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4.1. Access to procedure

The section on Access to procedure gives an overview about the relevant law, policy and case law changes and points out the related concerns mentioned in civil society organisations inputs. It is divided into three thematic parts: access to territory, access to asylum procedure and relevant court proceedings.

Effective access to the asylum procedure is essential in ensuring that persons in need of international protection can exercise the rights to which they are entitled. It entails that individuals seeking protection can reach the authorities of the Member State and are granted access to a fair and efficient process for the assessment of their application. Access to procedure is based on a three-step approach: a) making an application, at the moment a person expresses their will to receive protection in an EU+ country; b) registering an application, when authorities register officially the application and inform applicants about their duties and obligations; and c) lodging an application, when applicants submit all elements at their disposal in order to substantiate their claim. Lodging triggers the timeline for examining an application.

In 2018, as a general trend, EU+ countries introduced a number of changes in the first steps of the procedure with the aim of eliciting as much information from applicants as possible at an early stage. These changes concerned the establishment of arrival centres, introduction of new technologies for better identification, and extended obligations for applicants to cooperate with authorities and provide necessary documentation at an early stage of the procedure. Such changes were also accompanied by the provision of more information about the process to the applicants, including information on voluntary return.

At the same time, the debate on the disembarkation of migrants rescued at sea in the Mediterranean raised fundamental questions about a systemic EU-wide approach to safe and effective access to procedure for persons rescued at sea.

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Access to territory

In principle, an application for international protection can only be submitted to the national authorities within a country’s territory or at its border. Throughout 2018, several EU+ countries continued to use temporary reintroduction of border control (when necessary) at internal

Schengen borders. [256]

In addition, the question of effective access to a territory was prominently raised through the issue of search and rescue (SAR) ships carrying migrants on board in the Mediterranean seeking a port for disembarkation. On a number of occasions during 2018, debates emerged in regards to what the competent SAR authority is, given the location that boats carrying migrants were intercepted by search and rescue boats. Subsequently, Member States have refused boats carrying rescued migrants to dock on their ports or have only allowed this after significant delays or after the expressed commitment of other Member States that they would host the migrants concerned through ad hoc relocation agreements. Moreover, a decrease in search and rescue operations by European state vessels in the Libyan Search and Rescue Region, coupled with restrictions in the operations of NGO vessels,[257] meant that some boats carrying migrants from Libya travelled for more than 100 miles to either land directly to Malta or Italy or be rescued in the two countries' respective search and rescue areas.[258] This increased the time migrants spent at sea, as well as the risk that such a journey entails.[259] The European Commission, in the light of these developments, took steps to coordinate action toward safe disembarkation and relocation of migrants rescued at sea. While decisions made by individual governments to allow disembarkation or participate in the relocation of disembarked migrants to their territory were welcome by the EU Commission, civil society, and UNHCR alike,[260] these incidents highlighted the need for a more coordinated approach to disembarkation on a European scale.[261] [262]

Overall, various concerns were raised by civil society actors in a number of EU+ countries with regards to effective access to territory, including the occurrence of pushbacks on the border. Civil society organisations reported instances of pushing back persons trying to cross the border from Bulgaria to Greece and from Bulgaria to Turkey.[263] In **Croatia**, reports of pushbacks[264] have triggered a request on the part of the Ombudswoman for an investigation.[265] In **France**, person trying to access the country's territory have been reportedly refused entry both at the borders with Italy[266] and at the borders with Spain,[267] on the basis of an argument that these two countries are responsible for examining the applications of people trying to cross the respective borders, without them being placed under the procedure foreseen by the Dublin Regulation.[268] A high number of arrests at the French-Italian border have been reported, which seem to have had an effect on shifting migratory routes toward increasingly dangerous routes on the mountains.[269] In **Hungary**, a total of 4 151 individuals have been reported to have been pushed back; these persons were escorted back to the outer side of the Hungarian-Serbian border.[270] Through a number of publications, UNHCR has raised a critical voice vis-a-vis legislation and practices adopted by the Hungarian government, which have progressively introduced restrictive measures limiting access to the country's territory and to the asylum procedure.[271] Moreover, in the course of 2018, the **Italian** government has delayed or hindered access to territory to individuals rescued at sea, potentially including applicants for protection. In **Poland**, pushbacks have been reported at the Terespol border crossing point, even in cases that the individuals concerned expressed their intention to apply for protection.[272] In **Spain**, obstacles for potential applicants for protection in accessing territory have been mostly reported regarding the borders at Ceuta and Melilla.[273] [274] Reported cases concern refusal of entry, collective expulsions, and pushbacks.[275] At the end of August, the Spanish government evoked

