

3.3. Access to territory and the asylum procedure

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As every year, in 2025 thousands of third-country nationals arrived at the EU's external borders, with Frontex reporting almost 178,000 detections of irregular border crossings. Although this was a notable decrease of 26% compared to the year before, the situation remained uncertain and patterns of irregular migration may shift quickly. At sea, the risks persisted, as routes used by smuggling networks continued to constitute dangerous journeys in unseaworthy boats.106 According to the IOM, there were 1,873 migrants dead or missing in the Mediterranean in 2025. 107 At the same time, search and rescue operations continued to save lives, bringing people who have found themselves in distress at sea in places of safety.108

In view of recurring pressures, in 2025 EU+ countries continued to focus on border management.109 As the effects of the instrumentalisation of migration by Russia and Belarus persisted in 2025, EU+ countries maintained stricter protection regimes at eastern borders. In March 2025, Latvia introduced restrictions in border crossings at three border control posts, allowing only the crossing of vehicles.110 Throughout 2025, the Latvian government implemented a reinforced border guard regime along parts of the Latvian–Belarusian border in response to rising irregular crossing attempts, while proceeding with the construction of advanced border infrastructure.111 Estonia supported Latvia with the deployment of additional personnel, concentrating in particular on the Robežnieki region, which has been a hotspot for irregular crossing attempts.112

In Finland, the temporary measures to combat instrumentalised migration, introduced in July 2024, were extended until the end of 2026. Border crossing points on the land border between Finland and Russia remained closed, while applications for international protection could be submitted at other external border-crossing points that were still open for air and maritime traffic.113 Similarly, Poland continued to maintain a buffer zone along its land border with Belarus and temporarily limited the right to apply for asylum at that border, except for vulnerable groups.114

Through a resolution prepared by the Ministry of the Interior, in April 2025 the Lithuanian government tightened security measures at the borders with Belarus, where crossing is possible only by car. Lithuania applied enhanced state border protection measures, including a physical barrier which was built on the border with Belarus, increased monitoring by modern surveillance systems, and rapid response to security incidents. With these measures in place, there is essentially no possibility of illegally entering the territory of Lithuania through the 'green border'.115

Due to the high number of arrivals in Crete through the North African route, in July 2025 Greece passed legislation for a 3-month suspension of the submission and examination of asylum applications for people coming from this route and their deportation without registration. Subsequently, the Ministry of Migration and Asylum issued a circular, according to which certain categories of persons with specific vulnerabilities were exempted from the suspension and transferred by the Hellenic Police to the closest Reception and Identification Centre (RIC). In September 2025, a supplementary circular was issued according to which third-country nationals from Eritrea and Sudan were exempted from the suspension. Serious concerns were expressed by a number of national, international and civil society actors about the suspension of the right to asylum,116 while the European Court of Human Rights (ECtHR) issued two interim measures against the deportation of people who had been denied access to the asylum procedure.117

The emphasis on border security and the associated practices implemented by national authorities have, at times, raised concerns among human rights institutions and international and civil society organisations about effective access to territory, and subsequently to the asylum procedure for persons seeking protection. Such concerns were voiced in several parts at the EU's external and internal borders, accompanied by reports of mistreatment, alleged pushbacks and summary returns, as well as measures taken by national authorities against civil society organisations performing search and rescue activities.118

Courts hold an important role in assessing the practices of national authorities to ensure the correct interpretation of the EU asylum *acquis*. In 2025, the ECtHR issued decisions finding violations of Article 2 (right to life), Article 3 (prohibition of torture), Article 5 (Right to liberty and security), Article 13 (right to an effective remedy) and Article 4 of Protocol No 4 (prohibition of collective expulsion of foreigners) in cases concerning Croatia, Greece and Hungary,119 on one occasion making reference to the 'systematic practice' of *refoulement*.120

