**EAPN Migration Task Force Briefing**

***Towards a rights-based approach to migration and poverty***

***June 2017***

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**INTRODUCTION**

**Background to the Task Force**

In October 2015, the EAPN EU Inclusion Strategies Group (EUISG) created a new Task Force on a Migration and Asylum Seekers due to a growing concern over the refugee crisis and the failure of the EU to promote a rights-based approach to migration, promoting a dignified life for all.

The overall aim of the Task Force is to help EAPN build knowledge and deepen understanding of the reality and challenges facing migrants in poverty, then to build consensus within EAPN on common policy demands based on human rights and from an anti-poverty perspective. This briefing, builds on the work of a previous Task Force in 2014 which explored links between migration and poverty, prior to the current ‘refugee’ crisis. [[1]](#footnote-1)The main objective of this Briefing is to provide an overall introduction for EAPN members to the topic: a guide to the concepts and policy frameworks, the reality and the latest trends, highlighting the key concerns and challenges that migrants may face, as well as NGOs’ role. The briefing will form the basis for a capacity building session in 2017 with the EUISG, and a consensus-building process to develop common messages and policy recommendations for a rights-based approach.

The briefing was developed together with inputs from the Migration Task Force members: (Rachele Bezzini (EAPN IT), Stefan Stefanovic (EAPN Serbia), Aleksandra Selak-Zivkovic (EAPN Croatia), Robin Hanan (EAPN IE), Giacomo Manca (Eurodiaconia), Magnus Pålsson (EAPN SE) and Mariaam Bhatti (EAPN Policy Intern). It was coordinated by Kadri Soova (PICUM), Eleni Karaoli (EAPN CY) with support from Sian Jones, EAPN Europe Policy Coordinator and support from EAPN policy interns: Mariaam Bhatti and Matteo Mandelli.

**The current state of play in the EU**

EU Member States are committed under the Lisbon Treaty to develop ‘common’ migration and asylum policies. This policy area has **two broad EU approaches, which** **are primarily focussed on contributing to the EU’s economic development in the longer term:**

*1) Supporting integration and protecting the rights of regular migrants.*

*2) Reducing irregular migration.*

Over the past decade a wide range of actors have continuously pointed out **major shortcomings in the current approach to regulating migration** in the EU. The term ‘*irregular migration’*, for instance, is highly contested and political. It is understood and defined by states in terms of their understanding of the political mood on migration, the economic needs of host countries and the international obligations to which they have signed up. From a human rights perspective, this is highly dubious and ignores the rights and needs of migrants as people who need to move for a wide variety of reasons.

Failing to reflect the realities of migration and economies in Europe, the **current treatment of migration as a security issue contradicts the above stated objectives of the EU framework**. “Security” is increasingly understood as keeping out non-EU citizens, rather than recognizing the contribution that migrants can bring to building a stable, integrated society. There has been a clear shift to a security approach and to the reinforcement of the idea that migration is seen as a threat rather than an opportunity. This is exemplified in the routine **coupling of migration issues with internal security, crime prevention and anti-terrorism** concerns in policy documents and media communications. At the same time the decade long prioritisation of border control, other coercive migration control tools (e.g. detention, deportations) and restricting social rights have not reinforced or strengthened the freedom, security and well-being of EU citizens, nor curbed irregular migration. It also ignores and limits the significant economic, social, demographic, and cultural contributions that migrants make to the EU.

Moreover, **the current “*Fortress Europe*” approach forces migrants to take ever greater risks making migrants vulnerable to violence, exploitation and trafficking, and leads to numerous violations of human rights** – and deaths – at borders, in detention centres, in communities. Migrants that may face multiple discrimination e.g. on grounds of gender, or age (women and children) and separated families, face additional challenges through restrictions on family reunification, limited family rights for regular migrants, detention and deportation of irregular migrants. This situation contradicts the founding principles and goals of the EU according to the Treaty of the European Union and across all other policy areas, including the obligation of the EU and Member States to protect the rights of all people in their jurisdictions, regardless of administrative status.

Over the past five years, **migration as a policy area has escalated from moderately important to being the top issue on political agendas** across party lines in most European countries as well as for the EU institutions. Certain parties particularly on the political right have harnessed the migration debate to gain political profit by appealing to fears over the economy and livelihoods and blaming migrants for all the concerns of the electorate. Many politicians from the left and middle spectrums have in the past years also started to follow the divisive rhetoric concerning migration, often supported by populist media, calling for restrictive policies such as more border controls or failing to defend a human rights based approach and thus **contributing to rising racism and xenophobia** in our societies.

Additionally, and more recently, the **pending British exit** (BREXIT) from the European Union has prompted the leaders of the European Union to go to extreme lengths to accommodate the demands of racist and xenophobic forces in the remaining Member States in relation to migration control making stopping arrivals and increasing deportations the top policy priority. The entry of Donald Trump with an explicitly racist, anti-migration agenda contributes to the pressure. The European Union is likely to focus increasingly on these two aspects in the coming years both through its internal and external (co-operation with third countries) policy making.

**EAPN perspective on migration**

The European Anti-Poverty Network, (EAPN) is a Europe-wide network of local, regional and national NGOs committed to the fight against poverty, exclusion and discrimination. EAPN and its members have called for an **urgent reaction to the crisis situation where thousands of migrants die each year at the borders of the EU and many more face exclusion, poverty, abuse and exploitation as their daily reality in our home countries.**

Until in migrant’s countries of origin there are no wars, persecution, dictatorships, inhuman living conditions which fuel poverty and inequality, **human beings must have the right to flee in order to try to protect their own lives and those of their children, and to search for a better life**. With a rights-based approach and with a positive commitment to social inclusion, migration can be an important benefit for the host countries, the sending countries and, most importantly, the migrants themselves and their dependents.

**EAPN defends the political, economic and social rights of all migrants and oppose social and political barriers which exclude migrants from society and create poverty.** We believe **in** the European Union's motto **"*United in Diversity***". The EAPN will not stand by passively and watch what is happening in some Member States, where walls are built on borders, where the right to asylum and humanitarian protection is being questioned, and where migrants fleeing poverty are treated as criminals and forced to live in destitution, instead of focusing on human rights and the benefits that migration and diversity can bring.

**EAPN opposes the idea being promoted by certain media and political forces that migration and migrants are a threat to society, wealth, social security, culture**. We must fight to prevent competition over scarce and diminishing resources, between migrants and other people experiencing poverty and social exclusion.

**EAPN’s approach to migration is rights based**, building on migrant’s needs. This means **listening to the voice and direct experiences of migrants**. The voice of migrants themselves must be heard, respected and supported. EAPN is deeply concerned that many migrants face higher rates of poverty and social exclusion in most Member States and are then set up to compete against existing groups facing poverty, particularly in terms of funding support. The answer must be to **channel more funds to the areas with greatest need, avoiding competition** but promoting adequate income supports, services and employment opportunities for all.

**The EU also has a responsibility to work globally to tackle the causes of forced migration**, using EU development policy and aid to support bottom-up inclusive and sustainable development that benefit people. This means tackling poverty and reducing inequalities by engaging with those most affected: particularly those who face poverty and social exclusion.

**With the right policies**, **migration and migrants are an opportunity** for our societies and for their countries of origin. We want to build a **common understanding amongst our own members** based on EAPN member’s knowledge and experience of refugees/migrants, supporting migrants’ voice and engaging them in the advocacy work. We need to join together and agree on common messages on migration to contribute to the progressive voice in this rapidly changing and complex reality.

**SETTING THE CONTEXT**

**Understanding migration**

Migration is an important driver of human history. Modern attempts to limit and control migration through legislation, passports and visas date back to the early twentieth century, particularly arising from anti-Semitic panic in Western Europe and to racist theories of ‘social Darwinism’ and eugenics.

In the modern world, most migration takes place within countries, mainly driven by urbanisation but also by internal displacement by war, drought or poverty. The second largest flows are regional, such as, for example, migration within Europe, within the Indian sub-continent or within East Africa.

This briefing is mainly concerned with international migration, especially migration from ‘third countries’ to the EU, including those defined as ‘refugees and asylum-seekers’.

Despite the intense media coverage of the so called ‘refugee crisis’, migration in Europe has been at a historically low level over the last few decades.

The EEC, predecessor to the EU, was built out of the ashes of the Second World War and its predecessors in 1914-1918 and 1870. The founders were very conscious of the need to build economic interdependence and also of the recent memory of displacement of much of the population of Europe by war, genocide and famine.

At international level, the 1951 Geneva Convention Relating to the Status of Refugees was one of the key pillars of the post-war settlement, building on the 1948 Universal Declaration of Human Rights. The Refugee Convention was a response to the memory of the deaths of millions of victims of genocide and war who were denied asylum outside of their own countries.

Until the 1950s, most European migration was outwards, particularly to colonies and ex-colonies. An estimated half a billion people of European descent now live in other continents, not counting those of mixed descent.[[2]](#endnote-1) Since the 1950s, this has been matched by migration into the EU made up mostly of people from former colonies of member states either recruited by European companies or looking for work, alongside a smaller number of asylum seekers.

**Terms and definitions**

**According to Amnesty International, a migrant[[3]](#footnote-2) moves around within their own country or from one country to another**, usually to find work and a better life. Some move voluntarily, while others are forced to leave because of economic hardship, war or other problems. People can migrate ‘regularly’, with legal permission to work and live in a country, or ‘irregularly’, or ‘undocumented’ where the country withholds legal permission to live and work.

These distinctions are often imposed by the legal restrictions put in place by international or national law. These divide migrants into categories, awarding different legal status’ which affect migrant’s rights to stay, reunite with their family, employment etc. This categorization can be highly arbitrary and often disconnected to the migrants own motivation and multiple needs.

**Not everybody who moves country within the EU is defined by EU law as a migrant.** People from EU countries that decide to live and work in another Member State are exercising their right to “mobilit*y”* linked to the EU rules on free movement.[[4]](#footnote-3) In the EU context, *migrant*s generally refer onlyto people from 3rd Countries ie outside the EU.

It is important to understand the different terms and definitions applied to migrants within the EU, and national political discourse. Each of these definitions serves to *differentiate between migrants and give them different status, leading to very different treatment* in terms of legal rights and policy frameworks.

**An analysis of some key terms and definitions is given below:[[5]](#footnote-4)**

**Migrant** – There is no internationally recognized definition of migrants. IOM defines a migrant as *“any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person’s legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is.”* Migrant can be therefore used as an overarching term for all people who have moved.[[6]](#footnote-5)

**Refugee** – The most commonly used definition is in the *Geneva Convention**Relating to the Status of Refugees:* “*A person who, "owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinions, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.”[[7]](#footnote-6)* The Organization of African Unity (OAU) Convention defines a refugee more broadly as any person compelled to leave his or her country *"owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country or origin or nationality."*  Refugees can seek asylum in a country which they flee to (see *asylum seeker* below), be invited to settle in a safe country (‘*resettlement*’) or be given *temporary protection* in time of conflict.

**Asylum seeker** – An asylum-seeker is someone who has crossed an international border in search of international protection, but is yet to be recognized as a refugee*.* UNHCR defines an asylum seeker as: “*An asylum-seeker is someone whose request for sanctuary has yet to be processed.”[[8]](#footnote-7)*

**Irregular or undocumented migrant -** There is no universally accepted legal definition of an irregular migrant. An irregular migrant can be described as a person who, owing to irregular entry, the expiring of his or her visa, the rejection of his asylum application or other reasons, lacks legal status in a transit or country of destination. **The term “illegal migrant” however should never be used.** As any other person, migrants are not “illegal.” They are in an “irregular” situation or “undocumented”.

**Country of origin and Host Country-** Country of origin is a term referring to thecountry from where a migrant, asylum-seeker or refugee originated. The country where they are now is known as the ‘host country’.

**Immigration detention -** Immigration detention is the confinement of individuals without regular migration status in prisons or detention centres, temporarily or for indefinite periods of times, while their cases are being processed by the authorities or the courts. According to international human rights standards, immigration detention should be prescribed by law, a measure of last resort, only for the shortest period of time and when no other less restrictive measure is available. States should take steps to implement alternative measures to immigration detention. Children should never be detained based on their or their parents’ migratory status or irregular entry into the country.