a readmission agreement, signed with Morocco in 1992, to return 116 migrants from sub-Saharan countries to Morocco. The implementation of this agreement led to a decrease in the number of arrivals in the border fences.[276] Moreover, a lack of coordination among competent authorities was noted in regards to arrivals on the Andalusian shores, while obstacles were identified in the provision of information on the right to apply for protection.[277] In **Switzerland**, it was reported that, albeit fewer than in previous years, people -including potential applicants for asylum- were refused entry and were prevented from applying by Swiss Border Guards at the border with Italy.[278] The authorities noted that the vast majority of irregular migrants apprehended at the Swiss-Italian border by the Swiss Border Guards in 2018 did not want to apply for protection in the country and these persons were readmitted to Italy in the framework of the Swiss-Italian readmission agreement.

In its annual review of the situation of fundamental rights on migrants and refugees in the EU, the Fundamental Rights Agency (FRA) highlighted, among others, a number of findings regarding issues of access to territory: despite a significant decline in the number of people arriving in Europe, the number of refugees and migrants attempting the journey remained high; rescue boats operated by civil society actors faced serious difficulties in docking and disembarkation, which put an additional risk to the safety of persons concerned; and at the external and internal borders a number of incidents of unlawful refusal of entry and mistreatment were reported.[279]

Similarly, in its publication 'Desperate Journeys: Refugees and migrants arriving in Europe and at Europe's borders',[280] UNHCR offered a review of trends in 2018 in regards to routes taken by refugees and migrants heading toward Europe, presenting areas of concern, such as the reduction of search and rescue capacity in Europe, and the need for safe disembarkation and effective relocation of people in need of protection. Regarding access to territory and asylum procedures, the publication offers a number of recommendations for European states:

> - enhancing of identification of individuals with protection needs at borders and provision of effective access to asylum procedures, including for individuals arriving irregularly;
>
> - ending ‘push-back’ practices;
>
> - making use of accelerated and simple asylum procedures, in cases of mixed movements, to swiftly distinguish between individuals in need of protection and individuals with no such need, who can be channelled into return procedures;
>
> - facilitating timely returns, in safety and dignity, of those not in need of protection or with no compelling humanitarian needs.In 2018, the European Council on Refugees and Exiles (ECRE) published a comparative report on access to protection in Europe, with a focus on access to territory, exploring domestic frameworks and practices across 23 countries. The report offers a discussion on the legal standards and safeguards pertaining to procedures of refusal of entry at the border, and the obstacles to access to the territory for the purpose of seeking asylum.[281]

Finally, since January 2018, Frontex has considerably enlarged the scope of its data collection from Member States, which now includes data on individuals arriving at the external borders

disaggregated by age and sex. This allows Frontex to compile more comprehensive and tailored risk assessments, effectively identify vulnerable groups, and develop targeted operational responses.[282] The Frontex Risk Analysis for 2019 report offers an analysis of trends on areas related to migratory flows on the external borders of the EU.

