend its work in the Gathering and Departure Facility of Tripoli on 30 January.

Meanwhile, on 2 February, Italy's Memorandum of Understanding ([MoU](#)) with Libya was renewed for another [three years](#). Following the renewal, Italy sent proposals for [amendments](#) to Libyan officials for their approval. The Italian [Ministry of Foreign Affairs](#) reported that these amendments contain "significant improvements" designed to provide reinforced safeguards for migrants based in Libya, as well as to ensure a greater role for UN organisations working in the country, namely IOM and UNHCR. The MoU renewal took place against calls from the [Council of Europe](#) and [NGOs](#) to scrap the [agreement](#) and suspend [cooperation](#) with Libya until clear guarantees of human rights compliance for refugees and asylum seekers are in place.

These developments in the immediate aftermath of the Conference suggest that the EU and its member states may be unable to bring about real change for the benefit of refugees and other migrants in Libya. In the meantime, migrants still face dangers when attempting to leave Libya by sea, as shown by the discussion on the implementation of the arms embargo and the systematic pull-backs to Libya.

More specifically, in this context, the EU High Representative for Foreign Affairs and Security Policy, [Josep Borrell](#), proposed to revamp Operation Sophia by reinstating its [naval assets](#) with the explicit purpose of intercepting arms smuggling to Libya. Set up in 2015, [Operation Sophia](#) included both aerial and maritime surveillance and had the official goal of dismantling the business model of smugglers and arms traffickers. In practice, obligations under international maritime law also led to its involvement in search and rescue (SAR) [operations](#), with some 49,000 people saved at sea between June 2015 and March 2019. The lack of a relocation system for people rescued at sea sparked [tensions](#) on how to conduct disembarkations. As a result, since Italy refused to let rescued migrants disembark in its ports in March 2019, Operation Sophia has been limited to [aerial surveillance](#) only. Several [member states](#), including [Italy](#), Greece, [Austria](#) and Hungary, expressed doubts or rejected Borrell's proposal to revive the mission, fearing that EU ships in the Mediterranean would become a pull factor for migrants. This is a [contentious claim](#). Although some [experts](#) argue that SAR operations could increase sea crossings, [others](#) have disputed this. During the Foreign Affairs Council's February meeting, member states finally agreed to launch a

[new operation](#) in the Mediterranean which will replace Operation Sophia and focus exclusively on the arms embargo. The new operation will also include naval assets, whose deployment could be [withdrawn](#) should it lead to increased departures from Libya.

Meanwhile, crossings in the Central Mediterranean route continue. As of late February, more than 3,050 [asylum seekers](#) travelled to Europe along this route, which is tenfold the figure for the same period last year. In one week in January, several NGO-run vessels – the [Open Arms](#), [Ocean Viking](#) and [Alan Kurdi](#) – rescued almost 1,000 people in distress. Pullbacks to Libya also continued steadily, despite calls from [IOM](#) to find alternatives to disembarkation in Libya. According to [UNHCR](#), the Libyan Coast Guard (LCG) intercepted and returned some 1,737 people to Libya in 2020. In another recent pull-back operation, the LCG was aided by a Turkish [naval ship](#).

## Protests in Niger over the lack of resettlement

Asylum Immigration Detention

Peaceful [protests](#) in Niger of 1,000 refugees and asylum seekers drew attention to the slow pace of resettlement to Europe. Between December and January, demonstrators – mostly Sudanese fleeing Libya – held protests outside UNHCR’s Agadez office against the severe [delays](#) in the processing of their resettlement requests to Europe. Protestors also lamented the poor [conditions](#) of their UNHCR-run refugee camp. The facility lacks basic services, including healthcare. Its location, 15km outside Agadez, also makes it difficult for its residents to find employment and integrate into the local community. After Niger’s [High Court](#) ruled the weeks-long protests as unlawful, [demonstrators](#) were forcibly returned to the UNHCR camp, where some of them set fire to it. In the immediate aftermath of these incidents, at least 335 [people](#) were arrested.

These recent incidents have drawn attention to the growing pressure on Niger as a hub for those awaiting resettlement to Europe. Since 2017, vulnerable refugees trapped in detention in Libya have been evacuated to Niger under the UNHCR Emergency Transit Mechanism ([ETM](#)), which involves eight EU states. In the ETM context, UNHCR is mandated to resettle evacuees to a place of safety. So far, 2,335 out of 3,080 [ETM evacuees](#) have been successfully resettled from Niger. However, the total of evacuees remains low compared to the 47,647 [registered refugees](#) and asylum seekers currently stranded in Libya. To increase the evacuations and expedite resettlements from Niger, [UNHCR](#) and the [International Rescue Committee](#) called on more EU states to participate in the ETM.

