

Migration Update

December 2022-January 2023



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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 drafted the cases for the Judicial Observatory. Claudia Masi supplied several information items. Should you have any questions or comments, please contact Vít Novotný at vn@martenscentre.eu.

- In 2022, around **330 000 irregular border crossings** were detected at EU's external border, [according to](#) preliminary Frontex calculations. This is the highest number since 2016 and an increase of 64% from the previous year. The Western Balkan route accounted for nearly half of the total.
- Separately, almost **13 million Ukrainian refugees** were counted on entry at the EU's external land borders from Ukraine and Moldova between 24 February 2022 until the end of the year. In the same period, 10 million Ukrainian nationals were reported on exit at the same border sections.

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LABOUR MIGRATION AND LABOUR MARKET INTEGRATION OF REFUGEES

The commissioners for home affairs and employment and social rights [announced](#) on 10 January a **Labour Migration Platform**, ‘which will bring together experts in both policies to build bridges between migration and employment to address this challenge faced by European economies.

- "Labour shortages have a catastrophic... economic cost. In Germany alone, **€86bn per year in lost output**," home affairs commissioner Ylva Johansson said in her speech at the launch.
- The EU is working to reduce the unfilled vacancy rate among the 27 member states, and combat the shrinking size of the working-age labour force, which is projected to fall from 70 percent to 56-54 percent by 2070, according to the latest Eurostat figures.
- The discussion platform meets on a regular basis, exchanging views and best practices’, according to the *EU Observer*.

The *Wall Street Journal* [published](#) an article on labour market integration of refugees in Germany.

- One in six people in Germany was born overseas, compared with one in seven in the US.... However, the current mix of immigrants isn't filling the labour shortages due to population ageing.
- Official data show that only about a third of the roughly 800,000 working-age Syrians and Afghans in Germany have a taxpaying job, compared with two thirds of Germans, even though most arrived over five years ago. Unemployment among foreigners is about 12%, and under 5% for Germans. In the US, foreigners are more likely to have jobs than locals. Many refugees are poorly suited for jobs in Germany's highly skilled labour market and Germany hasn't been very good at training them.
- Labour migrants currently only make up one in 10 new arrivals to Germany, compared with one in three to Canada. An earlier European programme to draw skilled foreigners, known as the Blue Card, attracted about 70,000 workers to Germany in total over the past decade.
- Meanwhile half of German businesses say they are cutting back their operations or relocating abroad because they can't find enough workers. Germany's unemployment rate, at 5.5%, is close to full employment.
- "The reality is, it is refugees or nothing," said Anke Dobbeck, who runs a heating and plumbing company in southwest Berlin.... "As long as so many people come here for humanitarian reasons **there is not much room for qualified work migration**," said Udo Marin, managing director of the Association of Berlin Merchants and Industrialists, a trade group.
- Only around one-third of Germany's Syrian migrants have graduated high school or technical school, compared with 70% of immigrants from Poland, according to the German statistics agency.
- At the same time, job seekers face high hurdles in a rigid labour market that protects incumbents.

EU-TÜRKIYE

On 8 December, the European Commission adopted a €220 million package to improve border control by Türkiye, bringing to **€1.235 billion the total EU assistance adopted in 2022**. These funds are part of the additional €3 billion, announced in June 2021, following the European Council, to continue EU assistance to refugees in Türkiye between 2021 and 2023.

The €1.2 billion assistance package adopted this year is composed of four programmes:

- €400 million to continue cash assistance to support refugees meet their daily basic needs under the Emergency Social Safety Net, providing also pathways to access the labour market.
- €234 million for projects implementing Türkiye's Employment Strategy and Sustainable Social-economic Programme for refugees.
- €381 million to provide cash support for the most vulnerable refugees (elderly, handicapped, etc.).
- €220 million to support further border control measures at Türkiye's eastern border.

ASYLUM

Die Welt [published](#) asylum **data for 2022**, based on a 'confidential' Commission report.

- The total of 923,991 people requested protection in EU-27 in 2022, an increase of **46.5 percent** compared to 2021.
- 226,467 applications were made in Germany in 2022, an increase by one third. France followed with 154,597 and Spain with 116,952.
- **Austria** has recorded the largest increase. In 2022, 108 490 applications were lodged there, almost the triple of 2021.
- Most of the applications came from people from Syria, followed by Afghanistan, Türkiye, Venezuela and Colombia. Applications from Turkish citizens doubled, while applications from Venezuelans and Colombians tripled.

On 22 December, the European Commission [said](#) "it would hold back all 22 billion euros of EU **cohesion funds for Hungary** until its government meets conditions related to judiciary independence, academic freedoms, LGBTQI rights and the **asylum system**.... The 22 billion euros is the amount of EU cohesion funds that Hungary is to get from the EU's long-term budget between 2021 and 2027".