Access to the asylum procedure

As mentioned at the beginning of this section, a general trend in regards to access to procedure, observed in 2018, was a shift toward eliciting as much information from applicants as possible at an early stage of the procedure, with an eye on ensuring that applications are processed swiftly, comprehensively, and in an increasingly informed way. Changes introduced in **Germany** and **Belgium** stand as illustrative examples of this general trend. In **Germany**, in an effort to standardize existing procedures, arrival centres (Ankerzentren) were set up nationwide, bringing together all key actors involved in the asylum procedure 'under one roof'.[283] These include, the reception authorities of the respective länder, the Federal Office for Migration and Refugees, the immigration authorities, administrative courts, youth welfare offices and the Federal Employment Agency. The process will include identification during registration, provision of procedural and legal consulting, consulting on return option, provision of introductory orientation courses, and review of first instance decision by an administrative court. Until the end of the asylum process, all applicants are to stay in the Anker facilities. An open accommodation concept allows persons seeking protection to leave the facility at any time. However, applicants will not be distributed to cities and towns until a protection status has been granted. In **Spain**, the authorities allocated more resources to manage irregular arrivals - in an effort to respond to their increasing number - and to conduct identification of person's vulnerabilities at an earlier stage. New specific facilities for emergency and referral were put in place, comprising the Centres for the Temporary Reception of Foreigners and the Centres for Emergency Reception and Referral.[284] UNHCR pointed to the need for enhancing coordination among authorities involved in these centres through the development of specific standard operating procedures for the adequate identification and referral of persons with specific needs.[285] Moreover, despite these very positive measures, further efforts are needed to guarantee identification of persons with international protection needs and ensure their access to the asylum procedure upon arrival, as challenges persist. In this context, UNHCR has deployed two teams in the field with the purpose of supporting authorities to promote identification of international protection needs among people arriving by sea, access to information on international protection and access to procedures. To this end, UNHCR has signed a partnership with the Spanish Commission on Refugee Aid (CEAR) to provide information on international protection.[286]

In **Belgium**, until December 2018, the application process took place at the premises of the Immigration Office. Since then, all applications for international protection – not made at the external border, in a closed facility or in prison - are registered in a temporary arrival centre at 'Le Petit- Château/ Klein Kasteeltje' , an existing reception centre whose function has been adapted, in Brussels (pending the completion of the formal arrival centre in Neder-Over-Heembeek). A new, harmonised procedure for all applicants has been put in place, including

registration of the application, identification, security screening, medical examination, social intake and allocation to a reception centre. Applications made at the border, in closed facilities, or in penitentiary institutions are transferred to the Immigration Office. Toward the same direction of optimising and streamlining access to procedure were the legislative amendments to the Law of 15 December 1980 on the Entry, Residence, Settlement and Removal of Foreign Nationals and the Law of 12 January 2007 on the Reception of Asylum Seekers and Certain other Categories of Foreign Nationals, which entered into force in March 2018. The amendments introduced the concept of making, registering and lodging an application for international protection as described under Article 6 of the recast APD. As a main rule, a foreign national needs to make an application at the Immigration Office in Brussels as soon as possible and within eight working days after arrival in Belgium. The Immigration Office, then, has to register the application within three working days (which can be extended to ten working days in exceptional circumstances). The Immigration Office provides applicants the possibility to lodge their application either immediately after registration or invites the applicant to lodge their application as soon as possible within 30 days from making the application. In addition, it is foreseen that in the framework of the duty to cooperate, applicants have to submit as soon as possible all information, documents or other elements concerning their identity, nationality, age, the reason for applying for asylum and the travel itinerary. If there are good reasons to assume that the applicant withholds relevant information, documents or other elements which are essential for the assessment of the asylum application, the applicant can be invited to submit these elements without delay, whatever the information carrier is. The refusal of the applicant to submit these elements without satisfactory justification can be considered as an indication of the refusal to comply with the duty to cooperate. The originals of national or international identity documents can now be also retained during the asylum procedure and the amendments clarify the rules for returning these documents.

Legislative changes regarding access to the asylum procedure were also introduced, in the course of 2018, in **Austria**. The Aliens Law Amendment Act 2018 [287] introduced the provision that an adult's application for international protection now also applies to each of their minor children residing in Austria, without any other type of residence right. When a child is born in Austria with a third-country citizenship after their parents have already applied for asylum, the application for international protection is considered to be lodged on the child's behalf by registering the birth or by informing the BFA of the child's birth. In addition, in an effort to elicit information about an applicant’s identity and the facts surrounding their situation, through the new Act, the Federal Agency for Immigration and Asylum (BFA) and law enforcement authorities are now authorised to seize and evaluate the content of applicants’ data carriers in order to establish their identity, nationality, and travel route, in cases where these cannot be established on the basis of existing evidence. In **Poland**, a draft Act on amending the Act on granting protection to foreigners, which is still pending at the relevant Ministry, aims at introducing into Polish national law a border procedure for examining application for protection.[288]

In **France**, the law of 10 September 2018 reduced the time limit to make an application under the normal procedure on the territory to 90 days from 120 days. Beyond this time limit, the application is considered a late application and is examined under the accelerated procedure. [289] In **Finland**, in December 2018, an amendment proposal for the Aliens Act[290] was submitted

to the parliament, which, among others, puts forward new provisions concerning the seizure of an applicant's travel documents.