**Deportation -** Deportation is the act of expelling or removing a foreigner from a country, either to the country of origin or to a third country. It can be the outcome of immigration enforcement. According to human rights, refugee law and international humanitarian law, **no deportation should take place where it will likely result in violations of the deportee’s human rights**, persecution or where an asylum-seeker would not receive the protection owed by the destination country. In this regard, the so-called **non-refoulement principle** has to be respected. According to UNHCR “*No contracting state shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion*”.

**Resettlement** - “*Resettlement means the transfer of individual displaced persons in clear need of international protection, on submission of the United Nations High Commissioner for Refugees and in agreement with the country of resettlement, from a third country to a Member State, where they will be admitted and granted the right to stay and any other rights comparable to those granted to a beneficiary of international protection*”.[[9]](#footnote-8)

**Relocation -** “*Relocation means a distribution among Member States of persons in clear need of international protection*”.[[10]](#footnote-9)

**Human Trafficking and Smuggling of Migrants – Human trafficking** should be distinguished from smuggling because of its exploitative and abusive nature:“*Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation*”[[11]](#footnote-10). It has to be distinguished from **Smuggling of Migrants** which is providing transport for payment, albeit illegally. This is defined as: “*the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident*”[[12]](#footnote-11)

**Subsidiary Protection** – Subsidiary protection is additional provision granted only in limited cases to third country nationals or stateless people who qualify as refugees and when the rights to life and freedom from torture or other inhuman or degrading treatment of the person seeking protection are at risk, as well as when the person is subject to individualized threats in coincidence with armed conflicts.[[13]](#footnote-12)

S*ee full glossary of terms and definitions in ANNEX 1.*

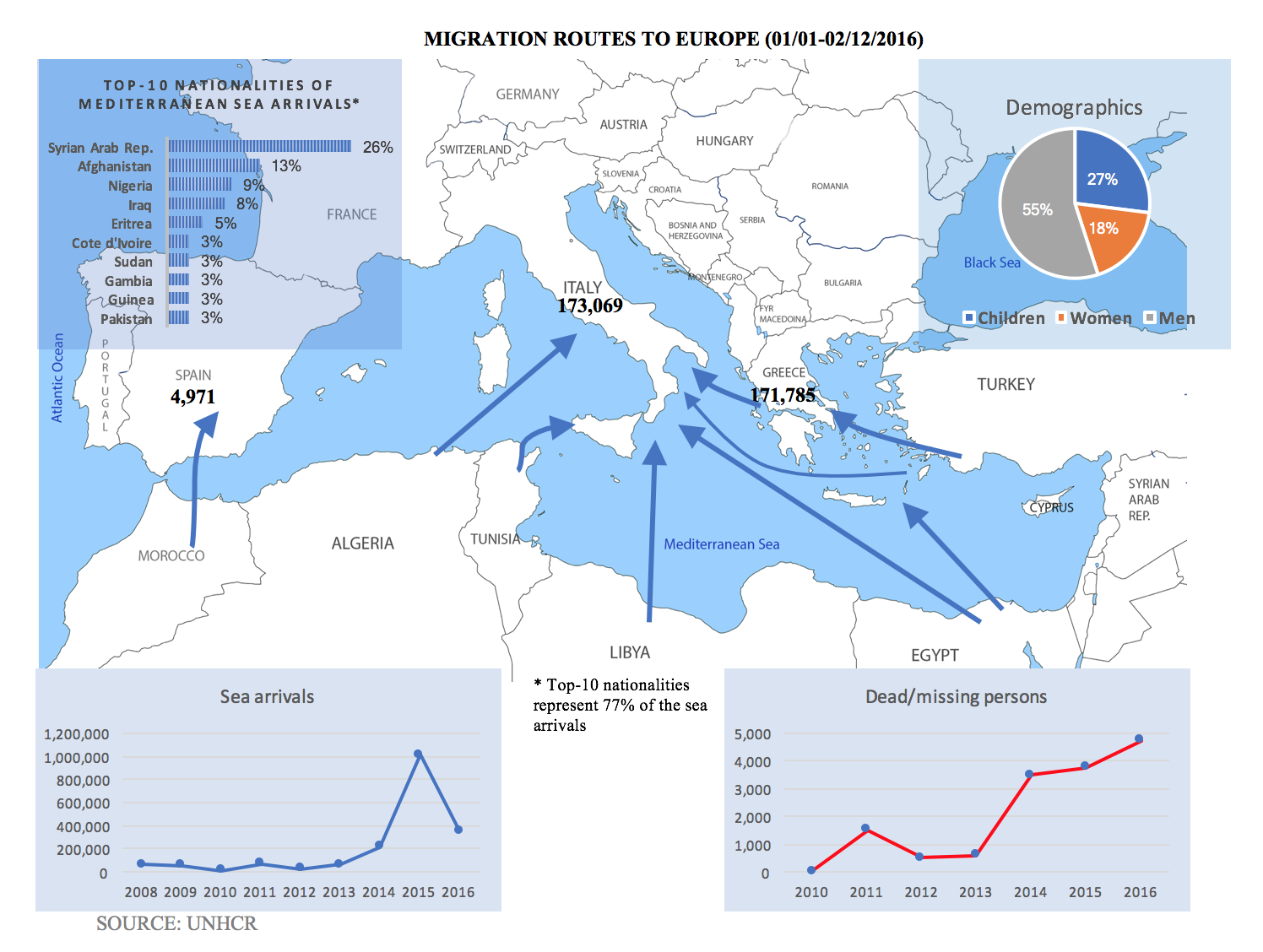
**What’s the reality? Overview of the key data[[14]](#footnote-13)**

**Who are migrants?**

* The number of **international migrants** (persons living in a country other than where they were born) **reached 244 million in 2015** for the world as a whole, a **41% increase** compared to 2000.This figure includes **almost 20 million** **refugees**.[[15]](#footnote-14)
* **In 2015, 76.1 million international migrants were living within Europe**, nearly one-third of all the world’s migrants. As in other regions, much of the migration in Europe is intra-regional, made up of the movements of Europeans within the region.
* **Currently, less than 7% of EU residents are citizens of non-EU countries,** which is exceptionally low by world standards[[16]](#endnote-2). A 2015 current list of countries in terms of the percentage of the population made up by immigrants, which in Europe’s case includes migration from other EU member states, shows Luxemburg and Ireland as the only EU member states among the top 50 countries, with Ireland at number 44 (mostly children of emigrants).[[17]](#footnote-15)
* **In 2015, about 1 million people applied as refugees for asylum in the EU,** a historical high.If accepted, this would add 0.2% to the Union’s population, as against over 20% in Lebanon.
* However, most **refugees find shelter in neighboring countries outside the EU**. “*The biggest contributors providing a safe haven to the world’s uprooted people are poorer countries*”.[[18]](#footnote-16)
* In the first half of 2016, **1.7 million** were displaced. 1.5 crossed international borders. **Turkey sheltered the greatest number of refugees**, hosting 2.8 million by mid-2016, followed by Pakistan (1.6 million), Lebanon (1 million), Iran (978,000), Ethiopia (742,700), Jordan (691,800), Kenya (523,500), Uganda (512,600), Germany (478,600) Chad (386,100).
* **In Europe in 2016: 1,011,700 refugees arrived by sea and 34,900 by land.** [[19]](#footnote-17)58% of the arrivals came by sea, from the 1st of January to the 2nd December, came from the top 10 refugee-producing countries: 77% from Syria, 26% from Afghanistan, 13% from Nigeria, Iraq, Eritrea, Pakistan, Guinea, Gambia, Sudan and the Ivory Coast.
* The **majority of asylum seekers arriving from the sea are men**, but over 1 in 4 are children and nearly 1 in 5 women. (27% children, 18% women, 55% men), (UNHCR ibid).

**What are the main routes to Europe? How do asylum-seekers get here?**

* **In 2016, 122,779 people went through the Balkan route**, compared to 764,038 in 2015 according to Frontex.[[20]](#footnote-18)
* **Since 2008, there’s been a big increase of migrants arriving by crossing the Mediterranean Sea** from 59,000 to 348,825 (2/12/2016)**.** The treacherous crossing in inadequate or overcrowded boats puts the majority of these migrant’s lives at risk**.**
* **The majority have taken the shortest sea routes to Greece and Italy**. However, whilst the numbers to Greece have declined drastically primarily because of the EU’s agreement with Turkey, the Italian route has become increasingly popular.
  + ***171,785 people arrived in Greece* in 2016** (02/12/2016), however this compared to 856,723 in 2015. 37% children, 21% women, 42% men. 87% from top 10 refugee-producing countries. 100% from Syria, Afghanistan, Iraq, Pakistan, Iran.
  + ***173,069 people came to Italy in 2016*** (02/12/2016) compared to 153,842 in 2015. 16% children, 14% women, 71% men. 24% from top 10 refugee-producing countries. 78% from Nigeria, Eritrea, Sudan, Gambia, Ivory Coast, Guinea, Somalia, Mali, Senegal, Bangladesh.
  + ***4,971 to Spain by sea in 2016*** (plus 3,702 via Ceuta/Melilla, as of 30/09/2016), 15,422 in 2015. (Ivory Coast, Guinea, Algeria, Cameroon, Gambia, Morocco, Burkina Faso, Mauritania, Congo-Brazzaville, Guinea Bissau, Mali).

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**How many have lost their lives?[[21]](#footnote-19)**

* **The number of people risking their lives by crossing the sea has grown drastically**, from 20 dead or missing in 2010 to nearly 5,000 in 2016.
* **The route where the most migrants have lost their lives is to Italy**. By 1st December 2016, 4,699 were dead/missing: 4,207 from the Central Mediterranean route (towards Italy); 429 from the Eastern Mediterranean route (towards Greece); 63 from the Western Mediterranean route (towards Spain).

**How many have been relocated to other Member States?**

* **By the 5th October 2016: 5,871 had been relocated** (4% of original target of 160,000 to be relocated across the EU in 2 years, between September 2015 and September 2017), 4,063 relocated from Greece (target 66,400), 1,269 relocated from Italy (target 39,600).

**How many people claimed asylum? gained refugee status? How many were rejected[[22]](#footnote-20)?**

* **In EU/EFTA area the number of applications for asylum has grown** from 256,155 applications in 2008, to nearly 1 and ½ million.
* **The majority of the claims were made to Germany**. In 2015: 476,620 in Germany, 177,135 Hungary, 162,150 in Sweden, 88,180 in Austria, 84,085 in Italy. in 2016 (1st quarter): 179,180 in Germany, 22,595 in Italy, 20,160 in France, 10,160 in UK, and 9,165 in Sweden.
* **In 2015, the majority of asylum claims were successful** ie 52% of first instance asylum decisions were positive (refugee/subsidiary protection status are defined by EU law, humanitarian reasons are specific to national legislations and not applicable in all EU member states), and another 14% was positive after appeal/review. **This means 34% were rejected ie 1 in 3.**

***Number of (non-EU) asylum seekers in the EU and EFTA Member States, 2014 and 2015 (thousands of first time applicants)[[23]](#footnote-21)***



**What are the main international law and EU policy frameworks?**

In addition to a wide range of international law applicable in the EU Member States to migrants and refugees in the United Nations context (for example the 1951 *Geneva Convention Relating to the Status of Refugees*, the Child Rights Convention, the International Covenants and many other instruments[[24]](#footnote-22)) and in the Council of Europe context (European Convention on Human Rights, Social Charter etc.)[[25]](#footnote-23), the European Union also has the competence to create binding rules for Member States in the area of migration. See below a summary of the main legislative areas and instruments.