At the same time, given the deteriorating conditions in Libya, many Sudanese [asylum seekers](#) reached Agadez on their own from Libya, hoping to be resettled from there to Europe. This initially triggered a strong reaction from the [Nigerien government](#) which, in May 2018, deported some 135 asylum seekers back to Libya in breach of non-refoulement. As of December, however, there are around 1,600 [asylum seekers](#), mostly Sudanese, in Agadez; 1,200 of them are housed in the UNHCR camp outside the city. As [experts](#) noted, those who reach Niger on their own face even greater [obstacles](#) to obtaining resettlement. Self-evacuated people also end up in [legal limbo](#) and face social and economic exclusion.

The situation in Niger highlights the shortage of available resettlement spots. As noted by [UNHCR](#), only 4.5% of the 1.4 million refugees in need of resettlement globally were effectively resettled in 2019. In response to [calls](#) to step up commitments, EU member states pledged at last December’s Global Refugee Forum to resettle over 30,000 [refugees](#) this year. EU member states must now translate political commitments into concrete actions, which they failed to do in full under the 2017-19 [resettlement scheme](#).

# EU citizens' rights in peril after Brexit

## Mobile EU citizens

On January 31, the UK officially left the EU. During the eleven-month [transition period](#), the estimated [3.5 million](#) EU27 citizens residing in the UK will continue to enjoy [free movement rights](#) in the UK, including the rights of residence and work. However, EU citizens and their family members who wish to stay after this period must make an online application under the [settlement scheme](#) set up by the UK Home Office. [Experts](#) have warned that, despite some changes to the scheme, the procedure for obtaining settled status remains too complex, leading to a [high rate](#) of [unsuccessful applications](#). [Commentators](#) have also long called attention to the high number of EU citizens who have not yet applied.

[Specialists](#) express concerns that the settlement scheme may not be working in practice. The situation is [troubling](#) since only those who have obtained settled status will be granted full leave to remain, regardless of other personal circumstances and links to the country. Due to the combined effect of citizenship law and the settlement scheme, for instance, [children](#) born in the UK to foreign parents and adults who have lived in the country their [entire life](#) have no guarantee that they will be allowed to remain after the transition period.

Far from devoting efforts to address these concerns, the UK government may have made the situation worse. Last October, the former Minister of State for Security, [Brandon Lewis](#), threatened to deport [EU citizens](#) who do not apply for settled status before the deadline. While the government [retracted](#) this claim in January, Prime Minister [Boris Johnson](#) subsequently pulled back from a proposal to regularise undocumented residents. Such [public intimidation](#) and [conflicting remarks](#) stoke up an already [unwelcoming environment](#). In this context, it is feared that the dominant anti-immigration [rhetoric](#) may discourage [EU citizens](#) from applying for settlement status and push [them](#) to join those who returned to their home countries following the [Brexit vote](#).

The government's threats have also increased uncertainty and distrust regarding the post-Brexit [immigration system](#), [legal practitioners](#) have warned. In principle, under the [Withdrawal Agreement](#), EU citizens who obtain settled status before the deadline should maintain [most of the rights](#) they had before Brexit. However, widely reported [cases](#) of discrimination against EU citizens and the [government's intention](#) to "water down" the powers of the '[independent monitoring authority](#)' – the watchdog established to protect their rights – have raised [questions](#) over this commitment. [Serious concerns](#) also come from the fact that those who acquire settled status lack [physical evidence](#) to prove it. Given this, [commentators](#) have warned that a lack of proper scrutiny may lead to mass denial of rights.

Unless it is extended by mutual agreement, the [transition period](#) will end on 31 December 2020. Afterwards, EU citizens will be treated like all other foreign nationals and be subject to new UK immigration [rules and policies](#). Under the new '[points-based system](#)' announced by the [government](#) in February, all those seeking to work in the UK must have a job (offer), speak English and meet a new points-based threshold, which is determined by [prospective salary](#) and qualifications. According to the [official report](#), this [policy](#) is designed to close the borders to low-skilled labour while attracting [young talented workers](#) from abroad. This plan is not without its [supporters](#). However, [analysts](#) warned that the government might have underestimated the far-reaching implications of ending free movement for both skilled and unskilled workers from the EU.

