

The institutional and budgetary challenges caused to EU by the refugee crisis

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AND AUDIT

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Area of Reference

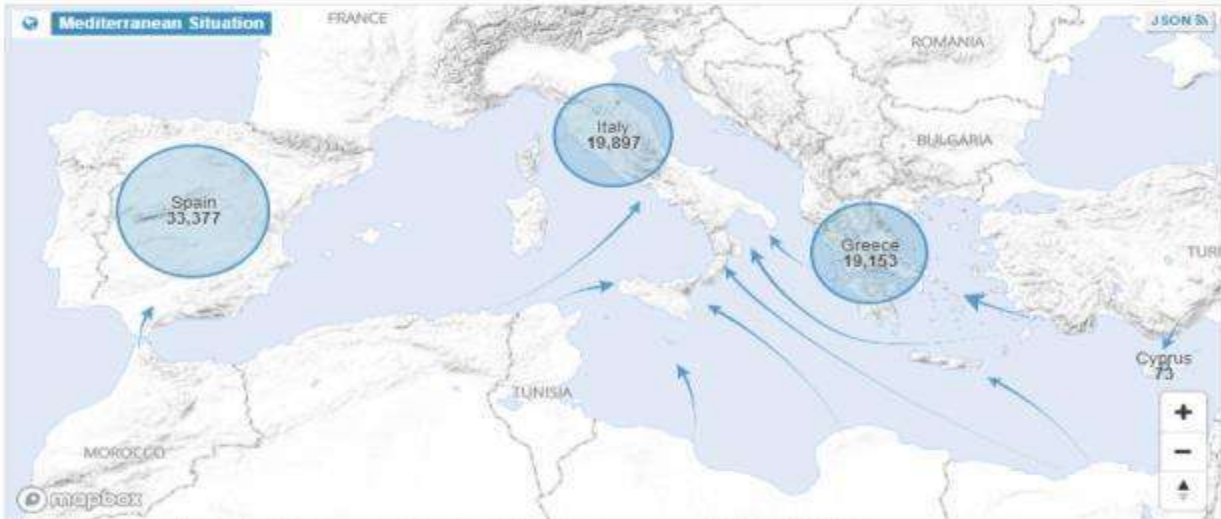


Facts and Figures on Migration

(source: Council of the EU, FRONTEX, UNHCR)

Mediterranean Situation

Select location



The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations

Total arrivals

72,500

Last updated 31 Aug 2018

Sea arrivals in 2018

Includes refugees and migrants arriving by sea to Italy, Greece, Spain and Cyprus.

68,093

Last updated 31 Aug 2018

Land arrivals in 2018

Includes refugees and migrants arriving by land to Spain.

4,407

Last updated 29 Aug 2018

Dead and missing in 2018 (estimate)

1,540

Last updated 31 Aug 2018

Most common nationalities of Mediterranean sea and land arrivals from January 2018

Country of origin	Source	Data date	Population	
Syrian Arab Rep.		31 Jul 2018	13.4%	6,967
Others		31 Jul 2018	11.0%	5,696
Iraq		31 Jul 2018	8.5%	4,414
Guinea		31 Jul 2018	7.5%	3,890
Tunisia		31 Jul 2018	6.4%	3,321
Mali		31 Jul 2018	6.0%	3,116
Morocco		31 Jul 2018	5.6%	2,900
Eritrea		31 Jul 2018	5.5%	2,859
Other (Sub-Saharan Africa)		30 Jun 2018	4.9%	2,569
Afghanistan		31 Jul 2018	4.7%	2,444

Previous years

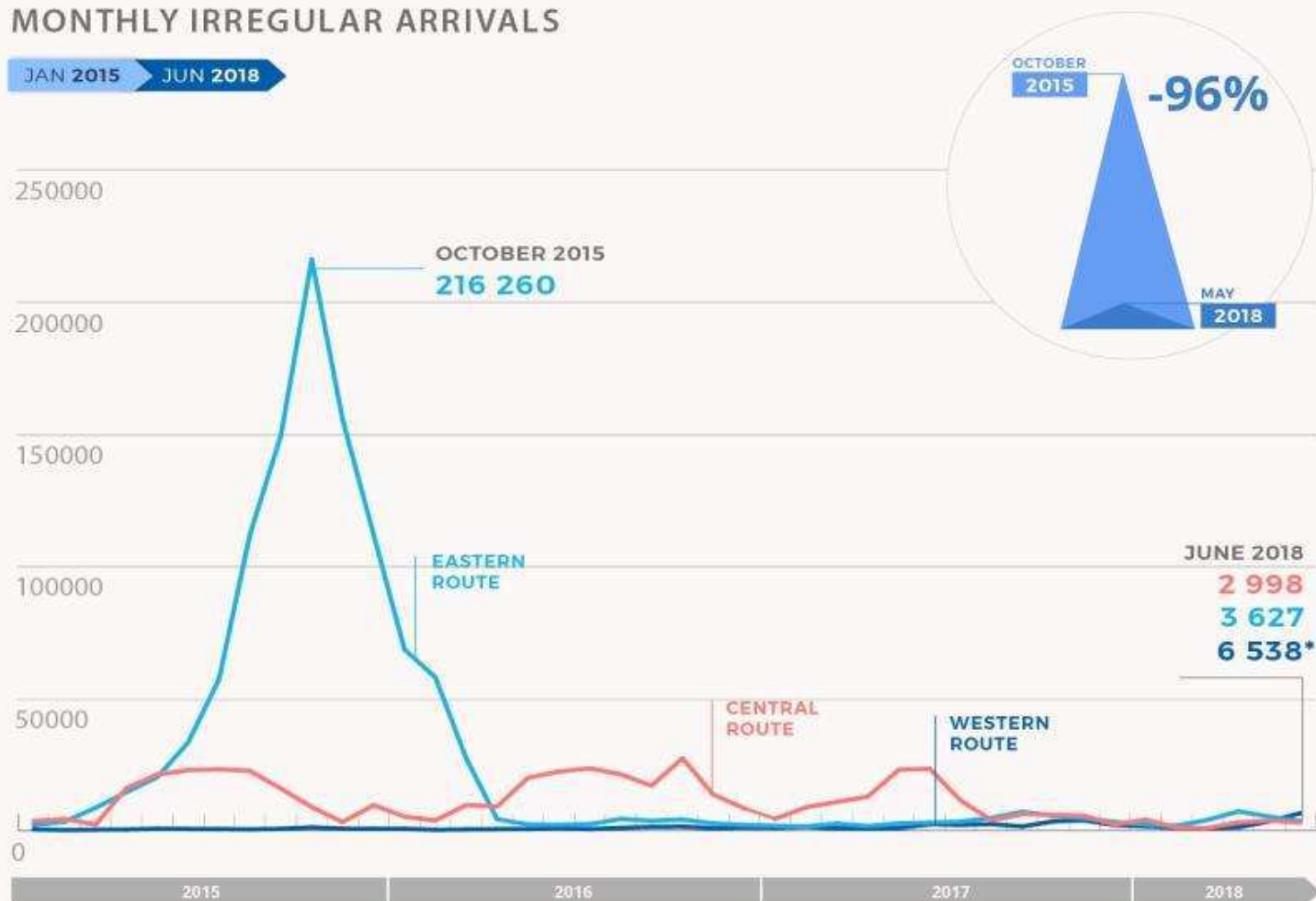
Year	Sea arrivals	Dead and missing
2017	172,301	3,139
2016	362,753	6,096
2015	1,015,078	3,771
2014	216,054	3,538

