

Facilitating Legal Migration and Border Management



History of the Current Situation

Since the founding of the European Union in 1993, irregular migration has become a growing issue. Irregular migration reached unprecedented levels during 2015 and continues to remain that way. Migrants usually come from Africa, the Middle East, and Asia. Criminal smugglers are typically utilized to enter member states. In 2002 the European Union adopted a framework on smuggling which was used to define unauthorized entry, transit, and residency. The framework also suggested punishments for such offenses.¹ In May of 2015 the European Union adopted an “Action Plan against Migrant Smuggling” due to the growing levels of human

trafficking and the “low risk, high profit” connotation that smuggling businesses had. Human trafficking can often be linked to smuggling and irregular migration as well, which the European Union established a more comprehensive action plan against.²

The European Agenda on security and the European Agenda on Migration has declared fighting against migrant smuggling as an immediate priority because of the increasing levels of human trafficking, migrant exploitation, and identity theft which is used by criminal networks. Often times migrants continue to rely on criminal/smuggling networks in order to maintain their status. These criminal networks are able to provide illegal residences, false identities and documents in order to pose as a true citizen, and gain employment through creating and supplying these counterfeit documents. The European Union continues to work diligently in order to prevent criminal networks from abusing and exploiting migrants while also keeping respect and human rights of all people, not just citizens in mind.³

Migrant Crisis

The European Union migrant crisis or refugee crisis began in 2015 with the alarming rise of people arriving to the European Union from the Middle East and North Africa as well as Sub-Saharan Africa. In June of 2018 European Union leaders decided they would be taking stricter measures on migrants

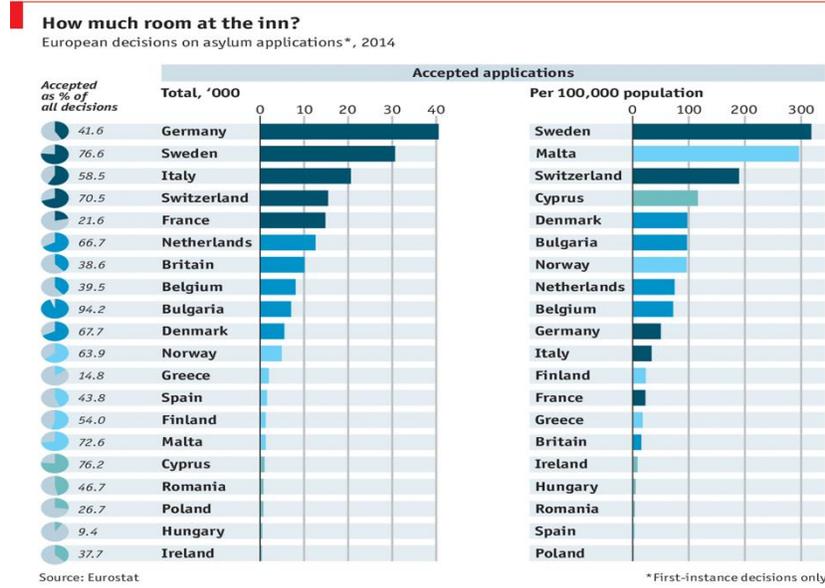
¹ “Council Framework Decision on combating trafficking in human beings.” *Official Journal of European Communities*. https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/framework_decision_2002_629_on_combating_trafficking_en_1.pdf.

² “Smuggling of migrants.” *Transnational Organized Crime: Let’s Put Them out of Business*. www.unodc.org/toc/en/crimes/migrant-smuggling.html.

³ “European Agenda on Security - Migration and Home Affairs - European Commission.” *Social Protection Statistics - Unemployment Benefits - Statistics Explained*. https://ec.europa.eu/home-affairs/what-we-do/policies/european-agenda-security_en.

who were not determined to not originally be from war zones. German Chancellor, Angela Merkel also introduced other possible new approaches to the crisis. Certain deals made include Spain and Greece taking back migrants who attempt to illegally cross Germany's borders, in exchange for financial aid from Germany to help Spain and Greece deal with their own migrant crisis as well as grant family reunification with migrants already settled in Germany.⁴

