Migration Update

November 2022

Wilfried **Martens Centre** for European Studies

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The purpose of these news summaries is to provide a factual base for migration debates within the European centre-right. _Vít Novotný_ is responsible for the selection of information items from the media, governments and social media. The value of these summaries is in the categorisation of information items and in listing those items that readers might have missed. Facts and opinions are conveyed as they are reported. Original comments are kept to a minimum. These news summaries are not subject to a formal editorial process. Rick Slootweg wrote up the cases for the Judicial Observatory. Thanks to Théo Larue for contributing a news item. Should you have any questions or comments, please contact Vít Novotný at _vn@martenscentre.eu._

- Russia's war of aggression has triggered the biggest displacement crisis in decades, according to the UN. Since 24 February, 14 million people have fled the violence. The number of displaced globally is now more than 103 million.
- According to the Presidency Summary from 25 November, the EU is experiencing the '**largest refugee crisis since the Second World War**.'

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GENERAL

[According to](#) the OECD's *International Migration Outlook*, permanent migration flows to OECD countries **bounced back by 22% in 2021**, after a record fall in 2020 due to the COVID-19 crisis.

- The increased migration flows were due to a strong **economic recovery,** increasing labour needs and a resumption of visa processing. OECD countries received 4.8 million new permanent immigrants in 2021, still more than half a million fewer than in 2019.
    - The US remained the largest destination in 2021, at 834,000 people, up 43% on 2020.
    - Canada received a record of over 400,000 new permanent immigrants, more than double the 2020 figure.
- **Family migration** increased by 40% in 2021 and remained the largest category of inflows, accounting for more than four in ten new permanent immigrants to the OECD.
- **Labour migration** to OECD countries rebounded by 45% in 2021 to 750,000 workers, the highest in more than a decade.
    - This was partly driven by large increases in Canada, Italy, the UK and the US.
- The year 2022 has been marked by even further flows resulting from Russia's unprovoked war of aggression. Countries need to explore **"dual intent" solutions** that give Ukrainian refugees quick access to integration support and further build their skills without hampering a possible return to Ukraine once the situation allows.

NEW PACT ON MIGRATION AND ASYLUM

Some details emerged on **relocation numbers and pledges** following the Voluntary Solidarity Declaration adopted in June 2022:

- An Italian official [stated](#) at the Martens Centre's Net@Work event on 15 November (panel organised by the Luigi Sturzo Institute) that relocation pledges following the signing of the Voluntary Solidarity Mechanism in June 2022 amounted to **8,300 people**. Up until 15 November, three countries—France, Germany and Luxembourg—relocated the total of **117 asylum seekers** from Italy.
- France is [said](#) to have relocated 38 so far.
- [According to](#) *Euractiv.com*, France and Germany have each pledged to relocate 3,500 persons from Italy. On 10 November, French IM Gérald Darmanin (RE) stated that France was suspending all relocations from Italy with immediate effect. This was following the Italian refusal to provide safe port to the charity rescue ship Ocean Viking and the disembarkation of the passengers in France (see below).

In an interview for Politico, Commission Vice-President Margaritis Schinas [singled out](#) **Italy** for blocking an agreement on the Pact while asking for more solidarity.

In its **EU action plan for the Central Mediterranean**, the European Commission proposed measures to speed up implementation of the Voluntary Solidarity Mechanism:

- The Solidarity Platform will revise the Standard Operating Procedures for relocation, including to provide swift support to member states receiving arrivals by sea.
- The Solidarity Platform will match proposed projects and financial contributions to start implementing the **alternative measures of solidarity** through projects coherent with the activities and needs identified.
- The EUAA will prioritise support to member states in the swift implementation of the voluntary solidarity mechanism.

IRREGULAR MIGRATION AND ASYLUM

Reception facilities and capacities for refugees and migrants across a number of EU countries are becoming exhausted due to the influx of Ukrainians and increased irregular arrivals from Afghanistan, Syria, Turkey, Iraq and other countries.