Demography of Mediterranean sea arrivals from January 2018

Migration flows: Eastern, Central and Western Mediterranean routes

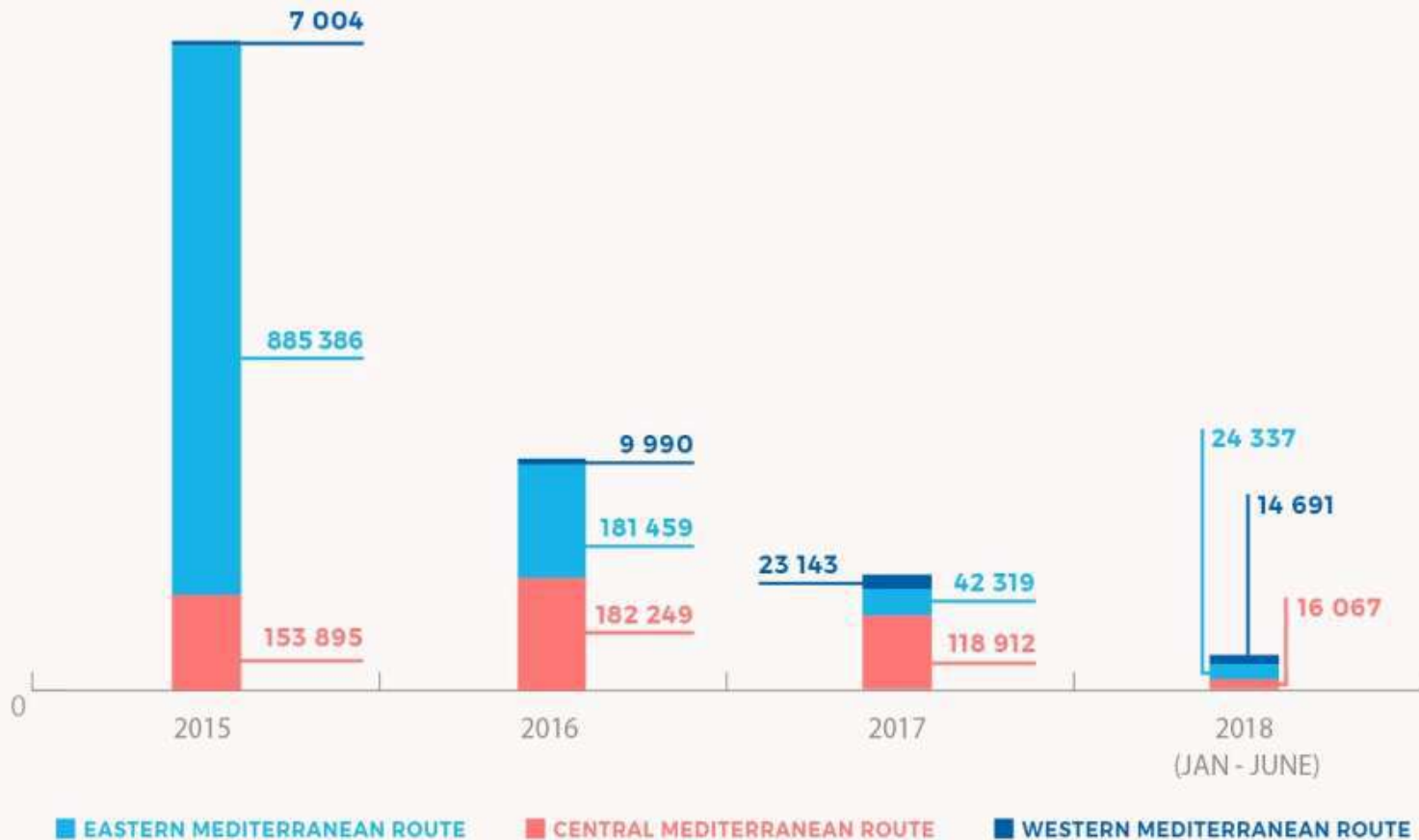
MONTHLY IRREGULAR ARRIVALS

JAN 2015 → JUN 2018



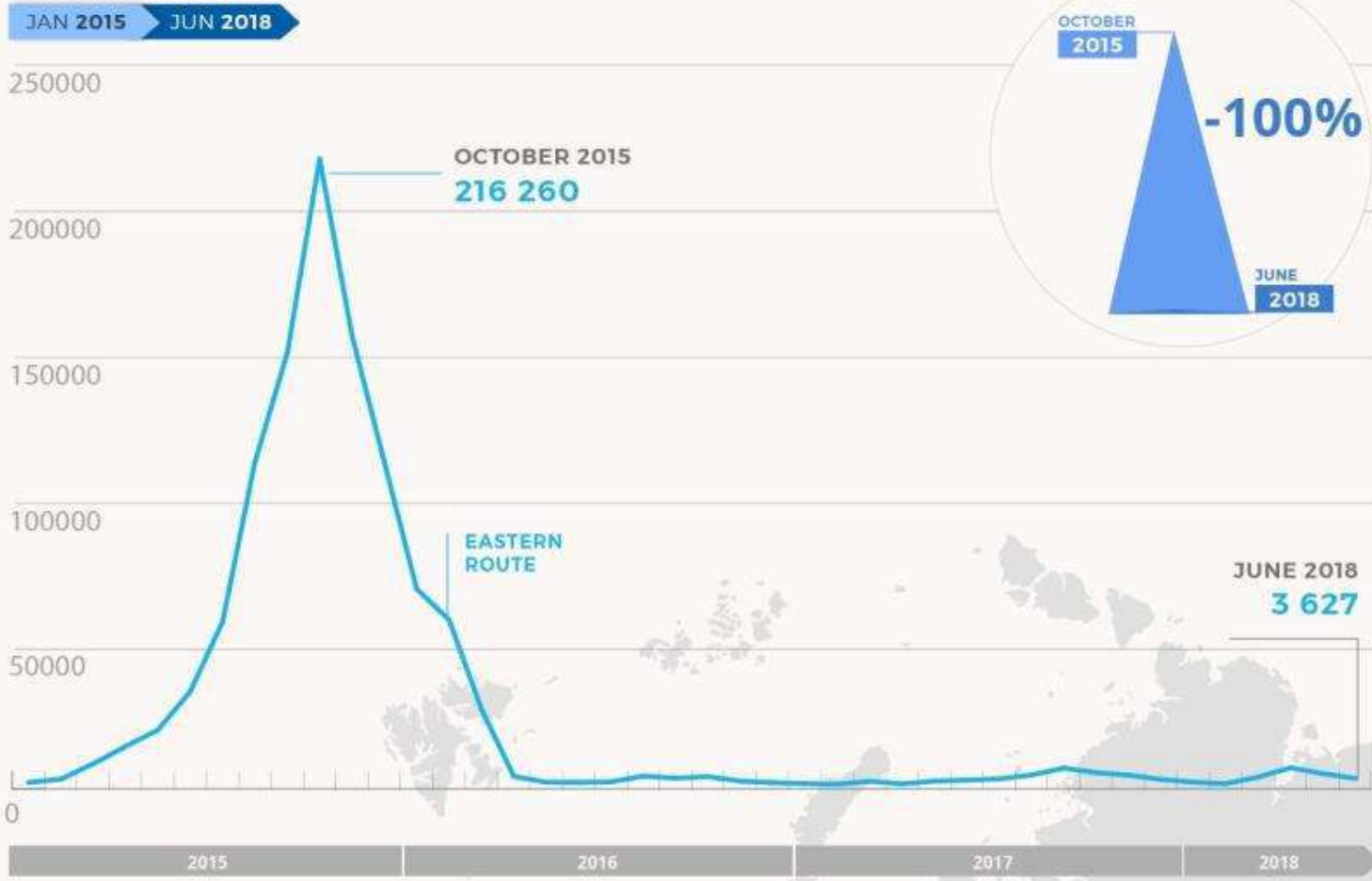
YEARLY IRREGULAR ARRIVALS

JAN 2015 → JUN 2018



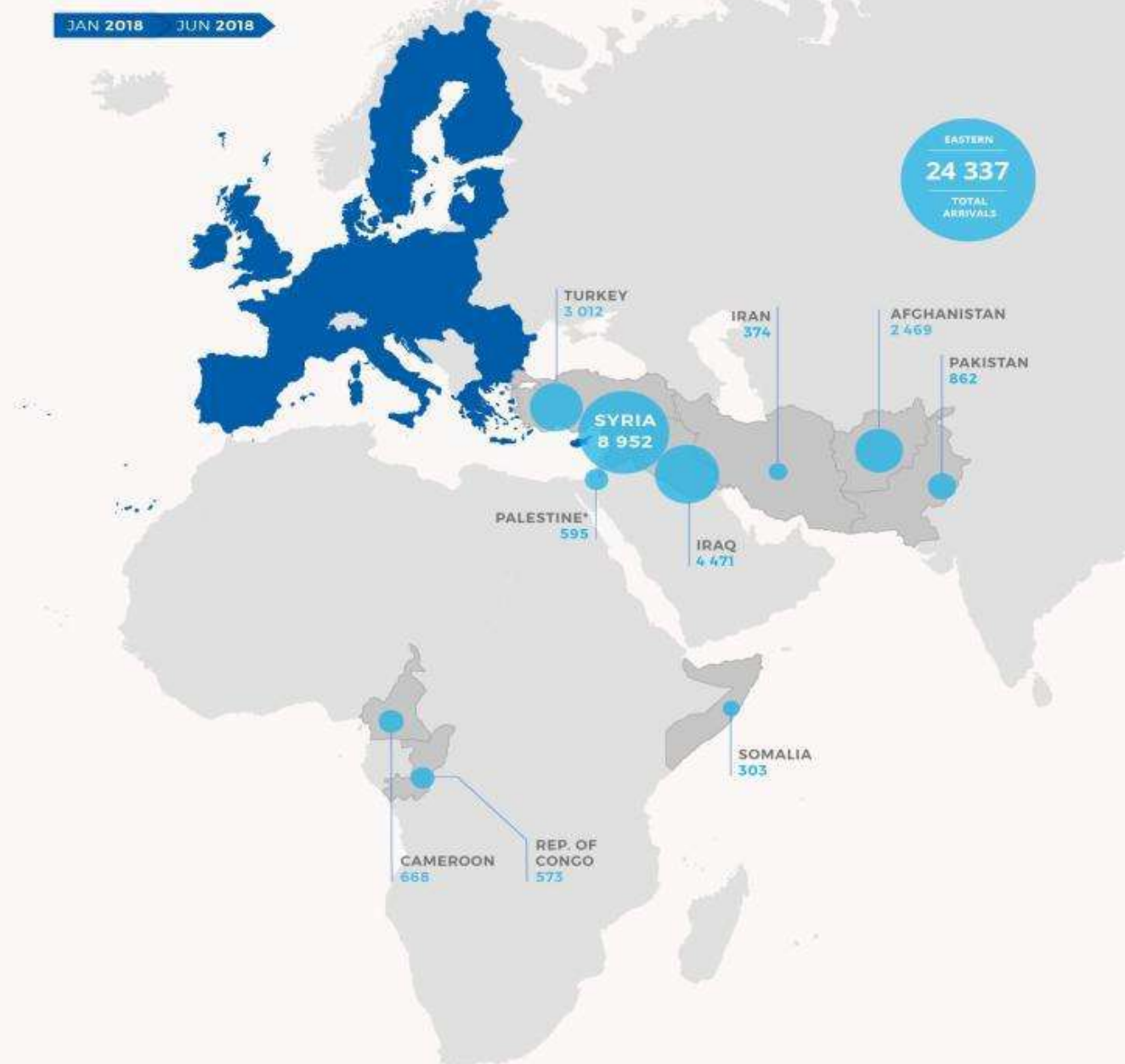
Migration flows: Eastern Mediterranean route

MONTHLY IRREGULAR ARRIVALS BY SEA



IRREGULAR ARRIVALS: TOP NATIONALITIES

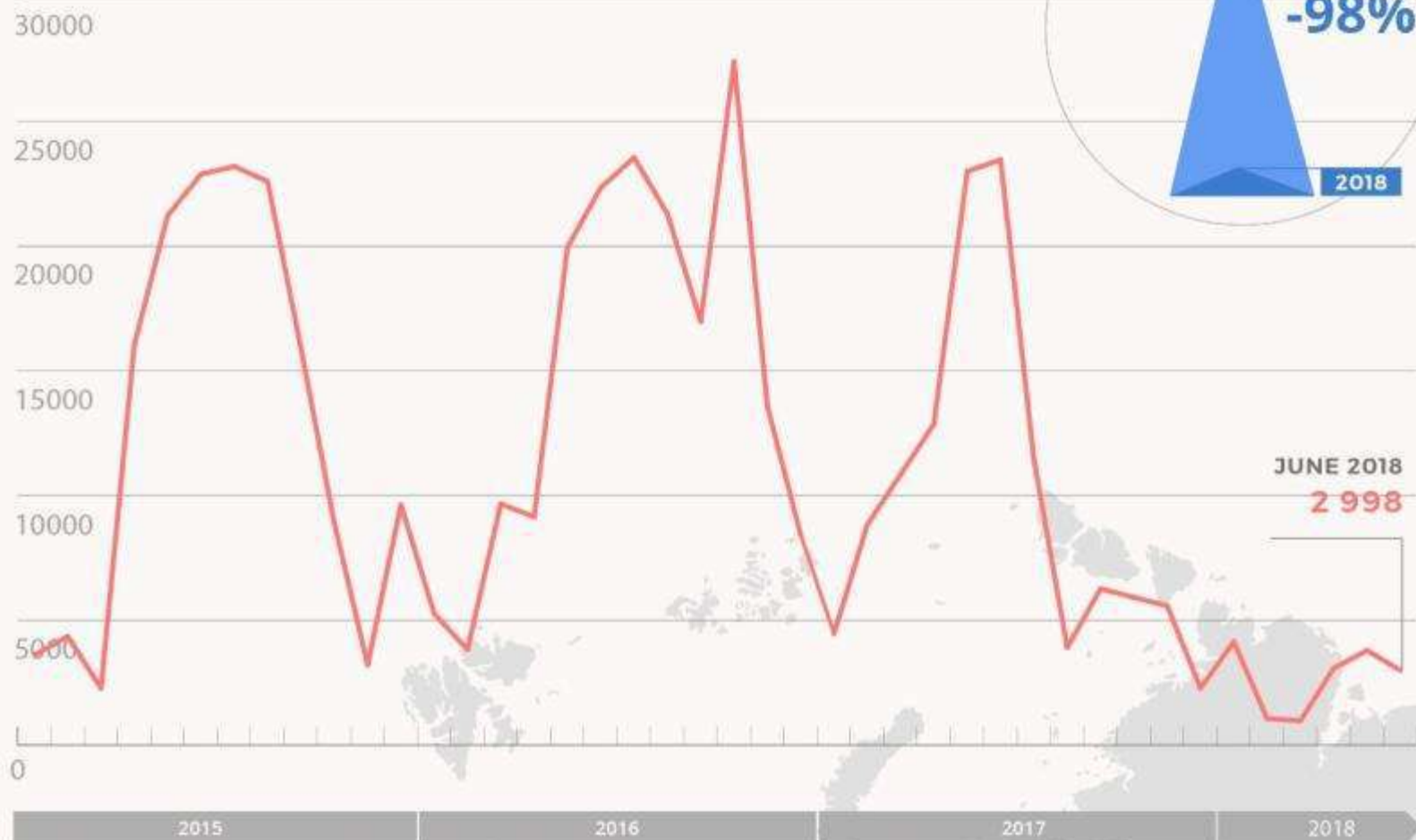
JAN 2018 JUN 2018



Migration flows: Central Mediterranean route