Over 1 million migrants and refugees came from Syria, fleeing war and terror zones. Along with that, the people fleeing to the European Union are coming to seek asylum. Protection is granted to fleeing people who are in danger and fearful of returning to their home nation. The European Union over the years has adopted both legal and moral obligations to assist and help people fleeing their homes. However, another issue arises because not every migrant entering the European Union



is seeking protection or asylum. Many are considered “economic migrants” who leave their home specifically for lifestyle improvement. It is very important that these two groups are distinguished because European Union policy treats these groups very differently. Providing food, water, and shelter for people seeking asylum has taken a huge economic strain on the European Union.⁵

But the member states of the European Union are not completely united on the issue of migration and asylum policy, with significant divisions both between and within nations. Hungary, Poland, Slovakia, and the Czech Republic believe that new migration policies should not be mandatory and should be up to each member state to decide whether or not such policies are utilized.⁶ Hungary withdrew from the United Nations' voluntary global agreement in migration in July of 2018 and stated that they would not cave into European Union pressure and would maintain their anti-migration stance especially due to the complaints from Brussels. The city of Budapest went as far as to criminalize the act of assisting illegal migrants in any way.⁷

The large number of migrants and asylum seekers entering the European Union is a large area of concern for many citizens as well. Many argue that large amounts of migrants would threaten the

⁴ “The EU and the Migration Crisis.” *EU Law and Publications*. <http://publications.europa.eu/webpub/com/factsheets/migration-crisis/en/>.

⁵ “Migrant Crisis: Migration to Europe Explained in Seven Charts - BBC News.” *BBC*. www.bbc.co.uk/news/world-europe-34131911.

⁶ “Europe remains as divided as ever over ‘almost impossible to solve’ migration crisis.” *CNBC*. <https://www.cnbc.com/2018/06/25/europe-divided-over-almost-impossible-to-solve-migration-crisis.html>.

⁷ “Hungary Blasts EU as ‘Very Irresponsible’ over Its Handling of Migration.” *CNBC*. www.cnbc.com/2018/03/19/hungary-blasts-eu-over-migration-says-its-very-irresponsible.html.

cultural makeup of the European Union due to the “incompatibility” of the Islamic faith, which is the main religion of many new arrivals. Anti-refugee and Anti-migration graffiti and protests have begun to emerge in many member states as well due to the European Union’s policies on asylum seekers and migrants. A poll measured that 72% of citizens want the European Union to do more when it comes to migration.⁸ Across member states, those accepting and rejecting migrants and asylee seekers, a significant tension exists that some political parties have attempted to use in order to gain power. Even in Sweden, which accepted the most migrants per capita in the European Union, the 2018 election centered around immigration.⁹ This election saw the anti-immigrant far-right party increase their voting share and Sweden’s traditional conservative party to adopt more anti-migrant policies and rhetoric. Immigration and refugee policy will continue to be a divisive issue fueling extremist movements unless the European Union can reach a legal and just compromise.

The Situation in the Mediterranean

The Mediterranean is the world’s most deadly migration route. The main route is from north Africa across the central Mediterranean but many are now crossing the Aegean Sea from Turkey to the Greek islands. The death toll in 2015 alone was 1,750 people. People who take this specific route tend to be from countries that are war torn and its people feel they have no other option.¹⁰ Many would rather risk their lives by taking a dangerous route than living in countries such as Syria, Afghanistan, and Somalia. In fact, 60% of people making the dangerous trip across the Mediterranean are from Syria, Afghanistan, and Somalia. Most people coming from Nigeria, Gambia, Senegal, and Mali are making the trip to expand their economic opportunity, while others are attempting to escape human rights violations. The European Union has made numerous efforts to help save lives at sea and also to stop criminal smugglers by destructing boats and more preliminary measures.¹¹ While many migrants attempt to move further into Europe (to Sweden and Germany, for example) after landing in Malta, Italy, Spain and Greece, many remain in these nations, engendering anti-migrant attitudes.¹² During the height of the crisis 94% of people in Greece, 77% in Italy, and 75% in Spain disapproved of the European Union’s handling of immigration.¹³ Yet despite some of the rhetoric, migration to Europe, even through the Mediterranean has significantly decreased since 2015.¹⁴

Undocumented Migrants in the European Union

In 2016 there were 1.3 million applications for international protection in the European Union, that number decreased by nearly 45% in 2017 with only 728,470 applications. In 2016 and 2017 combined

⁸ “Understanding Migration and Asylum in the European Union.” *Open Society Foundations*.

www.opensocietyfoundations.org/explainers/understanding-migration-and-asylum-european-union.

⁹ “Immigration debate expected to dominate Swedish election as citizens head to polls.” *Global News*.