In those sectors where the low-paid workforce is mostly from overseas (e.g. [care](#), [construction](#), [agriculture](#), [hospitality](#)), UK firms may not be able to recruit sufficient workers. The policy may also fail in its objective to attract [highly-skilled](#) migrants. Although the [government](#) does not plan to set a limit to the overall number of skilled workers, the

proposal does not follow the [recommendations](#) of the Migration Advisory Committee (MAC). In a [study](#) commissioned by the Home Office, the MAC argued that the skills bar remains too high, and, except for a few persons with technology-oriented [postgraduate degrees](#), most of those targeted will not be able to enter the UK without a job offer in their hands.

## Asylum systems in Malta and Italy under strain

Immigration Detention | Asylum

Italy and Malta's reception systems are under growing pressure as arrivals increase while promised relocations proceed slowly. The pace of arrivals in both [countries](#) in 2020 so far is much higher than in the same period last year. Malta had also received an unprecedented 3,400 arrivals in 2019, more than double their 2018 figure. In the framework of the Malta Declaration from [September 2019](#), Malta and Italy committed to allowing NGOs that had rescued people at sea to dock in their ports, and several member states agreed to relocate many of those rescued. Both countries have [continued](#) to [allow](#) SAR [vessels](#) to disembark since then. However, they have done so [reluctantly](#), after several days at sea, and after other states agree to take in those on board. [Sea-Watch](#) and [Alarm Phone](#) have accused the Maltese Armed Forces of a pattern of 'non-assistance' that unnecessarily delays rescues. Following the covid-19 (Coronavirus) outbreak in Italy in February, [MSF](#) warned that quarantine measures were being applied discriminatorily to target SAR NGO vessels.

Meanwhile, relocations from both countries under the Malta Declaration and similar ad hoc initiatives are progressing slowly. The [Commission](#) reports that 1,000 people were relocated to 10 member states in 2019. While welcoming the progress, it noted that pledges were not always sufficient, relocations rarely included minors, and transfers faced delays over the aim of four weeks. Many people waiting to be relocated from Malta have reportedly spent months in [confinement](#). Whereas [Italy's](#) Interior Minister Luciana Lamorgese has praised the "effective European solidarity", [Malta](#) stressed that it still does not get enough support.

Against this background, concerns have mounted about the poor [conditions](#) for asylum seekers in both countries. [UNHCR](#) warned that 1,400 asylum seekers were being held illegally at the Marsa and Safi detention centres in Malta. Protests in these centres began last year and continued in [January](#), leading to multiple arrests. In one case, protests culminated in a [fire](#) and the Marsa centre was evacuated. [UNHCR](#) urged Malta to address its systematic detention policy, stressing that detention must be justified, is a measure of last resort and should only last for short periods. It warned that confinement is particularly traumatic for those who experienced inhumane treatment before and during their journey.

Similarly, [overcrowding](#) and [protests](#) have been recurring across several centres in Italy, especially after [two men](#) died in pre-deportation detention centres. The situation in Italy has raised strong criticism as the legacy of the October 2018 [Security Decree](#), or the 'Salvini decree' for the former Interior Minister who drafted it, continues to be felt. Although the current Interior Minister declared her intention to revise the law, this is yet to happen. Among other measures, the [decree](#) abolished residency permits for humanitarian reasons. [Experts](#) warned that this would significantly increase the number of people in an irregular situation. Indeed, in 2019, the number of negative asylum decisions increased substantially, from 67% to 80%. The law also excludes asylum seekers and beneficiaries of humanitarian protection from "second-line reception centres". Instead, they are channelled to less suitable emergency accommodation centres, which lack integration support and are under-resourced. [NGOs](#) and [political figures](#) have repeatedly called for the withdrawal of the decree. They warn that Italy's reception system is [inadequate](#), in particular, for vulnerable asylum applicants and people returned under Dublin procedures.



# Visa Code enters into force amidst concerns

### Asylum

In February 2020, the [revised Visa Code](#) entered into force. The new Code sets out facilitated procedures for short-term visas valid through Schengen countries. Applicants may now obtain multiple-entry visas with a long period of validity and apply six months ahead of their intended trip. In exchange, they must pay a fee of €80 instead of €60. The main objective of the amendments, however, is to put pressure on third countries to cooperate on readmissions. If a third country does not cooperate effectively with the EU, the new Code foresees an increase in visa fees and the suspension of mobility-friendly rules governing multiple-entry visas with a long period of validity. Other than readmission, the Commission should consider the third country's "overall cooperation" on migration in its assessment, which includes preventing the "transit of irregular migrants through its territory."