MONTHLY IRREGULAR ARRIVALS BY SEA

JAN 2015 JUN 2018



IRREGULAR ARRIVALS: TOP NATIONALITIES

JAN 2018 JUN 2018



Migration flows: Western Mediterranean route

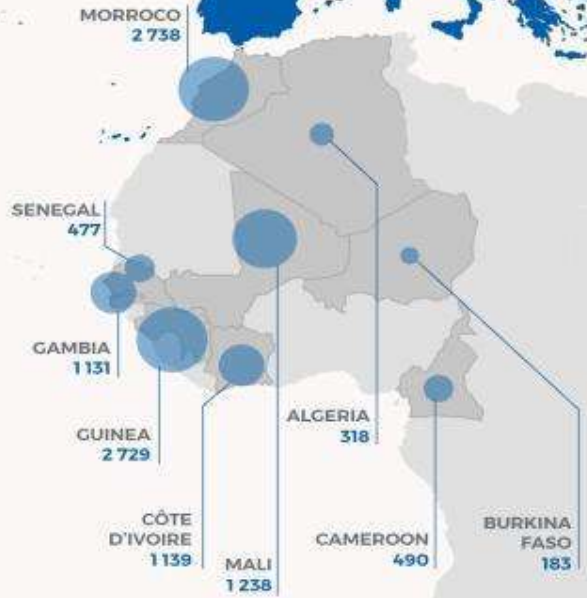
MONTHLY IRREGULAR ARRIVALS



IRREGULAR ARRIVALS: TOP NATIONALITIES

JAN 2018 JUN 2018

WESTERN
6 538
TOTAL
ARRIVALS



EUROPOL Findings



The Central Mediterranean route remains the primary route for migrant smuggling into the EU.



The main migratory flow passes via Italy, Switzerland and Austria.



New alternative routes via air, sea and land are increasingly used.