[According to](#) the Commission's statement, "the Commission considers that the provisions of Hungary's so-called child-protection law, and serious risks to academic freedom and **the right to asylum** have a concrete and direct impact on the compliance with the [the EU Charter of Fundamental Rights] in the implementation of certain specific objectives of three cohesion programmes and of the Asylum Migration and Integration Fund respectively."

NEW PACT

Statewatch [published](#) a note circulated by the Czech Presidency of the Council on the "state of play" of the EU's various asylum and migration initiatives.

IRREGULAR MIGRATION

Western Balkans

[According to](#) the **Hungarian** authorities, the number of people caught trying to illegally enter the country in 2022 increased to 269,254 from 122,239 in 2021, marking a daily average of 738 attempts.

- Violent incidents involving smugglers (of different nationalities), migrants (Syrian, Afghani and others) and the police [multiplied](#) in Serbia, at the border between **Serbia** and Hungary, and inside the Hungarian territory. Speaking at the beginning of December, Hungarian State Secretary Csaba Dömötör stated that the authorities recorded 252,000 illegal crossing attempts.

In December, 'thousands of migrants [were] [trapped in Slovakia](#) as the Czechs prevent them from crossing into their territory, while Hungary refuse[d] to take back those that crossed from there into Slovakia.' Slovak IM Roman Mikulec [EPP] has 'admitted on several occasions that Slovakia has no capacity to protect [conduct systematic border checks] its long border with Hungary.'

In January, both Czechia and [Austria](#) reported **drops in the numbers** of migrants and asylum seekers as a result of Belgrade reimposing visa duty on the citizens of Tunisia and India.

On 5 December, the European Commission [published](#) an *Action Plan for cooperation with Western Balkans to address common challenges* in response to intensive irregular migration through the Western Balkans. The Action Plan on the Western Balkans identifies 20 operational measures structured along 5 pillars:

1. strengthening border management along the routes
 - with the assistance of Frontex
2. swift asylum procedures and support reception capacity
 - with the assistance of an ongoing Instrument for Pre-accession Assistance (IPA) programme across the region.
3. fighting migrant smuggling
 - with the assistance of Europol
4. enhancing readmission cooperation and returns as well as
 - with a focus on the full implementation of readmission agreements with Western Balkan partners and assisting with their return operations
5. achieving visa policy alignment
 - "All Western Balkans partners should align their visa policy with the EU as a matter of priority."

On 6 December EU and Western Balkans leaders met in Tirana. The [joint declaration](#) covered, among other issues, migration management.

- The EU has increased its financial support for the region with over EUR 170 million of bilateral and regional assistance already provided under pre-accession assistance.
- EU has adopted a new programme on strengthening border management worth EUR 40 million, and is preparing a second one on increasing the capacity to fight migrant smuggling and human trafficking, with a focus on investigations and prosecutions, worth EUR 30 million.
- EU stands ready to support the Western Balkans to increase voluntary and non-voluntary returns, including directly from the region to the countries of origin.

Italy-Greece

A Lighthouse [report](#) stated that “we’ve found that asylum seekers, including children, are being detained in unofficial jails – in the form of metal boxes and dark rooms – for sometimes more than a day at a time **in the bowels of passenger ships headed from Italy to Greece**, as part of illegal pushbacks by the Italian authorities.”

SCHENGEN MEMBERSHIP

On 8 December, the Council [adopted](#) a decision on the full application of the Schengen acquis in **Croatia**.

- From 1 January 2023, checks on persons at internal land and sea borders between Croatia and the other countries in the Schengen area will be lifted. Checks at internal air borders will be lifted from 26 March 2023, given the need for this to coincide with the dates of IATA summer/winter time schedule.
- From 1 January 2023 Croatia will also start to issue **Schengen visas** and will be able to make full use of the Schengen Information System (SIS).
- Since its accession to the EU, Croatia has applied parts of the Schengen acquis, including those related to the external border controls, police cooperation and the use of the SIS.

At the same session of the Council, Austria vetoed the accession of Romania and Bulgaria. The Netherlands vetoed the accession of Bulgaria.

- The European Commission had reported that both Romania and Bulgaria were ready for membership.
- In justifying its veto of the Romanian entry, the Austrian government [argued](#) that smugglers used routes through Romania to bring migrants to Austria. Vienna also said Romanians were the fourth largest country of origin for smugglers.
- For Austrian PM Nehammer, [lifting the veto](#) would only be possible once border protection in Bulgaria and Romania had been improved.
- In response to the Austrian decision, Romania recalled its ambassador to Vienna.