Using visa concessions as a leverage tool in return and readmission is not unprecedented. Thus far, the EU took an ad hoc and 'more for more' approach in its bilateral agreements. Accordingly, single readmission agreements with third countries have been negotiated in parallel with visa facilitation. By contrast, the amended Code makes the negative link between the common visa policy and cooperation with third countries on migration control explicit and extends its punitive effects to all countries whose nationals apply for a Schengen visa. In this way, the Code makes visa applicants the ultimate object of sanctions. [Experts](#) have criticised this punitive turn, arguing that [collective sanctions](#) for actions beyond individual control are contrary to EU values.

[NGOs](#) have also criticised the overemphasis on returns and questioned whether the creation of strong negative incentives would actually lead to higher rates of returns. Notably, in its [impact assessment](#) of the proposed amendments, the Commission admitted that "there is no hard evidence on how visa leverage can translate into better cooperation of third countries on readmission". For these reasons, [NGOs](#) have stressed that third countries' cooperation in migration management should not be preconditions for engagement in other policy areas and EU support in external policy, including visas. [ECRE](#) recently commented that migration control conditionality in visa policy "contradicts a third country government's interests" and that the mutually beneficial [partnership](#) often invoked by the EU "stands in stark contrast to the attempt to force cooperation on the EU's areas of interest".

# New Visa and Readmission Agreements with Belarus

## Asylum

On 8 January, the EU and Belarus signed [visa facilitation](#) and [readmission](#) agreements. While the former will make it easier for Belarusian citizens to acquire short-term EU visas, the readmission agreement establishes reciprocal procedures for the safe and orderly return of so-called irregular residents. The two agreements are yet to be approved by the European Parliament and formally ratified by the Council and the Belarusian National Assembly before entering into force. The Civil Liberties, Justice and Home Affairs (LIBE) Committee adopted favourable draft legislative [resolutions](#) for [both](#). The readmission agreement with Belarus is the first formal readmission agreement reached by the EU since its agreement with [Cape Verde](#) in December 2014. The [LIBE rapporteur](#) Petar Vitanov praised the Commission's efforts, stressing the need to reach formal readmission agreements instead of concluding informal arrangements. Due to the emphasis on returns in the EU migration policy, informal arrangements, such as the Joint Way Forward with [Afghanistan](#) and the [EU-Bangladesh](#) Standard Operating Procedures, have become the EU's [privileged instrument](#) for increasing cooperation with third countries. Experts have expressed concerns that informal arrangements bypass [democratic](#) and [judicial](#) scrutiny and are rarely [public](#), diminishing the accountability over their contents and consequences.

## SELECTED ECJ CASE LAW & LEGAL ACTIONS



## Mobile EU citizens

### Case [C-32/19](#) AT v Pensionsversicherungsanstalt, 22 January 2020

This case concerned the right to permanent residence in Austria of a Romanian national who is an old-age pension holder. Under the general rule established by the [Citizens' Rights Directive](#), EU citizens must have lived in the host country for at least five years in order to qualify for permanent residence. However, Article 17 of the Directive lays down special conditions for those who have reached the retirement age. The Directive entitles them to permanent residence before the five years waiting period, provided they have resided in the host state for more than three years and have previously been in employment for at least twelve months. AT did not have a regular job in Austria. He worked low-wage jobs and only for a few hours a week, and there were times when he was not employed at all. By the time he reached the retirement age, AT had worked for more than twelve consecutive months but had not lived in Austria for more than three years. When he finally met the three-year requirement, he made an application for a complementary pension. At this point, however, he had only worked for ten consecutive months due to a brief period of unemployment.

The Court of Justice was asked to clarify if this case falls under the scope of the special provisions of the Directive concerning pensioners. The Court held that Article 17 constitutes a derogation from the usual five-year rule of residence and, accordingly, must be interpreted strictly. For the Court, pension holders cannot qualify for permanent residence unless they can demonstrate that they have fully met the conditions set in Article 17. [Experts](#) have declared that “little criticism can be made of how the court approached the interpretation of the directive”. However, this case illustrates the negative consequences which can follow from a rigid interpretation of free movement rules in the increasingly more [frequent scenario](#) of mobile EU citizens in low-wage and temporary jobs.