A number of EU+ countries also introduced **practical changes** in the area of access to procedures in 2018, with an eye to the optimisation of the process. In **Sweden**, since 1 February 2018, the Swedish Migration Agency processes new asylum applications digitally, which means that all information in an asylum case is available in the Agency's IT-system for case management. In **Norway**, the Norwegian National Police Immigration Service now creates automated analytical reports during asylum seekers' arrival phase in order to expose human smuggling and human trade related crime. In April 2018, the **UK** Home Office published a new guidance on asylum screening and routing, which detailed the registration process for applications for international protection. The updated document includes additional guidance on the conduct of security screening. In **Latvia**, the national asylum information registers and systems were further optimised and digitalised, including the facilitation of the information flow for the purposes of appeal.

In **Spain**, due to the increase in the number of applications, the police has become the main actor receiving applications. In practice, this has presented challenges in regards to the quality of the first interviews.[291]

In **Cyprus**, in order to address challenges associated with the increased number of applications received, where necessary, applicants were provided with a confirmation of a 'making' of an application so that they are able to access their rights, as provided for in the Cyprus Refugee Law. This practice was especially applied in the District Immigration Office in Nicosia, where most of the applications for international protection are submitted. This note served as a measure to prevent apprehension and deportation, while access to rights remained compromised.

Moreover - following developments in legislation -, practical changes were also introduced toward establishing applicants' identity at an early stage and collecting information surrounding their case in a comprehensive way. In **Germany**, BAMF started using four comprehensive tools to assist decision-makers to establish the identity of the applicants: information from electronic information carriers (extraction from mobile devices), biometric language analysis, a technical system for the transcription of names, and a system for facial recognition. In **Finland**, the Finnish Immigration Service and the National Police Guard started the joint implementation of the MISEC project, having the following objectives: enhancing co-operation and information exchange between the immigration and security authorities; improving methods for establishing the identity and background of applicants for protection, residence permit and citizenship; developing methods for identifying applicants, who may pose a security risk; and exploring technological tools to support these functions.

Finally, in **Belgium**, in November 2018, the then State Secretary of Asylum decided to limit the number of applications to be registered per day to 60, which was soon revised to 50. However, after changes in the composition of the governing coalition, the new minister for Asylum and migration policy decided to end this limit, in December 2018. In addition, on 20 December 2018,

the Council of State ruled against the limitation of the number of applications to be registered per day,[292] recalling that the right to seek asylum is a fundamental right and stating that such measures make it 'unreasonably difficult for people to have effective access to the procedure for recognising refugee status or granting subsidiary protection'.

Despite positive steps toward optimising access to the asylum procedure, a number of concerns were raised by civil society actors, especially in regards to practical obstacles in accessing the procedure effectively and within reasonable time. In **France**, applicants have been reported to be facing difficulties in accessing the orientation platform for asylum seekers (PADA). In Ile de France, as of May 2018, the French Office of Immigration and Integration (OFII) has introduced a telephone appointment system through which applicants obtain an appointment to appear before a PADA, which then makes an appointment to them with the 'single desk' to register their application. The system does not always operate smoothly with applicants reportedly trying to call several times with no success or waiting for prolonged periods on hold before speaking to OFII representatives. Calls are charged at a standard rate, which is a cost for applicants, taking into consideration that their applications have not been registered yet, thus they have no access to reception conditions.[293] In **Hungary**, throughout 2018 it was still only possible to apply for protection in the transit zones, while all applicants, with the exception of UAMs below the age of 14, have to remain in the transit zone throughout the duration of the asylum procedure, in a situation that has been described as *de facto* detention.[294] In **Italy** and **Spain**, it has been reported that due to current practices in handling requests for appointment and prolonged waiting times for lodging applications, applicants at times sleep in front of the premises of the competent authorities so that they can early access the morning after.[295] [296] In Spain, such delays in the lodging of an application means that applicants cannot obtain a foreigner's ID and a city certificate, which prevents them from accessing reception conditions, such as healthcare and education.[297]

