

**May 2021**

Although the share of irregular migrant arrivals to the EU dropped dramatically between 2015 and 2020, the pressure on national asylum systems, especially in some Member States, remains high. Furthermore, the nature of migratory flows in terms of numbers and composition has changed since 2015. Migrants disembarked following search and rescue operations and those who have a low chance of being granted international protection now represent a significant share of arrivals. As acknowledged by the European Commission, this situation – exacerbated by the coronavirus pandemic – calls for a comprehensive framework to secure international protection for those needing it; effective and humane treatment for those who are returned; and solidarity and responsibility-sharing between Member States. This Topical Digest offers a sample of recent publications by the European Parliamentary Research Service on the migratory challenge.

Pushbacks at the EU's external borders

Briefing by Anja Radjenovic, EPRS, March 2021

The briefing covers the practice of stopping asylum-seekers and migrants in need of protection at or before reaching the EU's external borders ('pushbacks'), which may contravene fundamental rights, EU values, and international and European humanitarian laws. National human rights institutions and civil society organisations claim that pushbacks involve excessive use of force by national authorities and EU agencies at external borders, and migrants' degrading treatment and arbitrary detention. The European Parliament has criticised pushbacks and, to address potential fundamental rights breaches, in September 2020, the European Commission presented a proposal on pre-entry screening of third-country nationals at EU external borders as part of its new pact on migration and asylum.

Common procedure for asylum

'EU Legislation in progress' briefing by Anita Orav, EPRS, March 2021

As part of the common European asylum system (CEAS), the Asylum Procedures Directive sets out procedures for granting and withdrawing international protection in Member States in accordance with the Qualification Directive. Following the large influx of asylum-seekers to the European Union after 2014, the directive was criticised for its complexity, overly broad discretion for Member States and resulting differences in treatment and outcomes. After the deadlock on the 2016 Commission proposal to replace the directive with a regulation establishing a common harmonised procedure for international protection in all participating Member States, the Commission proposed in September 2020 an amended regulation under its new pact on asylum and migration, with targeted amendments for overcoming contentious issues on border procedure and return. The amended proposal is currently being examined by the co-legislators with a view to fixing their positions in order to resume trilogue negotiations shortly.

Recast Eurodac Regulation

'EU Legislation in progress' briefing by Anita Orav, EPRS, March 2021

Eurodac – a biometric database in which Member States are required to enter the fingerprint data of asylum-seekers in order to identify where they entered the European Union – was established in 2000 and reviewed in

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2013, its main purpose being to facilitate the application of the Dublin Regulation. The 2013 revision broadened the scope to provide law enforcement authorities with access to the Eurodac database. As part of the reform of the common European asylum system (CEAS) in 2016, the European Commission proposed a recast Eurodac Regulation. The co-legislators reached a partial agreement on the proposal in 2018. As part of the broader migration and asylum pact, the new Commission presented an amended proposal on 23 September 2020. The Commission expects the co-legislators to promptly adopt the proposal on the basis of the agreement already reached.

Proposal for a crisis and *force majeure* regulation

'EU Legislation in progress' briefing by Nikolai Atanassov, EPRS, January 2021

As part of its proposed new pact on asylum and migration in September 2020, the European Commission proposed a regulation to address crisis and *force majeure* situations in the field of migration and asylum. It establishes a mechanism to deal with mass influxes and irregular arrivals of third-country nationals in a Member State and sets out the solidarity mechanism procedure for returning irregular migrants through the option for return sponsorship on behalf of another Member State, established in the proposed Asylum and Migration Management Regulation (AMR). It also shortens deadlines in a crisis situation compared to usual AMR procedures, and introduces some crisis-situation derogations in the asylum crisis management procedure, the return crisis management procedure, and in registering international protection applications.

Understanding EU action against migrant smuggling

Briefing by Katrien Luyten, EPRS, January 2021

More than 90 % of irregular migrants arriving in the EU use facilitation services for (part of) their journey. This business generates major profits for the criminal organisations involved, but also entails serious risks for the people smuggled. Combatting migrant smuggling is a shared challenge that requires cooperation between EU and non-EU countries. In the second quarter of 2021, the Commission is expected to present its 2021-2025 EU action plan against migrant smuggling

Reforming asylum and migration management

'EU Legislation in progress' briefing by Anja Radjenovic, EPRS, October 2020

This legislative briefing covers the legislative proposal on asylum and migration management, presented by the European Commission in September 2020 with a view to replacing the 2013 Dublin Regulation that determines the EU Member State responsible for examining asylum applications. While the proposal would 'essentially preserve' the current criteria for determining this responsibility, it would also make changes and additions to the regulation, especially on solidarity and responsibility-sharing for asylum-seekers among Member States.

Screening of third-country nationals at the EU external borders

'EU Legislation in progress' briefing by Costica Dumbrava, EPRS, November 2020

As part of its comprehensive pact on migration and asylum, in September 2020, the Commission put forward a proposal for a new regulation on screening third-country nationals at the external borders, aiming to clarify and streamline the rules on dealing with third-country nationals who are not authorised to enter or stay in the EU. The proposal introduces a pre-entry screening procedure allowing national authorities at external borders to channel irregular third-country nationals to the appropriate procedure, i.e. asylum or return procedures.