<https://globalnews.ca/news/4436560/swedish-election-immigration-debate/>.

¹⁰ “Mediterranean Migrant Crisis: Thousands of Migrants Rescued at Sea.” *BBC*. www.bbc.com/news/world-europe-32573389.

¹¹ “Operational Portal.” *Situation Syria Regional Refugee Response*. <https://data2.unhcr.org/en/situations/mediterranean>.

¹² “Southern rim rebels against EU migration proposal.” *Politico*. <https://www.politico.eu/article/eu-migration-crisis-italy-spain-rebels-bulgaria-dublin-quotas-proposal/>.

¹³ “Overwhelming Majorities Unhappy with EU’s Handling of Refugees” *Pew Research Center*.

http://www.pewglobal.org/2016/08/02/number-of-refugees-to-europe-surges-to-record-1-3-million-in-2015/pgm_2016-08-02_europe-asylum-03/.

¹⁴ “Migration to Europe I Down Sharply. So Is It Still a ‘Crisis’?” *New York Times*.

<https://www.nytimes.com/interactive/2018/06/27/world/europe/europe-migrant-crisis-change.html>.

the European Border and Coast Guard Agency, which collects and tracks data of the European Union's borders, noted that there were over 2.3 million illegal migrants entering the European Union's borders. Over 439,000 people were denied entry into the European Union in 2017 and over 43,000 have risked their lives in order to enter the European Union's borders. Presently there are over 2.2 people in the European Union being "illegally present" which means they have failed to register or left the state that has taken them for asylum. The European Union raised its budget for funding migration and plans to do so again with the post 2020 budget plan. However, since 2015 the number of people illegally entering the European Union has plummeted 60%. In 2015 over 1.8 million people entered illegally and in 2017 only roughly 204,000 people entered illegally without being registered as a refugee, asylum seeker, or without proper paperwork.¹⁵

Border Control

Many citizens and officials within the European Union are calling for stricter, more monitored borders. This is due to terror threats and what many believe to be the overall threat of open borders within the European Union. Nations such as France, Austria, Germany, Denmark, Sweden and Norway have temporarily reintroduced border control for security purpose. Member nations have agreed to the reintroduction of borders for safety purposes. Citizens from non-European Union countries are sometimes required to have visas when crossing external borders even within Schengen states. The European Union only requires visas for people from certain nations but not from others.¹⁶

Schengen Agreement and Freedom of Movement

The Schengen agreement was signed in 1985 in Schengen, Luxembourg and was put into effect in 1995. Today 26 nations are Schengen states. 22 European Union nations and 4 non-European Union nations. The Schengen agreement abolishes most of the European Union's internal borders in lieu of a single external border. People are allowed to move freely within these 26 nations without any checks at borders. The original purpose of the area is to promote easier transit and travel throughout Europe. Along with a single external border, the 1990 Schengen convention also created the Schengen Information System (SIS) which allows nations to freely share and store information on people under surveillance along with aliens and asylum seekers according to state security agencies. The SIS also strengthened the work of police on collecting information on suspected criminals within the area. The agreement was also able to give police power to follow suspected criminals across borders of other Schengen states.¹⁷

The UK and Ireland have opted out of the agreement for the purpose of maintaining its own borders. The Schengen agreement is criticized by many citizens by claiming that "it is an open door for criminals and migrants." The Paris attacks made people strongly rethink the Schengen agreement

¹⁵ "EU Migrant Crisis: Facts and Figures | News | European Parliament." *Malala Yousafzai - EP SAKHAROV PRIZE NETWORK*. www.europarl.europa.eu/news/en/headlines/society/20170629STO78630/eu-migrant-crisis-facts-and-figures.

¹⁶ "Borders and Security." *Social Protection Statistics - Unemployment Benefits - Statistics Explained*. https://ec.europa.eu/info/policies/borders-and-security_en/data2.unhcr.org/en/situations/mediterranean.

"EU Border Controls Could Be Extended in Crisis, Commission Says." *Reuters*, Thomson Reuters, 27 Sept. 2017, www.reuters.com/article/us-europe-migrants-schengen/eu-border-controls-could-be-extended-in-crisis-commission-says-idUSKCN1C21OU.