In the light of the judgement by the European Court of Human Rights in the case of Sharifi and Others v Italy and Greece, **UNHCR** made a submission concerning the execution of the judgement in **Italy**. In this document, UNHCR raises a number of concerns in regards to legal and practical issues relating to the effective presence of NGOs at border crossing points (BCPs), insufficient provision of information, gaps in cultural mediation/interpretation, shortcomings regarding the identification of persons with specific needs.[298]

In **Greece**, regarding access to the asylum procedure it was reported that in the mainland, especially in the Regional Asylum Office (RAO) in Attica, delays occur in the full registration of applications.[299] In addition, from the moment an NGO sends a request to the competent RAO, until the day of full registration, no official document, serving as proof of submission of an application, is issued.[300] It was noted that the Skype system, which is in place to facilitate the registration of applications is almost unavailable for individuals speaking Arabic, Sorani, and Kurmanji, with the result being that bona fide applicants may be at risk of arrest or detention due to absence of the needed documents.[301] In **France**, Safe Passage and Medicines Sans Frontieres reported delays for UAMs to access the asylum procedure, largely caused by delays in the appointment of a representative.[302]

In regards to access to procedures in transit areas or 'international zones' at airports, in January 2019, **UNHCR** published a paper presenting legal considerations on state responsibilities for persons seeking international protection in those areas. The paper sets out key legal considerations, occurring in such contexts, based on international refugee and human rights law on the right to seek and enjoy asylum, the principle of *non-refoulement*, and the issues of non-penalisation for irregular entry.[303]

The European Council on Refugees and Exiles (ECRE) published, in 2018, a comparative report on registration practices across a number of EU countries and Turkey, and discusses legal and practical aspects of registration of asylum claims on the territory of European countries, with a focus on: responsible authorities and content of information collected; locations of registration; time limits; and documentation.[304]

Finally, the European Network on Statelessness, highlighted a number of issues of concern in regards to the identification and registration of stateless individuals in several EU+ countries.[305] The Network pointed to a lack of systematic procedures and guidance in identifying and registering stateless individuals on arrival, with the consequence being that these individuals are registered with imputed or 'unknown' nationality. Among others, this may have significant implications for their asylum claims, access to family reunification, access to integration including education, and return procedures. In 2018, members of the Network reported issues with the identification of statelessness, among others, in **Cyprus**, **Greece**, **Kosovo**, the **Netherlands**, **Serbia**, **Slovakia**, and **Sweden**.[306] This is largely attributed to limited awareness of issues surrounding statelessness among officials and lack of standard statelessness determination procedures. Similarly acknowledging the need for addressing limitations in this area, In April 2018, in a recommendation to the European Union on the EU Multiannual Financial Framework 2021-2027, UNHCR called the EU to support the establishment of procedures for the determination of statelessness and the inclusion of stateless persons as a beneficiary group in all EU funded integration and social cohesion programmes.[307]

Court proceedings regarding access to territory and access to procedure

In regards to access to territory and access to procedure, a number of judgements were issued in the course of 2018 both at European and at national levels. This section presents some indicative examples of such jurisprudence.[308]