- According to the *NYT*, 'with Russia waging war on its doorstep, Europe has taken in 4.4 million Ukrainians this year, in addition to more than 365,000 first-time asylum applicants, many fleeing threats in Syria and Afghanistan. That is **more than in 2015**, which stood out as the landmark period of migration in contemporary European history.
- Because Europe has granted Ukrainians automatic residency and visas, Ukrainians are at the front of the line for housing and refugee services.'
- Across southern **Germany**, small-town mayors are opening gyms and auditoriums to house ever more refugees. Some towns warn that they are seeing numbers they never witnessed, even in 2015.
  - The federal government now wants to support the Länder with a total of **4.25 billion euros** to assist with the reception of refugees.
  - The overall protection rate in Germany has risen to 56 per cent. In previous years, usually only about one third of the applicants were recognised. The record high is also related to the fact that decisions are now being made on many applications from **Syrians** who had been recognised as **refugees in Greece** in previous years - but then moved to Germany to reapply. **Afghanis** are now much more likely to receive protection.
- Brussels, the **Belgian** capital and home to the headquarters of the European Union, has already used all 31,000 of its housing spaces, leaving 3,500 asylum seekers homeless.
- In **Austria**, some 71,000 people from outside Ukraine have applied for asylum this year, edging close to 2015 levels.

UKRAINE

The current breakdown of the presence of Ukrainian refugees by country is here. **Russia**, with close to 3 million refugees (as reported by the government), **Poland**, **Germany** and **Czechia** now host most Ukrainians. Figures cannot be considered as reliable due to further movements of the refugees.

ACCESS FROM RUSSIA TO THE EU AND THE BALKANS

Frontex reported that since the beginning of the Russian invasion of Ukraine, more than **1.458 million Russian** citizens have entered the EU through its land borders. At the same time, over 1.421 million have returned to Russia via its land borders with the EU.

Serbia

According to *N1*, approximately 18,000 Ukrainians have fled to Serbia since the outbreak of the war in Ukraine, while over **100,000 Russians** have registered their stay in Serbia.

Poland-Russia

The **Polish** government announced on 1 November it would build a **razor-wire fence on border with Kaliningrad**, amid concerns that this Russian exclave might become a conduit for illegal migration.

- Construction of the temporary 2.5-metre (8ft) high and 3-metre deep barrier started immediately.
- Online business magazine Russia Briefing reported last month that Kaliningrad is seeking to attract airlines from the Gulf and Asia under a new open skies policy.

DISEMBARKATIONS IN THE MEDITERRANEAN

The **Central Mediterranean** route continued to be the most frequented route to the EU.

- Between 20 October and 7 November, **NGO rescues** constituted 11% of all landings in Italy.

A diplomatic crisis broke out between Italy and France.

- After the Ocean Viking rescue ship run by the German organisation 'SOS Humanity' rescued some 250 passengers [reported figures differ] in the Mediterranean, Italian authorities refused to assign the ship a safe port. Following a two-week stand-off, the authorities allowed 144 to disembark, including women and children, but refused disembarkation to several dozen men (including some minors).
  - o The Italian authorities **allowed disembarkation** to passengers of three other ships in the first weeks of November.
- On 10 November, the French IM Gérald Darmanin announced that **France** will "exceptionally" welcome the remaining passengers of the Ocean Viking in the military port of Toulon, stressing that the ship was "without any possible contestation in the Italian search and rescue zone". In addition to suspending relocations from Italy, there would also be a "strengthening of internal border controls [in France] with Italy".
- In response, the Italian IM Matteo Piantedosi (ID) stated that "Italy has taken in 90,000 [migrants] just this year" and that it was the actions of France, which according to French broadcaster France 24 had never before received a migrant-filled rescue ship, that were "totally incomprehensible."

- On 17 November, *Le Figaro* reported that of the **44 minors disembarked in France**, 26 had disappeared from their accommodation. Most were Eritreans who travelled to join family and friends in Germany, Norway and Sweden, thus "entering into illegality".

On 25 November, the European Commission presented an **EU Action Plan on the Central Mediterranean**. 'Whilst emphasising that structural solutions will only be found through agreement on the full set of asylum and migration reforms currently being negotiated, the Commission is proposing a series of operational measures to address the immediate and ongoing challenges along the Central Mediterranean migratory route.' The Action Plan proposes a series of 20 measures articulated around three pillars that will be taken forward by the EU and its member states:

1. Working with partner countries (Tunisia, Egypt and Libya) and international organisations.
2. A more coordinated approach on search and rescue, using the European Contact Group on Search and Rescue that was announced as part of the New Pact.
3. Reinforcing the implementation of the Voluntary Solidarity Mechanism and the Joint Roadmap.

