

Migration Update

December 2023-January 2024



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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. Niccolò Mazzocchetti provided material for the Judicial Observatory. Sandra Pasarić kindly supplied a number of information items concerning Spain. Tim Beyer-Helm also supplied an information item. Should you have any questions or comments, please contact Vít Novotný at vn@martenscentre.eu.

- [According to](#) the IFRAP think tank, the **estimated** stock of illegal migrants in **France is between 780,000 and 900,000 people**, with a net increase of around 400,000 over the period 2015-2022. Unlike in the UK or Germany, ‘France does not offer a consolidated assessment of the stock of illegal immigrants... In Germany federal statistics demonstrate a major effort to reduce the stock of illegal immigrants following massive influxes from Syria in 2015 (in particular through massive work regularisations).’

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LABOUR MIGRATION

The EU **requires an annual net intake of 1 million migrants** to compensate for people leaving [the workforce](#) every year, Commissioner for Home Affairs Ylva Johansson said during a conference on migration in Greece. “That means that legal migration should grow more or less with 1 million per year and that is really a challenge to do that in an orderly way... Legal migration works very well, but [the current numbers are] not enough.”

In 2023, **Croatia** [issued](#) 150,000 work permits for workers in tourism and construction. Employment agencies bring in people from Nepal, the Philippines, Pakistan and other countries. According to political scientist Pero Maldini, the migrants come to Croatia “temporarily, without their families, have no intention of staying and are looking for the first opportunity to go further to the West, where they will be better paid.”

The government of Italy has [made](#) **136,000 places available** for regular entry for work in 2024. According to an ISPI researcher, companies have asked for 608,000 places.

NEW PACT

On 20 December, the Council and the Parliament [reached agreement](#) on 5 elements of the reform of the EU asylum and migration system:

- Asylum Procedure Regulation
- Asylum and Migration Management Regulation
- Screening Regulation
- Eurodac Regulation
- Crisis and Force Majeure Regulation

See also [here](#). [According to Parliament sources, negotiations on details of these regulations, in fact, continued in January.]

Additionally on the same day, the Council and Parliament [reached](#) a deal on the Single Permit Directive.

[According to](#) Margaritis Schinas, European Commission Vice-President, the EU intends to **allocate an additional €2 billion by 2027 for the implementation** of a new pact on migration and asylum. It is estimated that about half of the funds that will be made available to member countries will be directed to finance infrastructure and technology related to new border procedures.

ITALY-ALBANIA

On 13 December, Albania's Constitutional Court [announced](#) the **suspension of ratifying the approval** of the migrant agreement between Italy and Albania, after the opposition filed a case claiming the deal violated the constitution and international conventions. Two separate appeals were filed by the Albanian Democratic Party and 28 other MPs, who sided with former centre-right prime minister Sali Berisha. In particular, the appeals argue that the nature and conditions of the agreement go beyond a simple protocol between two governments since Albania renounced its sovereignty over the territory intended for the detention centres. Therefore, the Prime Minister should have obtained the authorisation of the President.

RUSSIA-FINLAND

Asylum seekers [continued arriving](#) at the Finnish border with Russia. They came from Syria, Yemen, Eritrea, Ethiopia, Afghanistan, Iraq and Somalia, among other countries, 'flimsily dressed for the frigid temperatures.'

On 29 November, the Russian government [said](#) that any decision by Finland to allow a "concentration" of troops on its border with Russia would be viewed by Moscow as a threat. This was after Poland offered to send military advisers to help Helsinki police the frontier.

In mid-December, Finland [resealed](#) its land borders, following a temporary re-opening, after some 100 people tried to cross its 1,300km Russia land frontier.

- The BBC [reported](#) that Russia was luring migrants from the Finnish border for war in Ukraine. Russia is giving them a choice between deportation or a contract to go and fight on behalf of the Russian army. "[Those](#) who have an expired visa are arrested near the Russian-Finnish border crossings. They are deported or given a choice between imprisonment or joining the Russian army against Ukraine."
- Commission President Von der Leyen [said](#) the EU plans to bolster its support for the Finnish border by funding additional border control capabilities, equipment, infrastructure and surveillance.

On 10 January, Finland [said](#) it would keep all eight checkpoints on its eastern border with Russia closed, apart from a single freight train crossing.

FRANCE

On 25 January, the French Constitutional Court [fully or partially annulled](#) 32 provisions of the law "to control immigration and improve integration" that the French

parliament had passed on 19 December. According to *Le Figaro*, some of the provisions that are “particularly emblematic for public opinion and defended by the right, were censored... These include articles on family reunification, the right of residence for foreign students (including the "return guarantee"), social benefits (housing subsidies, family allowances, etc.), making illegal residence a criminal offence, as well as provisions relating to nationality law, including the loss of citizenship and the end of unconditional emergency accommodation.