The European Court of Human Rights ruled on several related cases.[309] In the case *A.E.A.* v *Greece*, the European Court of Human Rights (ECHR) ruled on the case of a Sudanese national who arrived in Greece in 2009 and to whom an automatic expulsion order was issued, preventing him from having access to the asylum procedure. His application was finally registered in 2012 but rejected a year later, so he left to France. The Court, on 15 March 2018, ruled that the possibility to lodge an asylum application in practice is a prerequisite for the effective protection of those in need of international protection. If access to the asylum procedure is not guaranteed by the national authorities, asylum seekers cannot benefit from the procedural safeguards and can be arrested and placed in detention at any time. Lack of access to the asylum procedure due to the deficiencies in Greek asylum system violated the applicant's

fundamental rights. The fact that he left Greece for France cannot affect the situation.[310] On 18 April 2018, the ECHR held a hearing on the case of Ilias and *Ahmed v Hungary,* concerning the border-zone detention for 23 days of two Bangladeshi asylum-seekers as well as their removal from Hungary to Serbia. The applicants allege in particular that the 23 days they had spent in the transit zone amounted to a deprivation of liberty which had no legal basis and which could not be remedied by appropriate judicial review. In its Chamber judgment on 14 March 2017, the Court had held, unanimously, that there had been a violation of Article 5(1) and (4) (right to liberty and security) of the Convention, finding that the applicants' confinement in the Röszke border-zone had amounted to detention, meaning they had effectively been deprived of their liberty without any formal, reasoned decision and without appropriate judicial review.[311] On 26 September 2018, following a request from Spain, the European Court of Human Rights held again a hearing in the case of N.D. and *N.T. v Spain*, concerning the immediate return to Morocco of a Malian and an Ivorian national, who attempted in August 2014 to enter Spanish territory illegally by scaling the fences which surround the Melilla enclave on the North African coast. The Court had ruled earlier in October 2017 that practices at the Spanish-Moroccan border are in violation of Article 4 Protocol 4 (Prohibition of Collective Expulsions) and Article 13 (Right to an Effective Remedy) of the European Convention on Human Rights.[312] With the above-mentioned appeal lodged by the Spanish state, the case is currently pending final decision.

At national level, as mentioned earlier in this section, in **Belgium**, on 20 December 2018, Council of State ordered the suspension of the implementation of the decision of the Belgian Secretary of State for Asylum and Migration, limiting the number of applications for international protection to be registered by the Immigration Office to 50 per day. The ruling underlined especially that the decision makes it excessively difficult to exercise the fundamental right of having effective access to the procedure for obtaining international protection.[313] In **Poland**, the Supreme Administrative court delivered a number of judgements regarding refusals of entry at the country's external borders. In seven of those cases, the foreigners were represented by the Helsinki Foundation for Human Rights. In all seven cases, the Court revoked the decisions to refuse entry highlighting procedural omissions by the Polish Border Guard. The Court held that a memo issued by a Border Guard officer indicating 'economic purposes' as the reason for refusing entry to a third-country national cannot constitute sufficient evidence on the basis of which entry is denied. It also stated that it is not correct to deprive third-country nationals of the right to be assisted by their lawyers, who appear at the border at the time of border check. Subsequently, the Commissioner for Human Rights called upon the Ministry of Interior and Administration to introduce legislation implementing the case law of the Supreme Administrative Court.[314] In **Italy**, in the case *Appellant v Ministry of Interior (Questura di Pordenone)*, the Court of Trieste ruled on a case, where the Police Headquarter of Pordenone refused to register an application for international protection, because they considered themselves not responsible for registering applications and because the applicant did not provided information about his autonomous accommodation. The Court ruled that, according to the Directive 2013/32/EU, a Member State has to provide for the registration of an application no later than six days. This holds also for applications made before national authorities that are not competent to proceed with the registration of the application under national law. In addition, the court ruled that there is no need to give information about autonomous accommodation when submitting a request of

asylum, since once the application is lodged the applicant is entitled to material reception provided by the Member State.[315]

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256 For a comprehensive overview of temporarily reintroduced border controls and related legislation and documents, see: European Commission DG Home, Overview on Temporary Reintroduction of Border Control.

257 In a piece it published on the issue, the Fundamental Rights Agency (FRA) expressed concerns over the recent trend toward criminalizing search and rescue operations carried out by non-governmental organisations, pointing to the delicate distinction between real smugglers and those enforcing the human rights imperative of saving lives at sea. European Union Agency for Fundamental Rights (FRA), Fundamental Rights Considerations : NGO Ships Involved in Search and Rescue in the Mediterranean and Criminal Investigations, Oct 2018.