WESTERN BALKANS AND CENTRAL EUROPE

Following EU pressure, on October 21 the **Serbian** Foreign Ministry announced that travellers from **Burundi and Tunisia** would henceforth have **to apply for a visa** to enter the country. Implementation of this decision started in November. By the end of 2023, Serbia will reimpose a visa obligation on the citizens of **India**.

- Serbia has been serving as an entry point for a number of irregular migrants due its visa-free regimes with a number of countries. Serbia has visa-free regimes dating back to socialist Yugoslavia, but some of the visa-free regimes were granted because the countries involved decline to recognise Kosovo as an independent state.
- According to DW, refugees have to pay up to $3,000 to reach their final destination. Migrants tend to travel from Serbia to Bosnia and continue to Croatia, Slovenia, Italy, Switzerland, and on to Germany or France before arriving in Belgium.

On 3-4 November in Tirana, the Council Presidency and the Commission organised a meeting of EU and Western Balkan interior ministers to discuss the Western Balkan migratory route.

- Ministers agreed to strengthen the monitoring of trends along the route and to reinforce border management, including through the use of **Frontex's presence** and mandate in the region. They welcomed the signature of the **Frontex Status Agreement with North Macedonia** and affirmed that new Frontex Status Agreements with Western Balkan partners should be negotiated and concluded without delay.
  - The EU 'welcomes that the Western Balkan partners have committed to swiftly **align their visa policy with the visa policy of the EU**, including a

concrete commitment by **Serbia** to end several visa-free regimes by the end of 2022 and the first step it has taken in this regard.

- o Additionally, the EU and the Western Balkan partners highlighted also the need to strengthen cooperation **with relevant airlines** as well as with countries of origin on the issue of migration […] This issue will be looked at closely by the EU, including in the context of the upcoming Commission report on the **visa suspension mechanism**.
- Ministers agreed that anti-smuggling activities will be supported by EU funds, including through a new regional programme worth EUR 30 million to combat migrant smuggling and trafficking of human beings, to be proposed for adoption by the end of the year under the Instrument for **Pre-Accession Assistance (IPA) 2023.**
- The EU committed to expanded financial support for supporting **increased returns from the Western Balkans** to third countries. The EU and the Western Balkans will continue their cooperation on **return and readmission** and will monitor the implementation of the existing Readmission Agreements between the EU and the Western Balkans partners through Joint Readmission Committees.

On 16 November, **Serbia, Austria and Hungary** [agreed](#) to deploy more joint police patrols along Serbia's borders with North Macedonia. According to the Hungarian PM Viktor Orbán, Hungary has prevented 250,000 illegal crossings so far this year.

On the Serbian side of **Hungary**'s border fence, **ladders** have been [sold out](#). Migrants use the ladders to climb over the two lines of more than four-metre high razor-wire fence.

Austria and Czechia [continued](#) conducting systematic border checks on the Slovak border, [despite Slovakia's dissatisfaction](#).

- Slovak IM Roman Mikulec claimed that by bringing intercepted migrants back to the Slovak border, the Czech government was in breach of the Czech-Slovak readmission agreement.
- The Slovak government [built](#) provisional tent accommodation near the Czech border.

A new route allegedly opened from **Austria via Switzerland to Germany**. There [were](#) widespread claims that the Swiss Railways dispatched trains from the Austrian border to Germany and France without the Swiss government registering the migrants in the country.

SCHENGEN MEMBERSHIP
The Netherlands [continued blocking](#) the accession of Romania and Bulgaria to the Schengen zone.

PASSPORT-FREE MOVEMENT IN WESTERN BALKANS
On 3 November in Berlin, the prime ministers of Serbia, Kosovo, Bosnia and Herzegovina, Montenegro, North Macedonia and Albania [reached an agreement](#) that will facilitate **citizens' free movement** throughout the region and the mutual recognition of the professional qualifications of doctors, dentists and architects.