- [Immediately following the adoption of the law in December], the Minister of the Interior, the Prime Minister and the President of the Republic [all RE] had stated that the text was tainted by unconstitutionality.
- Les Républicains [EPP; who had introduced a number of amendements subsequently struck down by the Court] had always called for constitutional reform before passing such a law [and were] well aware of the legal risk involved.
- The Constitutional Council ruled [among other things] that three provisions were wholly or partially contrary to the Constitution, including the voting of [migration] quotas by parliament and the taking of fingerprints and photographs of illegal residents. In addition, the extension of house arrest prior to deportation was censured because family ties were not taken into account.
- [The Court thus **reduced**] **the text...by 40% in volume**... to its original size [that had been proposed by the government] with four chapters: reform of immigration litigation, reform of the right of asylum, integration of foreign nationals, particularly through work, and the issue of deporting foreign nationals who commit offences.

RETURNS

[According to](#) the Council, in 2022, 73,600 non-EU citizens were returned to a non-EU country. This corresponds to **17% of all return decisions** issued during the year, decreasing from 18% in 2021 [a previously published figure for 2021 was 21% for 2021. The 17% rate would constitute the lowest rate on record.]

AFRICA

Italy-Tunisia

Between 1 and 16 January, irregular maritime arrivals in Italy were **down by 80%** compared to the same period in 2023. The Italian interior ministry [registered](#) a mere 786 arrivals in that period.

Spain-Senegal and Spain-Morocco

The **deployment of Spain's security forces** in Senegal reportedly [lowered](#) by 46 per cent irregular arrivals to the Canary Islands in November and December, with the interception of a total of 59 boats as well as 7,213 people on the coasts of Senegal and Gambia, according to the IM Fernando Grande-Marlaska [PES].

Nevertheless, according to AP, a total of 32,029 people reached the Canary Islands for a period from 1 January to 5 November 2023, surpassing the figures recorded during the migration crisis in 2006, during which period 31,678 migrants were recorded.

[During](#) the first three weeks of January, Spain has received **more illegal migrants than Italy, Greece, Cyprus and Malta altogether**. For example, in three days, the Canary Islands received 1,966 migrants who came by sea mostly from countries like Mauritania, Senegal, and Gambia. This represents almost 16 per cent of the total number of 2023 arrivals.

The Madrid Barajas airport is experiencing a [new phenomenon](#), with migrants arriving by plane from Casablanca (Morocco), not proceeding to embark on their connecting flights, but instead applying for **asylum in the airport's transit zone**. Main nationalities are **Senegalese and Moroccan**. Asylum centres are full, and some 400 migrants have been sleeping at the airport's T4 terminal during the last two weeks of January, in view of the passengers. Conflicts are erupting between the two groups. According to the police, most migrants are destroying their passports during their flight to Spain. IM Fernando Grande-Marlaska is now examining the possibility of introducing a transit visa for transit flights originating from Morocco.

- After several escape attempts, [some of them successful](#), the Interior Ministry opted to transfer some migrants to an asylum centre in order to "decongest" the airport. So far in January, 864 applications for international protection have been processed. 54 asylum officers are working in shifts, 7 days a week.

EU-Libya

According to [Lighthouse Reports](#), 'the EU's border agency **Frontex and the Maltese government** are systematically sharing coordinates of refugee boats trying to escape Libya with a vessel operated **by a militia** linked to Russia, human trafficking, war crimes and smuggling. Tareq Bin Zeyad (TBZ) is one of the 'most dangerous militia groups in the world'. It is run by Saddam Haftar, the powerful son of East Libyan warlord Khalifa Haftar. The group has been operating a vessel, also called TBZ, in the Central Mediterranean since May, during which it has intercepted more than 1,000 people at sea off the coasts of Libya and Malta and returned them to Libya. Experts say the militia would not have been able to find the refugee boats without help from surveillance planes.'

- In a statement for the [EU Observer](#), **Frontex denied any direct contact**. It said it had relayed an alert to all vessels in the vicinity of a boat in distress. "That call was acknowledged only by the Libyan vessel. That's about the extent of our interaction." ... A legal expert told the outlet that Frontex should have ensured that someone else took over the rescue.