### Other relevant case law

Case [C-457/18](#) Republic of Slovenia v Republic of Croatia

Case [C-447/18](#), UB v Generálny riaditeľ Sociálnej poisťovne Bratislava

Case [C-380/18](#), Staatssecretaris van Justitie en Veiligheid v E.P.

Joined cases [C-381/18 and C-382/18](#), G.S., V.G. v Staatssecretaris van Justitie en Veiligheid

Case [C-519/18](#), TB v Bevándorlási és Menekültügyi Hivatal

## A CLOSER LOOK FROM...



Photo: Orestis SEFEROGLOU

## HumanRights360

Inclusion Asylum

By Epaminondas Farmakis, Co-founder [HumanRights360](#) / CEO [Philanthropy360Advisors](#)

According to [UNHCR statistics](#), there are approximately 112,000 asylum seekers in Greece. 42,000 of them are trapped in the Aegean islands, which have a total official capacity of maximum 6,178 persons. Urgent measures are needed to improve the reception conditions and reception capacity throughout Greece.

HumanRights360 was founded in 2017 by a team of people with years of active civic engagement and experience in Greece, and in the refugee reception crisis particularly. Our goal is to implement programs that improve the reception conditions of newcomers and facilitate their inclusion in the local community. At HumanRights360, we believe that access to basic rights is vital to achieving successful integration and that social cohesion can only be achieved by protecting the individual, political and social rights of the entire population. In partnership with SOL Crowe SA, HumanRights360 acts as fund operator for €23 million of the [EEA Grants](#) and focuses on providing suitable accommodation facilities for unaccompanied children and vulnerable asylum seekers, improving the operational

procedures and capacity of the Greek Asylum Service and Appeals Committees, assisting refugee children's access to education and facilitating poverty reduction efforts.

Since 2018, we have been implementing two complementary integration programmes. The [programme](#) 'Ensuring Integration of Recognized Refugees', supported by the [Kahane Foundation](#), aims to promote the employability and social integration of beneficiaries of international protection in Athens. We operate from two camps in the suburbs of Athens as well as in the city centre, where our team is based in the ECHO100Plus Hub. The [programme](#) 'Transitioning to Adulthood: A Path to Independence and Self Sufficiency', implemented in collaboration with Velos Youth and Babel Day Centre and supported by the Network of European Foundations ([NEF](#)) – [EPIM](#), focuses on the integration of young recognised refugees in Athens. Community Based Alternatives to Detention, an initiative which is also funded by NEF – EPIM, is the first project exploring alternatives to detention in Greece.

HumanRights360 is one of only two NGOs present in the land border of Evros, providing legal and social services to unaccompanied children and vulnerable groups with funding from the [Global Whole Being Fund](#) and [Help Refugees](#). With the support of the [Open Society Foundations](#) and [Forensic Architecture](#), we conduct [border monitoring](#) to expose abusive practices, seek accountability and support victims in obtaining remedies. Our work also includes actions to combat hate crime and racist violence. With our [exhibition](#) 'X them out – The Black Map of Racist Violence', funded by the [Social Change Initiative](#) and jointly implemented with the Greek office of the [Rosa Luxemburg Foundation](#), we aim to highlight the topography of racist violence and communicate its dangers to the public.

HumanRights360 regularly engages in advocacy. Core members of HumanRights360 lodged a petition that led to a European Anti-Fraud Office investigation and an upcoming report on the mismanagement of funds. Together with other NGOs, HumanRights360 also wrote a [letter](#) to the relevant ministries and campaigned against the government's decision to abolish social security numbers for asylum seekers, which denied their access to public hospitals, medical care, and their right to obtain a tax number. The campaign was a success: the government agreed to introduce temporary social security numbers for asylum seekers. We believe that in the current context where the Greek state is unable to address the needs of refugees and vulnerable migrants, NGOs are of paramount importance for ensuring access to basic services like healthcare, legal support, protection services, non-formal education, and housing, and for improving reception conditions. We wish that efforts focus on the integration of vulnerable people rather than detention and restrictive measures.

## FACTS & FIGURES

In 2019, a quarter of all asylum applications in the EU (714,200) were lodged by applicants who can enter the Schengen area visa-free.