RETURNS

On 24 January, the European Commission [published](#) an **operational strategy for more effective returns**. ‘Its key objective is to increase the overall numbers of

effective returns, through swift implementation, in line with EU law and the Charter of Fundamental Rights. The strategy covers four focus areas:

- targeted actions on immediate needs including joint return operations in defined third countries;
- accelerating the return process;
- promoting return counselling and reintegration; and
- the digitalisation of return management.

“We can do significant progress to increase the numbers of returns, and have it more effective and quicker,” Commissioner Ylva Johansson [said](#) ahead of the informal meeting of EU interior ministers in Stockholm. With **three times more asylum applications than irregular arrivals**, reception capacities are overloaded, she said. And many applicants are not actually in the need of international protection, according to the Swedish commissioner. “We need to act as a team Europe” to put pressure on third countries and better digitalize return procedures.

- Pointing the finger at national governments, [Johansson] also indicated that although the EU’s border control agency Frontex “is very well-equipped to support our returns, **only five member states use it.**” She cited statistics that EU capitals reach out to countries of origin in only 16 percent of cases.

In 2023, Frontex is [planning to spend](#) around €100m to return rejected asylum seekers. In 2021, the agency returned some 18,300 people, according to Frontex deputy director Uku Särekanno.

[According to](#) Eurostat data quoted by Politico, national migration services “requested 342,100 people be removed in 2021, the most recent year with full data available. Only **24 percent of them were returned** to a country outside of the bloc in 2021.”

Stateless persons, mainly **Palestinians**, [are](#) extreme examples of the **difficulties with deportations** from Germany. *Die Welt* highlighted an example of a man from Gaza, who allegedly killed a 17-year-old girl and a 19-year-old man on a train in Germany. Despite a long criminal record, the 33-year-old, a beneficiary of subsidiary protection, has no home country to be returned to. According to a confidential Commission report, Palestinian authorities cooperate in clarifying identities, but they only issue the necessary “travel documents if Jordanian, Egyptian and Israeli authorities have authorised the return via their territory, because direct access to Palestinian territory is lacking”. Charter flights by returnees are “not possible because all airports on Palestinian territory have been closed for years”.

VISA POLICY

- On 8 December, the Council [adopted](#) an implementing decision increasing the visa fee applied to nationals of **The Gambia** to €120, seeking to improve The Gambia’s cooperation on the return and readmission of its own nationals.
- In light of the discovery of **Qatar** allegedly having bribed members of the European Parliament, parliament’s plenary [voted](#) to “return to committee” the proposal that would allow visa-free travel to the EU for Qatari citizens.

FRONTEX

Following the resignation of the Frontex director Fabrice Leggeri in April, the Management Board of Frontex [appointed](#) Hans Leijtens as the new Executive Director on 20 December. See [here](#) about the interim director Aija Kalnaja.

UK

Post-Brexit immigration rules have led to a **shortfall of around 330,000 workers in the UK**, according to *The Independent*, citing a joint report by the 'UK in a Changing Europe' and the Centre for European Reform. Low-skilled sectors – including hospitality, retail, construction and transportation – had been badly hit by the loss of EU workers after Brexit. 'By September 2022 there was a significant shortfall of around 460,000 EU-origin workers, not wholly compensated for by a rise in about 130,000 non-EU workers.'

The UK government's plan to return irregularly arriving asylum seekers to **Rwanda is legal**, according to the High Court. The Court [ruled](#) that while individual migrants earmarked for the Rwanda flights had been treated unfairly, the scheme as a whole was **legally permissible** and the government had acted rationally in choosing the African nation as a partner [see the Judicial Observatory below].

- The partial victory for the government does not mean flights will be able to take off straight away. There are expected to be further appeals, and a European court of human rights injunction in the summer had prevented immediate deportations until the legal process has been exhausted.
- The High Court ruling [continued to be challenged](#). On 16 January, the High Court ruled that 11 migrants could ask the Court of Appeal to consider whether Rwanda's assurances to the UK amounted to sufficient guarantees of safe and fair treatment.

PUBLIC OPINION

According to a [Globsec survey](#), the perception of Ukrainian refugees among the Visegrád Group member states is mostly positive. However, while a majority of citizens in Czechia, Hungary, and Poland take a favourable view towards people fleeing the war in Ukraine, 52% of people in Slovakia see their presence as negative.

US

Monthly encounters between US Border Patrol agents and migrants attempting to cross into the United States at the US-Mexico border remain at levels not seen in [more than two decades](#).

President Biden announced a [renewed plan](#) 'to **expel back to Mexico** each month up to 30,000 migrants who had tried to cross into the country illegally and whose asylum claims were rejected. At the same time, Biden **rolled out a "parole" programme** to allow up to 30,000 people per month into the US from Cuba, Haiti, Nicaragua, and Venezuela. All four countries are seeing a surge in people fleeing to the US, which has overwhelmed border officials and cities like El Paso, where Mayor Oscar Leeser declared a state of emergency last month. To qualify for the parole

program, migrants must request lawful transit to the US, and have gone through a vetting process and have an American sponsor.