|  |  |
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| **COMPETENCES OF THE EU IN MIGRATION POLICY**  Since 1999, the EU has been developing a common immigration policy for Europe. The competences of the EU in immigration policy are established by articles 79 and 80 of the Treaty on the Functioning of the European Union (TFEU). | **LEGISLATIVE INSTRUMENTS**  (\*) Directives: Different to regulations and decisions, which are immediately applicable as law in all EU countries, directives have to be incorporated into each EU country’s national law by a certain deadline. While directives are binding as to the results to be achieved, individual countries can choose the form and methods. Most EU-wide immigration rules come from directives. |
| **REGULAR MIGRATION**  The EU is competent to lay down the conditions governing entry into and legal residence in a Member State, including for the purposes of family reunification, for third-country nationals. Member States retain the right to determine admission rates for people coming from third countries to seek work. | **Conditions of entry:**   * Blue card Directive: establishes the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment.[[26]](#footnote-24) * Single Permit Directive: sets out a common, simplified procedure for third-country nationals applying for a residence and work permit in a Member State, as well as a common set of rights to be granted to regular immigrants.[[27]](#footnote-25) * Seasonal workers Directive: establishes the conditions of entry and residence of third-country nationals for the purpose of employment as seasonal workers.[[28]](#footnote-26) * Intra corporate transferees directive: establishes the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer.[[29]](#footnote-27) * Directive on students and researchers: establishes conditions of entry and residence for third-country nationals seeking entry to the EU for the purposes of study or research.[[30]](#footnote-28) |
| **Borders and visas:**   * Schengen Borders Code: provides EU States with a single set of common rules that govern external border checks on persons, entry requirements and duration of stays in the Schengen Area.[[31]](#footnote-29) * Schengen Visa Code: establishes harmonised conditions and procedures for issuing short-stay visas.[[32]](#footnote-30) * Regulation (EC) No 539/2001): establishes a list of countries whose citizens are subject to a visa requirement when entering the EU and a list of countries for which this requirement is waived.[[33]](#footnote-31) * Visa facilitation agreements: agreements between the EU and non-EU countries to establish facilitated procedures for issuing visas. * Regulation 656/2014: regulates the joint operations coordinated by the Frontex Agency at sea.[[34]](#footnote-32) |
| **Asylum:**   * Asylum Procedures Directive: establishes common standards of safeguards and guarantees to access a fair and efficient asylum procedure.[[35]](#footnote-33) * Temporary Protection Directive: establishes a common EU response to a mass influx of displaced persons unable to return to their country of origin.[[36]](#footnote-34) * Reception Conditions Directive: establishes common standards of conditions of living of asylum applicants.[[37]](#footnote-35) * Qualifications Directive: establishes common grounds to grant international protection.[[38]](#footnote-36) * Dublin Regulation: establishes the State responsible for examining the asylum application.[[39]](#footnote-37) * EURODAC Regulation: establishes an EU asylum fingerprint database.[[40]](#footnote-38) |
| **INTEGRATION**  The EU may provide incentives and support for measures taken by Member States to promote the integration of legally resident third-country nationals; EU law makes no provision for the harmonisation of national laws and regulations, however. | * Directive on the right to family reunification[[41]](#footnote-39) * Directive concerning the status of non-EU nationals who are long-term residents[[42]](#footnote-40) * Common basic principles for immigrant integration policy: provide a framework for policy-making regarding integration.[[43]](#footnote-41) |
| **COMBATING IRREGULAR MIGRATION**  The EU is required to prevent and reduce irregular immigration, in particular by means of an effective return policy, in a manner entirely consistent with fundamental rights. An irregular immigrant is a person who comes to the EU without a proper visa or permit or who overstays their visa. | * Return Directive: sets out common EU standards and procedures for returning irregularly resident third-country nationals.[[44]](#footnote-42) * Employers Sanctions Directive: it specifies sanctions and measures to be applied in Member States against employers who infringe the ban on employing illegally resident third-country nationals.[[45]](#footnote-43) * Facilitation Directive: it defines the facilitation of unauthorised entry, transit and residence as an infringement of individuals’ rights and it allows member states to take actions aimed at sanctioning such behaviours[[46]](#footnote-44) |
| **READMISSION AGREEMENTS**  The EU is competent to conclude agreements with third countries for the readmission to their country of origin or transit of third-country nationals who do not or no longer fulfil the conditions for entry into or presence or residence in a Member State. | So far, the EU has concluded **17 readmission agreements.** |
| **POLICY INSTRUMENTS** | | | |
| **Global Approach to Migration and Mobility 🡪** It establishes a general framework for the EU’s relations with third countries in the field of migration. It is based on four pillars:   * Regular immigration and mobility * Irregular immigration and trafficking in human beings * International protection and asylum policy * Maximising the impact of migration and mobility on development.   The Global Approach focuses on regional and bilateral dialogue between countries of origin, transit and destination. One of the main instruments of the Global Approach are the ‘mobility partnerships’ which can be concluded with third countries. These partnerships incorporate not only readmission agreements, but a whole set of measures, ranging from development aid to temporary entry visa facilitation, measures on circular migration, and measures to combat irregular immigration.[[47]](#footnote-45) | | | |
| **European Agenda on Migration 🡪** The Commission published the European Agenda on Migration on 13 May 2015, in keeping with its stated intention of making immigration a central priority. The Agenda proposes immediate measures to cope with the crisis in the Mediterranean Countries and measures to be taken over the next few years to manage all aspects of immigration more effectively.  As regards the medium and long term, the Commission proposes guidelines in four policy areas:   * Reducing incentives for irregular immigration * Border management – saving lives and securing external borders * Developing a sound common asylum policy based on the implementation of Europe’s Common European Asylum System, but also assessing and, possibly, revising the Dublin Regulation in 2016 * Establishing a new policy on regular immigration, modernising and revising the ‘blue card’ system, setting fresh priorities for integration policies and optimising the benefits of migration policy for the individuals concerned and for countries of origin, for example by facilitating cheaper, faster and more secure remittance transfers.[[48]](#footnote-46) | | | |
| **Action Plan on the integration of third-country nationals 🡪** provides a framework to support Member States' efforts in developing and strengthening their integration policies, and describes the concrete measures the Commission will implement in this regard.[[49]](#footnote-47) | | | |
| **European agenda for the integration of non-EU migrants 🡪** Focuses on action to increase economic, social, cultural and political participation by migrants and putting the emphasis on local action. This agenda highlighted challenges that need to be solved if the EU is to benefit fully from the potential offered by migration and the value of diversity. It also explored the role of countries of origin in the integration process.[[50]](#footnote-48) | | | |

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| **NATIONAL IMMIGRATION RULES** |
| Each EU country alone decides:   * The total number of migrants that can be admitted to the country to look for work * All final decisions on individual applications for asylum or other permits * Rules on long-term visas – stays for periods longer than three months * Conditions to obtain residence and work permits when no EU-wide rules have been adopted. |

**KEY ISSUES AND CHALLENGES**

**Why do people migrate?**

**The EEC/EU was founded on the principle of free movement within the Union**., recognizing the importance of the right to move country to work and live in the EU. In recent years rules on work and welfare entitlements have put increasing restrictions on movement between Member States, especially between ‘new’ (post 2004) and ‘old’ member states.

**Just over half of all migrants in Europe are Europeans living in a different European country from the one in which they were born**. Much of this movement is enabled by and is a consequence of the EU policy of free movement for EU citizens. Within Europe, Eastern Europe has the largest number of migrants living in other countries in the same sub-region. Just over one-quarter of migrants in Europe come from Asia and the balance were born in other regions of the world.[[51]](#footnote-49)

**Nevertheless, the main focus of EU political debate and policy development has been on migration from outside the EU, particularly what is described as the ‘refugee crisis’.** This means, in practice, mainly people trying to come to Europe across the Mediterranean or the Eastern borders of the EU, particularly people fleeing from war and persecution in their own countries – with particular focus on Syria, Afghanistan etc. However, in reality it is often **hard to separate out people’s motives** for coming to the EU. Most migrants have multiple motives for migrating – with **an overriding desire to escape violence, fear and deprivation and to build a better life for themselves and their families.**

As all the evidence shows, Europe is currently facing a serious decrease in working age population. According to the OECD, the **working age population in Europe will shrink by 50 million by 2060**. Even if governments succeed in their ‘activation plans’ for all groups, it is unlikely that governments will be able to mitigate this prognosis without a positive labour migration policy reform. This also has very serious consequences for the size of the working population and the long-term funding of social protection, including pension systems.

**Adequate migration policy should take into consideration this complex and multi-faceted reality, be evidence and needs-based**, **ensure that the benefits of migration are maximised** and the risks are mitigated. However, the current migration policies are heavily dependent on asylum procedures and offer migrants very few alternatives to receive residence status outside of the asylum system. This means that in many countries people who have very little possibility to be recognised as a refugee would still be pushed into the asylum-route, receive a negative decision and often stay in the country as an undocumented migrant, often facing severe poverty and social exclusion.

**Testimonies from Refugees**

***Escaping from war, conflict, threats to personal safety***

*“Me and my husband are from Afghanistan. We lived in Iran, but we didn’t have any IDs so we were forced to do whatever they asked (government officials from small town where they lived in Iran). They said if we don’t do what they asked us, we will have to go back to Afghanistan. We were really scared and that’s why we left Iran and came to Serbia.” (Woman from Iran in Serbia)*

*“We only want to live without a fear, to have a home.” (woman from Iran in Serbia)*

*“I saw my brother die in front of me, I was only 3 meters from him when he died. Just a week after that my father also died. So, my mother, my two sisters and I left Syria because we were afraid for our lives.” (Man from Syria in Serbia)[[52]](#footnote-50)*

*‘I was kidnapped by a terrorist group and they took me to a cave and asked me to join them, to fight with them. They asked me to forget I am a citizen of Mali, to join their group and fight with them. They gave me a weapon and they asked me to shoot. I said I had never held a weapon. That day they stroke my chest with a knife, insisting I had to learn how to shoot’* (Man from Mali in Italy)

*‘My neighbors told me that the soldiers had entered my house and killed everybody. I don’t know why the soldiers slaughtered my family. When I got home I found all my family killed. That night I didn’t sleep at home, I stayed out in the street. I knew that there had been problems, in the past, between my family and the family of a soldier, whose land was adjacent to ours. He was claiming a part of our land, trying to take it. We had reported this also to the police. He could be either the instigator or the perpetrator of the murder of my family, taking advantages from the situation of general insecurity due to the war’* (Man from Mali in Italy).[[53]](#footnote-51)

**The link between migration and poverty**

A major reason that many migrants leave their own country is to escape poverty, deprivation and discrimination. This is often exacerbated by war, conflict and persecution.

*‘It often happened that when I went home from school I didn’t have food. Sometimes we didn’t even have water for drinking and for all the other needs. I got to know that I could have reached Europe through Libya. I talked with my family about this possibility and we decided to get a loan, using our house as a collateral, so that I could travel. For this reason, I made the hard decision to leave and I promised to my family that, if I didn’t die during the journey, I would do anything to help my family to get out of the crushing poverty. I also send my parents the pocket-money I am given in the reception centre, so that they can survive. As soon as I get a document and a job, I will make my family’s living conditions better…”*

Man from Mali in Italy.

**But reaching the EU often does not ensure a route out of poverty**. Once in the EU, migrants face an **increased and disproportionate risk of poverty** and social exclusion, human rights violations and discrimination compared to the native population**.**

According to EU SILC[[54]](#footnote-52) in 2014, migrants from a non EU country had a **40.1% risk of living in poverty and social exclusion compared to 22.5%** of people from the EU. (EU SILC March 2016), ie they were almost twice as likely to be at risk of poverty. There are also wide variations across the EU. According to EU SILC data, the widest gaps appear in Belgium (37.9%), Greece (34.7%) and Spain (30.4%), compared to Czech Republic, Malta and Germany where non EU citizens only have a 5-6 percentage point gap with the native population. There has also been an increased risk of poverty in the last few years. Between 2010 and 2014, there was an increase of 3.2 percentage points. These figures however underestimate the risk of poverty for many migrants who are undocumented, have not achieved residence status and/or are homeless and thus are not captured in the current statistics.

Although not all migrants face poverty, ie those who come as ‘economic migrants’ with sought-after qualifications and skills, often entering under blue card schemes[[55]](#footnote-53), **the majority of migrants** **face a continual battle with deprivation, discrimination and exclusion**. This is **linked to the failure to access their rights**: to legal residence, to decent jobs, but also to adequate social protection and services, including housing.

The EU role should be to ensure **access to rights to migrants, prevent and tackle poverty**, as for all other groups, through an integrated rights-based anti-poverty and social exclusion strategy. However, the EU must also work to tackle the **causes of migration due to poverty, war, conflict etc**. This means working together with the people themselves to promote peace and ensure **pro-poor development policies:** which promoteinclusive and sustainable development for all not just large corporations, based on a rights-based and participative approach.