258 UNHCR, Desperate Journeys: January – December 2018; Refugees and Migrants Arriving in Europe and at Europe's Borders.

259 On this issue UNHCR called on all countries in the area to allow civilians fleeing Libya (Libyan nationals, former habitual residents of Libya and third-country nationals) access to their territories: UNHCR, UNHCR Position on Returns to Libya - Update II, September 2018; An open letter, signed by a number of NGOs, raising critical concerns and requesting timely disembarkation arrangements for rescued survivors in the Mediterranean, was sent in February 2019 to the Ministers of Justice and Homa Affairs of the EU Member States: HRW, Open NGO Letter to EU Member States' Ministers of Justice and Home Affairs.

260 UNHCR, UNHCR Malta Welcomes Decision to Allow Disembarkation; UNHCR, UNHCR thanks Spain for its solidarity with the refugees, at a critical moment for its future (in Spanish).

261 The related proposal for the development of temporary arrangements is presented in Chapter 1, Section 1.3

262 The need for the establishment of an effective mechanism for the disembarkation and processing of people rescued at sea has been highlighted by UNHCR in a number of publications, including recommendations to the Austrian and Romanian Presidencies of the Council of the European Union: UNHCR, UNHCR's Recommendations to the Federal Republic of Austria for Its Presidency of the Council of the European Union (EU); UNHCR, UNHCR's Recommendations for the Romanian Presidency of the Council of the EU.

263 AIDA, Country Report Bulgaria 2018 Update, p. 19.

264 See for example UNHCR, Desperate Journeys: January – December 2018; Refugees and Migrants Arriving in Europe and at Europe's Borders, footnote 66; Save the Children, Hundreds of Children Report Police Violence at EU Borders; HRW, Croatia: Migrants Pushed Back to Bosnia and Herzegovina.

265 AIDA, Country Report Croatia, 2018 Update, p. 24. According to the Croatian Ministry of the Interior, the alleged push backs were investigated by police supervisors and internal investigators and no grounds were discovered for these cases.

266 Forum Réfugiés - Cosi, Input to the EASO Annual Report 2018, contribution not disclosed.

267 Forum Réfugiés - Cosi, Input to the EASO Annual Report 2018, contribution not disclosed.

268 AIDA, Country Report France, 2018 Update.

269 Forum Réfugiés - Cosi, Input to the EASO Annual Report 2018, contribution not disclosed.

270 AIDA, Country Report Hungary, 2018 Update.

271 UNHCR, UNHCR Observations on the Legislative Amendments Adopted in Hungary in June & July 2018; UNHCR, Hungary: UNHCR Dismayed over Further Border Restrictions and Draft Law Targeting NGOs Working with Asylum-Seekers and Refugees; UNHCR, UNHCR Calls on Hungary to Withdraw the Draft Law on Refugees (in Hungarian).

272 According to the Belarussian NGO Human Constanta, in the period between October and December 2018 alone, at least 1239 attempts have been made to submit applications for international protection at the Polish border post in Terespol, and only 110 of them were successful. Helsinki Foundation for Human Rights, Input to the EASO Annual Report 2018.

273 Ombudsman of Spain, Input to the EASO Annual Report 2018.

274 CoE Secretary General's Special Representative on Migration and Refugees: Despite Challenges in Managing Mixed Migration Spain Should Guarantee Effective Access to Asylum Also in Melilla and Ceuta.

275 AIDA, Country Report Spain, 2018 Update.

276 Spanish Commission on Refugee Aid / Comisión Española de Ayuda Al Refugiado CEAR, Input to the EASO Annual Report 2018.

277 Spanish Commission on Refugee Aid / Comisión Española de Ayuda Al Refugiado CEAR, Input to the EASO Annual Report 2018.

278 Asylex, Switzerland, Input to the EASO Annual Report 2018.

279 European Union Agency for Fundamental Rights (FRA), Beyond the Peak: Challenges Remain, but Migration Numbers Drop.

280 UNHCR, Desperate Journeys : January – December 2018; Refugees and Migrants Arriving in Europe and at Europe's Borders.