- The new programs have angered both migrant advocates, who view it as overly harsh to people fleeing desperate circumstances, as well as advocates of tougher immigration enforcement, who see it as part of Biden's wrongheaded approach to the problem.'

JUDICIAL OBSERVATORY

UK's High Court rules that the UK Government's Rwanda Asylum Plan is lawful.

On 19 December 2022, the High Court of Justice [ruled](#) that the UK government's plan to remove asylum seekers to Rwanda for processing under Rwanda's law did not contradict the Refugee Convention or the European Convention of Human Rights (ECHR).

Between May and June 2022, the government took a number of decisions declaring asylum claims made in the UK to be inadmissible and deciding that the claimants should be removed to Rwanda based on an agreement between the UK and Rwanda. Subsequently, several asylum seekers brought forward claims for judicial review.

The claimants argued, in eight different cases, that their removal from the UK would be in breach of the rights derived from the Refugee Convention and the European Convention of Human Rights. Domestic regulation, set out in the UK Immigration Rules (345A to 345D), states that asylum applications can be rendered inadmissible if, amongst other things, the applicant had the possibility of receiving asylum in a "safe" third country. If applicable, the government can attempt to remove the applicant to the third country in question.

The Court ruled the UK policy of removing asylum seekers to Rwanda was lawful. Article 3 of the ECHR (prohibition of torture) was not breached by the policy. This is because the UK government assessed available information concerning Rwanda and its designation as a safe third country (the Court could not itself assess if Rwanda is a safe country).

Furthermore, the Court ruled that the Rwanda policy did not breach articles 31 (refugees unlawfully in the country of refuge) and 33 (prohibition of refoulement) of the Refugee Convention. Rwanda is a signatory to the Refugee Convention. There was no evidence that limited opportunities for political opposition in Rwanda would make the country unsafe for the applicants in the sense that they would be treated less favourably than the country's citizens. In addition, contrary to the claims of the plaintiffs the **Convention contains no obligation on the contracting states to determine all asylum claims**. Asylum applications can be decided to be inadmissible and the authorities of the state in question can remove applicants to safe third countries.

However, the Court followed the applicants' reasoning that the government has not carefully considered the circumstances of individual claimants. Despite judging the

Rwanda policy lawful, the Court decided that the UK government made **procedural errors** in the majority of cases under consideration. The court either quashed individual decisions in the eight cases or referred them back to the government.

European Court of Human Rights rules that the French state failed to enforce national court orders for the provision of emergency accommodation.

The European Court of Human Rights in the case of [M.K and Others v. France](#) ruled on 8 December 2022 that there has been a violation of Art 6 § 1 (right of access to a court) of the European Convention on Human Rights (ECHR) in a case concerning asylum-seekers who did not receive emergency accommodation despite orders by an urgent applications judge of an administrative Court.

In 2018 in three separate instances, groups of asylum-seekers filed urgent applications at the Toulouse Administrative Court between June and July requesting emergency accommodation. The court ordered the Prefect of Haute-Garonne to allocate places to the applicants in an emergency accommodation facility without delay. However, the order remained unenforced for weeks until the applicants asked the court to indicate an interim measure concerning the issue. The interim measure was granted in all three cases and the applicants were housed within a day of the ruling.

Given that the different applicants were not granted accommodation in between the order of the administrative court and the interim measure, which lasted between two to four weeks, they applied to the ECtHR complaining about the failure to enforce the orders, the conditions in which they had to live during the period in which they did not have accommodation, as well as the lack of an effective remedy. They relied on Article 6 § 1 (right to a fair hearing) of the ECHR, Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to an effective remedy).

The Court ruled that there was indeed a violation of Art. 6 § 1. It argued that the state administrative authorities have outright refused to comply with the domestic court's orders and did not enforce the order on its own initiative but only after the domestic court indicated an interim measure. However, the ECtHR rejected the complaint under Art. 3 due to a failure to exhaust domestic remedies, as it argued that the applicants should have lodged an action for damages against the state in an administrative court. Nevertheless, under Art. 41 (Just satisfaction) of the ECHR, the ECtHR held that France had to pay an amount of €5.000 to all three groups of applicants.

SELECT EXTERNAL PUBLICATIONS

J. Bither, *The emerging digital nervous system: Technology, mixed migration, and human mobility across borders*, [Mixed Migration Centre](#), 6 December 2022

E. Paasche, *'Recalcitrant' and 'Uncooperative': Why Some Countries Refuse to Accept Return of Their Deportees*, [Migration Policy Institute](#), 20 December 2022