**Safe entry to Europe**

**The strong emphasis placed on deterring migrants within EU migration policies** leaves the need for safe and legal channels largely unaddressed. A clear lack of commitment to opening more adequate safe routes to Europe for those in need of international protection and for all other migrants, (e.g. through supporting resettlement, humanitarian admission schemes, family reunification, educational visas, labour mobility and visa liberalisation) is the direct cause creating demand for smugglers services and other irregular pathways to Europe. Such routes are highly perilous and incredibly expensive. It forces migrants to risk their lives and leaves them with very high debts, which in turn creates fertile ground for their exploitation and abuse after arrival. **Over 4000 migrants lost their lives in the Mediterranean Sea in 2016 alone.**

**Increased border control operations and bilateral agreements** such as between EU and Turkey (concluded in 2016) only temporarily and locally stem arrivals, directing people through other, often more dangerous routes. The [EU-Turkey deal](http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/) is a case in point. (See below).

**The journey – by land and sea**

*‘We travelled all night long, then we had to get off the pick-up truck and the driver went back. I walked in the desert without knowing where to go. A lorry-driver stopped by and I asked him to take me anywhere. He picked me and a few others up, but wasn’t going to Libya. Another lorry-driver was available to pick up only those who had money to pay him. Luckily, I could pay him and I left, together with five people more. As soon as we arrived, the Libyan police stopped us and took us to prison. We had to phone our relatives to get some money. I had nobody to phone, so I was kept there and beaten. We decided to escape, all together. We broke down the door. Many were arrested, only me and another one saved ourselves. I had the contact of a taxi-driver, who came to collect us and brought us to Tripoli. There, I was arrested as soon as I went out to find a job. I was put in prison for a week. The police let us go, providing we went to Europe. They took us, by car, to the boat and I was forced to embark’* (Man from the Ivory Coast in Italy)

*‘If I am here today it’s because I was rescued by the Italian Navy. I’m fine, they saved me and I am treated well*’ (Man from Mali in Italy)

**Decent treatment on arrival and reception**

Most of the current migrants arriving from ‘conflict zones’ particularly from Afghanistan, Syria and other areas in Africa by boat or by land are dealt with through the **EU Common European Asylum System (CEAS), (See above section on legal frameworks)** which is intended to ensure that all EU Member States protect the rights of asylum seekers and refugees. The CEAS sets out minimum standards and procedures for processing and deciding asylum applications, and for the treatment of both asylum seekers and those who are recognized as refugees. However, implementation of CEAS varies throughout the European Union. A number of EU states still do not operate fair, effective systems of asylum decision-making and support, leading to a patchwork of 28 asylum systems producing uneven results.

**When an asylum seeker arrives in the EU they have no legal duty to claim asylum in the first EU state** they reach, and many move on, seeking to join relatives or friends for support, or to reach a country with a functioning asylum system. However, the [“Dublin” Regulation](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/examination-of-applicants/index_en.htm) which establishes the different States responsible for examining the asylum application, stipulates that EU member states can choose to return asylum seekers to their country of first entry to process their asylum claim, so long as that country has an effective asylum system.

EU countries in the north, the desired destination of many refugees, have sought to use this Dublin system to their advantage, at the expense of the south, where most refugees first arrive. Yet these efforts have been obstructed by failures of asylum systems in the south. **Domestic and European courts have ruled against asylum seekers being returned to Greece**, notably in [a landmark case](http://www.asylumlawdatabase.eu/en/content/ecthr-mss-v-belgium-and-greece-gc-application-no-3069609) in 2011 that found Belgium in violation of the European Convention on Human Rights for exposing an Afghan national to detention, harsh living conditions, and risks arising from shortcomings in Greece's asylum system after a return.

To address the uneven application of CEAS and the problems of the Dublin system, a reform of the CEAS was proposed in 2016. **Among**[**the proposed reforms**](http://europa.eu/rapid/press-release_IP-16-2433_en.htm)**is one that risks endangering the right to asylum in the EU,** with an obligation to verify first if asylum seekers could find protection outside the EU. Some EU countries have already voiced opposition to some of the reforms, notably the obligation to take refugees from other EU countries.

In 2015, high numbers of migrants, many of them Syrians fleeing conflict, continued to move. Some European states, led by Germany, recognized that their strategy of seeking to block refugees moving across borders was unrealistic and harmful. These same countries worked together to allow migrants to move onwards to the places they wished to reach. This allowed reception countries to focus their resources on supporting asylum seekers and considering claims.

**By early 2016, support for this policy began to wane,** with increased hostility towards migrants entering the political discourse. Certain countries along the migrant route began to close their borders. The situation further deteriorated when the EU’s decision to transfer 160,000 asylum seekers from Greece and Italy to other European member states was met with widespread resistance. [In the end, a small percentage of the needed transfers have actually taken place.](http://europa.eu/rapid/press-release_IP-16-3614_en.htm) In response to the failure to adequately process asylum claims, the **EU set up “hotspots” in Greece and Italy**. Hotspots identify, register, and fingerprint incoming migrants, and redirect them either towards asylum or return procedures. In practice, many hotspots are turning into [overcrowded and understaffed detention and expulsion centres](https://www.amnesty.org/en/documents/eur30/5004/2016/en/), with little external oversight.

I**n March 2016, the EU announced a deal in which Turkey** **would try to stop people from moving onward into Europe;** in return, Turkey was promised financial assistance, visa-free travel to the EU for Turkish citizens, and faster negotiations for EU accession. But the EU-Turkey deal failed to close the border, and thousands of migrants continued to travel irregularly using smugglers. Since the deal, only 750 asylum seekers have been sent back from Greece to Turkey, because [Greek officials and courts consider Turkey to be an unsafe country](https://www.proasyl.de/en/pressrelease/appeals-committee-on-lesbos-stops-deportations-to-turkey/). Tens of thousands of people remain stranded on the Greek islands, in an inhumane living situation, as the conditions of the agreement do not allow them to move forward.

However, according to EAPN members, some countries are doing better than others to ensure adequate reception treatment within the current system.

## **Reception Case Studies**

**Italian Case Study**

## *In Italy, the Ministry of Interior is in charge of migrants’ reception, which is divided into primary and secondary reception. Primary reception is organised in hot-spots and regional hubs, whereas secondary reception is organised in SPRAR projects. After the rescue at sea and disembarkment, migrants are identified in hotspots and quickly resettled in hubs all over the country. Hubs are managed by NGOs, which assist migrants in bureaucracy, advocacy, healthcare, psychological support, language-learning, during the process of seeking asylum - which currently lasts approximately two years. Then, those who are given asylum enter SPRAR projects and start a personalised pathway of integration. Besides hubs, both asylum-seekers and refugees can be hosted, upon request, also in private households. Such a ‘widespread reception’ (accoglienza diffusa), which takes place in flats, houses, hotels, etc., in both urban and rural areas, means a plurality of reception practices. Among the good practices could be mentioned all those experiences in which a small number of asylum-seekers cohabits, shares the housework, attends language classes, and volunteers in local communities. In addition to this, after two months from the asylum claim –which is made shortly after the arrival–, asylum-seekers are given a temporary work permit, which allows them to work. In case they find a full-time job, they have to leave the hub. Women and children are hosted in specific hubs –and children go to school.* (EAPN Italy).

**Swedish Case Study**

***UNHCR program****: Sweden receives 1,900 quota refugees annually. It has been decided to gradually increase this number to 5,000.*

***Refugees arriving at the border****: A large number of asylum seekers arrive without a valid visa. Typically, these have travelled through Europe to reach Sweden. A person arriving thus in the country must apply for asylum immediately upon arrival. Asylum is sought at Migration Agency Office Centers, located at entry points.*

*For quota refugees the UNHCR process applies. For all other asylum seekers the Migration Agency makes the determination, with due rights to appeal. Persons meeting the requirements under the Refugee Convention are given protected status.*

***Accommodation****: There are two principal choices when it comes to housing:*

*1. stay at a reception unit, or*

*2. arrange your own housing, and stay with relatives or friends.*

*Unaccompanied children are assigned accommodation at youth homes for asylum seekers, or in a family. A network, “Refugees Welcome”, has been formed, where private citizens offer accommodation; numerous NGOs are assisting in supplying housing. However, accommodation for refugees is severely impaired by a deficit (estimate: half a million units, in a population of 10 million) in available apartments in the country as a whole, adding to what was already a problematic situation, in turn fueling other forms of dispute and tension.*

***Processing****: Due to the great influx (2015: 163,000 / 2016: 29,000) of people seeking asylum, the process at the Migration Agency has become congested. The handling time is about a year on average. Average rate of granting asylum: around 60%; however, for refugees from certain countries, e.g. Syria and Eritrea, the rate is 100%.*

*There are reports from the Migration Agency, and in the media, of tensions building in reception units etc, refugees expressing frustration on their general situation, and on the perceived discrepancy between the image of Sweden as a country welcoming refugees, and the realities of the protracted process. (EAPN Sweden)*

**Testimonies of treatment in Reception Centres**

**EAPN Italy**

**Living conditions**

‘*The living conditions are really good. We eat well and the staff treats us well’*. (Man from Mali in Italy)

**Language classes**

*‘We have Italian language classes twice per week’* (Man from Mali in Italy)

**Healthcare**

*‘When I was in Gambia I had skin problems. I didn’t have a medicine that could heal me, but here I found it and now I’m fine’* (Man from Gambia in Italy)

**Job-seeking**

*‘I did some voluntary jobs, such as collecting the litter people drop, we collect and put into bags, and also cut the grass’* (man from Mali in Italy)

**Dignity – why going back isn’t an option..**

*‘Firstly, it (=going back) would be extremely shameful. Secondly, I would feel guilty for not having kept the promise, as if I were a liar. Thirdly, we have debts, how could we pay the money back?’* (Man from Mali in Italy)

**EAPN Sweden**

**Swedish public television, Aug 2016**: Residents in a minor town in central Sweden joined forces to supply housing for refugees. “*The local community have been fantastic in supporting us. It would have been very difficult to leave this location, and all the people here that have become our friends*.” (asylum seeker)

**News clip, local paper, Sept 2016**: Asylum seekers staying for several months in an off season inn. “*We are forced to live four persons in a small room of 10 square meters, and there is nowhere to do our school work, or to be in private*.” (asylum seeker)

**Interview, local paper, Oct 2016**: About those asylum seekers exercising the right to arrange their own accommodation. “*Some end up under perfectly acceptable conditions with relatives, but that is all too uncommon. Most get stuck in a very unsafe, completely absurd situation. They move around between various locations, and cynical people make money off their vulnerable situation*.” (mayor, Södertälje, a city that has become a major recipient of refugees)

**Local television, Nov 2016**: Refugees protesting conditions at a reception unit, where they had been staying for 10 months, and the unavailability of adequate halal meals. “*Rooms are too small to accommodate an entire family, and the food is no good. Many children here are feeling bad; they do not like the food, and they do not eat.*” (asylum seeker, Syria)

**Interview, local paper, Dec 2016**: A family housing two Afghanistan refugees in their home. “*I stayed for 9 months in a reception unit. There was some occasional brawl. I find the conditions now much better and safer*.” (asylum seeker, Afghanistan)

**Right to residence and work**

Even though irregular entry through sea and land borders has grown over the past years with conflicts erupting in various parts of the world, according to the UNHCR, in 2015 refugees suffering from *enforced displacement* represented 8% of international migrants. **Most migrants arrive regularly with some type of authorisation**, **often with short term visas**. Due to the extremely complicated and restrictive systems across Member States of the EU for obtaining residence and work permits, many migrants find themselves in a precarious cycle of short term permits or lose their residence status altogether. While the number of asylum applications has increased exponentially in the past decade across the EU, **very few other opportunities exist for third country migrants to receive residence and work rights** in the EU.