EU-Egypt

Over 2024, the EU will provide at least **€87 million and new equipment** to Egypt for a migration management project that began in 2022, implemented by the UN migration agency and the French Interior Ministry operator Civipol, according to [Euractiv.com](#). The €87 million will be dedicated to increasing the operation capacity of the Egyptian navy and border guards for border surveillance and search and rescue operations at sea. There have been almost no irregular departures from the Egyptian coasts since 2016, with most Egyptian irregular migrants to the EU having departed from Libya. At the same time, there has been a significant increase in Egyptian citizens applying for visas in EU countries in recent years.

Sudan

Since war broke out in April, [more than 7 million people](#) have fled their homes in Sudan, many of them moving repeatedly to find temporary safety.

Kenya

Kenya [ended](#) visa requirements to all visitors starting in January 2024, making it a visa-free country.

FRONTEX

Spain has been [refusing](#) to sign the 2024 Frontex Operational Plan. This has resulted in the agency threatening to suspend operations and leave Spain altogether. *El País* reported that Frontex is demanding more command authority in its missions. Spain is refusing the border agency's access to personal data from interviews with migrants. On 18 January, Frontex introduced new regulations on the matter.

- Frontex is carrying out the Indalo mission in the Alboran Sea between the Mediterranean and the Atlantic using aircraft and ships from various member states. On the Canary Islands, Frontex supports the Spanish authorities in identifying asylum seekers, questioning them and checking their passport documents.
- Frontex [currently has](#) 350 border police officers deployed in Spain. Many of them come from other EU member states, but now also from the emerging Standing Corps.

SCHENGEN ZONE

On 30 December, the European Commission [announced](#) that it 'welcomes today's unanimous decision by the Council to welcome **Romania and Bulgaria** into the Schengen area, **starting with lifting controls at air and sea borders as of March 2024**. Their accession will boost travel, trade and tourism and will further consolidate the internal market. Discussions on a further decision to lift controls at land borders will continue in 2024.....To assist Bulgaria and Romania in protecting the external borders of the Union, substantial financial support and Frontex assistance will continue to be provided. At the same time, the pilot projects developed by Bulgaria and Romania at the external borders have proven effective and should be turned into more structural arrangements.'

At the end of January, a number of Schengen member states [maintained](#) systematic border checks on their internal borders.

ISRAEL-GAZA

At the beginning of December, US Vice-President Kamala Harris [said](#) the US fiercely opposes forcibly relocating Gaza residents outside the enclave, currently or in the days and weeks after the war ends. "The Vice-President reiterated that under no circumstances will the US permit the forced relocation of Palestinians from Gaza or the West Bank"... She also rejected an idea suggested recently by some Israeli officials that the borders of Gaza could shrink after the war is over to accommodate a security "buffer zone" between the interior of Gaza and Israel. The statement said the US would not permit "the redrawing of the borders of Gaza." In a statement after

meeting with President Abdel Fattah el-Sisi of Egypt in Dubai, officials said Ms Harris rejected the idea of moving Palestinians into Egypt or refugee camps elsewhere and offered her strongest statement to date urging Israel to reduce harm to civilians in its war campaign.

UNRWA

On 29 January, the **European Commission** [said](#) it would re-evaluate its funding for the UN Palestinian refugee agency (UNRWA). 'The EU is one of the largest donors of humanitarian and development aid to Palestinians in Gaza. Humanitarian aid to Palestinians in Gaza and the West Bank will continue unabated through partner organisations but currently, no additional funding to UNRWA is foreseen until the end of February.'

Prior to the Commission's announcement, several countries including Germany, Italy, the Netherlands, France, Austria and Finland, abruptly [paused funding](#) for UNRWA after allegations by Israel that 12 of its 13,000 staff in Gaza were involved in the October 7th attack in Israel. So [did](#) the US, UK, Switzerland and Japan. The list of countries that have suspended funding [keeps growing](#).

Belgium, Ireland, Denmark, Spain and Norway [said](#) they would **continue their funding** for the agency.

Previously, UNRWA [denied](#) allegations of a connection between an Israeli hostage held in Gaza and an UNRWA school teacher. Following the publication of new Israeli claims at the end of January, UNRWA Commissioner-General Philippe Lazzarini [stated](#): 'The Israeli Authorities have provided UNRWA with information about the alleged involvement of several UNRWA employees in the horrific attacks on Israel on 7 October. To protect the Agency's ability to deliver humanitarian assistance, I have taken the decision to immediately terminate the contracts of these staff members and launch an investigation in order to establish the truth without delay.' The UNRWA also [stated](#) that 'decisions by various [UN] Member States to pause funds from UNRWA will have catastrophic consequences for the people of Gaza. No other entity has the capacity to deliver the scale and breadth of assistance that 2.2 million people in Gaza urgently need.'