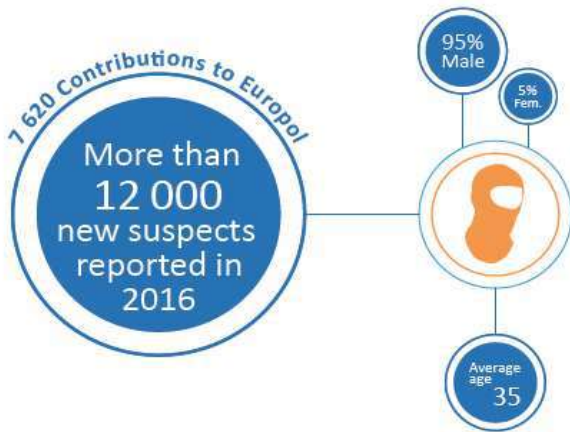


Concealment in lorries and trucks remains the most common modus operandi for secondary movements.



Increased reporting of labour exploitation of irregular migrants.

CRIMINAL NETWORKS



Key changes in nationalities of reported suspects

Source: Europol data
Timeframe: 2015 & 2016 (24/08/2016)
Suspects of which the nationality is known: N 2015= 4081; N 2016= 3992.
Total N of different nationalities reported in 2015= 107, 2016= 93.

TOP 10 Nationality of suspects	2015	TOP 10 Nationality of suspects	Jan-Aug 2016*	Variation in %
Romania	350	Turkey	423	+295,3
Egypt	336	Syria	364	+39,5
Syria	261	Romania	216	-38,3
Poland	259	Bulgaria	168	+1,2
Tunisia	180	Egypt	167	-50,3
Hungary	178	Iraq	152	+12,6
Bulgaria	166	Ukraine	149	+156,9
Iraq	135	Poland	136	-47,5
Turkey	107	United Kingdom	136	+32
United Kingdom	103	Senegal	103	+28,8

*Top MS Contributors in 2016: Italy, United Kingdom, Greece, Austria, Belgium, Hungary, France, Spain, Ireland, Bulgaria, Netherlands, Romania and Poland.

Polycriminality

Source: Europol data
Timeframe variation 51-52
updated 24.08.2016



Modes of payment



- Over **90%** of illegal immigrants coming to the EU, are being “facilitated” in their efforts by criminal groups and/or organizations.
- **Migratory flows** do not follow a stable path and direction but they **are affected by factors such as border controls and weather conditions**. This leads to seeking alternative routes of migration.
- The smugglers have organized their networks along the migratory routes. **Over 250 points for facilitating illegal migration** have been located in and out of EU.
- The **basic structure of the smuggling networks** entails a) the “**persons in charge**” who coordinate the activities during the migratory course, b) the “**organizers**” who regulate all relevant activities at local level through their personal “connections” and c) the “**occasional service providers**” who operate at a very basic level.
- Smuggling illegal immigrants is a **profitable activity with low operating costs and constant high demand**. The annual turnover for 2015 has been estimated at **5-6 billion USD**, cash being the main means of payment (especially smuggling by sea costs **2,500-6,000 USD/person**)
- Those involved in smuggling illegal immigrants, are involved also in other criminal activities (**polycriminality**)
- The smuggled immigrants become, at an increasing rate, **victims of labor or sexual exploitation**, as a means of payment for the smuggling services.
- It has been found that terrorists use the method of smuggling illegal immigrants in order to enter (or re-enter) the EU, either as smugglers or as illegal immigrants.

EU & MIGRATION

- **In 2009**, it was estimated that **the economic recession** in the vast majority of EU Member States had led to a **sharp increase in unemployment rates**, prompting numerous governments to introduce measures to protect domestic labour markets. The **measures amounted to new immigration restrictions** aimed, successfully, at reducing the influx of migrants and encouraging their departure.
- Thus a **strongly negative statistical correlation was established between rising unemployment rates in Member States and the detections of irregular migrants**. Notwithstanding the complexity of the issue, the correlation could signal that irregular migration is mainly a function of labour demand in destination countries and is largely predictable. As a result, the decreasing trend in irregular migration at that time (2009) represented a kind of a pause that ended when labour demand in Member States started to rise again (2013 onwards). Also the developments in the wider area of Mediterranean (Arab Spring, civil war in Syria, etc.), created new migratory flows.
- There are **TWO main strategic approaches on migration by the EU, that can be identified so far**:
 - The **first** is being developed within the framework of the **EU Policy on Migration**, as this is a field of shared competence between the Union and its Member States, and it entails a) **measures of managing migratory flows** and b) **measures for controlling and averting migration** (see FRONTEX Actions i.e. THEMIS, POSEIDON, etc)
 - The **second** tackles migration as **a source of danger for the security of the EU Member States** and the safety of their people, and it is being developed within the framework of the **European (now Common) Security and Defence Policy** (see i.e. Operation SOPHIA)



Institutional Challenges

- The legal context, within which the EU has been called to act in order to tackle the refugee crisis, has been the following:
 - Managing and providing a solution to the migration/refugee crisis in the EU falls within the so called **“shared” competences of the EU (Art. 4 para 2 TFEU)**, ie both the EU and the Member States may adopt legislation or issue legally binding decisions and take legally binding actions in this sector.
 - According to the **principle of subsidiarity (Art. 5 para 3 TEU)**, in such competences, the EU shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.
- The main issues which are seen as challenges for the EU’s institutional framework in its efforts for tackling the refugee crisis, entail the following:
 - The Schengen Area
 - The “Dublin” System
 - The EU Agenda on Migration
 - The EU-Turkey Statement (“Agreement”)
 - The evolution of FRONTEX to European Border and Coast Guard Agency and its operations
 - The operations within the Common Security and Defence Policy framework

The Schengen Area

- The main objective of the EU is to promote European integration by establishing a **single internal market** in its Member States based on the **free movement of goods, persons, services and capital**.
- Based on this approach, during the 1980s, five Member States (Belgium, France, Germany, Luxembourg and the Netherlands) created a territory without internal borders by signing an agreement in a small town in Luxembourg called Schengen, hence the “**Schengen area**” – a **territory in which the free movement of persons is guaranteed**.
- The original agreement was complemented in 1990 by a convention. When this convention entered into force in 1995 it **abolished checks at the internal borders and created a single external border**. Whatever their location (land or sea), officers working at the external border perform border checks in accordance with identical procedures. **The rules governing visas and the right to asylum are also common for all Schengen countries**.
- In order to keep a balance between freedom and security, participating member states agreed to introduce so-called “**compensatory measures**”. These are focused on cooperation and coordination of the work of the police and judicial authorities, especially in order to combat organised crime networks and safeguard internal security.
- In **1997, with the signing of the Treaty of Amsterdam (in force since 1999), this intergovernmental cooperation was incorporated into the EU framework**.

EUROPE'S REFUGEE CRISIS



SOURCES: Europol, Reuters, The Washington Post, AFP, ICMPD

BUSINESS INSIDER

Security controls when arriving and leaving the Schengen area

BEFORE TRAVELLING



NO REQUIREMENTS

European Economic Area (EEA) countries :
Iceland, Liechtenstein, and Norway



**IN NEED OF
A VISA**



Requests a visa

**NOT REQUIRING
A VISA**



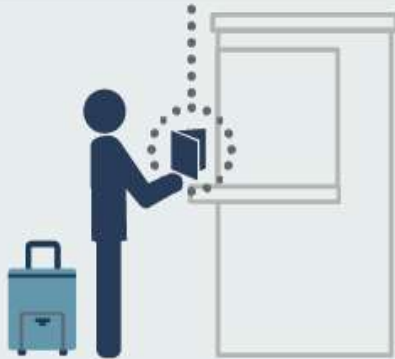
Requests travel
authorisation online*



AT THE BORDER CROSSING



Individual is checked against relevant databases



Individual is checked against relevant databases



Compliance with Schengen entry conditions is checked



Entry or refusal of entry is registered in the entry/exit system*



(subject to certain exceptions)



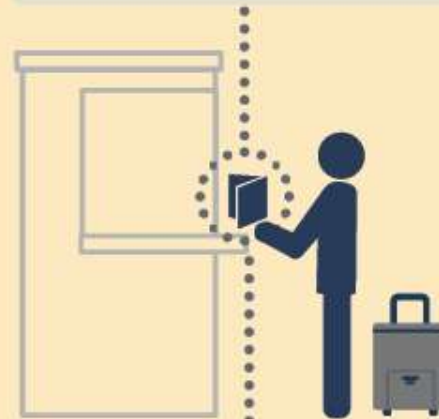
WHEN LEAVING THE SCHENGEN AREA



Individual is checked against relevant databases



Individual is checked against relevant databases



Exit registered in the entry/ exit system* (subject to certain exceptions)