**Freedom of movement and right to work without a work permit is a right for EU citizens**. Non EU rights depend on their status as [family members](http://ec.europa.eu/social/main.jsp?catId=463&langId=en) of EU nationals and on their own nationality. Citizens of Iceland, Liechtenstein, Norway Switzerland have the same right to work as EU citizens. MS have own set of rules for Turkish workers. Although EU rules and laws are agreed, often the right to employment for non- EU migrants depends on rules of individual Member States.EU rules establish that in general the following non-EU groups **have the right to work and to be treated equally** in employment.[[56]](#footnote-54)

* Non-EU nationals who are long-term residents in the EU
* People who have been given a status based on their right or qualification to family reunification
* Those who have been allowed entry as non-EU researchers
* Non - EU Students enrolled in EU colleges and universities full time, exchange pupils, unpaid training or voluntary service
* Highly-skilled workers from outside the EU (EU blue card scheme)
* Refugees – those who have been granted a status (not asylum seekers although in some countries asylum seekers can work)
* Seasonal workers

**However, long term residency** **status on paper is not the same** as living in a country for a long-time e.g some people can be in a country for as long as 10 or 12 years and never be granted a long-term residence status because this is not calculated in terms of time but reason for being in the country. This also does not always mean that every migrant who has been living in a certain country for a longtime automatically has access to a long-term residence status. Only a handful immigration statuses progress to long term residence status.

The main priority for the EU is to get more **highly skilled migrants.** This is currently done through the **Blue Card Scheme.** This is an approved EU-wide work permit allowing high-skilled non-EU citizens to work and live in any country within the European Union excluding Denmark, Ireland which are not subject to the proposal. This system offers a one-track procedure for non-EU citizens to apply for a work permit, which would be valid for up to three years, but can be renewed thereafter. People who are granted a blue card get a series of rights, such as favourable family reunification rules. The proposal also encourages geographic mobility within the EU, between different Member States, for those who have been granted a blue card.

However, **most migrants are not in this category, and are seeking** **low and medium skilled work**. Work permits in these sectors in many countries were stopped around 2007 when Romania and Bulgaria joined the EU. Many non-EU migrants remain highly represented in these sectors, particularly the care and hospitality sectors.

**For** **refugees once they** **get their legal immigration status, they usually gain the right to work or study without permits.** However**, i**t is a long journey to get to that point. In a number of countries, asylum seekers have no right to work and their freedom of movement is severely limited until their cases are decided on. Discrimination is a big factor that is behind many of these policies.

There is also an issue of **lack of recognition of foreign qualifications** of labor migrants unless the country particularly needs workers in this area. For example, when hospitals are in dire need of nurses, they find experts to evaluate nurses’ qualifications, give them top up training and employ them. In other situations, migrant’s qualifications are treated as out of date or inferior because they are from outside the EU. Even if they have a degree they are forced to start a new local degree in the same field and to pay for it before they can set foot in the door. The appropriate recognition of personal qualifications is even worse for refugees and undocumented migrants who often do not have the necessary identification or qualification documents available.

With **negative asylum decisions reaching above 80% in some Member States**, **there is a clear need for alternative avenues for migrants to regularly live and work in the EU**. The lack of opportunities for migrant workers has resulted in increased labour segmentation, low wages and normalization of exploitative working conditions. Due to lack of regular employment opportunities, migrant workers have to work irregularly outside of formal employment rules and are often viewed as unwelcome competition for scarce jobs, and blamed for lowering wages and safety standards.

There is a **clear preference in many Member States to grant short term permits to asylum seekers and other migrants, to seek policy solutions that would fill labour shortages** **but restrict residence rights** of these workers and to avoid other longer term residence opportunities. This is a very short- sighted approach, it creates a sense of precariousness linked to migration, enforces divisions within society and forces people into irregularity as they are unable to extend their permits.

**Access to essential services, integration that responds to needs**

**Basic human needs are generally the same for everybody**: universal access to services that are crucial for survival and wellbeing such as healthcare, education, housing and social protection. However, currently access to all these services depends on the type of status and authorisation that migrants have been granted when they enter the EU.

Once having entered a country, many refugees’ and migrants main concern may be **family reunification**, as well as **integration in the new society**. Immediate priorities for Integration may be through several instruments that are crucial for social inclusion. Language learning, education and training are as important as labour market access. Granting migrants the chance to develop relevant skills and qualifications or recognizing the one’s that they have already acquired is fundamental for a fully functioning integration process. Social inclusion also depends on acquiring access to basic services such as housing and health/medical care. Migrant’s access to these services however is often impeded or made very arduous, as it depends **on the legal status that the migrant is awarded.**

The restrictions based on residence status are not only discriminatory but can have a lasting impact. People who have **lost their residence status are often excluded altogether, in particular in the context of housing and homeless** services. In many countries, additional barriers apply to undocumented migrants in trying to access education and health care services. While many undocumented migrants in Europe, including undocumented children and youth, are able to regularize their status, the restrictions they may have faced in accessing education and health care services not only result in an **abuse of their human right to education and health, but also in wasted potential** that can have harmful long term health impacts on the individual and economic and social impact on the society.

The **rising share of migrants in the homeless population**, in particular those who are undocumented, is alarming, yet little is done on policy level across the EU to address the exclusion faced by undocumented homeless people from shelter services. People who have not yet a residence status and are considered irregular or undocumented are virtually inexistent for the arrival country, and cannot access anyone of this basic steps.[[57]](#footnote-55)

**Significant financial and legislative barriers prevent service provider**s **from finding durable solutions** for this group. Often social services and NGOs are not allowed to shelter undocumented migrants, provide them with health care or include them in projects of integration where they can learn the language, access to professional qualifications and become able to fend for themselves. In many cases, no resources are allocated for these services, and undocumented migrants find themselves excluded from any perspective of integration. Fines and sanctions to social services and NGOs assisting undocumented migrants are also a sad reality in some EU countries.

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| **Case study/testimony: Syrian refugees in Armenia**  *A major challenge is the support and integration of migrants who find themselves in a country which is not able to provide them assistance. Many members of the Armenian national minority in Syria used to live in the Aleppo region. As they fled the country facing civil war, many turned naturally to Armenia where they knew the language and traditions. Unfortunately, many now find themselves in the very difficult situation of hardly surviving, thanks to NGO and private donations, living in very precarious conditions with no perspectives for the future.*  ***The horror of being twice a Refugee***  *In 1988, when she was a young girl of Armenian descent, Ila Tomasyan was forced to leave Baku. Shortly after, her mother found refuge for her daughters in Aleppo, Syria, where they build up a new life and integrated in Syria. In 2015, Ila Tomasyan was forcefully displaced once again with her 4 children, this time from Syria to Armenia. Ila, her husband and three of her children (the fourth one, who was studying in Aleppo, found later on safety in Lebanon), went first through the harsh conditions of the refugee camps in Turkey. Misery and deprivation forced Ila`s husband and her 12-year-old son Aram to go back to Syria with the hope to sell their undamaged property. Ila`s husband never came back; he was executed by ISIS in front of Aram.*  *Unemployed, with unsecure shelter, diagnosed with cancer, and three children to care of, Ila is in a gloomy limbo situation. Each month starts with a horrifying fear of being evicted from her two-bedroom apartment in the outskirts of Yerevan, provided on monthly basis by a private donor. Permanent uncertainty about how to provide to daily needs and the lack of housing and employment solutions question the future of Ila and her family in Armenia.*  ***Lack of care and support for refugee families with children with disability***  *“I wish my sons were healthy and Syrian war hadn’t started” says Abdullah Haddad, 46 years-old who fled from Syria to Armenia in 2011 with his wife and three sons. Abdullah is a carpenter, who lives out of occasional orders and reparations. Unfortunately, this does not allow him to pay for his family’s needs. Abdullah’s two elder sons, of 21 and 18 years old were born with mental disorders and attend a specialized center, while his younger son, who is 8 years old, attends an ordinary school and wishes to have a bicycle and colored pencils most of all. He needs to color the paper hats that he makes himself and sells on holidays for 20-50 Armenian drams (0,04-0,05 USD) in the streets to buy ice-cream for his brothers. Anna, Abdullah’s wife cannot afford to look for a job as she needs to take care of the boys. The daily existence of Abdulla’s family depends on the precarious funds of several NGOs, which assist them with a two-room flat, some furniture, a gas stove and refrigerator (always almost empty). Social protection is still a blurred concept for many refugees in Armenia, where access to health and care in serious health institutions is not free.* (Testimonies compiled by the Armenia Round Table foundation, Eurodiaconia member). |

**Decriminalisation of shelter provision to undocumented migrants** under the EU Facilitation Directive, (which would enable migrants to access shelters without fear of being reported and NGO service providers to offer advice and services without fear of repercussions, as well as making EU funds available for the development of homeless services for undocumented migrants on the local level) are examples of vital impending policy advances.

**Withholding access to crucial services with the objective of deterring migrants** has been part of the migration management toolbox across the EU. As a recent example, the new proposed EU asylum rules will significantly limit access to material reception conditions for those who are not complying with the obligation to remain in the designated Member State. Accommodation, food, clothing and non-food items will be withheld and access to health care will be scaled back to emergency care only for those breaking the rules.

**Emergency care does not constitute a long-term solution for migrants**, who are often escaping conflict situations as well as deprivation and poverty. They need not only to rebuild their lives, but to receive specific trauma recovery therapies, as well as migrant-specific integration services like language support and orientation. Above all they need to be welcomed by a real hospitable community that allows them to restart their lives and find the peace and security that they have lost in their own countries.

The **Reception Directive** tries to promote some of these services for asylum seekers, but not for other migrants. The **EU Action Plan on the Integration of the third-country nationals** needs to allocate resources also for the **management of undocumented migrants**, in terms of preventing them from destitution and homelessness and enabling social services providers, including NGOs, to welcome these people in their services.

**Although undocumented migrants have rights provided by international and regional human rights instruments, they are often not informed by their rights**, and they are often cut out from proper healthcare systems (except in emergency cases).

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| **Supporting undocumented migrants by the Church City Mission of Oslo, Norway (Eurodiaconia Member)**  *The Oslo City Mission carries out two projects that directly support undocumented migrants in Norway. Their first project is a centre for marginalised women from minority groups in Oslo. Many of these women are undocumented migrants who struggle to find many basic necessities for daily life. This centre runs counselling sessions, group dialogues and other workshops focused on health, social challenges, legal issues and human rights problems that women often encounter. The staff and volunteers support these women by giving them individual counselling in order to help provide for their main needs.*  *In parallel to this initiative, a second project in the Oslo City Mission carries out a primary healthcare centre for undocumented migrants. This project, run by health professionals who volunteer for this facility is designed to give health care to people who do not have a resident card in Norway, and who, for this reason are not entitled to official health care reimbursement. These people are usually former asylum seekers who were rejected, people who overstayed their visas or immigrants who have not registered with the government fearing deportations. The centre operates as a substitute of a regular clinic, enabling undocumented migrants to see a qualified professional when needed and not only in emergency situations.* |

**Exploitation and abuse**

Due to the multiple failings of labour migration systems in Europe**, migrant workers in low wage sectors in particular face great difficulties in getting and maintaining their regular migration status**. Once in an irregular situation, they are extremely vulnerable to exploitative conditions such as low wages, long hours, and unsafe working environments and face many barriers across Europe to access compensation for work place accidents. Undocumented workers who have been exploited are unable to complain about these violations as this could lead to their arrest and deportation.

**Undocumented migrants who are victims of crime are in a similar situation**. Because of the difficulties they face in accessing justice and support across the EU, undocumented migrants are disproportionately exposed to violence and exploitation not only at work but also at home, and on the streets. In criminalising victims or witnesses who seek justice, the laws and policies of **many EU Member States provide systematic impunity to perpetrators targeting those with an irregular status**. Undocumented women experiencing violence are a particular concern as in many countries shelter services for women remain inaccessible for them and reporting the perpetrator includes a risk of arrest and deportation for the victim.

**Abuse of women and girls**

**Currently, women and girls represent half of the 244 million migrants and 21.3 million refugees**[[58]](#footnote-56). They are, with children, the most vulnerable and those who are significantly exposed to human rights violations. Women refugees, migrants and asylum seekers face multiple discrimination, gender-based violence, rape, exploitation and human-trafficking. On the route and in the reception centers too many may face rape, sexual assault, sexual harassment and often have no recourse to justice. Too many have to resort to prostitution in order to get access to food, housing or transport. They can face domestic violence within their own families and households. Undocumented women and women whose migration status depends on their partner are more at risk from intimate partner violence as lack of independent status increases their vulnerability and dependence.