Following up on a report from 2024 with reference to systematic gaps in investigating allegations of fundamental rights violations at the EU's external borders, FRA reported in July 2025 that no structural changes in EU countries were undertaken to improve the effectiveness of investigations of allegations of ill treatment at the borders. Despite opening criminal investigations, most cases were archived at the pre-trial stage and the number of convictions remained low.121 In June 2025, FRA issued its annual update on search and rescue operations in the Mediterranean. It addresses how to protect civil society organisations which engage in humanitarian work at sea from punishment for facilitating irregular entry, how to increase capabilities at sea to reduce the number of dead and missing people, and how to avoid disembarkations of rescued people in locations where they can be subject to torture, inhuman or

degrading treatment.122

In April 2025, the International Chamber of Shipping, the International Maritime Organization and UNHCR updated the guidance leaflet, "Rescue at Sea: A guide to principles and practices as applied to migrants and refugees". It provides guidance on relevant legal provisions, practical procedures to assist in the prompt disembarkation of survivors in rescue operations and measures to meet specific needs, particularly in the case of asylum seekers.123

The emphasis on border protection and the growing investment in the external dimension of the EU's asylum and migration policy have prompted discussions on "the externalisation of borders and asylum through outsourcing of migration management-related tasks to third countries".124 Cooperation agreements with neighbouring countries, including the construction of temporary reception facilities in some of them, have become subject to scrutiny and criticism from civil society organisations.125 An example of this approach, the Italy-Albania Protocol of 2023, continued to be implemented in 2025. The protocol set up a mechanism and the conditions under which Italy would process asylum applications under Italian jurisdiction in designated areas of Albanian territory for third-country nationals originating from the list of safe countries of origin and who are rescued or intercepted in international water by Italian vessels. Since the very announcement of the agreement, civil society organisations raised concerns about procedural safeguards and guarantees, while the practical application faced judicial challenges. 126

The model was studied with interest by the governments of several EU+ countries. The Italian government believes that the agreement is a valid safeguard to counter the exploitation of the right to asylum, while guaranteeing all procedural and substantive guarantees. The Italian experiment was independently monitored by UNHCR, which provided recommendations to the authorities during the operational roll-out. UNHCR noted that as Italy maintains jurisdiction over asylum seekers and migrants transferred to Albania, the protocol cannot be considered a case of responsibility-shifting.

The Italian Immigration and Asylum Board (*Tavolo Asilo e Immigrazione*, TAI), a representative body of several sector-specific NGOs, undertook six monitoring visits between April-July 2025 and held discussions with approximately 60 residents of the Gjader Centre in Albania, resulting in a report which revealed violations of fundamental rights. The findings focussed in particular on the extraterritorial nature of the facility, weakened judicial control, and the model that essentially replicates approaches already experienced in Italian Detention Centres for Repatriation (CPRs), leading to the same dysfunctions and critical issues. The report's conclusions emphasise the urgent need to suspend the implementation of the Italy-Albania agreement.127 The Italian government does not acknowledge these issues and considers that ongoing litigations are evidence of the high level of judicial protection.

In August 2025, the CJEU issued a decision on the cases of two Bangladeshi nationals who were rescued at sea by Italian authorities and taken to a detention centre in Albania under the protocol. Their application was rejected by Italian authorities as unfounded under the accelerated border procedure, on the ground that their country of origin was considered to be safe. The court ruled that EU law does not preclude a Member State from designating a third country as a safe country of origin by means of a legislative act, provided that the designation

can be subject to an effective judicial review. It also noted that, to ensure effective judicial protection, the sources of information on which the designation is based must be sufficiently accessible, both for the applicant and the court or tribunal. Finally, the court pointed out that until the entry into force of a new regulation which will replace the directive currently applicable, a Member State may not designate as a third country as safe if it does not satisfy, for certain categories of persons, the material conditions for the designation.[128] On 24 February 2026, through Regulation 2026/464 amending Regulation 2024/1348, an EU list of safe countries of origin was established, including Belarus.[129]

In November 2025, the Rome Court of Appeal submitted two questions before the CJEU for a preliminary ruling on whether Italy was competent to conclude an international agreement such as the Italy-Albania Protocol or it is under the exclusive competence of the EU, in view of Article 4(3) of the Treaty on the EU (TEU), Articles 3(2) and 216(1) of the Treaty on the Functioning of the EU. In case of a negative answer to the first question, the court sought clarification on whether the provisions of the protocol are compatible with the rules and safeguards for asylum and the detention of third-country nationals as enshrined under CEAS.[130]