* Not yet in place



IRREGULAR ARRIVALS

Individual is:

- ✓ checked against national, European and international databases
- ✓ identified and fingerprinted
- ⊘ Return home if no right to stay in the Schengen area



- During the refugee crisis, **Germany announced it was temporarily bringing back border controls**, in accordance with the provisions on temporary border controls laid down by the Schengen acquis. The justification was that Germany's ability to provide for very large numbers of persons seeking refuge all at once, was impeded by the open borders regime. It was stated that the border controls are only temporary, and only to support an orderly flow of migration into the area. **This approach was adopted also by other countries** such as Austria, Denmark, Slovenia, Hungary, Sweden and Norway. The initial duration of these measures was extended repeatedly.
- The terrorist attacks in Paris (November 2015) caused some member states to consider the extension of the border controls for up to three years, as fears of growing terrorism have also started to play a role in these considerations. The most noteworthy consequence was that **France introduced emergency border controls and Sweden introduced by a temporary law (valid from December 2015 till December 2018) border controls to travelers (including migrants and asylum seekers) from Denmark**. This latter measure, was deemed by the European Commission, as disproportionate and thus unacceptable.
- It is indicative that the EU Commissioner responsible for migration, Dimitris Avramopoulos, has spoken out against such measures in October 2017, saying that "*when Schengen dies, Europe dies.*"
- On 30 May 2018, with migrant crisis border controls still active in some countries, the **European Parliament decided to condemn prolonged border checks between Schengen area member countries**.

The Dublin System

- The **Dublin Regulation (Regulation 343/2003)** establishes the criteria and mechanisms for determining which EU Member State is responsible for examining an asylum application. The rules aim to ensure quick access to asylum procedure and the examination of an application in substance by a single, clearly determined, Member State.
- The **core principle** under the current Dublin regime is that **the responsibility for examining an asylum claim lies first and foremost with the Member State which played the greatest part in the applicant's entry to the EU. In most cases this means it is the Member State of first entry.** It can also be a Member State which has issued a visa or residence permit to a third country national, who then decides to stay and apply for asylum when this authorisation expires. Family unity and protection of unaccompanied minors are the main reasons to derogate from these rules. This principle is based on the **assumption that all EU Member States are considered to be "safe states"** i.e. they meet the criteria set by the 1951 Geneva Convention on Refugees and Asylum Seekers.
- In practice, this means the responsibility for the vast majority of asylum claims is placed on a small number of Member States (such as those in Southern Europe), stretching their capacity beyond its limits. It became evident that the Dublin system, however, **could not ensure a sustainable sharing of responsibilities** for asylum applicants across the EU.
- Thus the entire system was put on hold (by several countries ie Germany, Sweden, UK, Austria, Finland, Denmark, etc) when the ECHR (**Case M.S.S. vs Belgium and Greece, No. 30696/09, 21st January 2011**) and the ECJ (**Cases C-411/2010 & C-493/2010**) found that the national systems on granting asylum to immigrants have severe problems, causing lengthy delays, and providing very limited possibilities for a successful application. In April 2011, the **European Parliament recommended the non-implementation** of the relevant provisions for the above mentioned reasons. Since 2011 **the Dublin System is under review for a complete reform**, especially taking into account the lesson from the recent migration crisis.

CURRENT EU RULES

Determining the EU country responsible for the asylum claim



When applying the Dublin rules, the country of arrival is, in most cases, identified as the one responsible for the asylum application.

CHALLENGES AND SHORTCOMINGS

Pressure on a small number of Member States



The vast majority of arrivals are currently registered in just a few Member States (e.g. Greece and Italy), putting the asylum systems of these countries of first entry under immense pressure. This is not a fair distribution of responsibility.

Harmonised conditions of reception throughout the EU



The EU has common standards to ensure that asylum seekers are treated equally in an open and fair system – wherever their application is made. According to the Dublin system, asylum seekers cannot choose the EU country where their application will be processed. However, discretionary provisions under EU legislation and lack of full implementation have resulted in some EU countries offering more attractive reception and asylum systems than others, creating an incentive for asylum shopping.

Uneven implementation of EU rules leads to imbalances and secondary movements



Some migrants seek to avoid registration and fingerprinting and then move on to the state where they wish to settle and where they want to get asylum. These secondary movements create unbalances in the distribution of asylum seekers and place disproportionate pressure on the favoured destination countries.

The EU Agenda on Migration

- In May 2015, the European Commission presented the **European Agenda on Migration** (COM(2015) 240 final), entailing a **comprehensive approach to migration management**. The Agenda comprises **immediate action** aimed at, for example, saving lives at sea, targeting criminal smuggling networks, and helping frontline Member States cope with the high numbers of arrivals, **as well as longer-term measures**, e.g. to secure Europe's external borders (by improving border management), reduce the incentives for irregular migration (by addressing the root causes of irregular migration) and design a new policy on legal migration. It was **approved by the European Council** on 23.9.2015 and 15.10.2015.
- The **key operational measure** proposed in the Agenda is to set up a new **“hotspot” approach** towards managing the large inflow of migrants, as an immediate response. **A hotspot was defined as an area at the EU's external border which faces disproportionate migratory pressure**. Most migrants enter the Union at these hotspots and, according to the Commission, it is there that the EU needs to provide operational support to ensure arriving migrants are registered and channelled, as appropriate, into the relevant national follow-up procedures.
- The hotspot approach is described as follows: *“the European Asylum Support Office (EASO), Frontex and Europol will work on the ground with frontline Member States to swiftly identify, register and fingerprint incoming migrants. The work of the agencies will be complementary to one another. Those claiming asylum will be immediately channeled into an asylum procedure where EASO support teams will help to process asylum cases as quickly as possible. For those not in need of protection, Frontex will help Member States by coordinating the return of irregular migrants. Europol and Eurojust will assist the host Member State with investigations to dismantle the smuggling and trafficking networks.”*

Immediate response

- Triple the capacities and assets for the Frontex joint operations Triton and Poseidon in 2015 and 2016.
- Activation of the Emergency system under Article 78(3) of the Treaty to better distribute Asylum seekers in Europe.
- A new “Hotspot” concept: under the coordination of the Commission, EASO, Frontex and EUROPOL will be working on the ground in frontline Member States to swiftly identify, register and fingerprint migrants arriving and coordinate returns.
- Mobilising additional € 60 million in emergency funding for frontline Member States.
- A € 50 million resettlement scheme to transfer 20 000 persons to Europe in a safe and legal manner.
- € 30 million for the Regional Development and Protection Programmes (RDPPs) starting from North Africa and the Horn of Africa in 2015/2016.
- Information pooling by Europol with the contribution of all EU agencies to dismantle criminal networks, Frontex and EUROPOL to develop profiles of vessels traffickers could potentially use.
- Common Security and Defence Policy (CSDP) operations in the Mediterranean to capture and destroy boats.
- Migration to become a specific component of ongoing Common Security and Defence policy (CSDP) missions already deployed in Niger and Mali, which will be strengthened on border management.
- Establishment of pilot multi-purpose centre in Niger in cooperation with IOM and UNHCR.
- Deployment of European Migration Officers to EU delegations in key countries of transit.

The way forward

Reducing the incentives for irregular migration

283 532 detected irregular border crossings in 2014 (164% increase on previous year)

- An Action Plan to step up investigation and prosecution of criminal networks of smugglers, to help disrupt them, bring the perpetrators to justice and seize their assets.
- A return handbook to align return practices in all Member States.
- Stronger partnerships with Third Countries in the field of smuggling and return.
- A stronger engagement of EU delegations in key countries.
- Stronger role of Frontex in return operations, also by establishing a dedicated department to support Member States in implementing the Return Directive.



Saving lives and securing the external borders

Out of the 24 000 migrants rescued in the Channel of Sicily since the beginning of 2015, nearly 7300 persons were saved by means deployed by Frontex

- Revised proposal on Smart Borders.
- Finance initiatives to strengthen the capacities of countries in North Africa to intervene and save lives of migrants in distress.
- Reflection on the establishment of a European System of Border Guards.
- Stronger role of Frontex.