**Women and girls experience the refugee journey in a different way** to men and boys, due to gender roles and structures. However, the evidence on the ground charted by expert NGOs gives clear evidence that the **specific needs of women and girls are not being taken into account** in refugee settings both on route or in reception centres, and that women and girls are at risk of several forms of male violence on the move. These include tackling a massive lack of female interpreters in the various settings, a lack of childcare and of gender segregated spaces in accommodation centers, a lack of reporting of male violence (especially domestic violence) because of fear of not being believed or because of non-individualized interviews/case management, etc.

**Asylum is a fundamental right**; granting it is an international obligation, first recognised in the 1951 Geneva Convention on the protection of refugees. The 1951 Convention and its 1967 Protocol **gives protection to women making gender-based violence asylum claims.** However, a lack of knowledge and unworkable EU asylum policies utterly fail to recognize and deliver a supportive environment where women can disclose the true nature of their situation, despite existing provisions made in various relevant directives. It appears as a detrimental standard that national asylum policies and procedures are gender-blind and don’t abide with the international obligations. The reality of sexual and gender-based violence should count as much as the reality of the country of origin.

**The lack of a gendered interpretation and disregard for gender sensitive EU and national asylum policies is a massive breach of women’s and girls’ human rights**. Recognizing that asylum is not gender neutral is the first step towards engendering asylum policies. It is fundamental for these women to find immediate assistance with gender-sensitive trained personnel. In the long run is also essential to establish or reinforce gender-based refugee, migrant and asylum policies[[59]](#footnote-57) **.**

**Testimonies from migrant women**

*“I arrived in Finland with my husband as asylum seekers. Already in the very beginning of the process, I stated that I wanted our applications to be handled separately. Because of the political activity of my husband, I had been gang raped in my country. I did not want my husband to learn this. The marriage is a forced one and there has been all kinds of violence throughout the marriage, and also in the reception centre in Finland. I sought help from a social worker and the police has also visited our home because of domestic violence. I want a divorce, but it is very complicated because of religious reasons.”. (Woman/Sana in Finland)*

**Testimony from a women’s NGO in Former Yugoslav Republic of Macedonia:** *“A woman was physically assaulted by her father in her country of origin because she married a man from a different religion. Her father was a police officer and she could not protect herself in her own country. Therefore, she decided to leave the country. She arrived in Macedonia and asked for asylum. Her claim was refused by the authorities. Currently her case is in front of the constitutional court and she is in the asylum centre in Skopje. During this decision making process the women is being accommodated in the Vizbegovo asylum centre in Skopje. The centre is a collective facility where women are often exposed to gender based violence. The facility is not light enough, not secure for women, there is limited access to hygiene facilities, access to medical help is very also limited. Other women have complained that they were sexually accosted by police personnel and social workers in the centre. However, these claims never went into procedure due to the fact that women were scared to report for fear of this interfering with their asylum application.”*

*“I had to leave my home in Iran because I was going to be forced into marriage. I am 21 but this man is 53. [….]. I met him once before the wedding and he violently raped me – anally [….]. I was very scared and in a lot of pain. […..]. I came to Slovenia [...] the authorities put me in a centre in Ljubljana. I was very frightened because I was on my own and there were some men in the centre who said bad things to me. I didn’t feel safe so I told the authorities and they moved me to another place for women and children who are like me and have suffered from violence. I felt safer there but it was still very difficult for me. I had flashbacks and was very sick. I was so scared that no-one would believe me and they would force me to return to Iran. I knew that they would kill me – either the man I was supposed to marry or my family. No-one would care and no-one would protect me. If the authorities said no to me for my asylum, then I would run away. Anything is better than going back to Iran.*

*I lived in this house with other women for a year. […..] I thought that I cannot sit and do nothing, I have to be active. So I went to some psychotherapies and this was a very good step for me. It helped me feel better. […..] I took language classes in Slovene and English. […..] The doctor said I had severe anxiety and PTSD. The most important thing for me was to work. I really wanted a job but it is impossible without my refugee status. I moved 6 months ago from the house into a reintegration house. It is calmer here. I now have a job but it is not legal. But what can I do? I need to earn money. I still don’t know what the authorities will do about my case.” (Farah/Iran in Slovenia).*

**Migrant children /Vulnerability of unaccompanied migrant children-risk of trafficking of human beings**

**Europe is home to one sixth of the world’s migrant children.** Whether children are part of migration movements or left in the care of others when their parents move, they remain a core constituency in European migration debates. Their rights to health and social services, education and, later, employment, are all implicated by current migration debates across the continent**[[60]](#footnote-58).**

**In 2015, more than a million people reached the external borders of the European Union irregularly.** It is estimated that in the migrant crisis-due to war, natural disasters or other traumatic situation, **children (0-18 years of age) represent 30% of total refugee population**. Among total child refugee / migrant population, 2-5% are unaccompanied children.[[61]](#footnote-59) In the fall of 2015, in Croatia daily press, UNICEF had presented data that showed more than 10.000 of undocumented unaccompanied children had been among the total population of irregular/undocumented migrants in Europe during the current migrant crisis. The Save the Children and UNHCR initiative[[62]](#footnote-60) report “Separated Children in Europe” stated: “*Unaccompanied/ separated children were/are facing serious trafficking problems in Europe*”. The report also highlighted: “*A particularly worrying aspect was the number of children who disappear from the reception centres; many do so in order to work as sex workers.”[[63]](#footnote-61)*

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| **Excerpt from the Croatia report**  *“In September 2015 there were 217 unaccompanied/separated migrant children identified / registered in Croatia. All 217 children were discovered during the police activities related to the illegal trafficking of human beings across the borders in Croatia.*  *Out of the 217, only 30 children are currently present in shelters/accommodation in Croatia. Unaccompanied migrant children in Croatia are mostly accommodated in social welfare homes for children.*  *After the discovery of the NGO “Are you Serious?” about the disappearance of children, these 187 children are now being considered as* ***missing, unaccompanied, migrant children.*** *All of the missing, unaccompanied, migrant children are in serious risk of trafficking of human beings”*.[[64]](#footnote-62) |

**Between January and September 2016, more than 664,500 children claimed asylum in Europe.** In Italy alone, nine in ten children arriving in 2016) were unaccompanied. In Greece, 23,000 children remain in limbo – their futures hanging in the balance, their education on hold. More than 700 children are estimated to have died at sea trying to reach Europe in 2016 alone.[[65]](#footnote-63)

Migrant children are a diverse group. Whether they travel unaccompanied, separated or with their parents or other caregivers, in search of education, work, protection or family reunification, all children have a right to protection, equal access to services and a safe environment in which to thrive. They should be treated as children, first and foremost. However, the current approach to migrant children is piecemeal, focusing on protecting certain categories of children, such as unaccompanied, asylum seeking, refugee or trafficked children. While some children have additional protection needs, this should be based on the individual child and not constructed administrative and legal categories. Furthermore, many children are falling through the gaps in these limited protection frameworks, and facing grave and systematic rights violations.

See previous section regarding the situation of unaccompanied children by most of the EU migration and asylum legislation[[66]](#footnote-64).

Undocumented migrants have a very high risk of being exploited and abused through migrant **smuggling** sometimes linked to human trafficking. Migration is by definition a voluntary process. **Human trafficking, is the process that includes fraud and/or forced migration with the purpose of exploitation (see section on definitions). Women and children may face elevated risks of trafficking.** Undocumented unaccompanied children are particularly at risk.

**Children become unaccompanied when families get separated** because of war in the country of origin, persecution or some other precarious situation in countries of origin. Parents often send the children alone or in groups away from home, as dangerous zones, in order to save children lives, while they stay at home defending their homes and livelihoods. Child also decide to migrate in search of better opportunities and to support their families, or to reunite with family members in Europe, while opportunities for them to do so regularly are very few. Separated/unaccompanied children are particularly vulnerable to exploitation.

At the same time, **being with a parent or guardian does not protect you from drowning at sea.** It does not protect you from the harmful effects of being placed in detention. Nor does it replace public education, protect you from illness when you are not entitled to access health services or enable you to challenge immigration-related decisions that do not take your interests into account.

Migration and refugee laws and policies have been revised in some contexts, limiting rights and access to services for children based on their migration status. Children seeking asylum and those in irregular migration situations have been the most affected, with some European states denying them full access to even basic services.

**Migrant children in Europe face family separation,** limited access to services, including education and health care, poverty, and risks of apprehension, arrest and deportation, to mention just a few rights violations that will have a lasting impact on their development.

**Children are also disadvantaged within migration procedures** – their status is often linked to that of their parents, meaning that if their parent’s application for international protection is denied, or their parent loses their residence or work permit, the child automatically becomes undocumented as well. There is very little independent consideration of the child’s situation or what would be in the best interests of the child, which should be a primary consideration in decisions which affect children. This puts children at risk of further harm.

**Unaccompanied children and young migrants at risk: testimonies from Greece**

**A CNN video report highlights unaccompanied teenage migrants becoming prostitutes for just a few euros[[67]](#footnote-65)**, to raise money to be able to cross illegally in Western Europe. In the heart of Athens, sidewalks teem with passersby; restaurants are packed with customers and crowds flowing from the metro. But once you take a few steps away, in the nearby Victoria Square, you will find the shocking world of sex and exploitation. And all for survival. The sex trade has always existed here, but now has been exacerbated by the large number of refugees arriving from the Middle East. In the net of this despair are unaccompanied minors - many of them.

Greek social worker Tasso Smetopoulos says, "*There are older children that offer simple accommodation, food and clothing.* […] *minors want money. This is the thinking ... To raise money to cross illegally in central Europe*.”

*“One of those seeking a way to escape to Europe is Ali (that is not the real name), a 17 year-old boy from Afghanistan. He came to Europe in the hope that he will be able to bring his mother, and could go to a school. He arrived in Greece alone, with just 270 euros in his name, without a place to stay and found himself in an environment rife with drugs and prostitution. Now, he depends on the customers' drugs and money, the reality of what became his life is staggering*”. I said to him*: 'Look, you came to Europe, what was your goal? ''* He says. *'I'm not doing this because I like it. But because I have not got any money, I have no choice*. "

*Like many of his friends, Ali regularly goes to a nearby park, where the agreements are usually closed with local men, and prices range from 5-12 euros*. *'Some offer 3 euros, others 100 and others 80 euros. But I do not go to anyone for less than 60 euros'* he explains. *'At the end of the day, if you go into the park,* […], *they speak and show you their money, so it works.* "

*Ali also says that some of the older men ask the boys to accompany them to a nearby disco and then to their homes. In the last 3-4 weeks he prostitutes himself every day - the money and the chance of a warm bed is too good to reject*. *“Some may take you into their home, pay you money and anything else you want,* " he says. *“They treat you like you are their husband, their friend and give you 200, 300 or 400 euros. It is too difficult.* […]. *No matter how often you do it, but it's not easy*.”

***Many of the refugees cling to the promises*** *of traffickers who roam the park, promising that with enough money they can illegally transfer any one to Western Europe and seek asylum there.*

"*It is shocking for us, for me, for you*," says the Greek social worker Tasos Smetopoulos. *'But for them (their sex customers and the smugglers) he is like a new meat. People who are desperate, it's very easy to abuse them*. "

**The apparent increase of unaccompanied minors this year in Greece is largely due to the agreemen**t *'one for one'* reached between the EU and Turkey in March 2016. The agreement provided that Turkey would accept back migrants crossing the borders of Greece, while the European Union would accept refugees directly from Turkey. But the deal was frozen and refugees stayed in Greece, a country that still cannot offer decent, humane accommodation for all. Among those still waiting for shelter, is about **1,200 unaccompanied minors**, according to the Greek government - but in reality the number is much higher.

However, it is **important to underline that not all unaccompanied children and young people end up being trafficked**, although the majority face severe challenges. For other perspectives and life stories of young migrants, see PICUM’s booklet: Hear our voices.[[68]](#footnote-66)

**Detention and deportation**

The current EU migration policy is focusing increasingly on the **detention and deportation of irregular migrants which put individuals’ rights to due process and protection at risk**. It also fails to recognise the capacity of migrants or make the most of their potential contribution, and misses its aim of reducing irregular migration in Europe.

