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Section 1. Global overview of the field of asylum in 2019

To provide context for developments in the field of asylum in Europe, Section 1 presents a global overview of forced displacement and the need for protection worldwide. The section covers recent events and trends related to displacement and discusses the international community's response to large refugee movements. Two topics which have gained attention over recent years in the global context are addressed: statelessness and the emerging phenomenon of displacement due to environmental reasons, which falls outside of the EU acquis. A glimpse at the broader landscape helps to set the scene for trends in asylum in the European Union which unfolded in 2019.

Forced displacement due to conflict, persecution, human rights violations, natural disasters and degrading ecosystems is a reality for millions of people across the globe who flee their homes in search of security for themselves and their families. Those seeking protection find refuge either within their home country or by crossing international borders.

Official statistics distinguish between two groups of forcibly displaced persons: a) refugees and asylum seekers who have crossed international borders; and b) internally displaced persons (IDPs) who are displaced within their own country. The 1951 Refugee Convention provides the common definition for the first group as individuals who have fled their country due to a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion"[1] and crossed an international border to seek safety.

There is no internationally-agreed legal definition for IDPs, even though guidelines exist, according to which IDPs are "persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally-recognised state border".[2] As such, IDPs legally fall under the jurisdiction of their own government and relevant national and international laws.

Both refugees and IDPs find themselves in need of substantial material and psycho-social support, often facing challenges to receive, access and effectively benefit from such support. Apart from emergency responses and short- to medium-term arrangements, countries struggle to find durable solutions. Voluntary repatriation of forcibly displaced individuals (including asylum seekers, refugees and IDPs), which can be considered to be the preferred long-term outcome, is at times not possible due to the persistence of the original causes of displacement, such as a lack of political solutions to protracted conflicts and recurrent violence in the country

of origin.[3]

A number of events around the world have resulted in major displacements over the past few years due to conflict (Afghanistan, Central African Republic, the Democratic Republic of Congo, Somalia, South Sudan and Syria), ongoing widespread, systematic, grave human rights violations (Myanmar/ Rohingya) and severe political instability and economic hardship (Venezuela).[4]

On 30 June 2019, the United Nations High Commissioner for Refugees (UNHCR) reported a total population of concern of 79.4 million people.[i] This included 20.2 million refugees under UNHCR's mandate, 3.7 million asylum seekers, 531 000 returned refugees, 43.9 million IDPs, 2.3 million returned IDPs and 3.9 million stateless people. In addition, a report from the Internal Monitoring Centre[5] highlights that the total number of IDPs due to violence reached 50.8 million in 2019.

Since 2014, the largest number of refugees have originated from Syria.[6] In June 2019, there were
6.6 million Syrian refugees, accounting for approximately one-third of the global refugee population.[7] With the count continuously rising, the next highest numbers of refugees in 2019 originated from Afghanistan and South Sudan, with 2.7 million and 2.2 million respectively. These countries of origin were followed by Myanmar, with 1.2 million refugees and Somalia with 0.8 million.[8] A new trend emerged in the first half of 2019, with Venezuelan nationals accounting for the largest group of asylum seekers, although their cumulative number did not reach the levels of the top countries of origin.[9]

Communities and countries neighbouring the epicentre of a crisis are generally the first in line to accommodate displaced persons, often placing a strain on their resources. This is seen in low- and middle-income countries in particular, which host the majority of refugees worldwide, receiving 84 % of the global share or more than four out of five refugees.[10]

In absolute terms, Turkey continued to host the largest number of refugees, with 3.6 million registered Syrian refugees under temporary protection in 2019. Pakistan, with 1.4 million, is the second-largest host for refugees with almost all originating from Afghanistan. This is followed by Uganda which hosts
1.3 million refugees, originating from countries like Burundi, the Democratic Republic of Congo, Rwanda, Somalia and South Sudan. Other countries which have received a high number of refugees[ii] include: Germany (hosting over 1.1 million refugees, half of whom originate from Syria); Sudan (with approximately 1.1 million, the majority of whom come from South Sudan); Iran (approximately 980 000, mostly Afghans); Lebanon (approximately 930 000, mostly Syrians); and Bangladesh (approximately 912 000, almost exclusively Rohingya from Myanmar).[11]

Number of refugees by top host countries globally, 2019

Turning from absolute numbers, a different pattern emerges when comparing the share of refugees to the population size of the host country. In relative terms, at the end of 2018, the top countries to host refugees were Lebanon (156 refugees per 1 000 inhabitants),[iii] Jordan (72) and Turkey (45).[12] All three countries are neighbouring Syria and this geographic proximity, independent of the host country's size, naturally facilitates access for large numbers of displaced Syrians who cross country borders in search of security.