281 ECRE, Access to Protection in Europe. Borders and Entry into the Territory.

282 Frontex, Risk Analysis for 2019.

283 BAMF, Press release : Launching the AnkER facilities (in German).

284 AIDA, Country Report Spain, 2018 Update

285 UNHCR Input to the Annual Report 2018. See also: Comparecencia del Defensor del Pueblo ante la Comisión Mixta del Congreso de los Diputados y del Senado, The arrival of migrant boats to the Mediterranean Arc: situation and challenges for an immigration policy. Intervention Defender Joint Commission, 15 Feb 2018 (in Spanish).

286 UNHCR Input to the Annual Report 2018. See also: UNHCR, UNHCR reinforces its presence on the southern coast of Spain to support the identification of refugees.

287 AT LEG 01: FrÄG 2018, Aliens Law Amendment Act 2018.

288 Association for Legal Intervention (SIP, Misją Stowarzyszenia Interwencji Prawnej): Proposed amendments to the asylum law in Poland: SIP comments on the controversial proposal.

289 FR LEG 01: Law of 10 September 2018.

290 FI LEG 02: Proposal amending the Aliens Act, HE 273/2018 vp.

291 Ombudsman of Spain, Input to the EASO Annual Report 2018.

292 BE Council of State, Decision n° 343.306

293 AIDA, Country Report France, 2018 Update.

294 AIDA, Country Report Hungary, 2018 Update.

295 AIDA, Country Report Italy, 2018 Update.

296 In their input to the Annual Report, in order to illustrate this point, the Office of the Spanish Ombudsman reported the following example: since the end of May 2018, people in need of international protection in Madrid were required to appear before the police station of Aluche to register their asylum application. The police station only accepted 99 people per day. Due to this quota, up to 200 people, including pregnant women, children and persons with medical conditions, unsuccessfully waited outside the station and slept rough for several days in hope of getting an appointment. After obtaining access to the police station and receiving a "Certificate of intention to apply for asylum", asylum seekers were given an appointment to lodge it with the police, for dates as late as December 2020, claiming that the system has collapsed […] This fact, along with the delays during the procedure, causes them defencelessness. Ombudsman of Spain, Input to the EASO Annual Report 2018.

297 Fundación Cepaim, Input to the EASO Annual Report 2018.

298 UNHCR, Submission by the Office of the United Nations High Commissioner for Refugees (UNHCR) concerning the execution of the judgment by the European Court of Human Rights in the case of Sharifi and Others v. Italy and Greece (application no. 16643/09, judgment of 21 October 2014).

299 Network for Children's Rights, Input to the EASO Annual Report 2018; AIDA, Country Report Greece, 2018 Update, p. 39.

300 Network for Children's Rights, Input to the EASO Annual Report 2018.

301 DRC in Greece, Input to the EASO Annual Report 2018.

302 Safe Passage International, Input to the EASO Annual Report 2018.

303 UNHCR, Legal Considerations on State Responsibilities for Persons Seeking International Protection in Transit Areas or "International" Zones at Airports.

304 ECRE, Access to protection in Europe. The registration of asylum applications.

305 European Network on Statelessness, Input to the EASO Annual Report 2018.

306 European Network on Statelessness, Input to the EASO Annual Report 2018.

307 UNHCR, UNHCR Recommendations to the European Union. EU Multiannual Financial Framework 2021-2027: Addressing forced displacement effectively.

308 For case law related to the Common European Asylum System, please visit the Information and Documentation System on Case Law.

309 See for example additionally: ECtHR, M.A. and others vs Lithuania, ECLI:CE:ECHR:2018:1211JUD005979317.

310 ECtHR, A.E.A vs Greece, ECLI:CE:ECHR:2018:0315JUD003903412.

311 ECtHR, Ilias and Ahmed vs Hungary, ECLI:CE:ECHR:2017:0314JUD004728715.

312 ECtHR, N.D. and N.T. vs Spain, ECLI:CE:ECHR:2017:1003JUD000867515.

313 BE Council of State, Decision n° 343.306.

314 Helsinki Foundation for Human Rights, Input to the EASO Annual Report 2018.

315 IT Civil Court of Trieste, R.G. 1929/18.

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