European countries have also been increasingly making use of Article 25 of the Schengen Borders Code to introduce regular controls at internal Schengen borders.[131] In addition, delays in providing access to the procedure were reported in several EU+ countries.[132] For example, the UN Human Rights Committee reported that, despite efforts to increase capacity to process applications for international protection, significant delays persisted in the registration of applications in Spain.[133] Additional transit visa requirements further restricted access to asylum for nationals from a number of countries, including countries affected by protracted armed conflicts or political unrest.[134] Delays in accessing the procedure were also reported in Greece, with different centres experiencing delays in registering applications, including due to persistent technical issues with registration platforms, especially for those applicants who have not undergone reception and identification procedures.[135]

In Italy in October 2025, a class action lawsuit was filed in Milan to challenge the delays faced by applicants for international protection. The Italian Department of Public Security underlined that this was due to the high volume of applications submitted to the local immigration office. In this context, the office adapted its organisation to handle the increasing number of applications, striving for compliance with asylum rules and pre-identification requirements of foreign nationals. It expanded cooperation with civil society organisations to support booking appointments with technical and language assistance, ensuring equal access to procedures.[136] A recent ruling of the Court of Turin (Ninth Civil Section), judgment of 4 August 2025, found these measures to be effective, recognising the system as ensuring non-discriminatory processing of asylum applications by the Milan immigration office, and ordered the Turin immigration office to adopt a similar organisational model.[137]

In a similar case, the Regional Administrative Court of Veneto requested clarification from the Italian Ministry of the Interior about access to the asylum procedure in a timely and efficient manner. This request is part of a class action lawsuit filed on behalf of asylum seekers who faced difficulties in accessing the procedure at the local immigration office of Venice and Vicenza.[138] The Italian Department of Public Security noted that to resolve this issue, the organisational

system was significantly restructured so that all foreign nationals applying for asylum at the local immigration office on weekday mornings are given appointments for fingerprinting and formalising their application (C3 form). To manage operational challenges and staff shortages, the Central Directorate introduced support measures, including redistributing EUAA resources, providing linguistic and cultural mediation through partner organisations, and deploying 550 temporary workers to assist immigration offices, particularly with asylum applications.

Nonetheless, a number of initiatives undertaken by EU+ countries focused on increasing efficiency or optimising workflows in the first steps of the procedure. In May 2025, the first France Asile territorial hub opened in France to centralise the registration and the lodging of applications and accelerate procedures.139 In the Netherlands, to alleviate pressure within the asylum system, as of January 2025 responsibility for the identification and registration of asylum seekers shifted from the Aliens Police to the Identification and Screening Service for Asylum Seekers (DISA).140 The IND will take over the responsibility for identification and registration on 12 June 2026, after the entry into application of the Pact.

In Spain, with the aim of streamlining the lodging of applications for unaccompanied minors on the Canary Islands, registration can be done together with the lodging in a single act. Portugal updated questionnaires for the preliminary checks upon arrival to make the process of filling them in more intuitive and user-friendly. As of April 2025, the State Secretariat for Migration (SEM) in Switzerland is authorised to access electronic devices of asylum seekers and analyse their data, when their identity, nationality or travel route cannot be otherwise verified. SEM must always ensure that data analysis is necessary and proportionate to its objective.141 During the consultation process for this amendment, UNHCR raised concerns about such interference with the right to privacy and noted that clearer requirements should be defined in the law for the procedure.142

With the purpose of giving primacy to the right to asylum over criminal proceedings for illegal entry, Romania introduced Law No 84 of 22 May 2025 which amended the Asylum Law. In criminal cases concerning entering the country illegally by people who then applied for asylum, the prosecutor or the court may now order the suspension of the criminal prosecution or respectively suspend the judicial procedure until a final decision on the application for asylum is issued. If a form of protection is ultimately granted, then it is examined whether illegal entry was committed for the very purpose of seeking asylum, in which case the criminal proceedings for illegal entry may be dropped.143

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