[According to](#) information published at the end of December, UNRWA, which is made up of a Palestinian majority, has **lost 142 of its employees** due to Israel's assault on Gaza. The Director of the UNRWA in the Gaza Strip, Thomas White, announced on 29 December that the Israeli army had targeted one of the organisation's aid convoys as it was returning from North Gaza on a route designated by Tel Aviv itself. "Israeli soldiers fired at an aid convoy as it returned from Northern Gaza along a route designated by the Israeli Army," White said via social media.

AMERICAS

CARICOM

The Caribbean Community (CARICOM) leaders have [agreed](#) to amend the Revised Treaty of Chaguaramas to guarantee CARICOM nationals the right to unrestricted travel to live and work in the member countries of the community. As of March 2024,

free movement will apply only to member states that are part of the [CARICOM Single Market and Economy](#).

US

On 11 January, the CBS [reported](#) that **Texas state officials** abruptly **blocked federal US Border Patrol agents** from entering and patrolling a public area in the border town of Eagle Pass where they typically first encounter migrants who cross the Rio Grande illegally. Under federal law, Border Patrol has a legal responsibility to process migrants on US soil and determine whether to detain them, transfer them to another agency, deport them or release them into the country, pending a court hearing.

A spokesperson for the **Federal Bureau of Prisons** [told](#) Fox News the agency "is providing limited transportation resources to assist Border Patrol on the southwest border." This came as the U.S. southern border saw a new record in the number of migrant encounters in a single day, with 12,600 encounters taking place on 18 December.

AUSTRALIA

The Australian [Labour] government [said](#) it would **halve the migration intake** within two years in an attempt to fix the country's "broken" immigration system. It aims to slash the annual intake to 250,000--roughly in line with pre-pandemic levels--by June 2025. Visa rules for international students and low-skilled workers will also be tightened under the new plan. Migration has climbed to record levels in Australia, adding pressure to housing and infrastructure woes. A record 510,000 people came to Australia in the year to June 2023.

PUBLIC OPINION

[According to](#) a public survey conducted in 11 European countries for the European Council on Foreign Relations, '**no single crisis dominates the collective European imagination**. Climate change, the war in Ukraine, COVID-19, **immigration**, and global economic turmoil – each of these five issues has its own sizeable 'constituency' of people who cite one particular crisis as the one that most preoccupies them. These constituencies are unevenly distributed between different generations and between different countries.'

- Germany is the only country where the largest number of people select immigration as the issue that most concerns them.
- Within the EU27's voting age population of 372 million people, [an extrapolation] would lead to around 74 million people who cite climate, 74 million COVID-19, and 71 million the economic crisis as their main worry. These are followed by 58 million EU citizens who are primarily concerned with **immigration**, and 50 million who are focused on Russia's invasion of Ukraine. Around 47 million people struggle to associate with any of the five crises.

JUDICIAL OBSERVATORY

Dutch Council of State overturns 24-week work limit for asylum seekers

On 29 November 2023, the Administrative Jurisdiction Division of the Council of State of the Netherlands (hereinafter: the Council of State) [cancelled a law that](#)

[banned asylum seekers from working more than 24 weeks a year](#). The Council of States' main argument was about the compatibility of the 24-week requirement with the [EU Reception Conditions Directive](#). The rule that an asylum seeker may work a maximum of 24 weeks within a period of 52 weeks has been laid out in the article 6.2 of the [Decision on the implementation of the Foreign Nationals Employment Act 2022](#). Against this background, the Council of State upheld the decisions made earlier this year by the Courts in Arnhem and Utrecht, which declared this requirement in violation of EU law.

The case was brought to the highest Court by the [Dutch Employee Insurance Agency](#) (UWV), the non-departmental public body that implements employee insurance policies on behalf of the Ministry of Social Affairs and Employment, against an appeal made to a district court by MPeople, a recruitment agency that took up the claims in favour of two refugees. The UWV rejected the applications brought by Mpeople to extend the work permit beyond 24 weeks. The position of UWV was that an extension in the work permit will allow unconditional access to the labour market, even though the Reception Directive allows Member States to impose rules on the number of weeks worked. In addition, exceeding the 24 weeks would result in asylum seekers being able to claim payment of benefits under the Unemployment Act, even if their asylum requests are ongoing.