The detention of migrants is covered by the [**EU Return Directive**](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:en:PDF) as a measure of last resort only when there is risk of absconding and when other alternative measures cannot be applied. However, systematic and prolonged detention, detention based on unlawful grounds, of children and families, have all become common occurrences across Member States where the use of detention has become a normalised tool for migration management.

**Deprivation of liberty** is one of the most serious rights restrictions applied by the state in democratic countries and has to pass very vigilant legal scrutiny when applied to the general public. However, **different standards exist concerning non-nationals** **allowing for the systematic deprivation of liberty** of men, women and children who have committed no offence and do not pose any threat to public order or themselves. Many countries use detention as a deterrent for irregular migration, although evidence collected by researchers on the ground indicates that detention does not deter irregular migration, nor does it contribute to an increased effectiveness in deportation procedures.[[69]](#footnote-67)

**The political drive to increase numbers of deportations** raises serious concerns about eroding human rights safeguards, in particular the risk of collective expulsions, unjustified and arbitrary deportation decisions, disregard for the best interest of the child and the violation of the non-refoulement[[70]](#footnote-68) principle. It is crucial to **apply the best interest considerations for all children** in migration proceedings, including in return decisions as provided in the UN Convention on the Rights of the Child.

**MOVING FORWARD**

**Maximizing the benefits that migrants bring**

***The impact of migration***

EAPN is primarily concerned about the impact of policies and legislation on individuals and communities at risk, whether ‘migrant’ or ‘host communities’ or both.

Migrants are easy scapegoats for current ills, and these fears are currently being widely exploited by media and populist groups. For this reason, in the broader public debate it is **important for EAPN to stress the benefits of migration and how to maximise them, whilst at that same time arguing to reduce the threats from poor and divisive migration** **policy that is driving a gulf** between migrants and other groups facing poverty and social exclusion. This must be done by arguing for effective comprehensive rights-based, distributive and redistributive policies for all.[[71]](#footnote-69)

For host countries, **migration can help economic growth** by filling job vacancies and skills gaps which often native population are unwilling or unable to do. If appropriately regulated, this could cause unemployment rates to fall and ultimately the whole economy to flourish. **Care needs to be taken to avoid competition and ensure that other excluded groups are actively supported** out of unemployment into quality and sustainable jobs, where this is feasible and jobs are available and accessible. As Europe faces an ageing population, a declining working-age population is matched with an increased demand for health and long-term care services. **Migrants could play a key role as workers in the provision of these services,** as long as the jobs are legal and declared.  Immigrants in declared work make an important contribution to the tax base, since, for reasons mainly of age, they contribute more in tax and economic activity than they draw in services and income supports. **Immigrants can also bring energy and innovation and host countries are enriched by cultural diversity**. Failing schools (and those with falling numbers) and other services in areas with low populations could be revitalised.

**On the negative side, if employment protection and minimum wage regulation is weak there is a fear that employment security and wages may be depressed** in the short term in low-wage areas of the economy, resulting in migrants being exploited and social dumping.  This is one of the main contributors to fears of migration, and must be confronted directly with arguments and campaigns for stronger protections for all worker’s conditions. There is also a fear that **sudden increases in numbers can put pressure on existing services**, although in practice the increase in skilled personnel to run services and the large newer contribution to taxes means that this is not an issue except where services are poorly planned and/or under-resourced. It may be emblematic to look at the case of health care services for the elderly population, which is a growing sector due to strong demographic changes and largely relies on the contribution of migrant labour force.

There is also a fear of **cultural conflict** with host communities. The perceived ‘threat’ of Islam, is currently being widely exploited in populist rhetoric and underpins governments’ justification for protectionist measures and security concerns.  This needs to be confronted by discussion, dialogue and common action. It will only be overcome with investment in community infrastructure which benefits the whole community and commitment to dedicated intercultural and interfaith dialogue. In this, NGOs have a key role to play.

**In terms of the ‘sending countries’, while it is hard to generalise across the world, on balance the experience of migration is positive**.  There is a concern that education systems in poorer countries invest heavily in developing skills for people who emigrate in large numbers. In addition, there is a fear that poorer countries will lose out on a ‘brain drain’, with people educated at great expense using their skills in richer countries or in situations where they cannot make full use of their skills due to work restrictions.  This is more than balanced out by the fact that **developing countries benefit from remittances** (payments sent home by migrants) that now often outstrip foreign aid, unemployment is reduced and young migrants enhance their life prospects and returning migrants bring savings, skills, ideas and international contacts.  We are familiar with this balance sheet from the experience of European countries of high emigration like Ireland and the Mediterranean Member States in the past and of central and eastern Europe more recently.

**Promoting participation and the voice of migrants**

EAPN believes that it is **only possible to effectively respond to the needs of people experiencing and at risk of poverty if the voices of people affected are central** to the planning, delivery and evaluation of policies at all levels. This means investing in dialogue processes involving migrants as well as with poor communities living alongside migrants.

Issues of **language and cultural/political differences** as well as fear of vulnerability and migrant’s constant mobile status make this particularly difficult in the case of migrants and therefore emphasise the special importance of investing in this area.

This includes encouraging and funding migrant-led organisations and giving them a **genuine voice** in decision-making.  For NGOs, it means respecting these voices and also integrating the direct voices of migrants and, often, working in creative ways to overcome language and cultural barriers to participation by migrants.

For both public authorities and civil society organisations of all types, it means that a special effort of **outreach is needed** to make sure that the diversity of immigrant needs and interests is reflected.

**Role of NGOs**

**Main activities**

NGOs are active in **providing a wide range of services to migrants**, covering assistance in all steps of their journeys, from emergency support on arrival to support to family reunification to the long-term integration process, as well as increasingly providing support for representation and advocacy. They also play a key role in identifying and establishing links with other key actors (eg equality bodies, public employment bodies, trade unions etc) and fostering effective partnerships.

**Some NGOs[[72]](#footnote-70)** started being active in searching and rescuing migrants in the Mediterranean after the launch of **Operation Triton** in 2014, which shifted the focus of EU efforts in the Southern Mediterranean from Search and Rescue (SAR) to border control. Since then, several NGOs have attempted to fill the gap left by the absence of large-scale humanitarian operations by the EU. While some bigger organisations do directly convoy migrants into Italian ports, smaller ones provide support in terms of distributing life jackets and provide emergency medical care on-board waiting for bigger ship to provide for rescuing. In spite of the expansion of the Triton mission in 2015, which has now extended its area of operations, civil society is still active in searching and rescuing migrants.

Other NGOs provide direct **assistance to migrants in their journey** when they have to pass borders: for example, in many countries which migrants cross trying to reach the EU from Syria or central Asia, NGOs provide emergency assistance, with food, shelters and health assistance.

***Humanitarian Aid to Refugees from the Ecumenical Humanitarian Organisation (EHO) in Serbia.*** *Since 3 August 2015, the EHO started providing first aid at the refugees crossing in Serbia (in the first 5 months of 2016, over 160.000 in spite of the closing of the “****Balkan route*** *“. EHO provides first aid in terms of food, hygiene, health care and medicines, non-food items, information, shelters and a safe spot for children. The lack of resources and the very limited temporal commitment of the migrants stay, which present no ground for integration, represent the main difficulties of Serbian social workers and volunteers in this. EHO has deployed first aid projects on 11 sites which are strategical to the access and exit points to the country.*

Once migrants get to their destination, NGOs can provide a very diverse range of assisting measures, **supporting migrants already having a refugee status** and **migrants applying for asylum, who are also legally advised and helped in presenting their applications**. Many organisations are active with hotspots in the arrival places to provide **undocumented migrants** with information on their rights and a support in legal and administrative procedures, as well as support for basic needs, like shelter and food.

Another very important issue regards **migrants’ integration** in the society. Civil Society organisations are committed to provide support services: from free emergency housing to long-term housing solutions; assistance in language learning; re-assessment of professional skills and employment orientation, and health services provision Unaccompanied minors are often generally entrusted to specialist NGOs, who undertake public contracts by the public administration. Adequate assistance to children in learning activities is often part of the NGOs work, together with integration projects coordinated together with schools.

Concerning **health services**, often migrants without a regular status are kept outside the healthcare system. Granting adequate health services to migrants, irrespective of their status is one of the primary concerns of many NGOs operating in this sector. In addition to this, **psychological recovery** and psychiatric help are often a necessity for a large amount of migrants, refugees and asylum seekers, who have experienced traumas in their journey to Europe or escaping from war and persecution.

**The “Unga Station project” of Stockholm City Mission** (Eurodiaconia member)

*This is a house for children, teenagers and families at risk of social exclusion. The centre, which welcomes children and youth aged between 0-20 years, with their families and networks regardless of legal status, offers a safe spot to children of undocumented migrants families who are living in precarious housing conditions, suffering systematic material destitution, with no accession to social services and very high exposure to abuse. The Unga Station offers them family support and counselling, network-building work, camps for children and families, financial support, healthcare and discussion groups. Moreover, a group focused directly on children in migration deals with socialisation support for these families facing difficulty, through a programme that helps to build human relationships addressing topics on feelings, family and ordinary life difficulties.*

**The “Refugee Mission” of the Reformed Church of Hungary** (Eurodiaconia member).

*The refugee mission has gradually grown in size and scope since 2006, adjusting its long-term projects to legal and social gaps and the needs of their target groups on a yearly basis. The basic aim of this initiative is supporting the sustainable development and integration of refugees and migrants in Hungary within an ever-changing legal, institutional and financial environment. To this end, the Refugee Mission also engages in political advocacy, addressing legislative gaps in the education system and the child protection system. The Refugee Mission not only supports migrant families by providing free housing solutions, but also by assisting parents through language education, by providing re-assessments of their professional skills and offering employment orientation, and by supporting them in their parental skills. As the Hungarian education system is not well-accommodated to non-native speakers, the Refugee Mission mediates between schools and parents and coordinates individual tutoring sessions to enable refugee children to be truly insiders within the Hungarian school system.*

Finally, many NGOs working with migrants are active in **Lobbying and** **Advocacy**, both towards state actors, and towards public opinion often by building alliances and active partnerships with other key actors. They call on governments to make a better commitment towards migrants’ integration and at the same time try to debunk the myths spread by populist and xenophobic groups and political parties, which aim at manipulating public opinion against migrants. For this reason, **NGOs need to give direct voice to migrants**, showcasing their life experience and their stories and explaining how these people are escaping those same scenarios that xenophobic groups tend to identify with them, as well as how migrants can contribute positively to society. Many EAPN networks are working to support this direct representation.

**Key challenges for NGOs**

In the last few years, NGOs have often been providing services that the state has decided to subcontract, or that the state does not provide any more for several reasons. The risk in increasing NGOs involvement is the potential roll back of public authorities from their responsibilities and duties, in terms of social services provision to migrants. An example of this regards actions devoted to searching for and rescuing migrants: NGOs operations risk allowing European governments and the EU to offload responsibility to conduct search and rescue missions on civil society, ultimately making unlikely the launching of a large scale, EU-led search and rescue mission.

In addition, in terms of services provision, there is a strong risk of underfunding or cuts in funding as well as threats in the way public contracts are shaped. For example, one of the main risks of public contracts is related to their inadequate design by the contracting authority, for instance because of short time duration, pressures for lowest cost criteria only or a fragmented approach to services, which prevents a greater integration and more holistic approach to services. This creates uncertainty regarding the sustainable provision of social services for the individual user and tends to lead to cost-driven services, when it should be providers, together with users, leading that process. This could jeopardise NGOs role of critical voice, as they might find themselves relying too much on state funding, and becoming dependent on political compliancy for their own functioning. This could limit their willingness to be independent voices in the policy debate, which is crucial in protection of the rights of vulnerable people as the migrants.

Moreover, **the search for funding for NGOs represents a constant challenge**: committing themselves to the provision of certain services, often with very reduced funding and reliance on volunteering. State funding can also be reduced suddenly for political reasons, including austerity cuts. The number of people in need of help, however, does not decrease. While fundraising can be a solution, the rise of populism and intolerant ideas in Europe represents a constant challenge to NGOs, which need to justify and campaign hardly to legitimize their work with migrants, fighting for potential supporters.