A strong asylum policy

626 715 asylum applicants in 2014 (45% increase on previous year)

- Full implementation of the Common European Asylum system through a new monitoring mechanism.
- Evaluation of the Dublin system: by mid-2016 in view of its revision.
- Decisive initiatives to fight abuses of the asylum system.
- Reflection on the establishment of a single asylum decision process to guarantee equal treatment of asylum seekers throughout Europe.



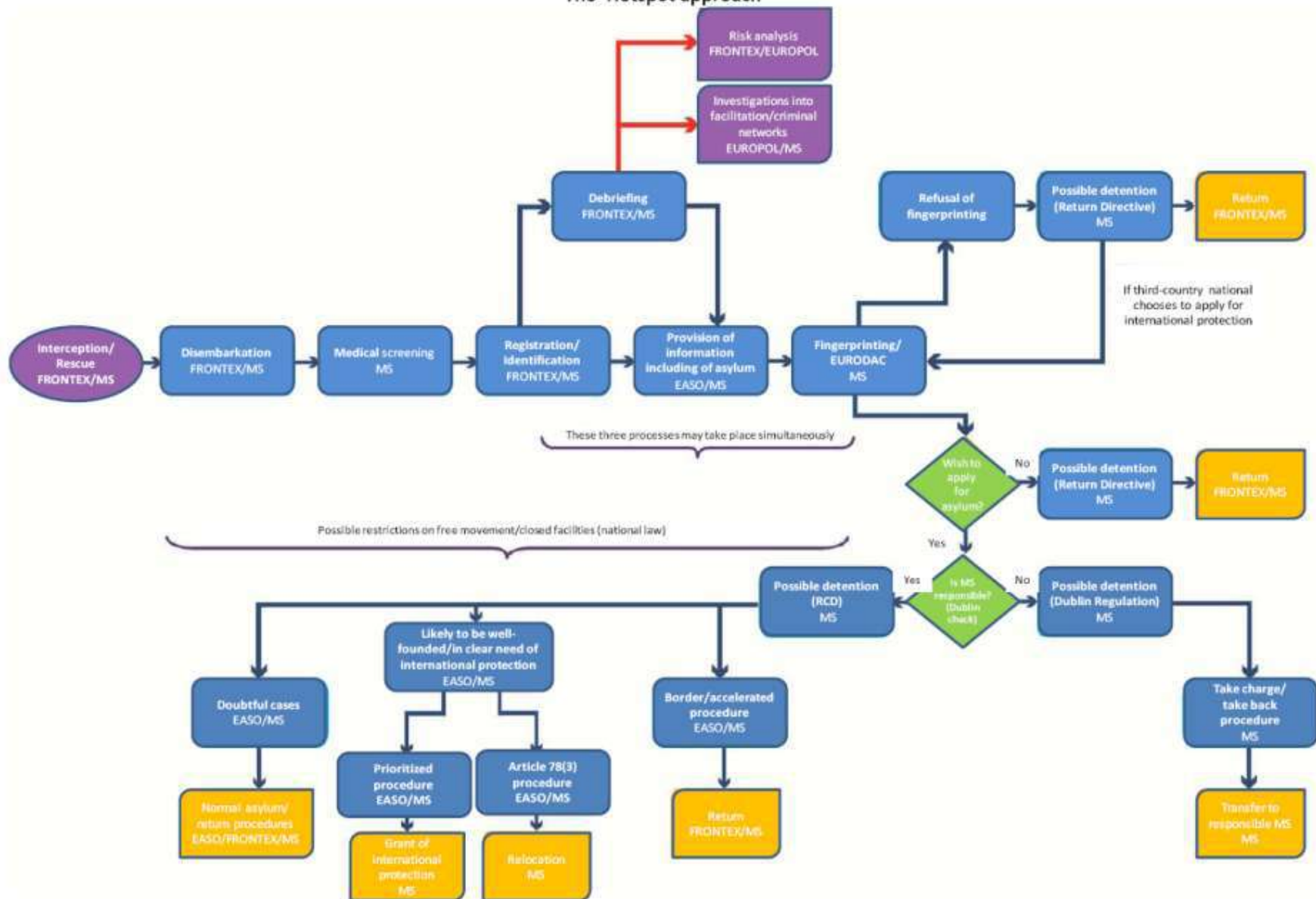
A new policy on legal migration

**17 million Schengen visas issued in 2013
2.3 million residence permits issued in 2013**

- Review the Blue Card directive.
- Establishment of a dedicated platform of cooperation with Member States, businesses and trade unions on economic migration.
- Cheaper, faster and safer remittance transfers.
- Reflect on the development of an “expression of interest system” which would use verifiable criteria to automatically make an initial selection of potential migrants.
- Maximising the development benefits for countries of origin.



The 'Hotspot approach'



Source: European Commission, Explanatory note dated 15 July 2015.

- **Following their registration and fingerprinting**, non EU nationals arriving irregularly should then be channeled into one of three following processes:
 - A) **the national asylum system of the country of arrival** (if a migrant is applying for asylum and considered to be in need of international protection),
 - B) **the Emergency relocation scheme**, or
 - C) **the return system** (if a migrant does not ask for, or is considered not to be in need of international protection).
- The asylum system (A) and the return system (C) are complementary parts of an effective management of migratory flows and are governed by the existing European regulations and directives, such as the EUODAC Regulation (on fingerprinting) and the Dublin Regulation, the Asylum Procedures Directive, the Reception Conditions Directive and the Return Directive.
- The relocation scheme, on the other hand, is a **temporary mechanism aiming to redistribute people in clear need of international protection, so as to ensure fair burden-sharing among Member States** and decrease the pressure on the frontline Member States. This scheme is actually a temporary exemption from the Dublin mechanism. It entails the **relocation of 160.000 applicants** in clear need of international protection, from Greece and Italy to other Member States during the period September 2015 –September 2017, in order to reduce the extreme pressure on these two States' asylum systems and reception facilities; these Member States would then become responsible for examining their asylum applications. The scheme is based on the **voluntary participation** of the Member States, as they will inform the Commission on their capacity for receiving refugees, and they will designate the national coordination points. **In September 2017, only 47,905 places had been formally declared available, and only 29,144 refugees were relocated.**

The EU-Turkey Statement (“Agreement”)

- On 18 March 2016, EU Heads of State or Government and Turkey agreed on the **EU-Turkey Statement to end the flow of irregular migration from Turkey to the EU and replace it with organised, safe and legal channels to Europe.**
- **Core principle of the EU-Turkey Statement:** All new irregular migrants or asylum seekers crossing from Turkey to the Greek islands will be returned to Turkey, after an individual assessment of their asylum claims in line with EU and international law, **Turkey being considered a “safe country” under international humanitarian law.** For every Syrian being returned to Turkey, another Syrian will be resettled to the EU from Turkey directly (**1:1 mechanism**). In parallel, the EU will make available significant resources under the Facility for Refugees in Turkey to support refugees in Turkey, it will re-examine the visa regime for Turkish nationals to enter the EU, it will upgrade the EU-Turkey customs union, and it will open Chapter 33 (budget) of the negotiations on Turkey’s accession in the EU.
- Everyone who applies for asylum in Greece has his/her **application treated on a case-by-case basis**, in line with EU and international law requirements and the **principle of non-refoulement**. In each case there are **individual interviews, individual assessments** and rights of appeal. There are **no blanket or automatic returns** of migrants or asylum seekers.
- **Critical Development:** On 28 February 2017 the ECJ, adjudicating on the actions of three immigrants against the EU-Turkey Agreement, found (Cases **T-192/16, T-193/16 & T-257/16**) that this agreement, despite its expressed wording (“... *the EU and Turkey today decided to end the irregular migration from Turkey to the EU. In order to achieve this goal, they agreed on the following additional action points...*”), was actually a Statement **that it is was not part of EU Law, but a simple international law agreement, which imposes no obligations on the EU itself but only on its Member States and Turkey.** Thus any violation of this agreement’s terms must be examined by the national courts or the International Court of Justice.