The Council of State deduced, based on the overall structure, context, purpose, and the historical evolution of the Reception Directive that the intention of the Union legislator was to foster the autonomy of asylum seekers. Accordingly, the 24 weeks limits within a period of 52 weeks is "contrary to the background and objective of the Reception Directive". In its decision, the Court referred to a [report](#) from the research agency Regioplan, which indicated that the 24-week requirement presents a challenge for employers generally in search of long-term staff and hinder asylum's seekers' labour market integration.

Clarifying the Dublin III Regulation: ECJ decision on information rights and refoulement risks in asylum applications

On 30 November 2023, the European Court of Justice (ECJ) delivered a [judgement](#) on the interpretation of Regulation (EU) No 604/2013, the so-called ['the Dublin III Regulation'](#), establishing responsibility among the member states for the examination of the application for international protection. The Court ruled that applicants must be informed about the asylum process for both initial and subsequent applications in different member states, and courts in the member state of 'second arrival' typically cannot evaluate the risk of applicants being deported to their home country after being transferred.

Concerning the facts, many asylum seekers applied for asylum in Italy after making application in other member states. Then, in accordance with the Dublin III Regulation, Italy decided to transfer the decision of the application to the state of the first application after the latter had agreed to take asylum seekers back. The asylum applicants in question opposed that transfer in various Italian courts since, they argued, this could lead to a deportation to their country of origin where they would be persecuted. At this point, several Italian courts made a [request for preliminary ruling](#),

asking whether in case of a second application, asylum seekers should be provided with the 'Information leaflet for applicants for international protection' (hereinafter: common leaflet) as laid out in art. 16a of [Regulation \(EC\) No 1560/2003](#). The leaflet has an informational purpose for all applicants of the provisions of Regulation (EU) No 604/2013 and on the application of it, concerning the Member State responsible for examining their asylum application. Also, ECJ was asked to respond if a country should consider the risk of refoulement when dealing with a transfer decision to the first country of application inside the EU.

In the judgement, the ECJ ruled that the common leaflet and a personal interview are mandatory in the countries of both the first and second application. Accordingly, member states should grant the applicant the possibility to notify the authorities of the second member state about any circumstances that could obstruct their transfer, under penalty of cancellation of the transfer. On the other hand, the ECJ found that the second member states cannot assess the risk of refoulement after the transfer to the first member state. This might result in a [systemic deficiency in the asylum procedure](#), due to varying interpretations of international protection, given that all states are required to adhere to EU law.

French Council of State orders to return back to France an Uzbek national after he has been expelled despite the Strasbourg court's ruling

On 7 December 2023, the French Council of State, the top administrative court, [ruled](#) on the returning back to France of a foreign national, annulling a decision of the Paris administrative court. The Council of State ruling called for the Minister of the Interior and Overseas Territories and the Minister of Europe and Foreign Affairs to take appropriate measures for the return; the ruling charged the state 3.000 euros as penalty.

The recipient of the measure, an Uzbek national, received an administrative ban in April 2021. In March 2022, European Court of Human Rights (ECtHR) issued an ['interim measure'](#) (urgent action taken in case of an imminent risk of irreparable harm), determining that the asylum seekers would be exposed to risks of inhuman or degrading treatment in Uzbekistan or Russia if returned. Nevertheless, his asylum request was rejected by the National Court of Asylum (CNDA) in April 2022. He was expelled on 13 November 2023. The asylum seeker subsequently brought an appeal to the Paris administrative court; which rejected the appeal on 16 November. According to the Interior Ministry, the person in question was a dangerous radical Islamist.

The Council of State, in its decision, determined that the Minister of the Interior and Overseas have not complied with the interim measure issued by the ECtHR. The Ministry failed to respect the asylum seeker's right to exercise an effective remedy before a court, which is protected by the Constitution and by the provisions of Art. 6 and 13 of the [European Convention for the Protection of Human Rights and Fundamental Freedoms](#).

(The French Interior Minister Gérald Darmanin [vowed](#) to do “everything” to stop the Uzbek citizen from returning to France, despite the highest French and European courts ruling against his deportation.)

MARTENS CENTRE PRODUCTION

E. Koskela, ‘Labour immigration is essential for Finland and entire Europe’, in: *Finland in the European Union– What next?*, [Martens Centre and Toivo](#), December 2013

SELECT EXTERNAL PUBLICATIONS

P. G. Andrade and E. Frasca, ‘The Memorandum of Understanding between the EU and Tunisia: Issues of procedure and substance on the informalisation of migration cooperation’, [EU Immigration and Asylum Law and Policy](#), January 2024

M. Obolensky, M. Tabellini and C. Taylor, *Homeward Bound: How Migrants Seek Out Familiar Climates*, [National Bureau of Economic Research](#), January 2024