**Some social service providers are also currently facing criminalisation for supporting** **undocumented migrants**. In recent years, NGOs in some EU countries have denounced actions taken by the government and police against migrants but also against the social service providers who have been helping them. These events have often involved the police putting pressure on social services providers to report undocumented migrants, while governments have threatened the providers with cutting down their subsidies. NGOs facing these kind of pressures end up being forced to provide a very limited support to undocumented migrants (ie only emergency actions/first aid solutions)**.** This can often endanger the establishment of a trusting relationship between migrants and the service-providers, with the consequent increasing difficulty in reaching a fearful population of undocumented migrants. It will be important therefore to push for a stronger recognition of the role of social workers and to protect them from external pressures, for example by establishing specific protection statues.

**Key Principals: some initial proposals**

The Task Force presents some initial proposals for EAPN principals both in terms of migrant’s rights and the role of NGOs. To be discussed with EAPN members.

**Migrant’s right to participation and a life in dignity**

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* **Everyone has a right to the means to live a decent life and participate** in society. Social rights are not a reward for passing any test but are fundamental to all people.
* **Investment in adequate community infrastructure**, **quality jobs, income security and quality services for all,** including education, housing and health, especially therapy, as well as specific integration support is the key to ensuring that migrants integrate and that they and the host communities benefit from migration and to avoiding conflicts over limited resources.
* **The right to protection under international law is non-negotiable**. The vast majority of people who come to Europe do so to escape from wars, persecution, dictatorships, poverty and inequality, inhuman living conditions. People have a right to flee in order to try to protect their own lives and those of their children, and to search for a better life. NGOs and people who support ‘undocumented migrants’ should not be criminalized.
* **The voice and participation of migrants themselves is an essential pre-requisite** for the redress of rights and to achieve effective and sustainable integration based on respect for rights and diversity.

**NGOs Role in defending Migrants’ Rights**

* **NGOs should first defend their mission and values, keep their independence despite political pressure, and act purely in defence of vulnerable people’s human rights.**
* NGOs humanitarian response should **be focused on the needs of the migrants and on equality of treatment (regardless of the migrants’ status)**, and not be directed by political favours or ideological commitment. NGOs involved in migrants’ integration should adopt a **person-based approach** helping out in all the spheres of people’s life according to users’ personal needs.
* NGOs, should clearly commit themselves to playing **a “support” role, and not accept being asked to replace state obligations.**
* NGO’s working with migrants should provide a **direct voice to immigrants and to their views**, avoiding patronizing attitudes.
* **Including people with a migration background among the working staff of NGOs** employed in services provision and advocacy represent a very successful way to keep services closer to its users. Moreover, direct inclusion of social workers with a migration background, clearly amplifies cultural and linguistic mediation with users.
* NGOs should **document and report violations of human rights**, collecting precedents and supporting migrants in the representation process
* NGOs should develop and **support advocacy actions to defend migrant rights, in partnership and alliances** with migrants’ and other organizations.

1. Migration and Poverty Report (2014) [↑](#footnote-ref-1)
2. <http://www.worldometers.info/world-population/> [↑](#endnote-ref-1)
3. <https://www.amnesty.org/en/what-we-do/people-on-the-move/?gclid=CJmStdCdmdACFcWw7QodT-gDRg> [↑](#footnote-ref-2)
4. Forming 1 pillar of the so-called four freedoms (with free movement of goods, services and capital .) [↑](#footnote-ref-3)
5. See also full glossary in Annex. [↑](#footnote-ref-4)
6. http://www.iom.int/key-migration-terms#refugee [↑](#footnote-ref-5)
7. *(Art. 1(A)(2), Convention relating to the Status of Refugees, Art. 1A(2), 1951 as modified by the 1967 Protocol). In addition to the refugee definition in the 1951 Refugee Convention, Art. 1(2), 1969* [↑](#footnote-ref-6)
8. <http://www.unhcr.org/pages/49c3646c137.html?gclid=CNCAhPeamdACFaa17Qodq3QLtw> [↑](#footnote-ref-7)
9. https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/communication\_on\_the\_european\_agenda\_on\_migration\_annex\_en.pdf [↑](#footnote-ref-8)
10. Ibidem [↑](#footnote-ref-9)
11. *(Art. 3(A)), Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* [↑](#footnote-ref-10)
12. *(Art. 3(A)), Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime* [↑](#footnote-ref-11)
13. UNHCR (http://www.unhcr.org/research/working/455993882/refugee-status-subsidiary-protection-right-granted-asylum-under-ec-law.html) [↑](#footnote-ref-12)
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15. http://www.un.org/sustainabledevelopment/blog/2016/01/244-million-international-migrants-living-abroad-worldwide-new-un-statistics-reveal/ [↑](#footnote-ref-14)
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18. http://www.unhcr.org/statistics/unhcrstats/58aa8f247/mid-year-trends-june-2016.html [↑](#footnote-ref-16)
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20. http://frontex.europa.eu/trends-and-routes/western-balkan-route/ [↑](#footnote-ref-18)
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27. [See http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32011L0098](file:///C:\Users\Sian\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\YRIM9JC0\See%20http:\eur-lex.europa.eu\legal-content\EN\ALL\%3furi=CELEX:32011L0098) [↑](#footnote-ref-25)
28. [See http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32014L0036](file:///C:\Users\Sian\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\YRIM9JC0\See%20http:\eur-lex.europa.eu\legal-content\en\TXT\%3furi=celex:32014L0036) [↑](#footnote-ref-26)
29. [See http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32014L0066](file:///C:\Users\Sian\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\YRIM9JC0\See%20http:\eur-lex.europa.eu\legal-content\en\ALL\%3furi=CELEX:32014L0066) [↑](#footnote-ref-27)
30. [See http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL\_2016\_132\_R\_0002](file:///C:\Users\Sian\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\YRIM9JC0\See%20http:\eur-lex.europa.eu\legal-content\EN\TXT\%3furi=OJ:JOL_2016_132_R_0002) [↑](#footnote-ref-28)
31. [See http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32016R0399](file:///C:\Users\Sian\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\YRIM9JC0\See%20http:\eur-lex.europa.eu\legal-content\EN\TXT\%3furi=celex:32016R0399) [↑](#footnote-ref-29)
32. [See http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32009R0810](file:///C:\Users\Sian\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\YRIM9JC0\See%20http:\eur-lex.europa.eu\legal-content\EN\ALL\%3furi=CELEX:32009R0810) [↑](#footnote-ref-30)
33. [See http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32001R0539](file:///C:\Users\Sian\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\YRIM9JC0\See%20http:\eur-lex.europa.eu\legal-content\EN\ALL\%3furi=celex:32001R0539) [↑](#footnote-ref-31)
34. [See http://eur-lex.europa.eu/legal-content/RO/ALL/?uri=CELEX:32014R0656](file:///C:\Users\Sian\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\YRIM9JC0\See%20http:\eur-lex.europa.eu\legal-content\RO\ALL\%3furi=CELEX:32014R0656) [↑](#footnote-ref-32)
35. [See http://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32013L0032](file:///C:\Users\Sian\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\YRIM9JC0\See%20http:\eur-lex.europa.eu\legal-content\en\ALL\%3furi=celex:32013L0032) [↑](#footnote-ref-33)
36. [See http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3Al33124](file:///C:\Users\Sian\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\YRIM9JC0\See%20http:\eur-lex.europa.eu\legal-content\EN\TXT\%3furi=URISERV:l33124) [↑](#footnote-ref-34)
37. [See http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32013L0033](file:///C:\Users\Sian\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\YRIM9JC0\See%20http:\eur-lex.europa.eu\legal-content\en\TXT\%3furi=celex:32013L0033) [↑](#footnote-ref-35)
38. [See http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32011L0095](file:///C:\Users\Sian\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\YRIM9JC0\See%20http:\eur-lex.europa.eu\legal-content\EN\TXT\%3furi=celex:32011L0095) [↑](#footnote-ref-36)
39. [See http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32013R0604](file:///C:\Users\Sian\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\YRIM9JC0\See%20http:\eur-lex.europa.eu\legal-content\EN\ALL\%3furi=CELEX:32013R0604) [↑](#footnote-ref-37)
40. [See http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R0603](file:///C:\Users\Sian\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\YRIM9JC0\See%20http:\eur-lex.europa.eu\legal-content\EN\TXT\%3furi=celex:32013R0603) [↑](#footnote-ref-38)
41. [See http://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32003L0086](file:///C:\Users\Sian\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\YRIM9JC0\See%20http:\eur-lex.europa.eu\legal-content\en\ALL\%3furi=celex:32003L0086) [↑](#footnote-ref-39)
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51. UNICEF, <https://www.unicef.org/publications/files/Uprooted_growing_crisis_for_refugee_and_migrant_children.pdf>, page 90 [↑](#footnote-ref-49)
52. EAPN Serbia [↑](#footnote-ref-50)
53. EAPN Italy [↑](#footnote-ref-51)
54. EU Survey of Income and Living Conditions [↑](#footnote-ref-52)
55. The **Blue Card** is an approved **EU**-wide work permit (Council Directive 2009/50/EC) allowing high-skilled non-**EU** citizens to work and live in any country within the **European** Union, excluding Denmark, Ireland and the United Kingdom, which are not subject to the proposal. [↑](#footnote-ref-53)
56. http://ec.europa.eu/social/main.jsp?catId=470 [↑](#footnote-ref-54)
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59. # LISBON FORUM: RECOMMENDATIONS ON MIGRANT & REFUGEE WOMEN AND GIRLS. 25 November 2016.

    [↑](#footnote-ref-57)
60. UNICEF: https://www.unicef.org/publications/files/Uprooted\_growing\_crisis\_for\_refugee\_and\_migrant\_children.pdf [↑](#footnote-ref-58)
61. Unaccompanied children in exile, CSPI-Center for Social Policy Initiatives, Radda Barnen, Croatia, Zagreb, Unaccompanied Children, Cera and Protection in Wars, Natural Disasters, and refugee Movements; Everett M. Ressler, Neil Boothby, Daniel J.Steinbiock,1988 [↑](#footnote-ref-59)
62. “Programme for Action: Separated Children seeking asylum in Europe in 2000”. [↑](#footnote-ref-60)
63. Save the Children and UNHCR, by Sandy Ruxton. [↑](#footnote-ref-61)
64. *1www.seebiz.en Inicijativa Dobrodosli/Incijativa Are you Syrious?;27.2www.facebook.com/are yousyrious?.* [↑](#footnote-ref-62)
65. # CHILDREN CANNOT WAIT: JOINT STATEMENT BY 78 ORGANISATIONS AT THE 10th EUROPEAN FORUM ON THE RIGHTS OF THE CHILD. 30 November 2016

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    [↑](#footnote-ref-63)
66. EPRS EU Legal framework on asylum and irregular immigration march 2015. [↑](#footnote-ref-64)
67. A CNN Greece report, 30 November 2016. [**http://www.cnn.gr/ereynes/video/7465/h-ekporneysi-tis-prosfygias-oi-anilikoi-poy-katafeygoyn-stin-porneia-gia-na-zisoyn**](http://www.cnn.gr/ereynes/video/7465/h-ekporneysi-tis-prosfygias-oi-anilikoi-poy-katafeygoyn-stin-porneia-gia-na-zisoyn) [↑](#footnote-ref-65)
68. PICUM: Hear our voices: undocumented children and young people share their stories: <http://picum.org/picum.org/uploads/publication/Children%20Testimonies%20FINAL_WEB_EN.pdf> [↑](#footnote-ref-66)
69. See [PICUM Position Paper on EU Returns Directive 2015](http://picum.org/picum.org/uploads/publication/Final_ReturnDirectiveEN.pdf) [↑](#footnote-ref-67)
70. The forcible return of refugees or asylum seekers to a country where they are liable to be subjected to persecution. [↑](#footnote-ref-68)
71. *An impartial review of all aspects of these arguments is at* [*https://www.embraceni.org/migration/the-pros-and-cons-of-migration/*](https://www.embraceni.org/migration/the-pros-and-cons-of-migration/)*)*  [↑](#footnote-ref-69)
72. Eurodiaconia examples. [↑](#footnote-ref-70)