Source: **EASO, February 2020.**

## UNHCR statistics on arrivals

### Asylum

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

- 16,454 sea arrivals have been recorded since the beginning of the year. 6,673 have arrived in Greece, while 2,553 have arrived in Italy and 3,313 have arrived in Spain;

- So far, an estimated 116 people have been reported dead or missing in 2020;
- In Italy, the majority of refugees come from Bangladesh, Algeria and Cote d'Ivoire, while over two thirds of all refugees arriving in Greece originate from Afghanistan and Syria. In Spain, the majority of refugees arriving by sea come from Morocco, Guinea and Algeria.

## Relevant reports

Asylum

Inclusion

### **Council of Europe Expert Council: NGO Law, Using Criminal Law to Restrict the Work of NGOs Supporting Refugees and Other Migrants in Council of Europe Member States**

This [study](#) considers the situation of NGOs providing humanitarian assistance and related work in support of migrants in Europe. It finds that laws criminalising NGO actions often breach freedom of association principles and can interfere with legitimate NGO activities.

### **Oxfam: EU Trust Fund for Africa: Trapped between aid policy and migration politics**

Oxfam's recent [report](#) assesses the allocation of financial aid under the EU Emergency Trust Fund for Africa. It warns that development aid is increasingly made conditional on third countries' cooperation with the EU's demands on readmission or border management. It calls on EU funds to, instead, target vulnerabilities and root causes of displacement.

### **Border Violence Monitoring Network (BVMN): Torture and cruel, inhumane, or degrading treatment of refugees and migrants in Croatia in 2019**

In this [report](#), the BVMN analyses data on violent pushbacks at Croatian borders in 2019. Identifying six patterns of abuse and misconduct, it documents how systematic violence by Croatian authorities violates the prohibition of torture in international and Croatian law.

### **European Parliament Research Service (EPRS): Dublin Regulation on international protection applications: European Implementation Assessment**

The [report](#) finds that the Dublin III Regulation is not effective legislation, as it does not meet its aims of ensuring rapid access to asylum procedures and avoiding multiple applications. The EPRS also issues recommendations for a rights-based application of the Regulation.

### **HIAS: Locked Up Without Rights: Nationality-based detention in the Moria refugee**

This HIAS [report](#) provides an overview of the legal framework for the detention of asylum seekers in Greece. It focuses on the "low profile detention scheme" under which single males from certain countries are automatically detained in Lesvos. Based on first-hand experience of HIAS lawyers, it concludes that the scheme amounts to illegal arbitrary detention.

## EU Funding opportunities

Asylum

Inclusion

Children and Youth

### **Calls for proposals - EU funding**

- [SU-BES01-2018-2019-2020](#): Human factors, and social, societal, and organisational aspects of border and external security.
  - o Call out on 12.03.2020 – Deadline: 27.08.2020

- [EFC-CIV-2020](#): Civil Society Projects.
  - o Call out on 17.12.2019 – Deadline: 01.09.2020

### Other opportunities

[OHCHR](#): The role of private military and security companies in immigration and border management and the impact on the protection of the rights of all migrants. Deadline: 17.03.2020.

[EASO](#): Input by civil society to the EASO Annual Report 2019. Deadline: 10.03.2020.

## EU CALENDAR: UPCOMING EVENTS

### European Council and Council of the European Union

 12-13 March JHA Council

 26-27 March European Council

### European Parliament

 9-12 March, 30 - 2 April, 22-23 April, 11-14 May EP Plenary

 16-17 & 26 March, 15-16 & 29-30 April, 7 & 25-26 May LIBE Committee Meetings

### Other events

 11 March [Climate refugees: From understanding to addressing this challenging phenomenon](#), EESC

 1 April [EU return and readmission policies: How effective, how legitimate?](#), European Policy Centre & Vrije Universiteit Brussel

 6 April [Compacts, complexity and coherence: Responding to mixed movement through the Global Compacts on Refugees and Migration](#), Refugee Law Initiative

 7-8 May [Addressing Statelessness in Europe: Closing Protection Gaps and Realising Everyone's Right to a Nationality](#), University of Alicante

 2-3 June [European Migration Forum \(6th meeting\): Making integration work: towards a more inclusive European society](#), ECSC

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 17 December 2019 to 5 March 2020. 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 ([ah.neidhardt@epc.eu](mailto:ah.neidhardt@epc.eu), [n.maganza@epc.eu](mailto:n.maganza@epc.eu), [o.sundberg@epc.eu](mailto:o.sundberg@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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