ARRIVALS ON THE ISLANDS IN 2015

October 2015:
Daily average
6,360 arrivals

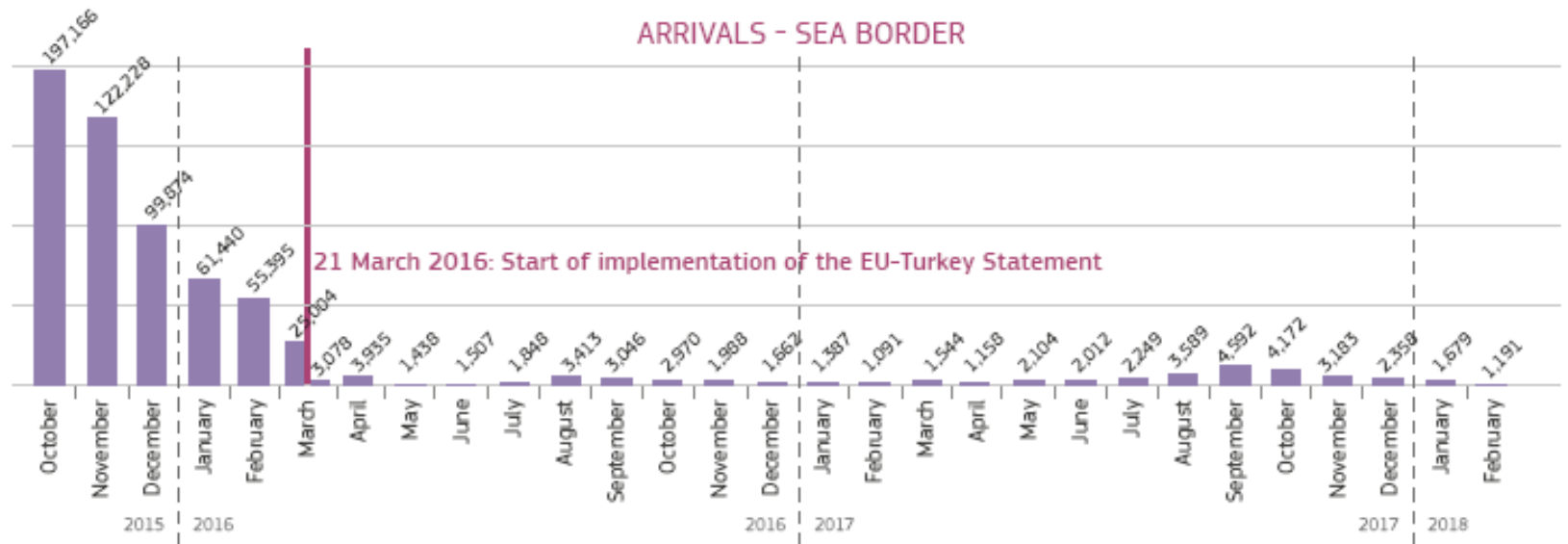
December 2015:
Daily average
3,222 arrivals

ARRIVALS ON THE ISLANDS SINCE THE EU-TURKEY STATEMENT

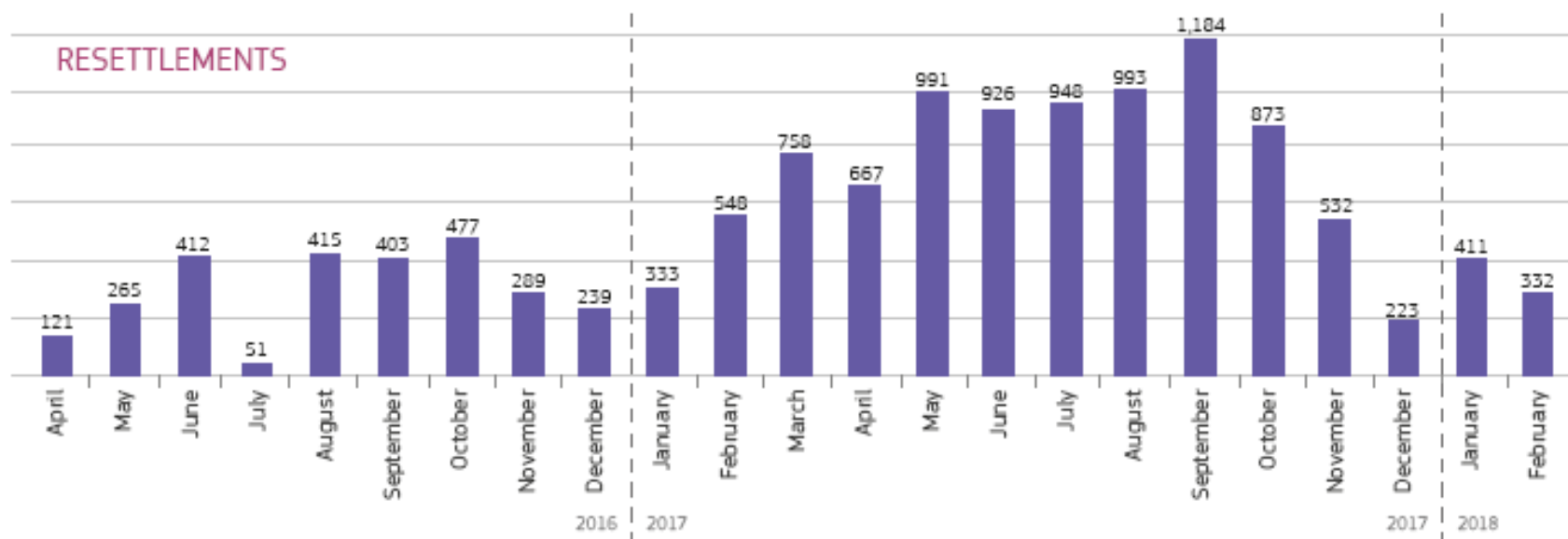
Since 21 March 2016:
Daily average
80 arrivals

Drop of
97%

ARRIVALS - SEA BORDER



Resettlements under the EU-Turkey Statement are continuing at a steady pace – in total, over 12,476 Syrian refugees have been resettled from Turkey to EU Member States so far.



The Commission and the EU Member States are providing significant support to the Greek authorities in the implementation of the EU-Turkey Statement, to improve migration management and reception conditions in Greece. EU actions focus in particular on helping to alleviate the situation on the Greek islands.

	The year before the EU Turkey Statement	Two years after the EU Turkey Statement
Registration rate at hotspots	8% in October 2015	100%
Reception capacity in Greece (on the islands)	2000 in October 2015	49,349 (of which 9,163 in the hotspots and other structures)
Capacity of Greek asylum service staff on the islands	16	Total asylum service staff on the islands: 365 (including 110 EASO experts)
First instance decisions on asylum applications on the islands	0	40,008
Returns of irregular migrants to Turkey	627	2,164
Relocations	569	21,847
Arrivals	988,703	57,450
Loss of lives	1,145	130
EU Agency support for Greece		EASO experts: 135 European Border and Coast Guard officers: 801

FRONTEX-European Border & Coast Guard

- Since 1999 strengthening cooperation in the area of migration, asylum and security became a priority for the EU, and this led to the creation of the **External Border Practitioners Common Unit**, composed of officials from national border control services. The Common Unit **coordinated national projects of Ad-Hoc Centres on Border Control**, tasked with overseeing EU-wide pilot projects and common operations related to border management. In 2002, there were six ad-hoc centres: **Risk Analysis Centre** (Helsinki, Finland), **Centre for Land Borders** (Berlin, Germany), **Air Borders Centre** (Rome, Italy), **Western Sea Borders Centre** (Madrid, Spain), **Ad-hoc Training Centre for Training** (Traiskirchen, Austria), **Centre of Excellence** (Dover, United Kingdom), **Eastern Sea Borders Centre** (Piraeus, Greece).
- These developments did not mean, however, that there was a EU Coast Guard or a Border Guard. The **EU Members remained in charge of managing their external borders**, which also constitute the EU's borders based on the Schengen Borders Code. The EU provided financial support to such Member States.
- In 2004, with the objective of improving procedures and working methods of the Common Unit, and in order to promote cooperation and coordination between the national border guard authorities through joint operations **the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) was established by Regulation 2007/2004.**
- FRONTEX began its operations on **3 October 2005**, being the first EU agency to be based in one of the new EU member states from 2004 (Warsaw-Poland), something that caused an initially unsuccessful recruitment for FRONTEX.

- While **it remained the task of each member state to control its own borders**, Frontex was vested to ensure that they all do so with the same high standard of efficiency. Its **main tasks** were:
- **coordinating cooperation** between member states in external border management.
- **assisting member states in training** of national border guards.
- **carrying out risk analyses**.
- **following research** relevant for the control and surveillance of external borders.
- **helping member states requiring technical and operational assistance** at external borders.
- **providing** member states with the necessary **support in organising joint return operations**.