As the number of displaced persons continues to grow globally, governments and international organisations are working to develop strategies to respond effectively, comprehensively and predictably to large refugee movements.[13] Complex challenges require more comprehensive, multifaceted, integrated responses that go beyond ad hoc interventions and connect political, developmental and humanitarian action to ensure that both refugees and host communities have adequate and sustainable support and protection.

By adopting the New York Declaration for Refugees and Migrants at the UN General Assembly in 2016, UN Member States expressed their solidarity with forcefully displaced persons; reaffirmed their obligation to respect the human rights of refugees and migrants; agreed that protecting refugees and assisting host countries is a shared responsibility to be borne in an equitable and predictable way; agreed to work together toward the development and adoption of a Global Compact on Refugees; and, most importantly, agreed on the core dimensions of a comprehensive mechanism for responding to large-scale refugee movements and protracted situations.[14] The New York Declaration set out key elements of the Comprehensive Refugee Response Framework, an integrated, holistic approach to refugee protection aiming to:

> Ease pressures on host countries;
> Enhance refugee self-reliance;
> Expand access to solutions in third country; and
> Support conditions in countries of origin for return in safety and dignity.[15]

In 2018, the Global Compact for Refugees was agreed upon by the UN General Assembly. Based on fundamental principles of humanity and solidarity, the global compact is supported by a diverse group of stakeholders to protect refugees and support host communities. The compact's Programme of Action sets out concrete measures for responsibility, from refugee reception and admission to addressing refugee needs and supporting host communities in a sustainable way.

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To monitor developments and review progress on the action plan, the first Global Refugee Forum took place in December 2019, bringing together governments, international organisations, local authorities, civil society organisations, the private sector, host community members and refugees.[17] The European Union was represented at the forum by various EU services as well as EASO, reaffirming their commitment to a multilateral response to forced displacement, working in partnership with EU Member States, other UN members, UNHCR and the UN family. Commissioners Lenarčič, Urpilainen and Várhelyi underlined the magnitude of EU efforts in helping refugees and host countries and asserted the ambition to continue and deepen EU engagement. The Commission, among others, announced continued support to resettlement in 2020, providing EU funding to support EU Member States to resettle around 30 000 refugees.

The forum provided a platform to exchange best practices, provide financial and technical support, and discuss policy changes to help reach the goals of the compact.[18] Key discussions at the forum centred around resettlement and complementary legal pathways to third countries, pressures on host communities, improved protection for refugees, integration, access to education for refugee children and the involvement of refugees in policy development.[19]

Emphasis was placed on the formal establishment of a number of regional refugee support platforms to further responsibility-sharing in regional contexts, anchored in pre-existing Comprehensive Refugee Response Framework (CRRF)-related initiatives, such as:

> The Comprehensive Regional Framework for Protection and Solutions (MIRPS) in Central America and Mexico;
>
> The Nairobi process in East Africa and the Horn of Africa facilitated by the Intergovernmental Authority on Development (IGAD); and
>
> The Support Platform for the Solutions Strategy for Afghan Refugees (SSAR).[20]

The forum also led to the establishment of the Asylum Capacity Support Group (ACSG) to support national asylum authorities in strengthening their systems in order to provide timely admission, reception, registration, documentation and identification of persons needing international protection.[21] ACSG serves as a platform to share expertise and experiences, where countries may request or offer capacity-building assistance.[22]

In October 2019, UN Secretary General Antonio Guterres announced the creation of a High-Level Panel on Internal Displacement to “increase global attention on and support for IDPs and to develop concrete recommendations to states, the UN and other stakeholders to improve the approach and response, with a particular focus on durable solutions”. With an initial 12-month mandate, the panel started its work in February 2020, focusing on all categories of IDPs, e.g. persons internally displaced in the context of armed conflicts, generalised violence, human rights violations, as well as disasters and the adverse effects of the climate change.

As new initiatives addressing forced displacement continue to surface globally, a wider range of themes are pushed to the forefront and complex aspects of displacement can be addressed within wider audiences. Two topics which attracted increased attention in 2019 are

statelessness and human mobility due to climate- and environment-related reasons.

Statelessness

The 1954 UN Convention relating to the Status of Stateless Persons defines a stateless person as someone “who is not considered as a national by any State under the operation of its law”.[23] A stateless person does not have the nationality of any country, whether born stateless or having become stateless later in life.