- This will enable their citizens to cross borders using only identity cards [not passports which have been required at some crossing points].
- The agreement also scrapped the last visa "wall" in the region, which Kosovo imposed on Bosnia in 2014. Kosovo citizens needed visas to enter Bosnia since the declaration of Kosovo independence in 2008.
- Currently, getting their qualifications recognised can cost holders up to €500.

EU-TÜRKYIE

Border tensions between **Greece and Türkiye** appeared to be increasing.

- In October, Greece published a video that appears to show officers of the Turkish Coast Guard hitting migrants and pushing their rubber boat away from the former's vessel.
- On 1 November Greece's Coast Guard said one of its vessels was harassed by a boat of the Turkish Coast Guard during a search and rescue operation off the island of Samos. 8 people were reported missing.

Commission Vice-President Margaritis Schinas announced that the Commission would provide Türkiye with €**200m for migration management** [in addition to existing financial commitments].

- 'As far as [Türkiye] is concerned and following the events at Evros, I don't think we have a case of constant instrumentalisation, but we do have games. What I mean is that the Turkish state is not always as diligent about guarding the borders as we need it to be…. What we hope to achieve is a more coordinated policy.'
- '[The money the EU has been providing] is for managing the immigration flows on the border with Syria and now we will give them more money to bolster and improve control of their border to the east, **with Afghanistan and Iran**, because we have an increase there too.'
- Due to Greece's and Frontex's vigilance, boats are leaving Türkyie's southern shores for southern Italy. The EU wants Türkiye to check these flows.

VISA POLICY

On 8 November, the Council decided to fully suspend the visa waiver agreement with **Vanuatu** due to the risks posed by its investor citizenship schemes ('golden passport' schemes).

- Vanuatu thus joins Belarus and Russia as countries with whom the EU fully or partially suspended visa-free travel.

UK-FRANCE

In light of continuously high numbers of boats with illegal migrants crossing from France to England, the UK and French government agreed on 14 November that there would be a **40% increase in the number of UK-funded officers patrolling** French beaches.

- 'The new agreement… marks the next step for the close operational partnership between the 2 countries which has prevented over 30,000 crossings this year….

- **Specialist UK officers** will… be embedded with their French counterparts, which will increase information sharing, improve understanding of the threat, and ensure UK expertise is at the heart of efforts to disrupt crossings and clamp down on people smugglers….

POLAND-BELARUS
Instrumentalisation of migration at Poland's border with Belarus continues.

- People are now coming first to **Russia**, before crossing into Belarus and moving on, two Arabic-language Telegram groups used by migrant-smugglers and seen by *EUobserver* indicated. One Telegram group offered people a tourist visa to Russia for €1,000, transit to Belarus for €500, and onward help in getting to Germany for €5,950. A second group offered long-stay Russian student or medical treatment visas for $2,000.
- According to unconfirmed claims by Grupa Granica, a Polish NGO, there have been 27 documented fatalities on the Belarusian migration route in the past 14 months. 186 people who tried to cross have so far gone missing without trace.
- Polish Border Guard confirmed that numbers of irregular crossings were on the rise. It said the spike was likely temporary, as migrants were trying to get across before a new **electronic detection system** around Poland's wall is switched on.

US
On 15 November, a federal court declared illegal the 'Title 42' policy that allowed border agents to rapidly expel migrants without letting them seek asylum, toppling a Trump-era policy embraced by the Biden administration.
- The judge 'found the policy, crafted under the Trump administration [on public health grounds] in the earliest days of the pandemic, to be arbitrary and capricious.'
- Only in October, the Biden administration expanded the use of Title 42 to Venezuelans.

JUDICIAL OBSERVATORY
Dutch court rules that preferential treatment of refugees from Ukraine is a "political choice"
On 6 October 2022, a district court in The Hague delivered its ruling on the lawsuit filed by a Dutch refugee NGO (Vluchtelingenwerk Nederland, VWN) against the Dutch state and the Central Agency for the Reception of Asylum Seekers (C/09/633760 KG ZA 22-733), concerning the treatment and accommodation of refugees. VWN brought forward a collective action in the interests of asylum seekers who are currently being accommodated and / or will be accommodated in emergency reception locations.