- Frontex was **centrally and hierarchically organised** with a Management board, consisting of one person of each member state as well as two members of the Commission. The member states representatives were operational heads of national security services concerned with border guard management. Frontex also had representatives from and worked closely with Europol and Interpol. The Management Board was the leading component of the agency, controlling the personal, financial, and organisational structure, as well as initiating operative tasks in annual work programmes. Additionally, the Board appoints the Executive Director. In 2015, Frontex had 336 employees & 78 seconded officials from the member states. This dependency of the organisation on staff secondments was identified as a risk, since valuable experience is lost when such staff leave the organisation and return to their permanent jobs.

- Special European Border Forces of rapidly deployable border guards, called **Rapid Border Intervention Teams (RABIT)** who are armed and patrol cross-country land borders, were created by the Council (Ministers of Interior) in **April 2007** to assist in border control, particularly on EU's southern coastlines. Furthermore armed border force officers were deployed to the Greece–Turkey border in October 2010.

- In 2015, the **Commission was prompted to take swift action due to the refugee crisis**, which highlighted the need to improve the security of the EU's external borders. The migrant crisis also demonstrated that **FRONTEX**, which had a **limited mandate** in supporting the Member States to secure their external borders, had **inadequate staff and equipment** and **lacked the authority** to conduct border management operations and search-and-rescue efforts.
- On 15.12.2015, the European Commission put forward a proposal to establish a **European Border and Coast Guard (EBCG)**, designed to ensure **shared European management of the external borders of the European Union**. The proposed European Border and Coast Guard Agency (EBCGA) would replace FRONTEX and have increased powers, namely shared responsibility with national authorities over border management; the EBCGA and the national border authorities **together would constitute the EBCG**.
- The legal grounds for the proposal are Art. 77, paras 2(b) and (d), and Art. 79, para 2(c), TFEU. **Article 77** grants competence to the EU to adopt legislation on a “gradual introduction of an integrated management system for external borders,” and **Article 79** authorizes the EU to enact legislation concerning the repatriation of third-country nationals residing illegally within the EU.
- The **political pressure caused by the migration crisis** led to a **speedy adoption** of the proposal by the Council and the Parliament. Thus, in 2016 FRONTEX evolved into the EBCG by Regulation 1624/2016, which became operational on 6.10.2016. Its competences, budget and human resources are being increased gradually (budget from 238 million Euros in 2016 to 322 million Euros in 2020, and staff from 417 in 2016 to 1000 in 2020).

- With regard to EBCG scheme, this **unifies the EBCGA and the Member States' authorities responsible for border management**, including coast guards. National authorities would continue to exercise the day-to-day management of their respective external borders.
- The EBCGA's enhanced features include the following elements, which have caused some concerns, as follows:
 - **Enhanced Supervisory Role**
 - A Monitoring and Risk Analysis Center. The Center is authorized to carry out mandatory vulnerability assessments concerning the capacities of the Member States to face current or upcoming challenges at their external borders.
 - Concerns
 - Need to clarify the relationship between the Schengen Evaluation Mechanism and the Vulnerability Assessment model
 - Need to ensure that the Agency's supervisory role does not prejudice working relations in the field of operational cooperation.
 - Need to introduce a fundamental rights component into the Assessments.

- **Enhanced Regulatory Role**

- Member States are obliged to provide the Agency with relevant information for its risk analysis.
- Concerns
- Need for a more specific explanation of what constitutes “relevant information” in order to help to clarify the extent of this obligation.
- If the Agency is to be given access to European databases, this would have to be under strict conditions, taking into account relevant data protection legislation.

- **Enhanced Operational role**

- A European Return Office. This Office enables the deployment of European Return Intervention Teams composed of escorts, monitors, and return specialists to return illegally present third-country nationals. These nationals would be given a uniform European travel document for return. The Office would also establish and deploy EBCG Teams for joint operations and rapid border interventions, as needed.
- Availability of human and technical resources: In emergency situations, Member States are required to provide border guards, with no possibility to invoke an emergency situation requiring their deployment at home. Similar, yet weaker provisions have been included as regards the obligation to make available technical equipment. The Agency will be allowed to acquire its own equipment.

- The right to intervene. Member States may request joint operations, rapid border interventions, and deployment of the EBCG Teams to support national authorities when a Member State experiences an influx of migrants that endangers the Schengen area. In such a case, especially when a Member State's action is not sufficient to handle the crisis (especially when a Member State does not follow up on the recommendations from the Vulnerability Assessment or in a situation where insufficient external border controls would put the overall functioning of the Schengen area at risk), the Commission has the legal authority to adopt an implementing decision on whether a situation at an external border requires urgent action at the EU level. Based on this decision, the EBCGA would be able to intervene and deploy EBCG Teams to undertake necessary measures, **even without a request from the State concerned.**
- Concerns
- The right to intervene is a point of contention between a number of EU Members and the Commission, especially those Members whose borders form the external borders of the EU, such as Cyprus, Greece, Hungary, Italy, and Poland. These countries claim that intervention by the EBCGA should be possible only with the consent of the affected Member States. Otherwise, this right of intervention poses a very serious issue from the **State's sovereignty point of view**, as it signifies the granting of power to an EU body on an issue which is in the heart of a State's sovereign authority (border control).
- Both the unqualified obligation to make border guards available for rapid border interventions and the 'right to intervene' under the Commission's proposal arguably **contravene the Member States' ultimate responsibility for internal security** under the Treaties (Article 4(2) TEU and Article 72 TFEU).

European Border and Coast Guard Agency

Main Tasks



Risk analysis and vulnerability assessment

The agency collects data on the situation at and beyond Europe's external borders. The data is used to identify trends in irregular migration and patterns in cross-border crime.

NEW The agency conducts annual stress tests to assess the ability of each EU member state to face challenges at their external borders.



Operations

The agency deploys border and coast guard officers along with vessels, aircraft, helicopters and other equipment to assist countries requiring support at their borders.

NEW In emergency situations it can quickly deploy border and coast guard officers from the rapid reaction pool of at least 1 500 officers.



Returns

The agency assists the member states in the return of migrants who are ineligible to stay in the EU. The decision as to who should be returned remains the exclusive responsibility of the national authorities of the EU member states.

NEW A pool of monitors, escorts and return specialists will be created. The agency may also play a role in the organisation of voluntary departures.



Situation Monitoring

The agency enables swift data exchange between border authorities of EU member states, the European Commission and other agencies. It provides situation and crisis monitoring, delivering early alerts and updates about the events at the external borders.

NEW To assist in this task, the agency deploys liaison officers to the individual member states.



Coast Guard Functions

NEW The agency supports the cooperation of law enforcement authorities, EU agencies and customs at maritime borders. Vessels and aircraft deployed in its operations also collect and share information relevant to fisheries control, detection of pollution and compliance with maritime regulations.



Cooperation with non-EU countries and international organisations

The agency develops cooperation and signs working arrangements with non-EU countries and international organisations to exchange information about trends in migration and cross-border crime and provides assistance in capacity building.

NEW The agency can carry out operations on the territory of non-EU countries neighbouring at least one participating member state, if it requires assistance due to high migratory pressure.



Combatting cross-border crime

The agency focuses on preventing smuggling, human trafficking and terrorism as well as other forms of cross-border crimes.

NEW The agency shares intelligence gathered at the borders on persons suspected of involvement in criminal activities with national authorities and European agencies.



Research and Innovation

The European Border and Coast Guard Agency facilitates cooperation between border control authorities, research and industry.

NEW The agency assists the member states and the European Commission in identifying key border security technologies and draws up and implements the EU framework programmes for research and innovation activities in the border security area.



Training

The agency develops harmonised curricula and training standards for border guards in all EU countries. It conducts various courses to share knowledge and best practices, including capacity building programmes in non-EU countries.

NEW The agency delivers training on integrated border management and the coast guard functions to border and coast guards across the EU. It also trains experts who will carry out vulnerability assessments.



Respect for fundamental rights

Respect for fundamental rights is at the heart of all activities undertaken by the agency.

NEW Complaint mechanism – Any person who has been directly affected by the actions of staff involved in an activity of the agency can submit a written complaint regarding possible violations of his/her fundamental rights.

CURRENT EUROPEAN BORDER AND COAST GUARD DEPLOYMENTS:



944 officers in Greece



166 officers in Bulgaria



402 officers in Italy



65 officers in Spain



127 officers in the
Western Balkans