Nationality is the legal bond between a person and a state. International law establishes the right of every person to a nationality. States are free to regulate nationality, but this must be within the limits of international law (being non-discriminatory and non-arbitrary, avoiding statelessness, ensuring gender equality, etc.). Nationality is generally acquired at birth by descent *(jus sanguinis)* and/or place of birth *(jus soli)*, or later in life based on residence, marriage or adoption.

The UN Convention on the Rights of the Child, Article 7 establishes that every child has the right to a legal identity and to acquire a nationality,[24] and the 1961 UN Convention on the Reduction of Statelessness sets out detailed provisions for states to prevent statelessness.[25] Nonetheless, nationality laws vary significantly, do not always adhere to international standards and conflicts between the laws of different states can arise, leading to statelessness.

How does someone become stateless? Causes can include:

> Gender discrimination in nationality laws preventing women from conferring their nationality to their children on an equal basis with men;[26]
>
> Barriers to children born abroad acquiring a nationality from their parents, e.g. requirement to register with consular authorities but parent/s are refugees or unaware of the requirement; female-headed household but women are prohibited from conferring nationality to child born abroad; or inability to prove links to the state without possessing a birth certificate or identification;
>
> The emergence of new states and changes in borders, leading to administrative or legal barriers and gaps making it difficult for some people (particularly marginalised populations) residing in a new state to prove their entitlement to nationality;
>
> Discrimination toward ethnic, racial and religious minorities residing in a state, explicitly excluding them from nationality by law or failing to address barriers to prove entitlement to a nationality (e.g. lack of civil documentation);
>
> Loss of nationality because of a prolonged stay outside the country of origin (as foreseen in legislation in some countries) or deprivation of nationality on national security or other grounds (e.g. identity criteria);[27] and
>
> The lack of civil registration documents, including birth certificates, necessary to acquire or confirm nationality, creates additional risks of statelessness.

Stateless persons are considered to be particularly vulnerable since not being recognised as nationals by any state may leave them without any state protection. This exposes them to discrimination and unequal treatment because they may be denied access to education, health care, housing, employment, social welfare and documentation.[28]

Data by UNHCR[29] reported for 75 countries globally indicate a total of 3.9 million stateless people. Covering all countries, it is estimated that 12 million people around the world are stateless, although data collection is a significant challenge because most countries in the world do not report statistics on statelessness.[30] Most of the largest stateless populations in the world are in situ, so they have lived in the same place for generations. However, statelessness can also be a cause and a consequence of displacement.[31] Discrimination and a lack of access to rights may force stateless people to migrate internally or across borders.[32] A person may be both stateless and a refugee. Considering the significant obstacles they face in obtaining official travel documents and accessing regular migration pathways, stateless persons are more likely to cross borders irregularly.[33] Statelessness may also arise as a consequence of displacement due to lack of access to civil documentation (particularly birth registration and certification), inability to prove links to a country of (former) nationality, long-term residence abroad leading to a loss of nationality or conflicts in nationality laws.

While an often overlooked aspect of forced migration, statelessness gained more notice over 2019.[34] This is particularly pertinent to the area of asylum, since many displaced individuals originate from countries with large stateless populations, gaps or discrimination in nationality laws, or issues with access to civil documentation, meaning they or their children may have been stateless before they were displaced or have become stateless since. This has been seen, for example, in populations from Eritrea, Iran, Iraq, Somalia, Sudan and Syria.[35]

Despite the scale of the situation, many countries around the world do not have a comprehensive framework in place to deal effectively with statelessness.[36] In the context of the European region, research conducted by the European Network on Statelessness (ENS) revealed a number of challenges associated with statelessness and displacement and identified adverse consequences that stateless persons may face in five areas of the asylum process:[37]

- Failure to identify and register statelessness on arrival leads to registration with imputed or ‘unknown’ nationality.
- Statelessness being missed or inadequately addressed in international protection procedures may lead to delays or a higher risk that protection is refused.
- Statelessness being missed or inadequately addressed in international protection procedures may increase the risk of prolonged or arbitrary detention, especially in removal proceedings as no country can be found to which stateless persons can be returned.
- Issues with nationality being missed or inadequately addressed heightens the risk of children being born stateless in Europe if they are unable to establish nationality through their parents and the countries in which they are born lack adequate safeguards. In addition, countries of origin may not be willing to re-admit a child who is not a national following the rejection of an application when return is considered in the best interests of the child.