At present, thousands of asylum seekers in the Netherlands are housed in temporary emergency accommodation given the lack of available housing at regular asylum centres. The only asylum registration centre (in the municipality of Ter Apel) also lacks the capacity to provide shelter for new arrivals, leading to hundreds needing to

sleep outside. At the same time, the state enacted an emergency law that legally obligated municipalities to provide adequate accommodation and support for Ukrainian refugees following the Russian invasion of Ukraine. This has led to a discrepancy in the treatment of Ukrainian refugees and ones from other countries, with housing provision of the Ukrainians falling under the responsibility of municipalities whereas the state and the national asylum agency remain responsible for providing adequate accommodation for people from other countries.

The VWN sued the Dutch state and the national asylum agency, arguing that the general treatment of asylum seekers is in breach of EU norms established in Directive 2013/33/EU on the standards for the reception of applicants for international protection. Furthermore, VWN claimed that the state gives unfair preferential treatment of Ukrainian asylum seekers as they are the sole beneficiary group under the emergency law. VWN argued that this has granted Ukrainians access to better housing and social support provided by municipalities given the claimed inability of the state and the national asylum agency to provide adequate accommodation in their asylum centres.

The court ruled partly in favour of the plaintiff. It agreed that the current treatment of asylum-seekers is in breach the norms established in the Reception Directive. However, it ruled that the Dutch state cannot legally be held accountable for its preferential treatment of Ukrainian refugees because policy decisions concerning asylum-seekers are primarily a matter of political choice. In the absence of evidence that the state made wrongful policy choices or considerations regarding asylum policy, the court ruled that the Dutch state is in its right to have solely applied the emergency law on refugee reception to Ukrainian refugees.

European Court of Human Rights orders Belgium to provide accommodation to an asylum-seeker
On 31 October 2022, the European Court of Human Rights (ECtHR) issued an interim measure in the case of Camara v. Belgium (application no. 49255/22). The case was filed by a Guinean asylum-seeker, Abdoulaye Camara, after the Federal Government failed to enforce an order by the Brussels French-language Labour Court to provide shelter for the applicant in a reception facility operated by the Federal Agency for the Reception of Asylum-Seekers (Fedasil).

Upon the applicant's arrival in Belgium on 12 July 2022, Fedasil was unable to provide accommodation, claiming it had no more accommodation for asylum-seekers in Belgium. The applicant thus applied to the Brussels French-language Labour Court, citing a risk of serious and irreversible damage to human dignity. The Court subsequently ordered Fedasil to house the applicant in a reception centre and to ensure his reception as defined in Belgian Law and in line with the Reception Directive (2013/33/EU).

Fedasil failed to comply with the Court's order and the applicant was not provided with shelter. Having exhausted all available remedies, an application was filed to the ECtHR for an interim measure to order the Belgian state to provide accommodation, relying on:

-        Art. 3 (prohibition of inhuman or degrading treatment) of the ECHR, as the applicant claims that he was not housed in a reception facility.

-        Art. 4 (right to a fair hearing) in conjunction with Art. 13 (right to an effective remedy), as the applicant complains about the failure to enforce the Court's order and the lack of an effective remedy.

-        Art. 8 (right to respect for private and family life), as the applicant maintains there has been a violation to his right to physical integrity and hence his private life.

On 31 October 2022, the Court decided to indicate an interim measure, enjoining the Belgian State to comply with the order made by the Brussels French-language Labour Court on 22 July 2022 and to provide the applicant with accommodation and material assistance to meet his basic needs.

PRODUCTION BY MARTENS CENTRE STAFF AND ASSOCIATES

M. Czaika and R. Münz [WMCES senior research associate], *Climate Change, Displacement, Mobility and Migration: The State of Evidence, Future Scenarios, Policy Options*, Delmi, November 2022

V. Novotný. 'Immigration, Rights and the EU in Light of the Refugee Flight from Ukraine', *New Realities of Multilateralism. Panorama Insights into Asian and European Affairs*, Konrad Adenauer Stiftung, 14 November 2022

V. Novotný, *'Our European Way of Life' as the Guiding Principle: Shifts in the Understanding of Immigrant Integration at the EU Level*, In Focus, Martens Centre 16 November 2022