¹⁷ "Schengen: Controversial EU Free Movement Deal Explained." *BBC News*. www.bbc.com/news/world-europe-13194723.

and question if Schengen is putting people at risk for their safety. It is believed that the perpetrators of the attacks slipped into the area with crowds of migrants through Greece. The concern stems from the terrorist easy movement to Paris from Belgium. Schengen nations are allowed to reinstate internal borders for up to 10 days for national security reasons, but under exceptional circumstances, a nation can continue to reinstate internal borders for a maximum of 2 years.¹⁸

Case Study: Slovenia's Closed Borders



In March of 2016, Slovenia made the decision to close its borders. The nation is making attempts to lower the number of illegal immigrants trying to get to Western Europe through the Balkans. The only people allowed to enter are those seeking asylum or those who have humanitarian needs. However, Slovenia's border closing is creating a "bottleneck"

of immigrants at Greece's border as people realize that they may not be able to enter Western Europe.¹⁹ Nations closing borders is what is putting the history of the Schengen zone at risk. Many believe that soon the zone will cease to exist if member nations decide to pull out of the agreement due to safety threats and as the number of illegal immigrants increases. Along with Slovenia's border closing, Serbia (non-European Union member) also closed its borders in attempts to decrease the flow of migration.²⁰

Case Study: Hungary's Anti-Immigration Sentiment

By 2016, Hungary had just over 26,000 registered asylum seekers, with the majority coming from Syria and Afghanistan. However, in 2016, Hungary began introducing laws to limit the rights of immigrants and asylum seekers. In April of 2016 a law was introduced to restrict the rights of asylum seekers. Many routes within Hungary were also shut down to limit the number of migrants and asylum seekers entering the nation. Also, in 2016, the European Union made it a requirement that Hungary accept exactly 1,294 asylum seekers in order to fulfill its duties as a European Union member state.²¹ Since then, Hungary continues to crack down on immigration by charging homeless people with misdemeanors, and criminally prosecuting immigrants. In 2018, Hungary is still continuously acting on their anti-immigration laws and introduced a law to tax NGO's that assist migrants in any way, 25%. This is known as an "immigration special tax." The justification for this tax

¹⁸ "Temporary Reintroduction of Border Control - Migration and Home Affairs - European Commission." *Social Protection Statistics - Unemployment Benefits - Statistics Explained*.

¹⁹ Wagner, Laura. "Slovenia Closes Its Border, Stranding Tens Of Thousands Of Migrants." *NPR*, NPR, 9 Mar. 2016, www.npr.org/sections/thetwo-way/2016/03/08/469724610/slovenia-closes-its-border-stranding-tens-of-thousands-of-migrants.

²⁰ Iyengar, Rishi. "E.U. Migrant Crisis: Slovenia, Serbia Tighten Borders." *Time*. <http://time.com/4252013/slovenia-serbia-balkans-route-refugees-migrants-eu/>.

²¹ "World Report 2017: Rights Trends in European Union." *Human Rights Watch*. www.hrw.org/world-report/2017/country-chapters/european-union.

is to limit the organizing of migration and to limit the financial burden of immigration within Hungary.²²

Pathway to Citizenship in Europe

Each nation in the European Union has a different path to citizenship, and there are several different pathways to take. For example, some visas can be time limited for school, work, and tourism.

However, The EU grants non-citizens a “residence status” once they have legally and continuously worked and lived in any given European Union nation. The Treaty on European Union was signed in Maastricht in 1992 which led to the reunification of nations within the European Union along with other aspects such as communities and police forces. The treaty does also address citizenship and states: *“Every person holding the nationality of a Member State of the European Union is, as a result, a citizen of the Union. Citizenship of the Union supplements national citizenship without replacing it. It is made up of a set of fundamental rights and obligations enshrined in the EC Treaty among which it is worth underlining the right not to be discriminated on the basis of the nationality”*.²³

Questions to Consider

- To what extent can the European Union preserve its commitment to the free movement of people while more effectively dealing with immigration?
- To what extent can European Union member states develop a more constructive relationship to spread migrants and asylee seekers around more evenly?
- To what degree can the European Union integrate migrants and asylee seekers?
- In what ways can the European Union assist nations receiving large numbers of refugees? What should be done, if anything, about nations who refuse to accept them?

²² “Hungary Steps up Anti-Immigration Stance with Plans for NGO Tax.” *The Guardian*.

www.theguardian.com/world/2018/jun/19/hungary-anti-immigration-plans-ngo-tax-orban-bill-criminalise-aid.

²³“EUROPEAN UNION IMMIGRATION AND BENEFITS.” *EU Immigration | The European Union And Schengen Visa*, www.euimmigration.org/eu.html.