Stateless people cannot meet the requirements for naturalisation due to a general lack of documentation, including identity documents and permanent residence permits (often being required to apply for naturalisation) or there is no facilitated route to naturalisation for stateless people.

Awareness-raising, especially among policymakers and asylum officials, on the nuances of statelessness and its implications for the asylum procedure is important to trigger changes to existing policies and define specific action to respond more effectively to the situation. Indisputably, addressing the diverse challenges surrounding statelessness in the context of asylum is not straightforward, but guidance is available[38] and good practices exist to draw from in some European States.[39] The UNHCR Handbook on Protection of Stateless Persons 2014 affirms that stateless persons may have protection needs and need to have access to the asylum procedure. Where available, stateless persons should be referred to a dedicated statelessness determination procedure within international protection proceedings (i.e. after a final decision has been made on any asylum application) to have their status determined. Even if a stateless person is granted another form of protection, the statelessness determination procedure will ensure that, should that protection cease in the future, the person will still receive protection as having been determined to be stateless.[40]

The Council of the European Union adopted its first Conclusions on Statelessness in December 2015, highlighting the importance of nationality as a fundamental right and drawing on international human rights law and the Treaty on the Functioning of the European Union (TFEU). The Council underlined the precarious situation of stateless persons who are often excluded from participating in economic, social and political life in their host states or in their states of birth. It reiterated the commitment in the EU's Action Plan on Human Rights and Democracy (2015-2019) to address statelessness in relation to priority countries and focus efforts on preventing the emergence of stateless populations as a result of conflict, displacement and the dissolution of states.[41]

In addition, the Council's Conclusions tasked the European Migration Network (EMN) to establish a dedicated platform to exchange information and good practices and raise awareness about statelessness. The platform brings together all relevant stakeholders in the field: representatives of Member States, the European Commission, the European Parliament, European agencies, international organisations and NGOs.[42]

The UN General Assembly has entrusted UNHCR with a global mandate for the identification and protection of stateless persons, and the prevention and reduction of statelessness. In October 2019, an international High-Level Segment on Statelessness marked the mid-point of the #IBelong campaign, an initiative launched by UNHCR in 2014 to end statelessness by 2024. The event reviewed the achievements made to date on the 10 goals of the Global Action Plan to End Statelessness, which aims to resolve existing situations of statelessness, prevent the emergence of news and enhance identification and protection of stateless people.[43] The conference provided an opportunity for stakeholders to showcase good practices, and states were encouraged to commit concretely by changing legislation, policy and practices.[44], [45] As a result of these efforts, a total of 358 pledges were made to address statelessness in the remaining next five years of the campaign. 252 of these pledges were made by 66 States and 106 pledges by 33 international/regional organisations and civil society organisations. Since the launch of the

campaign, 19 countries have acceded to one or both of the United Nations Statelessness Conventions; 2 countries removed gender considerations from their nationality laws; 11 countries introduced statelessness determination procedures; and 11 countries took concrete steps to resolve protracted situations of statelessness.[46]

Emerging discussions on climate- and disaster-related displacement and protection

While displacement and migration due to the impacts of the climate, the environment and disasters are not new phenomena, they are gaining a more central place in humanitarian and developmental policies and legislative discourses. Population displacement may also come as a consequence of or be amplified by long-term changes to local environments, often as a result of climate change and/or environmental degradation, which may limit the availability of natural resources or may even render certain areas uninhabitable.

The growing recognition of the impact of environmental factors on human mobility has triggered discussions on policy frameworks, both at the regional and global levels. In addition, competition over depleted natural resources may instigate inter-group conflict or compound pre-existing vulnerabilities.[47] These conditions place affected populations in a vulnerable position in need of substantial support. The EU is instrumental in financing assistance to cover the immediate needs of displaced persons, while also supporting efforts to boost resilience, prevention and preparedness.

In 2018 and 2019, large-scale displacement triggered by climate and weather-related hazards occurred in many parts of the world, including in China, India, Mozambique, the Philippines and the United States of America.[48] According to data on conflict-related and disaster-related internal displacements collected by the Internal Displacement Monitoring Centre (IDMC) since 2008, there are more people who are newly displaced within their own country due to natural disasters in any given year compared to those newly displaced by conflict and violence.[49] A large qualitative difference, however, is that people displaced by disasters are often associated evacuated quickly in a relatively safe and orderly way.[50]