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Asylum procedures at the border

European Implementation Assessment by Wouter van Ballegooij and Katharina Eisele, EPRS, November 2020

Fast-tracking procedures at European Union external borders for determining whether individuals are entitled to international protection is a priority in the pact on migration and asylum. This European Implementation Assessment concludes that current Member State practice does not result in uniform and effective reviews of applications for international protection on the basis of a fair process.

Hotspots at EU external borders – State of play

Briefing by Katrien Luyten and Anita Orav with Eulalia Claros, EPRS, September 2020

The hotspot approach was introduced in 2015, at the height of the migration crisis, to help frontline Member States deal with the arrival of disproportionate numbers of migrants. Hotspots are facilities for initial reception, identification, registration and fingerprinting of asylum-seekers and migrants arriving in the EU by sea. Even though the numbers of arrivals have decreased considerably since 2015, the hotspot approach remains the key strategy for addressing migratory pressures in Greece. Since their inception and despite some improvements, the majority of the hotspots have suffered from overcrowding, and concerns have been raised about camp facilities and living conditions. These shortcomings lead to increasing tensions among migrants, and a devastating fire in the Moria camp on the Greek island of Lesbos on 8 September 2020 only aggravated the existing problems.

The need for solidarity in asylum policy

'At a glance' note by Anja Radjenovic, EPRS, September 2020

In early September 2020, a fire in the over-crowded migrant camp of Moria in Greece pushed thousands of people onto the streets, exacerbating the already dire conditions faced by asylum-seekers and migrants. The incident also shows the need to find a solution to a crisis of solidarity in EU asylum policy that has remained unresolved since the unprecedented influx of migrants into the EU in 2015. The European Commission presented a new pact on asylum and migration on 23 September 2020, including a compromise on solidarity and fair sharing of responsibility for asylum-seekers among EU Member States.

The Return Directive 2008/115/EC

European Implementation Assessment by Katharina Eisele, EPRS, July 2020

The Return Directive aims at ensuring that the return of non-EU nationals without legal grounds to stay in the EU is carried out effectively, through fair and transparent procedures that fully respect the fundamental rights and dignity of the people concerned. This European Implementation Assessment finds several protection gaps and shortcomings regarding the four key measures of the Return Directive – return decision, enforcement of the return decision, entry ban, and detention – which may lead to fundamental rights violations for irregular migrants. Moreover, EU return and readmission policy has increasingly resorted to informal cooperation in the external policy dimension.

Unaccompanied migrant children in Greece: New relocation scheme

Briefing by Ingeborg Odink, EPRS, May 2020

As part of its emergency measures in support of Greece, the Commission has launched a new voluntary relocation scheme for the around 1 600 unaccompanied minors staying in the overcrowded hotspots on the Greek islands. This briefing examines the proposed scheme and the situation in the Greek hotspots, highlighting the structural shortcomings in the protection of this group of particularly vulnerable children. Severe shortages in reception capacity have led Greece to continue to detain unaccompanied children in unsuitable conditions in police stations and other facilities until places are made available for them (known as 'protective custody'), a practice that has been condemned by the European Court of Human Rights.

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Tackling the coronavirus outbreak: Impact on asylum-seekers in the EU

Briefing by Anja Radjenovic, EPRS, April 2020

The restrictions on people's movements and access to EU territory adopted in the fight against the pandemic could disproportionately affect the most vulnerable, including asylum-seekers, and their fundamental rights under EU and international law. The situation of asylum-seekers during the coronavirus pandemic is especially critical in the EU hotspots. In Greece, for instance, reception capacity has been stretched to the limit and the country has been struggling to ensure the safety of the most vulnerable asylum-seekers, especially unaccompanied minors.

Solidarity in EU asylum policy

Briefing by Anja Radjenovic, EPRS, March 2020

Continued failure to reform the EU asylum system, as well as the implementation of temporary solidarity measures based on ad-hoc solutions, has exposed a crisis of solidarity that shows no signs of being resolved. The von der Leyen Commission has made it clear that the new EU asylum system 'should include finding new forms of solidarity and should ensure that all Member States make meaningful contributions to support those countries under the most pressure'.

Emergency measures on migration: Article 78(3) TFEU

'At a glance' note by Anja Radjenovic, EPRS, March 2020

Article 78(3) of the Treaty on the Functioning of the European Union (TFEU) provides for the adoption of provisional measures in emergency migratory situations at the EU's external borders. On 1 March 2020, in the light of events on its Turkish border, Greece announced that it wanted Article 78(3) TFEU to be used to ensure full EU support in the situation of a sudden influx of third-country nationals into the EU.

Family reunification rights of refugees and beneficiaries of subsidiary protection

Briefing by Anja Radjenovic, EPRS, February 2020

While EU law guarantees refugees and holders of subsidiary protection – the two types of beneficiaries of international protection – equal treatment in most areas, differences remain, among others, as regards family reunification in accordance with the Family Reunification Directive. Unlike refugees, beneficiaries of subsidiary protection do not enjoy the favourable conditions associated with the right to family reunification. According to many legal experts, the fact that beneficiaries of subsidiary protection face stricter requirements regarding family reunification than do refugees disregards the particular circumstances related to their forced displacement and the corresponding difficulties they are likely to face in meeting these stricter requirements.

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