Most disaster-related displacement is ‘internal’, so affected populations remain mostly within national borders. However, displacement across state borders does take place as well and may interplay with situations of conflict or violence.[51] This nexus between environmental degradation, disasters and other drivers of displacement – such as human rights abuses, non-inclusive governance and conflict – was explicitly acknowledged both in the New York Declaration for Refugees and Migrants and in the Global Compact on Refugees as a matter of growing concern.[52]

A fundamental challenge in identifying concrete solutions is that, while there are policy frameworks related to global climate change and other environmental stressors triggering human mobility,[53] no legal definition exists for persons displaced due to environmental reasons, and derivatively, what the criteria are for one to qualify as such. A challenge regarding persons displaced solely by the effects of climate-related disasters and natural hazards and who cross international borders is that they do not generally become refugees under the definition of the 1951 Geneva Convention. In such cases, however, other normative frameworks may apply to

address protection needs, including international human rights law, regional instruments and, in some cases, national legislation. In cases where displacement occurs as a result of natural disasters or climate-related factors, interlinked with conflict or persecution, the provisions of the 1951 Geneva Convention may also apply.

A number of efforts at the international level have emerged to bring solutions to protect environmentally-displaced persons. In its Strategic Directions for 2017-2021, UNHCR set as one of its key objectives to "contribute to advancing legal, policy and practical solutions for the protection of people displaced by the effects of climate change and natural disasters, in recognition of the acute humanitarian needs associated with displacement of this kind, and its relationship to conflict and instability".[54]

Similarly, the Global Compact for Safe, Orderly and Regular Migration lists among its key objectives the need to address the adverse effects of natural disasters, climate change and environmental degradation on persons affected by them.[55] The Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change is another large-scale international initiative to enhance understanding, develop a conceptual framework and identify effective practices for strengthening the protection of cross-border, disaster-displaced persons.[56] The agenda, which supports the integration of effective practices by states and regional organisations into their own normative frameworks, was first developed through the Nansen Initiative launched by Norway and Switzerland. It is now managed by the Platform on Disaster Displacement, a state-led initiative, of which the EU is a member.

Some EU+ countries have actively participated and contributed to these initiatives. While the European Commission does not currently include displacement due to climate disasters in the definition of a refugee, the issue has regularly given rise to questions in the EU Parliament.[57], [58], [59], [60]

Turning from migration due to climate disasters to climate change, it is important to note that protection grounds in international and European laws are not applicable to displacement due to climate change. However, Member States may decide to grant national forms of protection or legal stay, in accordance with domestic law, should the return of people displaced by the effects of climate change expose them to life-threatening risks (the International Covenant on Civil and Political Rights (ICCPR), Article 6) or to a risk of facing cruel, inhuman or degrading treatment (ICCPR, Article 7).

For the first time in January 2020, the UN Human Rights Committee ruled on a complaint by a Kiribatian national who was denied asylum in New Zealand due to the effects of climate change. The Committee stated that countries may not deport individuals who face climate change-induced conditions that violate the right to life. The Committee highlighted the role that the international community must play in providing support to countries adversely affected by climate change, stating that the situation may trigger non-refoulement obligations on the part of receiving states.[61]

When accurate data are collected more extensively on statelessness and environmental

displacement, an interlinkage between the two may start to emerge. It has been projected that statelessness may also become a consequence of certain states losing their territory or having their territory become uninhabitable due to climate change.62 Unless the territory is ceded by another country, the affected country's statehood would cease and the population would be rendered stateless.63 Apart from the populations directly affected, this will likely present a significant challenge for the international community, as the international legal regime on statelessness does not nominally apply to such situations.64

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[i] It is important to note that UNHCR uses the term 'refugee' to refer, not only to people who have been formally granted refugee status, but to all people under the UNHCR mandate and of concern to UNHCR, including people who have fled war, violence, conflict or persecution and have crossed an international border to find safety in another country (as defined in the 1951 Convention on the Status of Refugees and other legal acts, such as the 1969 Organization of African Unity (OAU) Refugee Convention in Africa and the 1984 Cartagena Declaration in Latin America). This notion differs from the one used by Eurostat to estimate the number of refugees which covers only individuals who have been formally granted international protection.

[ii] UNHCR defines the category 'refugees' as: "Persons recognised as refugees under the 1951 UN Convention/1967 Protocol, the 1969 OAU Convention, in accordance with the UNHCR Statute, persons granted a complementary form of protection and those granted temporary protection. In the absence of government figures, UNHCR has estimated the refugee population in many industrialised countries based on 10 years of individual asylum seeker recognition."

[iii] This figure excludes Palestinian refugees living in Lebanon under UNRWA's mandate.

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